



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/0768/F	Target Date: <add date>
Proposal: Retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).	Location: Lands 70m West of 33 Kanes Rampart Coalisland BT71 4QY
Applicant Name and Address: Barran Yennie Peat Products 33 Kanes Rampart Coalisland BT71 4QY	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge
Summary of Issues: This application is for retention of storage yard and sheds at an existing peat processing facility. The site has increased in area since 2010 and the proposal is for expansion of the existing business.	
Summary of Consultee Responses: DFI Rivers - development not inside 1 in 100 year flood area	
Characteristics of the Site and Area: The site is located in the open countryside just a short distance to the south west of Lough Neagh and north of the M1 motorway. The settlement limits of Annaghmore is approx. 4km to the North west and it lies outside all other areas of constraint as depicted by the DSTAP 2010. The red line of the site includes a long narrow laneway off Kanes rampart and leads to the dwelling and garage at number 33. Included within the red line there are two other buildings located relatively close to the dwelling and then two larger buildings located along the rear boundary somewhat removed from the dwelling site. There is also a large	

hard cored yard area, a storage area which at the time of site visit was packed on one side with peat mounds and on the other with what appeared to be the finished peat bales.

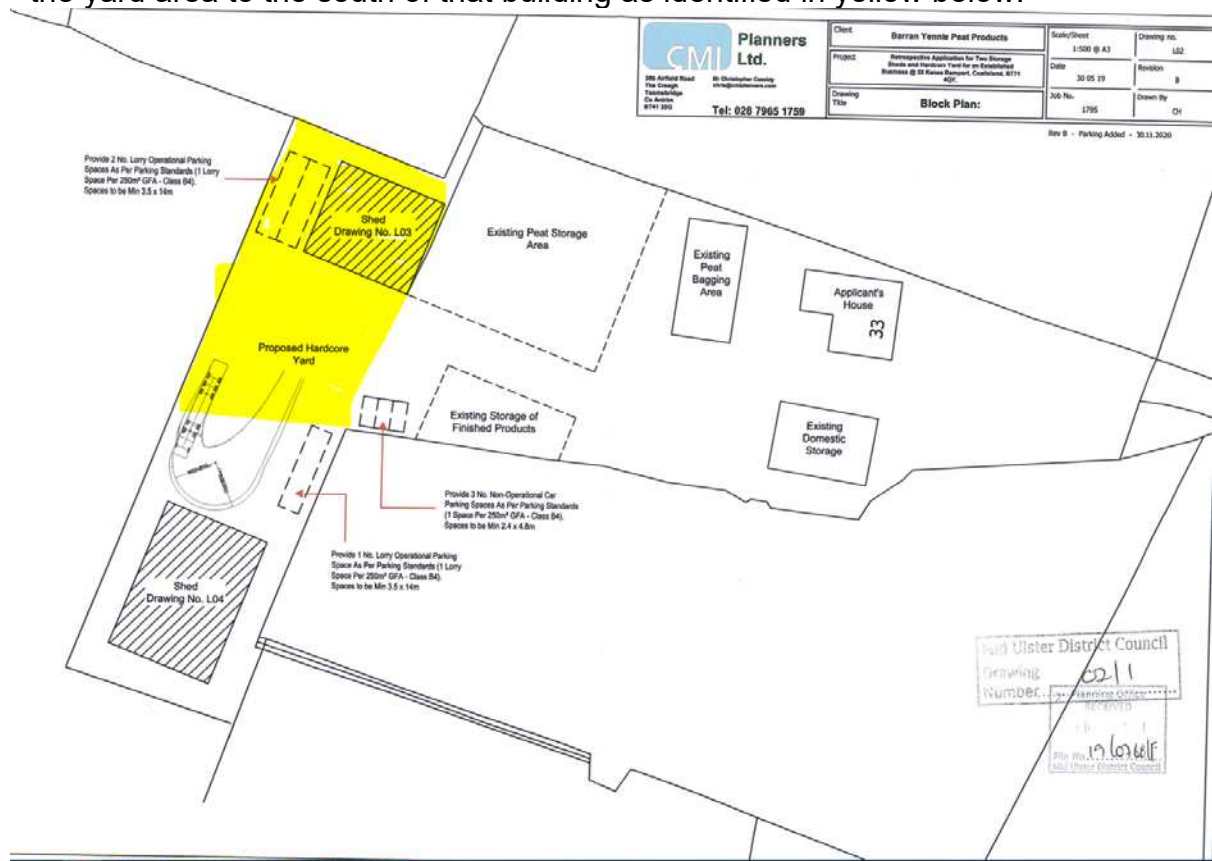
Description of Proposal

The proposal seeks full planning permission for the retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).

Deferred Consideration:

This application was before the Planning Committee in April 2021 and it was agreed to defer to allow a meeting with the Planning Manager. At a meeting held on 22 April 2021 the applicants advised the existing building to the north has been in situ for over 5 years and part of the yard also. An enforcement notice issued on 28 April 2021 in relation to change of use of land from agricultural use to commercial processing and storage of peat, erection of 2 buildings, laying of concrete and hardcore for commercial processing and storage of peat was appealed to the Planning Appeals Commission. The Commission decision issued 17 August 2022 quashed the notice in relation to:

- the building identified as shed Drawing No, L03 on drawing 02/1 received 30 APR 2021 and
- the yard area to the south of that building as identified in yellow below.



The quashing of this part of the notice means the building and yard are lawful because the operational development was immune from enforcement action and the notice as varied granted planning permission for the use of the building and yard for the commercial processing and storage of peat.

This application currently before the Council is now in relation to the building identified as Shed Drawing No. L04 on drawing No 02/1 (16.0m x 25.0m) and the remainder of the hardcored yard area (circa 800sqm when the building is removed from it). As this is an expansion of an established economic site, PED3 and PED 9 are the policies that should be considered. PED3 allows for expansion provided the scale and nature do not harm the rural character or appearance of the local area. New buildings are also permitted where they are in proportion to the existing buildings on site and will integrate as part of the overall scheme.

The existing and approved site area is approx. 3800sqm, this proposal is for approx. 1270sqm expansion of the site area, This is less than 1/3 increase of the approved site area. I do not consider this to be a major expansion of the site. The development is set well back from any public views and the building is similar in appearance and scale to the others on the site. While the ridge height of building No L04 is 7.3m above finished floor area, it is on lower ground than the other buildings and is not prominent in the local landscape as can be seen below.



I consider the proposal meets with PED3 for the expansion of this established economic development use.

PED9 sets out a number of other criteria to be considered and in respect of these it is noted the proposal is beside other commercial activities, and the closest residential development is the applicant's property. The nearest 3rd party property is 100m to the south east and with no openings on the buildings' elevation facing towards them, it is unlikely they will be adversely affected. No flooding issues have been identified on the site and there are no archaeological, heritage or ecological interests noted on the site. The site has ample area for parking and turning of vehicles and the access onto Kanes Rampart uses an existing land and sight lines can be provided as required. The site is located in the rural area which is primarily accessed by private car though the local road network does support cycling and walking. As advised above the proposed development is well integrated into the landscape and areas of open storage are well screened from view by

the existing buildings on the site. The development is located beside the applicants own property so they can provide security. The proposal is located beside the bog which provides habitat for biodiversity and was improved agricultural land so I do not consider it has resulting the loss of any biodiversity or habitat. Members could request additional landscaping however the proposal is well screened by other development that it does not, by itself have any adverse impacts on the rural character.

As this is already carried out and meets with the policies for expansion of established economic development I recommend it is approved.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any determining weight.

Conditions/Reasons for Refusal:

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

Reason: This is a retrospective application.

2. Within 3 weeks of the date of this decision the vehicular access including visibility splays of 2.4mx 60.0m shall be provided in accordance with the details as shown on drawing No 05 bearing the stamp dated 31 JAN 2020. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

Reason: In the interests of road safety

Signature(s)

Date:



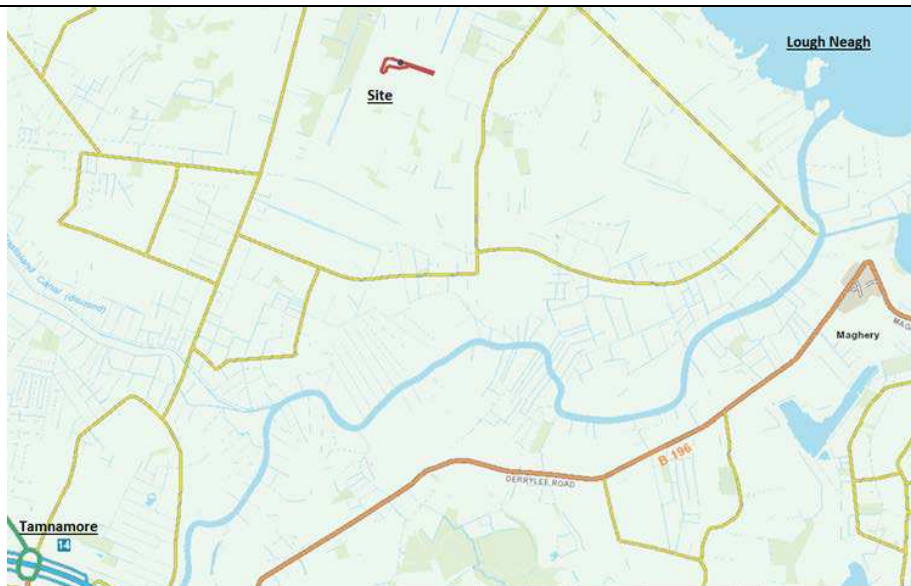
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0768/F	Target Date:
Proposal: Retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).	Location: Lands 70m West of 33 Kanes Rampart Coalisland BT71 4QY
Referral Route: Contrary to Policy	
Recommendation:	Refusal
Applicant Name and Address: Barran Yennie Peat Products 33 Kanes Rampart Coalisland BT71 4QY	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

No representations were received

Characteristics of the Site and Area

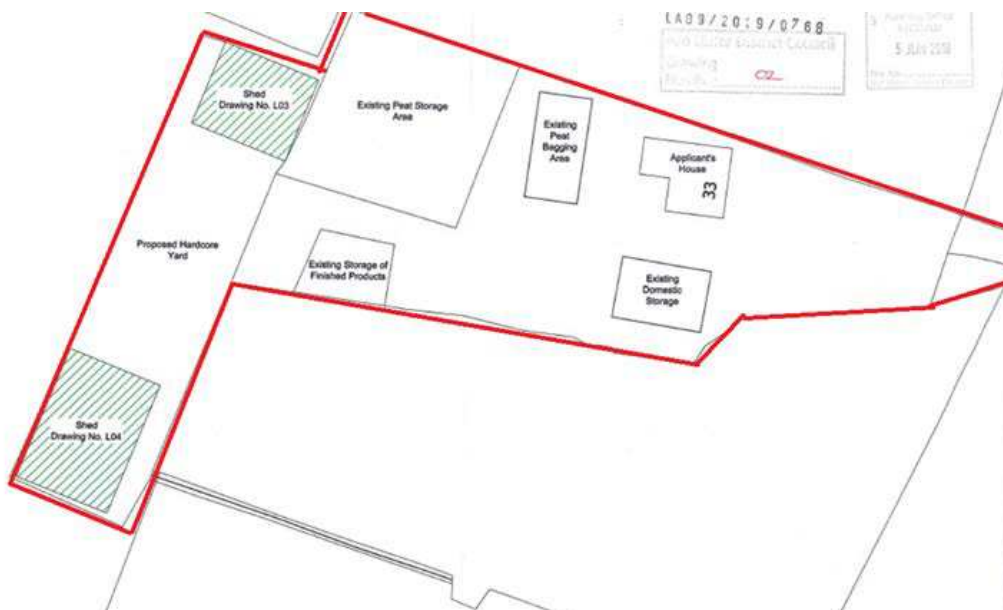
The site is located in the open countryside just a short distance to the south west of Lough Neagh and north of the M1 motorway. The settlement limits of Annaghmore is approx. 4km to the North west and it lies outside all other areas of constraint as depicted by the DSTAP 2010.



The red line of the site includes a long narrow laneway off Kaners rampart and leads to the dwelling and garage at number 33. Included within the red line there are two other buildings located relatively close to the dwelling and then two larger buildings located along the rear boundary somewhat removed from the dwelling site. There is also a large hard cored yard area, a storage area which at the time of site visit was packed on one side with peat mounds and on the other with what appeared to be the finished peat bales.

Description of Proposal

The proposal seeks full planning permission for the retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).



Planning Assessment of Policy and Other Material Considerations

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

DSTAP 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

Planning Policy Statement 21: Sustainable Development in the Countryside

Relevant Histories

M/1988/0097 - CHANGE OF USE FROM AGRICULTURAL SHED TO PEAT PROCESSING BUILDING - GRANTED

Relevant Enforcement History on Site

LA09/2017/0113/CA - Unauthorised Commercial Peat Extraction ? (Enf action being pursued)

LA09/2019/0039/CA ? Unauthorised buildings, yard area & modular dwelling.(Receipt of application)

Representations

No objections have been received

Dungannon and South Tyrone Area Plan 2010

The site lies outside any settlement limit defined in the DSTAP 2010, it is in close proximity to Lough Neagh, and a short distance to the North of the M1 motorway. I do not consider the proposal impacts on the either of the above and I do not consider there any policies within the plan that deal with industrial development in the countryside.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS - Strategic Planning Policy Statement for Northern Ireland

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

Planning Policy Statement 21 Sustainable Development in the Countryside

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

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

I consider **PED3 - Expansion of an Existing Industrial Development in the Countryside** to be relevant, as we can see from the previous planning history on the site as well as ortho-photography that peat processing has been carried out at this site for over 30 years.

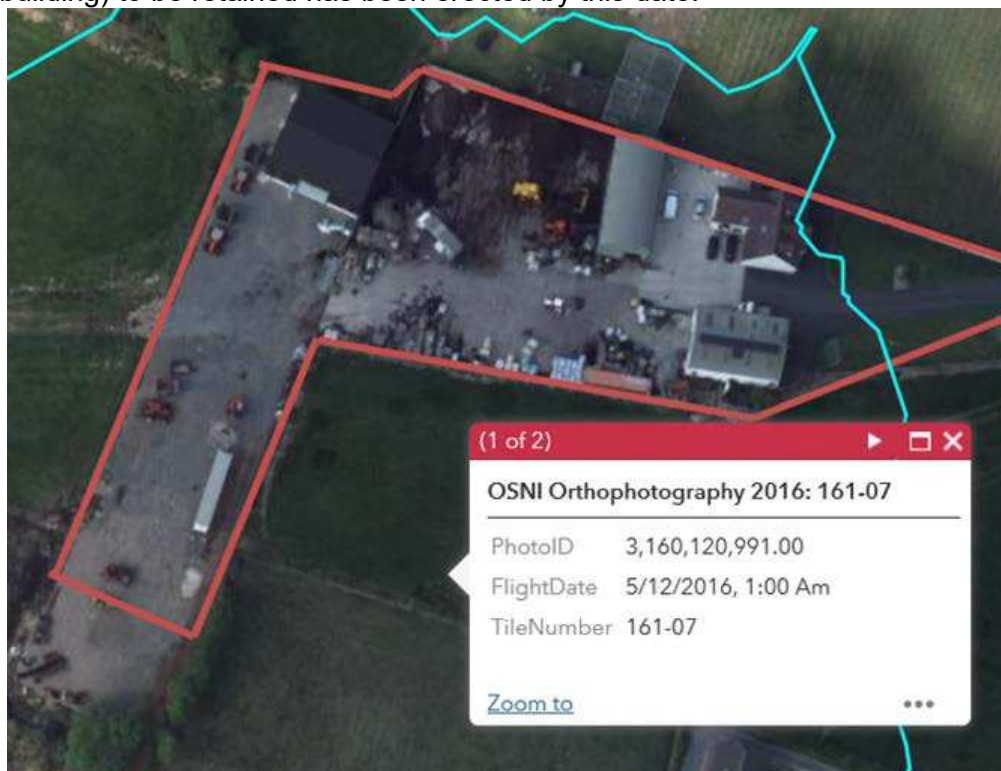
This proposal is for the retention of two storage sheds and yard associated with an established business 'Barren Yennie Peat' (established circa 1988) and as such I consider this is the expansion of an established economic development use, as such the provisions of Policy PED 3 apply.

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

The red line of the site not including the portion to the rear which is to be retained is approx. 1.2 acres. The portion to be retained at the rear of the site includes a 0.7acre increase in area. This equates to an approximate 60% site growth which in my opinion is a major increase

In addition the two buildings to be retained measure 715m² floor space combined and would represent the two most dominant buildings now on the site when compared with the much smaller existing buildings.

Aerial photographs of the site from May 2016 (see below) indicate that one of the buildings (most northern building) to be retained has been erected by this date.



The more recent Orthophotography from the site dated May 2019 show that at this point both sheds have been erected. NB. It also shows an additional shed has been erected which the applicant has falsely indicated as existing on the plans. (indicated by yellow arrow)



The proposal is for the retention of a building with a floor space of approx. 715sqm in area. Views of the building from the surrounding public road network are limited and the building are seen at the rear of the site with a number of other buildings screening the views. I do not have any major concerns regarding the building integrating into its surroundings.

Due to the size of the proposed expansion, I consider the proposal does represent a major increase in site area and therefore does not comply with PPS4 PED 3.

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

- this proposal is considered compatible with the surrounding land uses given the existing use for peat processing established 1988.

- The building is located within the existing yard, there may be issues relating to noise due to works within the buildings, however I do not think, given the existing development and uses around it, as well as the distance from existing and approved residential properties, that this building will unduly exacerbate any existing issues.

- It will not adversely affect features of the natural or built heritage as there are no features of built heritage on site or in the immediate vicinity.

- The site is not located in an area at risk of flooding and i am content it should not cause or exacerbate flooding in line with Planning Policy Statement 15: (Revised) Planning and Flood Risk

- There will be no effluent and no concerns regarding emissions have been raised.
- This proposal does not involve the creation of a new access unto a public road or intensification of the site.
- As the site is located within a rural area, a movement pattern providing acceptable links to public transport was not necessary.
- The buildings do not include any new landscaping or infrastructure, it is of an appearance that is not out of place in this type of industrial environment.
- The proposal does not involve any new fences, as the site is self-contained and well secured, it is generally designed to deter crime and promotes personal safety.

Other considerations

DFI roads have been consulted a number of times and have requested a Transport Assessment Form to be submitted on three occasions. This information has not been submitted despite being sought on numerous occasions over a long period of time. DFI Roads requesting the parking to be shown and kept in line with PPS3 parking standards. However, despite the repeated requests for this information, at the time of writing this is still outstanding. It is my opinion that this info should be allowed the Council to determine the application, and having not received sufficient information, the Council refuses this application as this information is material to the determination of this application.

Recommendation

Taking account if all of the policy considerations above and the lack of information, I consider this proposed development cannot be considered to meet PED3 of PPS4 and cannot be approved.

Neighbour Notification Checked

Yes

Refusal Reasons

1. The proposal is contrary to Planning Policy Statement 4, Industrial Development and Policy PED 3 - Expansion of an Existing Industrial Development in the Countryside, in that the development would, if permitted, have an adverse impact on the environment by virtue of the significant increase in the site area of the enterprise.

2. Having notified the applicant under Article 7 (4) of the Planning (General Development) Order (Northern Ireland) 1993 that further details regarding access and parking arrangements were allowed the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

Signature(s)

Date:

ANNEX	
Date Valid	6th June 2019
Date First Advertised	20th June 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 11 Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 23b , Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 27 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 27a Kanes Rampart Coalisland The Owner/Occupier, 29 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 33 Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 39 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 47 Kanes Rampart, Coalisland, Tyrone, BT71 4QY	
Date of Last Neighbour Notification	18th June 2019
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2019/0768/F Proposal: Retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products). Address: Lands 70m West of 33 Kanes Rampart, Coalisland, BT71 4QY, Decision: Decision Date: Ref ID: M/1995/0316 Proposal: Extension to dwelling Address: 33 KANES RAMPART DERRYLOUGHAN COALISLAND Decision: Decision Date: Ref ID: M/1988/0097	

Proposal: CHANGE OF USE FROM AGRICULTURAL SHED TO PEAT PROCESSING BUILDING

Address: 33 KANES ROAD, DERRYLOUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1986/0412

Proposal: IMPROVEMENTS TO DWELLING

Address: 33 KANES ROAD, DERRYLAUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1996/0665

Proposal: Erection of dwelling

Address: APPROX 80M SE OF 23 KANES ROAD DERRYLAUGHAN COALISLAND

Decision:

Decision Date:

Ref ID: M/2002/0012/O

Proposal: Proposed domestic dwelling

Address: 100m S.W. of 23 kanes Rampart Derrylaughan, Coalisland, Co. Tyrone

Decision:

Decision Date: 06.03.2002

Drawing Numbers and Title

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2019/1051/O	Target Date: 27 September 2019
Proposal: Proposed site for a dwelling and domestic garage. Based on policy CTY10 (dwelling on a Farm)	Location: Approx 80M South Of 103 Moyagall Road Magherafelt
Applicant Name and Address: Mr Conor O'Neill 103 Moyagall Road Magherafelt	Agent name and Address: Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area The proposed site is identified as lands approximately 80m south of 103 Moyagall Road, Magherafelt, which is located in the open countryside, outside any settlement limits as per the Magherafelt Area Plan 2015. The site is accessed via an existing laneway from the Moyagall Road. Several farm buildings are situated 75m SE of 103, which is the principle farm dwelling. The topography is relatively flat and land that runs parallel with the Moyagall Road is approximately 0.5 of a meter below road level. This part of the field is water logged and appears to be boggy type soil. The proposed site is set back approximately 75m from the public road and is accessed by an existing lane. The site forms a portion of an agricultural field that has established boundaries to the east and south consisting of thick vegetation and post and wire fencing. The other boundaries are undefined and open onto the field. The surrounding area is characterised by undulating countryside where the predominant land uses are of an agricultural nature interspersed with residential dwellings. The A42 is classified as a protected, which the farm and proposed site has direct access onto the road.	

Description of Proposal

Outline planning permission is sought for a dwelling and domestic garage on an existing farm in accordance with Policy CTY 10 of PSS 21. The applicant has served P2A notice on the land owner in connection with third party lands concerning sight splays. DfI Roads have objected to this application.

Deferred Consideration:

This application was presented before the Planning Committee in November 2021 with a recommendation to refuse based on inadequate sight splays and the intensification of an access onto a protected route. The application was deferred for an office meeting which took place on 17 November 2021.

Following the office meeting a further consultation took place with DfI Roads on amended plans that had been received. In their response Roads accept the applicant has now indicated sightlines within the red line of the site. However, they consider the application is still contrary to PPS 3, Policy AMP 3 as it would result in the intensification of use of an existing substandard access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety. They have attached suggested conditions if MUDC are satisfied PPS 3 and DCAN 15 can be complied with.

Having considered the previous response from Roads, which required 2.4m x 160m sightlines, the agent has now submitted a plan which shows these sightlines and although the applicant does not own all the required lands he has served the requisite notice on the landowners and no objections have been received. I therefore consider the first reason for refusal has been overcome.

The second reason refusal pertaining to the intensification of a substandard access onto a protected route has been addressed, in part, by the applicant as the required sightlines can be delivered within his control. AMP 3 of PPS 3 allows for an access to a protected route where it is for a farm dwelling and that farm dwelling meets policy CTY 10 of PSS 21 and access cannot reasonably be obtained from an adjacent minor road. Where such an access is not achievable a proposal will be required to make use of an existing vehicular access onto the Protected Route. In this case there is an existing farm lane which is used by agricultural vehicles, and possibly other vehicles to serve the land.

I consider the application now satisfies the requirements of PPS 3 and I recommend an approval subject to the conditions below.

Conditions/Reasons for Refusal:**Approval Conditions****Condition 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.

Condition 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.

Condition 3

C01 - 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.

Signature(s):Karen Doyle

Date: 23 January 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

**Development Management Officer Report
 Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1051/O	Target Date:
Proposal: Proposed site for a dwelling and domestic garage. Based on policy CTY10 (dwelling on a Farm)	Location: Approx 80m South of 103 Moyagall Road Magherafelt
Referral Route: DFI Roads refusal contrary to PPS 3 Policies	
Applicant Name and Address: Mr Conor O'Neill 103 Moyagall Road Magherafelt	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s): Gerard Lynch	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NI Water - Single Units East - Planning Consultations	Substantive Response Received
Non Statutory	DAERA - Coleraine	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Rivers Agency	Substantive Response Received

Representations:

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

Summary of Issues

Contrary to Planning Policy AMP 2 & AMP 3

Characteristics of the Site and Area

The proposed site is identified as lands approximately 80m south of 103 Moyagall Road, Magherafelt, which is located in the open countryside, outside any settlement limits as per the Magherafelt Area Plan 2015. The site is accessed via an existing laneway from the Moyagall Road. Several farm buildings are situated 75m SE of 103, which is the principle farm dwelling. The topography is relatively flat and land that runs parallel with the Moyagall Road is approximately 0.5 of a meter below road level. This part of the field is water logged and appears to be boggy type soil.

The proposed site is set back approximately 75m from the public road and is accessed by an existing lane. The site forms a portion of an agricultural field that has established boundaries to the east and south consisting of thick vegetation and post and wire fencing. The other boundaries are undefined and open onto the field.

The surrounding area is characterised by undulating countryside where the predominant land uses of an agricultural nature interspersed with residential dwellings. The A42 is classified as a protected, which the farm and proposed site has direct access to the road.

Description of Proposal

Outline planning permission is sought for a dwelling and domestic garage on an existing farm in accordance with Policy CTY 10 of PSS 21. The applicant has served P2A notice on a third party landowner in connection with lands concerning sight splays. DFI Roads have objected to this application.

Statutory consultees

1. DFI Roads were consulted on 16/08/2019 and responded on 05/09/2019 raised objections;
2. DAERA were consulted on 16/08/2019 and responded on 29/08/2019 providing advice;
3. Historic Environment Division - Historic Monuments (HM) and responded on 19/08/2019 indicating it was content with the proposal.

Planning History

Reference	Location	Proposal/Complaint	Status	Date
LA09/2019/1051/O	Approx 80m South of 103 Moyagall Rd	Proposed site for a dwelling and domestic garage. Base	VALID APPLICATION RECEIVED	
H/2004/0472/O	220m South East of 102 Moyagall Rd	Site of dwelling and garage.	PERMISSION REFUSED	24.11.2005

Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing one (1) Statutory objection was received on 05/09/2019. The application was initially advertised WC 26/08/2019 (Publication date 27/08/2019). Five (5) neighbouring properties were notified on 15/06/2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

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

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 3 Access, Movement and Parking,

PPS 15 Rivers;

PPS 21 Sustainable Development in the Countryside (CTY1, CTY10, CTY13, CTY14)

Supplementary Planning Guidance: Building on Tradition:- A Rural Design Guide for N Ireland.

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 a single dwelling on a farm subject to the policy tests laid down in policy CTY 10. This requires the applicant to provide evidence of an active farm business, established for at least 6 years.

The Department for Agriculture, Environment and Rural Affairs (DAERA) confirms that the Business ID number (627630) was issued to the applicant's father on 24/05/1995. From this I am content the applicant has an established farm business and has been in existence for over 6 years.

DAERA in its initial consultation response indicated the farm is located on land associated with another farm business. It is noted the farm business does not claim any agricultural grants such as Single Farm Payment, less favoured area compensatory allowance or Agri Environment scheme.

The agent has submitted several invoices that showed that the farm has been active and demonstrates an active farm business and is kept in a good environmental condition. I have documented these in the following table.

Conor O'Neill			
LA09/2019/1051/O			
Date	Invoice No	Works	£
04/04/2014	18	Hedge cutting	150
08/04/2014	4	Fertilizer	187
04/11/2014	399252	Cattlefeed	196
02/03/2015	23	Hedge cutting	150
15/10/2021	399268	Cattlefeed	203
02/03/2016	31	Fertilizer	196
25/03/2016	31	Hedge cutting	160
10/10/2016	399280	Cattlefeed	209
06/03/2017	44	Hedge cutting	170
02/08/2017	874226	Post & fencing	213
24/11/2017	399284	Cattlefeed	223
22/01/2018	56	Hedge cutting	170
05/03/2018	44	Fertilizer	202
27/11/2018	399291	Cattlefeed	237
14/03/2019	64	Hedge cutting	170
04/03/2019	399299	Cattlefeed	263
10/02/2020	76	Hedge cutting	180

Fig. 1 Invoices relating to the applicant's farm business



Fig. 2 Existing farm lane and sight lines Moyagall Road

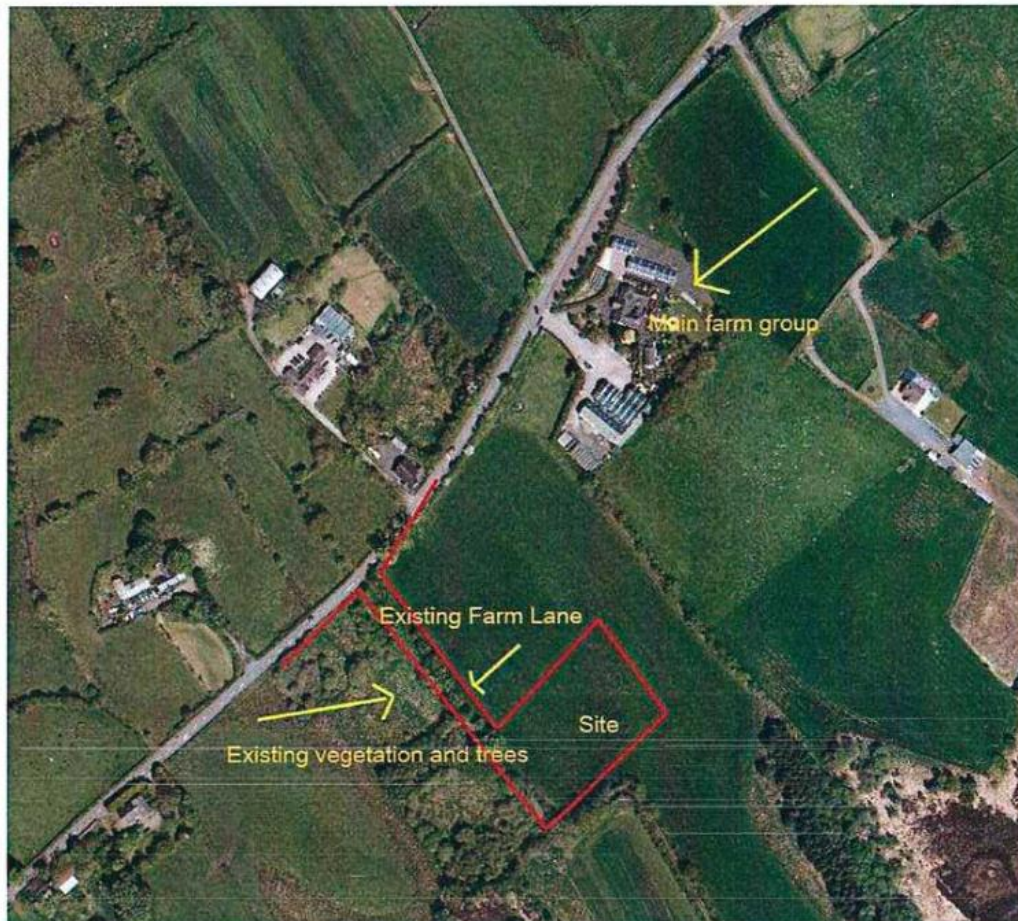


Fig. 3 Aerial overview map

I am fully satisfied from my site observations and assessing the evidence and comments received back from DAERA that the applicant is in control of an active farm business, which is associated with another farm business on this basis criteria (a) of Policy CTY 10 of PPS 21 has been met.

It appears that no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application. With the exception of this planning application, no planning applications have been made in respect of land within the farm holding in the last 10 years and so criteria b has been met.

DAERA flood maps indicate surface water in some of the fields that partly surrounds the farmyard and also abuts the Mayogall Road. Rivers Agency were consulted on this application and confirmed the site does not lie within the 1 in 100 year fluvial or 1 in 200 costal flood plain.

During my site visit I observed the fields that abut the public road were approx. 0.5m below road level.

Following group discussions and a second site visit by a senior planner it was considered the proposal was acceptable in terms of visual links with the main farm group also the proposed

dwelling would access of an existent lane. In terms of integration the level of existent vegetation would strengthen overall integration of the site enabling it to have the capacity to absorbed a modest dwelling.

The agent has a flood risk area hatched in yellow annotated on the site location plan as such Rivers Agency were consulted on this application and responded on 01/07/2020 and confirmed the site does not lie in Fluvial Flood Plains. Although i suspect that Rivers assessed only the site outlined in red and not the area hatched in yellow per site location plan.

The agent did not provide any alternative site suggestions however it is my considered opinion the site can accommodate development that would sympathetically visual with the established group of farm buildings, the access comes off an existing farm lane. Therefore the proposal complies with the key policy tests of CTY 10 in accordance with criteria a, b and c..

Policy CTY 13 provides guidance on the integration and design of buildings in the countryside and CTY 14 provides guidance on rural character. The new building blends sympathetically with the existing surroundings and will therefore, not be unduly prominent in the landscape. The site provides a suitable degree of enclosure for integration and the building blends with the existing features, such as the trees which provide an effective backdrop. Furthermore, the design of the building is appropriate for the site and locality. I am also content that the dwelling will not cause a detrimental change to the rural character of the area, as it respects the traditional pattern of settlement exhibited in the area and will not result in a suburban style build-up of development or create or add to a ribbon of development.

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

However, DFI Roads were consulted on 16/08/2019 and responded on 05/09/2019. They also highlighted that the sightline on the north east side of the lane indicates a blind spot within the sightline. The agent was made aware of this and advised to amend in accordance with DCAN 15.

In its initial response Roads indicate the access is unto a protected route A 42 Moyagall Road and as such PPS 3 AMP 2 and AMP 3. The agent addressed Road concerns requiring third party lands to provide sightline on the north east side of the lane.

Following discussions between the agent and Roads their refusal reasons are unchanged that the proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP2, would, if permitted, prejudice the safety and convenience of road users.

In respect of the second reason that the proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP3 that would result in the intensification of use of an existing substandard access onto a Protected Route and would as a result prejudice the free flow of traffic and conditions of general safety.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of (2.4 metres x 160 metres) cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

2. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing substandard access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	2nd August 2019
Date First Advertised	27th August 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 102 Mayogall Road, Gulladuff, Londonderry, BT45 8PJ The Owner/Occupier, 102a ,Mayogall Road, Gulladuff, Londonderry, BT45 8PJ The Owner/Occupier, 104 Mayogall Road, Gulladuff, Londonderry, BT45 8PJ The Owner/Occupier, 106 Mayogall Road, Gulladuff, Londonderry, BT45 8PJ The Owner/Occupier, 82 Mayogall Road, Gulladuff, Londonderry, BT45 8PJ	
Date of Last Neighbour Notification	15th June 2020
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2019/1051/O Proposal: Proposed site for a dwelling and domestic garage. Based on policy CTY10 (dwelling on a Farm) Address: Approx 80m South of 103 Moyagall Road, Magherafelt, Decision: Decision Date: Ref ID: H/2004/0472/O Proposal: Site of dwelling and garage. Address: 220m South East of 102 Mayogall Road, Knockloughrim. Decision: Decision Date: 24.11.2005	
Summary of Consultee Responses DFI Roads advised that the proposal be refused under Policy AMP2 & AMP3 of PPS 3	
Drawing Numbers and Title	

Drawing No. 01 (Rev-1)
Type: Site Location Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0213/F	Target Date: <add date>
Proposal: Proposed restructuring and alterations of vehicular access	Location: 18 Cookstown Road Dungannon
Applicant Name and Address: Mr Barry O'Neill 18 Cookstown Road Dungannon	Agent Name and Address: McKeown And Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
Summary of Issues: This application is for improvements to this sub standard access. The access is to a rural industrial estate that has enforcement notices issued and in effect. Granting permission for this access improvement will not grant permission for any other development in the industrial estate but will allow the applicant to provide some improvements.	
Summary of Consultee Responses: DFI Roads - note the previous appeals o the site and that if Council were to refuse then offers reason to refuse	
Characteristics of the Site and Area: The application site is located at 18 Cookstown Road, Dungannon within the Dungannon Green Belt and outside any settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The application site incorporates land at the existing access point of No. 18 onto the existing public road and land along the roadside to the north and south of the access which is required to provide improvements to the existing visibility splays. There are a number of buildings and businesses located adjacent and west of the site, most seem to be used for storage, however uses are mixed and include retail and industrial. The wider surrounding context is predominantly rural in character with green	

fields, as well as dispersed dwellings, farm holdings and industrial works in proximity. The site is accessed via the A29 protected route.

Description of Proposal

The proposal seeks full planning permission for the proposed restructuring and alterations of vehicular access, to provide visibility splays of 4.5m by 120m to the south and 2.4m by 100m to the north.

Deferred Consideration:

This application was before the Planning Committee in October 2020 and the determination of this application has been held pending the outcome of an enforcement appeal against an unauthorised building on the site. The Commission upheld the notice requiring the removal of the unauthorised building on the site on 14 June 2022 and this notice is now in effect.

This proposal is a stand alone application to improve the vehicular access onto the A29 Cookstown Road, which is a Protected Route. It has long been held this access is sub standard as set out in PAC Decision 2017/E0050 which related to an unauthorised dance studio and vehicle repairs at this site. At that appeal it was concluded the sight lines required for a safe access to comply with DCAN 15 are 4.5m x 120m in both directions. The applicants have advised they are unable to obtain these and so the appeals have been lost.

This application proposes to improve the access by providing sight lines of 2.4m x 100.0m to the north (towards Cookstown) and 4.5m x 120.0m to the south (towards Dungannon). This still remains sub standard to the north, as the sight lines required are also 4.5m x 120.0m. This proposal does not meet the standard required to allow the intensification of the use of the access, however it will, in my opinion, provide an improvement to the access to the existing lawful development on the site. To provide the north sight line will require the regrading of the existing slopes and removal of vegetation. I consider it necessary to seek the provision of new landscaping to the rear of the sight lines to provide screening of the existing development in the yard and also to provide stability to the bank. A condition can be attached to require the submission of the landscaping details prior to works starting and the provision of the landscaping following the completion of the works.

Members should be clear, granting this permission to improve the access will not have any bearing on the unauthorised development on the site, that development still must be removed to comply with the terms of the enforcement notice in effect.

Conditions/Reasons for Refusal:

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

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

2. Prior to the commencement of any development hereby approved, a landscaping scheme shall be submitted and approved by the Council. The scheme shall include details of those trees to be retained and measures for their protection during the course of

development; details of a native species hedge to be planted to the rear of the visibility splays, along the boundary with the yard to the west and on the new slope created to the rear of the north sight line. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. The scheme as approved shall be carried out within the first available planting season following the commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interest of visual amenity and road safety.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0213/F	Target Date:
Proposal: Proposed restructuring and alterations of vehicular access	Location: 18 Cookstown Road Dungannon
Referral Route: Refusal	
Recommendation:	Refuse
Applicant Name and Address: Mr Barry O'Neill 18 Cookstown Road Dungannon	Agent Name and Address: McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Date of Site Visit: 13/03/2020

Representations: None Received

Description of proposal

The proposal seeks full planning permission for the proposed restructuring and alterations of vehicular access, to provide visibility splays of 4.5m by 120m to the south and 2.4m by 100m to the north.

Characteristics of site and area

The application site is located at 18 Cookstown Road, Dungannon within the Dungannon Green Belt and outside any settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The application site incorporates land at the existing access point of No. 18 onto the existing public road and land along the roadside to the north and south of the access which is required to provide improvements to the existing visibility splays.

There are a number of buildings and businesses located adjacent and west of the site, most seem to be used for storage, however uses are mixed and include retail and industrial. The wider surrounding context is predominantly rural in character with green fields, as well as dispersed dwellings, farm holdings and industrial works in proximity. The site is accessed via the A29 protected route.

Planning Assessment of Policy and Other Material Considerations

Under the provisions of the Planning Act (Northern Ireland) 2011, all decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. Dungannon and South Tyrone Area Plan 2010 is the relevant, extant Development Plan for the site. Account will also be taken of the relevant provisions of the SPPS and retained Planning Policy Statements (PPSs). The Strategic Planning Policy Statement for Northern Ireland (SPPS) published in September 2015 confirms that until such time as a Plan Strategy for the whole of the Council Area has been adopted the Council should continue to apply existing policy and guidance contained in retained PPSs and other relevant documents together with the provisions of the SPPS itself.

Dungannon and South Tyrone Area Plan 2010: The access is onto a Protected Route as defined in the area plan (A29 between Dungannon and Cookstown). The area plan states that PPS 3 is the regional policy which will be taken into account in determining planning applications involving development which affects the public road network and public safety. There is no conflict between SPPS and any of the current policies of PPS3 Access, Movement and Parking.

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. No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application.

PPS 3: Access, Movement and Parking: sets out the Department's planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning.

RELEVANT PLANNING HISTORY

LA09/2019/1183/F- Proposed Retention of Building to Provide Communal Site Canteen, Locker Room + First Aid Facilities, Pending (Deferred for Office Meetings)

LA09/2017/1258/F- Proposed retention of building as a domestic garage, incidental to the domestic usage of Dwelling at 18 Cookstown Road, Dungannon. Refused 13.06.2019 in that;

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy EXT 1 of the Addendum to Planning Policy Statement 7 Residential Extensions and Alterations in that the development would, if permitted, be inappropriate in terms of scale, massing, siting and design and would not appear subordinate or sympathetic with the existing property;

- The proposal is contrary to Planning Policy Statement 3: Access, Movement and Parking in that it has not been demonstrated that a safe and satisfactory access can be gained to the site from the public road, including visibility splays of 4.5m by 120.0m in both directions.

It is noted that originally the above application description of proposal was amended from Agricultural to domestic garage.

2017/E0050 - Lands 10m west and 10m north of No. 18 Cookstown Road, Dungannon, specifically identified as units 4 and 11, Ross Beg, Dungannon - Unauthorised change of use of: unit 4 to a dance studio with associated gymnasium; and unit 11 to a vehicle repair business - Enforcement Notice Upheld 13/08/18 including the following reasons for refusal (other reasons were upheld but these are relevant to this application);

The proposal is contrary to policy AMP2 of PPS3 in that the access is substandard and would require significant improvements to provide visibility splays of 4.5 metres x 120 metres at the access with the public road (protected route) in both directions. The average speed and volume of vehicles at this location is high; given the location of the access on an incline TAS approval would be required in order to achieve visibility splays and forward sight distance. It is in the interests of road safety that public safety is not prejudiced by substandard accesses onto the public highway.

The proposal is contrary to policy AMP 3 of PPS 3, in that, the development represents an intensification of an existing access onto a protected route using a substandard access. The A29 is a Protected Route between two principle towns within the Council area. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

LA09/2017/1618/LDE, Retention of existing Units, a certificate of lawfulness was granted for this existing development on 01.02.2018.

M/2006/1985/F - Approx. 60 metres East of 18 Cookstown Road, Derraghadoan, Dungannon, Bt71 4BG - Free Standing Hoarding - Permission Refused 19/02/07

M/2004/1534/F - Adjacent to 18 Cookstown Road, Dungannon - Proposed multi-purpose shed/store - Permission Granted 12/04/06

CONSULTATION

DfI Roads were consulted and responded on 19/03/2020 requesting 4.5m by 120.0m visibility splays in both directions.

REPRESENTATION

No 3rd party representations received.

ASSESSMENT OF PLANNING ISSUES/MATERIAL CONSIDERATION

The current situation on this site is that there is live enforcement proceedings which relates only to a newly constructed building on this site. Enforcement proceedings have been suspended until the outcome of planning application LA09/2019/1183/F- Proposed Retention of Building to Provide Communal Site Canteen, Locker Room + First Aid Facilities, Pending (Deferred for Office Meetings). This application relates to the unauthorised building.

Prior to the submission of the above application LA09/2017/1258/F was submitted in an attempt to retain this subject building for ancillary residential storage. Permission was refused for the reasons stated above including road safety. This decision was not appealed to the PAC.

A recent enforcement appeal was upheld on this site (2017/E0050 see above). The notice, insofar as it relates to the use of the 2 buildings, has been upheld as the unauthorised uses have ceased and there are currently no uses being carried out from these buildings. Under this appeal the PAC Commissioner made her own assessment of the access to the site and upheld a number of reasons for refusal drafted by Council (with some slight amendments), including both reasons stated above. In this appeal DfI Roads and Mid Ulster Council suggested planning conditions of 2.4m by 160m splays in both directions. However, the Commissioner changed these splay requirements to 4.5m by 120m in both directions after her detailed assessment.

All other buildings and uses on the site are immune from enforcement action and have been rectified under LA09/2017/1618/LDE.

This subject application has been submitted to rectify the substandard access to this site, which is located at a fast blind corner when travelling along a Protected Route from Cookstown towards Dungannon, which makes the access position and lack of splays particularly dangerous. Vehicles exiting the site and turning right towards Dungannon are particularly vulnerable. Given that the Planning Appeals Commission carried out a detailed assessment over road speeds, road alignment and traffic on this stretch of road, I would be reluctant to allow anything less than 4.5m by 120m, especially in a northern direction.

I agree with the assessment carried out by the PAC. While this application is for access provision only, it will improve the existing situation. However, the improvements will still result in a substandard access onto a protected route. This is not acceptable. Approving a sub-standard access to this site that could result in a fatality would be reckless of Council. The proposal is contrary to policy AMP2 of PPS3.

As the site accesses onto a Protected Route it also falls for consideration under policy AMP 3 of PPS3 Other Categories of Development. The A29 is a Protected Route between two principle towns within the Council area, Dungannon and Cookstown. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

Neighbour Notification Checked **Yes**

Summary of Recommendation:

That permission is refused for the following reasons;

Reasons for Refusal:

1. The proposal is contrary to policy AMP2 of PPS3 in that the proposed access is substandard and would require significant improvements to provide visibility splays of 4.5 metres x 120 metres at the access with the public road (protected route) in both directions. The average speed and volume of vehicles at this location is high; given the location of the access on an incline TAS approval would be required in order to achieve visibility splays and forward sight distance. It is in the interests of road safety that public safety is not prejudiced by substandard accesses onto the public highway.

2. The proposal is contrary to policy AMP 3 of PPS 3, in that, the development represents a substandard access onto a protected route. The A29 is a Protected Route between two principle towns within the Council area. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

Signature(s)

Date:

ANNEX	
Date Valid	17th February 2020
Date First Advertised	3rd March 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 18 Cookstown Road,Dungannon,Tyrone,BT71 4BG The Owner/Occupier, 19 Cookstown Road,Dungannon,Tyrone,BT71 4BG The Owner/Occupier, 3 Coal Pit Road,Dungannon,Tyrone,BT71 4BH The Owner/Occupier, Bed Store,18 Cookstown Rd, Dungannon BT71 4BG The Owner/Occupier, Construction Fastteners,18 Cookstown Rd, Dungannon BT71 4BG	
Date of Last Neighbour Notification	20th March 2020
Date of EIA Determination	NA
ES Requested	No



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District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0905/F	Target Date: <add date>
Proposal: Retention of change of use of former farm shed to engineering works	Location: Approx 40m South of 28 Slatmore Road Clogher
Applicant Name and Address: Wiltshire Engineering 28 Slatmore Road Clogher BT76 0HQ	Agent name and Address: Desmond O'Neill 17 Main Street Dromore BT78 3AE
Summary of Issues: Established farm for farm diversification purposes Land contamination from generator on site and invasive species nearby.	
Summary of Consultee Responses: NIEA – advise Council EHO are the body in respect of public health, note report by OSM and request targeted analysis around generators, no concerns about impacts on natural heritage Environmental Health Office – no comments in respect of noise sensitive receptors, advise NIEA are body for groundwater DFI Roads – did not inspect, requested parking to be shown DAERA – established farm Shared Environmental Services – note NIEA response NI Water – no public main and no public sewer DFI Rivers – some surface water flooding, no drainage assessment necessary	

Characteristics of the Site and Area:

This is an irregular shaped narrow roadside frontage plot located along the Slatmore Road, between Fivemile Town and Clogher within Mid Ulster District Council, opposite No. 28. There is a building with roller shutter door to the NW elevation located within the center of the site with a small building attached. The large building is currently used for engineering purposes and there is a diesel generator located to the rear. The smaller of the buildings seems to be used for agricultural purposes and is for general storage and shelter of animals. There are some tractors, trailers, log piles, pallets of cricks, a container, machinery parts, tractor tyres, metal sheets and wooden pallets around the site which is open to the public road along its entire length. Mature trees and a stream abuts the SW boundary, beyond which is a forested area to the west and south. The NW boundary is not clearly defined and is open to a larger agricultural field.

Land in the area is mostly agricultural grazing, with dispersed single dwellings and farm holdings. Opposite the site is a single storey dwelling which is within control of the applicant. There are no other dwellings within the immediate vicinity of this rural and secluded setting.

Description of Proposal

This is a full planning application for the retention of change of use of former farm shed to engineering works.

Deferred Consideration:

This application was before the planning committee in June 2021 with a recommendation to refuse as the agent had not provided additional information to allow for the consideration of the proposal. The application was deferred to allow the agent time to submit information. The issues here relate to farm diversification, environmental issues and industrial development. CTY11 sets out a range of issues that I consider cover some of the other criteria set out in PPS4, if the proposal meets with CTY11 then I consider it will also meet PPS4.

Additional information was submitted or consideration:

- 25th June 2021, P1C form and farm maps in respect of the farming case
- 29th June 2021 and 30th June, an amended plan to show a drainage scheme for the site (drg No 02REV1)
- 30th June 2021, NI Biodiversity Checklist and Ecological Survey
- 28th July 2021, Preliminary Risk Assessment

to this.

DFI Roads advise they do not have enough information to determine the proposal, they requested a TAF and advised they cannot assess the parking or turning on the site. They have advised Slatmore Road is a narrow very lightly trafficked road with low speeds and they have no records of any collision history here. At the time of my visit the building was being used to fit out an agricultural trailer and the area to the side was used for storage purposes. The building is 95sqm in area, the parking standards advise this requires 4 spaces and a commercial vehicle space. Drawing 02 Rev 1 shows 10 spaces on the site, well in excess of what is necessary. The entire site frontage is open to the road and as Roads have indicated traffic speeds are low and from my own observations on site I consider sight lines of 2.0m x 30.0m are available and in place. As there is space for double the parking required I consider there is ample space to park and turn as well as service this unit. The revised site layout shows the parking areas are to drain into an interceptor before discharging to the drain. This can be dealt with by way of a condition to ensure this is provided and that it is installed to NIEA requirements.

The only residential development close by is the applicants own dwelling across the road, as such I do not consider the proposal will have any adverse impacts on residential amenity.

An ecology report identified there is invasive species outside the site, this is not part of this proposal and while it would be helpful to have this removed and controlled, the proposed development will not affect this or cause its spread. I do not consider it appropriate to add any conditions about the invasive species.

The applicants have provided some landscaping to the site boundaries which I consider will be beneficial as these are native species trees that will encourage biodiversity. I consider it appropriate to condition these are provided with the next available planting season following the provision of the car parking area.

As the proposal meets with the requirements of CTY11 and is unlikely to create any roads safety issues or environmental issues I recommend this application is approved.

Conditions/Reasons for Refusal:

1. Within 3 months of the date of this permission the car parking area including all the drainage and separation tank as shown on drawing No 02 Rev 1 bearing the stamp dated 30 JUN 2021 shall be provided in full.

Reason: To protect the water environment from pollution

2. The car parking area as provided in accordance with condition 1 shall be kept for the parking and turning of vehicles only and shall not be used for any other purpose.

Reason: In the interest of road safety.

3. During the first available planting season following the provision of the car park as detailed in condition 1 the landscaping scheme as shown on drawing No 02 Rev 1 bearing the stamp dated 30 JUN 2021 shall be provided in full. Any tree, shrub or

other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.
Reason: In the interests of visual amenity and biodiversity.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0905/F	Target Date:
Proposal: Retention of change of use of former farm shed to engineering works	Location: Approx 40m South of 28 Slatmore Road Clogher
Referral Route: Refuse for lack of information	
Recommendation:	Refuse
Applicant Name and Address: Wiltshire Engineering 28 Slatmore Road Clogher BT76 0HQ	Agent Name and Address: Desmond O'Neill 17 Main Street Dromore BT78 3AE
Executive Summary: Insufficient information has been provided to show that; -the farm business is both active and established; -the proposal can be run in conjunction with the farming operations on site; -materials can be stored in an orderly fashion within a portion of the site that will not cause detriment to rural character; -the proposal will not result in a risk to road safety; and, -the proposal will not have a detrimental impact on natural heritage interests.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations: None Received

Description of proposal

This is a full planning application for the retention of change of use of former farm shed to engineering works.

Characteristics of Site and Area

This is an irregular shaped narrow roadside frontage plot located along the Slatmore Road, between Fivemile Town and Clogher within Mid Ulster District Council, opposite No. 28. There is a building with roller shutter door to the NW elevation located within the center of the site with a small building attached. The large building is currently used for engineering purposes and there is a diesel generator located to the rear. The smaller of the buildings seems to be used for agricultural purposes and is for general storage and shelter of animals. There are some tractors, trailers, log piles, pallets of cricks, a container, machinery parts, tractor tyres, metal sheets and wooden pallets strewn around the site which is open to the public road along its entire length. Mature trees and a stream abuts the SW boundary, beyond which is a forested area to the west and south. The NW boundary is not clearly defined and is open to a larger agricultural field.

Land in the area is mostly agricultural grazing, with dispersed single dwellings and farm holdings. Opposite the site is a single storey dwelling which is within control of the applicant. There are no other dwellings within the immediate vicinity of this rural and secluded setting.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

Area Plan

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council are now preparing to submit the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010 (DSTAP)- this is the extant area plan for the area. This proposal is not located within any settlement limit and is in the open countryside. The site has no particular land use designation in the Area Plan.

Key Planning Policy

SPPS- Strategic Planning Policy Statement for NI
PPS 21 Sustainable development in the countryside
PPS3- access, movement and parking
PPS2- Natural Heritage

Relevant Planning History

An enforcement case was opened on this site in 2019. This planning application has been submitted in response to this case and further enforcement proceedings suspended pending the outcome of this application. There are no other relevant planning histories on this site.

Third Party Representations

No objections have been received on this application. I am satisfied that the proposal has been advertised and neighbour notification carried out in accordance with Council's statutory duties.

Consultee responses

DFI Roads require additional information to show parking provision and servicing areas within the site.

NIEA require a full drainage plan and land contamination information. The agent also has to provide a biodiversity checklist.

SES require the same information as NIEA so that they can complete their Habitats Regulation Assessment.

Environmental Health no objection

NIW no objection

Rivers Agency were consulted and raise no objection to the proposal.

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.

Paragraph 5.27 states that planning authorities should be guided by the principle that sustainable development should be permitted...unless the proposed development will cause demonstrable harm.

In support this proposal the applicant has provided a Supporting Statement on 25/11/2020 which contains the applicants farm business ID number, details of lands owned by the applicant and a case for how the proposal meets the policy requirements of CTY11 Farm Diversification policy of PPS21. I request from the agent on 25/11/2020 a P1C form so that I could consult with DAERA, and sent a reminder 26/02/2021 but to date have not received this.

The proposal is for the retention of change of use of former farm shed to engineering works. I consider that policy CTY 11 of PPS21 is the appropriate policy in which to consider this proposal.

As the applicant has not provided a P1C form so that consultation with DAERA can take place, there is insufficient information to demonstrate that the applicant's farm holding is both established for a period of 6 or more years and is currently active. In the statement of case provided by the agent, there is a strong case put forward that this is likely to be the case, however this has not been confirmed by DAERA.

In the statement of case the agent states that the applicant carries out repairs to farm machinery in the surrounding area, as well as being metal fabricators. In my view, if there is a financial link to the farming business then I am of the view that the proposal could be considered as being run in conjunction with the farming business. There is no clarification within the justification or amplification of CTY11 of what 'in conjunction' means and a very liberal application of this term has been applied by Mid Ulster Council in the past.

The applicant states that the smaller shed is retained in agricultural use. This is a very confined site and DfI Roads require additional information to ensure that parking and servicing of the site can be achieved for both the engineering operations and the existing agricultural operations on site. I requested this information on 16/11/2020 and nothing has been provided by the agent to date to address these issues. Therefore it is difficult to say that this business can be run in conjunction with the farming operations on site without this information.

This is a roadside frontage plot in the countryside with an open roadside boundary. There is a lot of machinery and materials strewn around the site which is somewhat unsightly. The block plan provided does not show how the site will be laid out, and for this reason I am of the view that the proposal is not of a character that is appropriate to its rural location. The scale is modest however adhoc storage of material throughout the site is in my view detrimental to the character of this area of countryside.

A stream flows along the western boundary of the site. On the day of my site visit there was torrential rainfall. When I went to the rear of the building I noticed a diesel generator and diesel sludge was leaking towards the stream. For this reason I consulted NIEA and

SES for comment on potential impacts on the natural environment. NIEA and SES require a full drainage assessment and land contamination information. I requested this from the agent on 25/11/2020 and again in a final reminder on 26/03/2021. No information is forthcoming so I cannot determine the impact of this proposal on the natural environment. There is no identified build heritage or monument interest in the area.

The only dwelling close to the business is in ownership or control of the applicant. I consulted with Environmental Health and they have no concern that the proposal will result in detrimental impacts on the amenity of nearby residential dwellings, part (d) of CTY11 is met.

In my view the proposal integrates into the landscape given the mature boundary to the west and the backdrop of a larger forested area. The building has the appearance of an agricultural building and is of a modest size and scale and groups with the existing holding (as it was once part of it). I am satisfied that the building does not offend policies CTY13 or 14 of PPS21.

PPS3 Access Movement and Parking

In my view the agent has not demonstrated that parking and servicing of both land uses on this restricted site can be achieved. The proposal is contrary to policy AMP2 of PPS3 as there is insufficient information to demonstrate that sufficient parking and servicing can be achieved and could therefore pose a risk to road safety.

PPS2 Natural Heritage

As assessed under part (c) of CTY11 above, the agent has not supplied sufficient information to demonstrate that the proposal will not have a detrimental impact to natural heritage interests and should be refused for lack of information.

Neighbour Notification Checked: Yes

Summary of Recommendation:

That planning permission be refused for the following reasons;

Reasons for Refusal:

1.The proposal is contrary to PPS21 Sustainable Development in the Countryside Policy CTY11 Farm Diversification in that there is insufficient information provided to demonstrate the following;

- that the farm business has been established for a period of 6 years and is currently active and a P1C form and full suite of farm maps have not been provided;
- that the proposal can be run in conjunction with farming operations on the site in terms of parking, manoeuvring and servicing of vehicles and no information has been supplied to show parking and movement of vehicles on site for both landuses;
- that materials can be stored in an orderly fashion within a portion of the site that will not cause detriment to rural character;
- that the proposal will not have a detrimental impact on natural heritage and a full drainage plan and land contamination information has not been provided.

2. The proposal is contrary to PPS3 Access, Movement and Parking as insufficient information has been provided to demonstrate that there is sufficient space on site to allow for the safe parking and manoeuvring of vehicles for both landuses which could result in a risk to road safety.

3. The proposal is contrary to PPS2 Natural Heritage in that insufficient information has been provided to demonstrate that the proposal will not result in detrimental impacts to interests of natural heritage importance.

Signature(s)

Date:

ANNEX	
Date Valid	27th July 2020
Date First Advertised	11th August 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 28 Slatmore Road, Clogher, Tyrone, BT76 0HQ	
Date of Last Neighbour Notification	25th August 2020
Date of EIA Determination	
ES Requested	Yes /No
Notification to Department (if relevant): NA Date of Notification to Department: Response of Department:	



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2020/1140/O	Target Date: 16 November 2020
Proposal: Outline planning permission for a dwelling on a farm with a detached garage	Location: Between 104 Ballygawley Road And An Agricultural Building 100M North East Of 104 Ballygawley Road Glenadush
Applicant Name and Address: Mr Bernard MC Aleer 101 Ballygawley Road Dungannon BT71 6DA	Agent name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area <p>This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.</p> <p>The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.</p> <p>The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the</p>	

agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

Description of Proposal

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

Deferred Consideration:

This application was initially presented before the Planning Committee in January 2021 where it was deferred for an office meeting with the Service Director. The application was listed as a refusal in November 2021 but was withdrawn from the schedule to allow proper consideration of a dwelling on a farm rather than the initial submission of an infill dwelling. The application was then presented before the Planning Committee in October 2022, again with a recommendation to refuse where it was deferred for a site visit with Members. This site visit took place on 25 October 2022. No additional information has been received from the agent/applicant.

Having reviewed the deferred report by the Senior Planning Officer I am content the proposal satisfies criteria (a) and (b) of CTY 10.

With regards to criteria (c), and having visited the site with Members it was clear to see there is one building on the holding with which the applicant wishes to site a new dwelling. Criteria (c) states that a new building must visually link or site to cluster with an established group of buildings on the farm. The policy does provide for an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirements of Policies CTY 13, 14 and 16., however this exception can only be considered where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. As referred to by the Senior Planning Officer in his deferred report this interpretation will prevent all farmer who only have one building or no buildings at all on their holding, from ever obtaining permission to build a dwelling on their farm. Members may feel this is unduly harsh and as such may wish to exercise an exception to the policy.

Referring to CTY 13, it is considered that should a dwelling be allowed on this site it can be conditioned to a ridge height of 5.5m so as the new dwelling will not appear as being prominent in the landscape. There are long established boundaries to the site which will assist the dwelling integrating into the rural area at this location.

CTY 14 states that planning permission will be granted for a building in the countryside where it

does not cause a detrimental change to, or further erode the rural character of an area. Having carried out a site visit I agree with the previous assessment of the Senior Planning Officer and do not consider a new dwelling will adversely impact on the rural character of the area.

The previous reports have addressed all the issues of concern raised by the objectors to the application and I do not intend to repeat these in this assessment.

In conclusion, the issue of concern is the principle of development as the applicant has failed to demonstrate compliance with the requirements of Policy CTY 10 of PPS 21 in that there isn't a group of buildings on the farm, with which to visually link or cluster a new dwelling on the farm. The application does not meet with Policy CTY 10 or the exception within CTY 10 and as such a refusal is recommended for the reasons below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

The proposed development is contrary to Policy CTY1 of Planning Policy Statement 21 as it has not been demonstrated the proposed dwelling is necessary in the countryside and meets with one of the policies for a dwelling in the countryside.

Reason 2

The proposed development is contrary to Policy CTY10 of Planning Policy Statement 21 as there is no established group of buildings on the farm therefore the development cannot visually link or cluster with a group of buildings and as there are no buildings on the farm the exception within the policy to allow a site elsewhere on the farm cannot be considered.

Signature(s):Karen Doyle

Date: 23 January 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1140/O	Target Date: <add date>
Proposal: Outline planning permission for a dwelling on a farm with a detached garage	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road, Glenadush
Applicant Name and Address: Bernard Mc Aleer 101 Ballygawley Road Dungannon BT71 6DA	Agent name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Summary of Issues: Is this for an active and established farmer Does the proposal meet with planning policy	
Summary of Consultee Responses: DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 90.0 m in both directions and a forward sight distance of 90.0m. DEARA – Farm has been established for over 6 years, no recent claims and claims associated with another business, business ID issued in 2019 but member has been The business number associated with planning application LA09/2020/1140/O was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011.	
Characteristics of the Site and Area: This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.	

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remained of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

Description of Proposal

This is an outline planning application for a dwelling on a farm with a detached garage

Deferred Consideration:

This application was removed from the schedule for discussion at the Planning Committee in November 2021 as the proposed development was assessed against a dwelling on a farm, however the proposal at that time referred to an infill dwelling. The Service Director was concerned there would be confusion caused by this and wished to have the description amended. The applicant submitted an amended description and the proposal under consideration is as currently described above. Following the receipt of the amended description the application was advertised and contributors and neighbours notified about the proposal. An additional 11 letters of objection were received.

Committee members will be well aware of the requirement of Policy CTY10 when considering dwellings on a farm. There are 3 criteria the policy says must be met and also there is an exception within the policy where there is no site beside existing buildings on the farm.

a) The farm business must be currently active and established for at least 6 years.

In support of this the applicant submitted a P1C – Dwelling on a Farm application form and advised the farm business was allocated on 13 June 2019. Additional information was also provided to set out what the applicant has been doing with the land and how long they have had the land.

DEARA have advised the business number associated with this planning application was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011, this client reference number was created for the purposes of land identification when DARD required proof of ownership of land before they would allocate a field number on their system. DAERA have also provided information about activities on the business:

- 13/08/2019 – 3 animals moved into the flock
- 05/10/2020 – 3 animals moved out of the flock
- 13/05/2021 – 8 animals moved into the flock (tags nos provided for 3 of them)
- 07/10/2021 – 5 animals moved out of the flock

I undertook a site inspection on 2 September 2021 and noted there were 8 sheep in the field as can be seen in fig 1 and 2 below, I consider this indicates the land was being used for agricultural purposes at that time.



Fig 1 view of application site from in front on Old Ballygawley Road



Fig 2 view of application site from in front and west on Old Ballygawley Road

Further information submitted indicates the applicant gained control of the land in 2007. In 2010, 2011 and 2012 Mr Cush rented the land and sowed potatoes. Mr Cush has passed away so this information cannot be verified by Mr Cush, however there are aerial photographs which OSNI have flown on 31 August 2010 (fig 3) and google streetview photographs from April 2011 (fig 4) that support the applicants version of events that crops

were being grown at those times.



Fig 3 - OSNI aerial photograph of the land flown 31/08/20



Fig 4 – Google streetview image captured April 2011

The applicant advises they employed Mr Cush to sow out the land in grass seed in 2012 and from then until 2019 it was taken by Mrs Davidson who advises she only had to put her animals on the land and cut the silage as Mr McAleer carried out all other works to maintain the hedges, fences and drains in the field. An aerial photograph from OSNI flown on 7 June 2013 shows there has been some work done to the land as it is bare earth with clearly visible marks of machinery having been on the land (fig 5). Had this been sown in 2012 as advised then it should have been in grass, however it is evident that at this time work had been done to the land.



Fig 5 – OSNI aerial photograph of the land on 7 June 2013

Additional information provided in support of the application states:

- 1) the applicant engaged 3 different contractors between 2014 and 2020 to carry out works for the maintenance of the hedgerows. Invoices have been submitted which the applicant advises were written up recently from the contractors records and these are from:
 - S O'Neill for hedge cutting in July and October 2014,
 - K Quinn for hedge cutting in July and October 2015 and
 - D Dobson for hedge cutting in July and October 2016, 2017, 2018, 2019 and 2020
- 2) the applicant engaged Sean Rafferty to carry out works to the drains and fences in 2007-2008
- 3) Mr Ciaran O'Donnell carried out major works to the drains in 2017 where directional drilling was carried out and photographs are provided to show this. I consider the photographs are from the north west corner of this field as it is clear in the photographs there are trees and electricity poles in the south east corner that are still on site today. This can be seen below in the photograph provided by the applicant and in the google streetview image from June 2015 (Fig 7).



Fig 7 photograph of drainage work being undertaken and google streetview map, not trees and electric pole in middle of the pictures.

4) Mrs Davidson has advised that she took the land between 2012 and 2019 and claimed single farm payment on it. She also advised that Mr McAleer maintained the ground and she put her animals on it and took silage off it.

Members will be aware that while it would be helpful if the applicant has been registered with DAERA. In those cases that Department can confirm the farm is currently active and established and this is helpful to the consideration of applications for dwellings on farms. This is not the case here, DAERA have advised the business was registered with them on 12/06/2019, which is short of the 6 years required to demonstrate an established farm. That said the policy refers to the farm business having to be currently active and established and the policy advises 'farming activity' can take many different forms. The SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity (see appendix 2) while amplification to Policy CTY10 para 5.39 indicates keeping the land in good agricultural and environmental condition is 'farming activity'. In this case, from the information submitted, it is clear Mr McAleer has been investing in the land and obtaining a return for that investment for a period in excess of 6 years. This is the common understanding of what a business is. There is no dispute that the land has been used for agricultural activities as it has been shown that it was used for growing potatoes and keeping animals on it, which, in my view, falls under the definition of agricultural activities and as it has been ongoing since before 2014 (6 years before the application was submitted), then I consider this is an established and currently active agricultural business.

In light of the above information, I am content that this is a currently active and established farm business and criteria a of CTY10 has been met.

b) no dwellings or development opportunities have been sold off ... within 10 years of the date of the application....

I have checked the land identified as being in Mr McAleers ownership here and there have not been any sites or dwellings sold off the farm in the 10 years before the application was submitted. Mr McAleer has moved to a dwelling on the opposite side of the road from the site which he has advised is rented accommodation..

c) new buildings should be sited to visually link or cluster with an established group of buildings on the farm and where practicable access should be from existing lanes.

It is quite clear there is no established group of buildings on this farm, Mr McAleer received planning permission for the farm building located in the south east corner of the field on 3rd October 2019.. The policy provides an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirement of Policies CTY13(a-f), CTY14 and CTY16, however this exception can only be considered where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group(s). The exception within the policy is clear that it only requires consideration of sites beside other groups of buildings on the farm and not other sites on the farm. Members could refuse the application on the basis that it does not cluster or visually link with a group of buildings on the farm and it cannot be considered as an exception within the policy as, with no group of building on the farm, the remainder of criteria c, including the exception cannot be relied upon to grant

permission.

This interpretation will prevent all farmers who only have one building or no buildings at all on their holding, from ever obtaining permission to build a dwelling on their farm. Members may feel this is unduly harsh and as such may wish to exercise an exception to the policy here.

Even though the proposal is contrary to CTY10 criteria c, as there are no building on the farm, I will consider the other aspects of the CTY13 and CTY14. The previous case officer report has considered the potential for a dwelling and garage to integrate on this site and has raised concerns about the potential visual impact of this. I agree that a dwelling would be visible on the site, but only when viewed from the public road immediately in front of the site and for approximately 200 metres on approach from Dungannon, as the vegetation to the west completely screens the site from view until the end of the laneway, identified in fig



6 with the red arrow.

Fig 6 – view from the west, access to the site identified by red arrow

The photograph below (fig 7) shows the view from the west, a dwelling as proposed (siting shown with the blue arrow) could break the skyline here, as it does not benefit from screening or clustering with the existing farm building (red arrow) or the other development to the west (black arrow). A dwelling here could be prominent in the landscape, when seen from this critical view.



Fig 6, siting proposed in blue, existing agricultural building in red and other buildings in black

This application is for outline planning permission and as such the members can consider if there are any conditions that would make this development acceptable. If there are no conditions that could make it acceptable then the development should be refused.

Conditions can be attached that deal with the size, scale, design and location of a dwelling on the site as well as landscaping conditions that can require new planting to be provided and allow existing planting to be retained at a certain height.

It is clear there are long established boundaries on the south and west of the identified site as well as within the applicants control to the north and east boundaries of the field. These can be conditioned to grow on to a height of 3 metres to assist the integration of any dwelling. Additional landscaping can be conditioned along the side of the lane and the curtilage of the proposed dwelling which will, in my opinion, also assist in the integration of a dwelling on the site, but is not solely relied upon to provide the screening.

Coupled with the above conditions I consider it would be appropriate to control the ridge height of any dwelling and reduce the ground levels to ensure the rising ground and hedges to the rear (south) can provide a suitable backdrop. In my assessment of the site, I consider siting the dwelling as proposed in the indicative site plan with the finished floor levels the same as the existing ground level at the NE curtilage of the proposed site and a ridge height of 5.5m above the finished floor levels would ensure that a dwelling here is not prominent in the landscape. I consider it would also be appropriate to limit the ridge height of any garage to 4m above finished floor levels and these should be the same as the dwelling.

Rural character is a visual assessment that takes into account the existing development and character of the surrounding area. This site is located beside a number of other dwellings and buildings. These are well screened from public view and set back from the public road. The workers cottage opposite the site has little in the way of vegetation around it and is the most obvious development in view. As can be seen in Fig 6 a dwelling in this site would not be critically viewed with other development as to give the impression that the area has reached a critical stage in terms of its character. As one moves along the Old Ballygawley Road from the east to the west the existing development is well screened and set back from the road, in my opinion, a dwelling of a suitably scale and design would also, in a short space of time be well screened and would not detract from the rural character. On approach from the west to the east, any one travelling along the road will not be aware on the dwelling until they are passed it. I do not consider a dwelling here would adversely impact on the rural character of the area.

The application form has indicated that any development here will be served by a septic tank. These can be a number of different types that could be acceptable here and the consent to discharge is a matter that is dealt with by the Environment Agency.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft

Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Objections

There have been a number of objections to the proposed development, when it was proposed as infill dwelling and when the details of the farming case were presented, these are summarised in Appendix 1 and a number of the issues raised have been addressed in the above considerations.

Urban sprawl relates to the spreading of settlements into the surrounding countryside in an unplanned fashion. In this case the site is well away from any settlements and would not result in urban sprawl.

The proposed development is for a dwelling, noise from cattle trucks coming and going to the site would be in relation to the agricultural activity and not this dwelling.

The objector has raised issues in relation to Human Rights, these may only be considered in respect to the proposal for a dwelling that is being considered. Article 1 of Protocol 1 of the European Convention on Human Rights which covers the protection of property and the peaceful enjoyment of possessions. The Human Rights Act 1998 and the Convention refer to both Article 1 of the First Protocol, which provides for the protection of property and peaceful enjoyment of possessions and Article 8 of the Convention. These are qualified rights and the legislation clearly envisages that a balance be struck between the interests of individuals and those of society as a whole. The proposed dwelling can be located a suitable distance away from any other existing dwellings to ensure their right to enjoy their property is not adversely impacted. The final location of the dwelling will be subject to further consideration and as such anyone who has an interest may make further representations at that time. The European Convention, Article 6 also enshrines the right to a fair hearing. This application will be decided by the planning committee and any interested party may address the planning committee, provided they follow the published protocol. Therefore, it is my view there are no Human Rights grounds for refusal of this application.

The objector has raised Lamont Judicial Review case where planning permission was quashed due to the wrong interpretation of policy. In the Lamont Case the decision makers concluded the proposal met with CTY10 as it was sited beside a building on the farm. The Judge considered this was not a correct interpretation of the Policy and set out that the decision maker had reduced the policy requirement from a group of buildings to one single building. In this case, it is clearly set out there is one building and this proposal does not meet this part of the policy test. There is an exclusion within the policy that allows the siting away from buildings where there are health and safety concerns or verifiable plans to extend the farm. Again this is not be utilised as there have not been any details provided to justify the position away from a group of buildings on the farm.

In view of the above, it is my recommendation to the members that as there is no group of buildings on the farm, this application cannot meet with Policy CTY10 or the exception within policy CTY10 and as such should be refused.

APPENDIX 1

Objections/representations received raise the following points:

dated 29/10/2020 - objection

planners should apply guidance for development in the countryside

dated 10/11/2020 – objection

application form completion:

- not proposed for dwelling on farm,
- there were previous applications refused on this site for Mrs Gillen

a laneway has been created was supposed to be grass path

Photos:

- sight lines to right not in place
- not infill as it is a small gap site, buildings are not on the road frontage, does not have appearance of built up area, building 4 not a building, just cow shelter

dated 10/11/2021 - representation

no objections provided no impact on 102 or 104

dated 18/11/2020 - objection

photos provided, map provided and neighbour notification letter provided

- vegetation removed
- not a gap site as accompanying development to the rear
- not a farmer
- M/2010/0554/O – application for 2 dwellings

dated 21/12/2020 – objection

Photos of cattle building provided

-same site previously refused for Mrs Gillen

- same site refused for 2 dwellings for applicant – (contrary to CTY1; CTY2a no focal point, no dev on 2 sides and no suitable degree of enclosure; CTY6 no special circumstances; CTY7 as no essential need for business; CTY13 as not suitable degree of enclosure; CTY14 – build up and does not respect character of the area)

dated 28/12/2020 - representation

no planning issues raised in this representation

dated 3/5/2021 - objection

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

dated 3/5/2021 - objection

- not supported by PPS21 paras 3.1, 3.2 CTY12 section 5.00, CTY13 section 5.57, CTY15 and CTY16

dated 3rd May 2021 - objection

- not for a farmer

dated 4/5/2021 - objection

includes extracts from previous report to planning committee recommending refusal

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

date received by Planning Office 4 May 2021 - objection

- has not been farming for 6 years in sense of true farmer
- lacks integration and erodes rural character and would create urban sprawl

date received by Planning Office 5 May 2021 - objection

- not infill
- noise from cattle trucks entering and leaving the site
- loss of privacy

dated 12 May 2021 - representation

- support for the application, refers to previous support letter as not being uploaded,
- owns the lane and others only have a right of way
- the applicant assists with maintenance of the lane and hedges
- previous letter advises:
 - Mr McAleer has been farming the land since he purchased it, repairing fencing and drains on his land and on the writers land
 - the development will not impact the rural area and will not transform it into a suburban development

date received by Planning Office 19 May 2021- rebuttal of information submitted in support of farming case

Sean Rafferty letter Appendix I Drainage Works

- Mr McAleer did not own the land in 2007, land registry documents attached,
- query flooding issue as not declared on P1 form

Ciaran O'Donnell letter Appendix Major Drainage Works

- Mr McAleer did not own the land in 2017, land registry documents attached,
- query flooding issue as not declared on P1 form,
- photos not of the site as no buildings shown
- billheads not acceptable proof, no departmental proof

Blackbird Letter dated 1 December 2017

- applicant has stated he is not active and established as a farmer, does not claim single farm payment

Ann McNulty letter Appendix L – Letter of Support

- objector claims they own the lane as it was to his parents small farm
- query flooding issue as not declared on P1 form
- land farmed by Mrs Davidson until 2019

Shirley Davidson/David Davidson letter Appendix M Conacre letter

- Mr McAleer did not own the land in some of the years, passed to another owner on 12 June 2015, land registry documents enclosed
- Mrs Davidson was the sole farmer of the land

Received 25 May 2021 – objection

- the area has been the subject of a number of planning applications over the years
- development impacting on human rights
- the proposal is not an infill site, no frontage to road and accompanying development to the rear
- not an active farmer, previous application for shed states this and did not show that it farming was active for 6 years
- shed approved as an exception to planning policy as was not an active farmer
- only one building on the farm cannot cluster with buildings on the farm
- new laneway provided to the site, did not use existing as preferred by planning
- do not consider having 3 sheep constitutes being a farmer
- DEARA Legislation states active farmer is one who can claim for Basic Payment Scheme (BPS) Cat 3 farmers cannot
- to allow this would allow others to do the same thing

received 17/6/2021 - objection

- application form, enclosed, clearly indicates this is not for a dwelling on a farm

received 28/6/2021 – objection

- need to consider the viability of the farm
- brief history of the land: site has been refused planning for dwelling, was sold at the height of the market, around 2008, site put up for sale approx. 4 years ago and only attracted lower bids, owner applied for other development since
- proposal is contrary to CTY1, CTY2a, CTY6, CTY&, CTY13, CTY14, CTY12
- farmer never bought cattle

received 19/11/2021 – objection

- not an active farmer, only active when you get ID Number

received 19/11/2021 – objection

- DAERA response 29 March not correct, not established 6 years, should only be counted from when business id issued from 12/6/19
- Who instigated response from DAERA, why delays in querying information
- Site was refused 1999 and 2010
- Suburban sprawl

received 19/11/2021 – objection

- Applicant not a farmer and states so in original application form
- Client business number is not business number, can be a client without having a business
- Lands claimed under another business, that was the active farmer
- DAERA rules do not allow animals from another farm to be grazed on lands claimed by another business
- Previous application for farm building (LA09/2017/0899/F) did not demonstrate that was active farmer
- No evidence why cannot be sited on another part of the farm
- Contrary to CTY13 and CTY14

Dated 22/11/21 – objection

- Objections as previously stated

received 10/12/2021 – objection

- does not meet criteria in CTY10
- not a farmer by DAERA Minister Poots definition

received 18/01/2022 – objection

- DAERA response contradicts itself
- applicant is not a farmer, land used by other farmer

received 04/02/2022 – objection

- the assessment of the information presented does not go into detail compared to other cases for dwellings on farms in other Council areas
- no address for the contractors who carried out the work for contacting them
- bills/receipts not specific to this applicant

received 25/03/2022 – objection

- 8 sheep in the field during site inspection in September 2021, whose sheep, planners should ask DAERA to provide information about flock numbers/herd book
- other Councils carry out more detailed considerations of the information for farming activity

received 21/04/2022 – objection

- flock list provided on website not considered to be from DAERA

received 31/03/2022 – response from DAERA

- details of flock movements for this business, address changed, bought and sold 3 cattle

received 5/05/2022 – objection

- response to email correspondence with DAERA about flock/herd
- query numbers and locations
- do not consider Mr McAleer farms this field
- does not visually link or cluster with group of buildings on the farm, no information submitted about health and safety reasons or plans to extend the farm

received 22/08/2022 – objection

- PAC refused case in different Council area because they could not prove farming case, similar to here
- need to look into the farming evidence provided, no addresses on receipts to check who carried out the work
- similar case in Lamont Judicial Review, does not visually link or cluster with a group of buildings on the farm
- not for a long suffering small farmer
- this has been refused on CTY13 and CTY14

received 30/08/2022 – objection

- queried the 8 sheep in the field
- who farms the land

APPENDIX 2

Extract from Regulation (EU) No 1307/2013

c)

"agricultural activity" means:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
- (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

Reasons for Refusal:

1. The proposed development is contrary to Policy CTY1 of Planning Policy Statement 21 as it has not been demonstrated the proposed dwelling is necessary in the countryside and meets with one of the policies for a dwelling in the countryside.
2. The proposed development is contrary to Policy CTY10 of Planning Policy Statement 21 as there is no established group of buildings on the farm therefore the development cannot visually link or cluster with a group of buildings and as there are no buildings on the farm the exception within the policy to allow a site elsewhere on the farm cannot be considered.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1140/O	Target Date: <add date>
Proposal: An infill dwelling and detached garage (farm case submitted)	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road, Glenadush
Applicant Name and Address: Bernard Mc Aleer 7 Glenree Avenue Dungannon	Agent name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Summary of Issues: Dwelling on a farm, number of buildings and length of time.	
Summary of Consultee Responses: DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 90.0 m in both directions and a forward sight distance of 90.0m. DEARA – Farm has been established for over 6 years, no recent claims and claims associated with another business, business ID issued in 2019 but member has been The business number associated with planning application LA09/2020/1140/O was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011.	
Characteristics of the Site and Area: This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.	

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remained of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

Description of Proposal

This is an outline planning application for an infill dwelling and detached garage (farm case submitted)

Deferred Consideration:

Members are advised this application was deferred at the planning committee on 11th January 2021 for a meeting with the Planning Manager to discuss the application and explore the case. At the meeting on 20 January 2021 it was made clear this does not meet the criteria for an infill opportunity under Policy CYTY8, it was noted that planning permission had been granted for an agricultural building on this land and information was requested on the farming case for consideration against Policy CTY10.

Committee members will be well aware of the requirement of Policy CTY10 when considering dwellings on a farm. There are 3 criteria the policy says must be met and also there is an exception within the policy where there is no site beside existing buildings on the farm.

a) The farm business must be currently active and established for at least 6 years.

In support of this the applicant submitted a P1C – Dwelling on a Farm application form and advised the farm business was allocated on 13 June 2019. Additional information was also provided to set out what the applicant has been doing with the land and how long they have had the land.

DEARA have advised the business number associated with this planning application was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011, this client reference number was created for the purposes of land identification when DARD required proof of ownership of land before they would allocate a field number on their system.

I undertook a site inspection on 2 September 2021 and noted there were 8 sheep in the field as can be seen in fig 1 and 2 below, I consider this illustrates that Mr McAleer is a farmer and the farm is currently active.



Fig 1 view of application site from in front on Old Ballygawley Road



Fig 2 view of application site from in front and west on Old Ballygawley Road

Further information submitted indicates the applicant gained control of the land in 2007. In 2010, 2011 and 2012 Mr Cush rented the land and sowed potatoes. Mr Cush has passed away so this information cannot be verified by Mr Cush, however there are aerial photographs which OSNI have flown on 31 August 2010 (fig 3) and google streetview photographs from April 2011 (fig 4) that support the applicants version of events that crops

were being grown at those times.



Fig 3 - OSNI aerial photograph of the land flown 31/08/20



Fig 4 – Google streetview image captured April 2011

The applicant advises they employed Mr Cush to sow out the land in grass seed in 2012 and from then until 2019 it was taken by Mrs Davidson who advises she only had to put her animals on the land and cut the silage as Mr McAleer carried out all other works to maintain the hedges, fences and drains in the field. An aerial photograph from OSNI flown on 7 June 2013 shows there has been some work done to the land as it is bare earth with clearly visible marks of machinery having been on the land (fig 5). Had this been sown in 2012 as advised then it should have been in grass, however it is evident that at this time work had been done to the land.



Fig 5 – OSNI aerial photograph of the land on 7 June 2013

Additional information provided in support of the application states:

- 1) the applicant engaged 3 different contractors between 2014 and 2020 to carry out works for the maintenance of the hedgerows. Invoices have been submitted which the applicant advises were written up recently from the contractors records and these are from:
 - S O'Neill for hedge cutting in July and October 2014,
 - K Quinn for hedge cutting in July and October 2015 and
 - D Dobson for hedge cutting in July and October 2016, 2017, 2018, 2019 and 2020
- 2) the applicant engaged Sean Rafferty to carry out works to the drains and fences in 2007-2008
- 3) Mr Ciaran O'Donnell carried out major works to the drains in 2017 where directional drilling was carried out and photographs are provided to show this. I consider the photographs are from the north west corner of this field as it is clear in the photographs there are trees and electricity poles in the south east corner that are still on site today. This can be seen below in the photograph provided by the applicant and in the google streetview image from June 2015 (Fig 7).



Fig 7 photograph of drainage work being undertaken and google streetview map, not trees and electric pole in middle of the pictures.

4) Mrs Davidson has advised that she took the land between 2012 and 2019 and claimed single farm payment on it. She also advised that Mr McAleer maintained the ground and she put her animals on it and took silage off it.

Members will be aware the policy refers to the farm business having to be active and established. Farming activity can take many different forms, the SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity (see appendix 2). In this case it is clear Mr McAleer has been investing in the land and obtaining a return for that investment, and this is the common understanding of what a business is. There is no dispute that the land has been used for agricultural activities as it has been shown that it was used for growing potatoes and keeping animals on it, which, in my view, falls under the definition of agricultural activities and as it has been ongoing since before 2015 (6 years ago) then I consider this is an established agricultural business.

In light of the above information, I am content that this is an active and established farm business and criteria a of CTY10 has been met.

b) no dwellings or development opportunities have been sold off ... within 10 years of the date of the application....

I have checked the land identified as being in Mr McAleer's ownership here and there have not been any sites or dwellings sold off the farm in the 10 years before the application was submitted. I am content that criteria b of CTY10 has been met.

c) new buildings should be sited to visually link or cluster with an established group of buildings on the farm and where practicable access should be from existing lanes.

It is quite clear there is no established group of buildings on this farm, Mr McAleer received planning permission for the farm building located in the south east corner of the field on 3rd October 2019. Members could refuse the application on the basis that it does not cluster or visually link with a group of buildings on the farm. That said, the policy provides an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirement of Policies CTY13(a-f), CTY14 and CTY16. As there is no group of buildings associated with this farm I consider it appropriate to assess the proposal under this exception in the policy.

The previous case officer report has considered the potential for a dwelling and garage to integrate on this site and has raised concerns about the potential visual impact of this. I agree that a dwelling would be visible on the site, but only when viewed from the public road immediately in front of the site and for approximately 200 metres on approach from Dungannon, as the vegetation to the west completely screens the site from view until the end of the laneway, identified in fig 6 with the red arrow.



Fig 6 – view from the west, access to the site identified by red arrow

The photograph below (fig 7) shows the view from the west, a dwelling as proposed (siting shown with the blue arrow) could break the skyline here, as it does not benefit from screening or clustering with the existing farm building (red arrow) or the other development to the west (black arrow). A dwelling here could be prominent in the landscape, when seen from this critical view.



Fig 6, siting proposed in blue, existing agricultural building in red and other buildings in black

This application is for outline planning permission and as such the members can consider if there are any conditions that would make this development acceptable. If there are no conditions that could make it acceptable then the development should be refused.

Conditions can be attached that deal with the size, scale, design and location of a dwelling on the site as well as landscaping conditions that can require new planting to be provided and allow existing planting to be retained at a certain height.

It is clear there are long established boundaries on the south and west of the identified site as well as within the applicants control to the north and east boundaries of the field. These can be conditioned to grow on to a height of 3 metres to assist the integration of any dwelling. Additional landscaping can be conditioned along the side of the lane and the curtilage of the proposed dwelling which will, in my opinion, also assist in the integration of

a dwelling on the site, but is not solely relied upon to provide the screening.

Coupled with the above conditions I consider it would be appropriate to control the ridge height of any dwelling and reduce the ground levels to ensure the rising ground and hedges to the rear (south) can provide a suitable backdrop. In my assessment of the site, I consider siting the dwelling as proposed in the indicative site plan with the finished floor levels the same as the existing ground level at the NE curtilage of the proposed site and a ridge height of 5.5m above the finished floor levels would ensure that a dwelling here is not prominent in the landscape. I consider it would also be appropriate to limit the ridge height of any garage to 4m above finished floor levels and these should be the same as the dwelling.

Rural character is a visual assessment that takes into account the existing development and character of the surrounding area. This site is located beside a number of other dwellings and buildings. These are well screened from public view and set back from the public road. The workers cottage opposite the site has little in the way of vegetation around it and is the most obvious development in view. As can be seen in Fig 6 a dwelling in this site would not be critically viewed with other development as to give the impression that the area has reached a critical stage in terms of its character. As one moves along the Old Ballygawley Road from the east to the west the existing development is well screened and set back from the road, in my opinion, a dwelling of a suitably scale and design would also, in a short space of time be well screened and would not detract from the rural character. On approach from the west to the east, any one travelling along the road will not be aware on the dwelling until they are passed it. I do not consider a dwelling here would adversely impact on the rural character of the area.

The application form has indicated that any development here will be served by a septic tank. These can be a number of different types that could be acceptable here and the consent to discharge is a matter that is dealt with by the Environment Agency.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Objections

There have been a number of objections to the proposed development, when it was proposed as infill dwelling and when the details of the farming case were presented, these are summarised in Appendix 1 and a number of the issues raised have been addressed in the above considerations.

Urban sprawl relates to the spreading of settlements into the surrounding countryside in an unplanned fashion. In this case the site is well away from any settlements and would not result in urban sprawl.

The proposed development is for a dwelling, noise from cattle trucks coming and going to the site would be in relation to the agricultural activity and not this dwelling.

The objector has raised issues in relation to Human Rights, these may only be considered in respect to the proposal for a dwelling that is being considered. Article 1 of Protocol 1 of the European Convention on Human Rights which covers the protection of property and the peaceful enjoyment of possessions. The Human Rights Act 1998 and the Convention refer to both Article 1 of the First Protocol, which provides for the protection of property and peaceful enjoyment of possessions and Article 8 of the Convention. These are qualified rights and the legislation clearly envisages that a balance be struck between the interests of individuals and those of society as a whole. The proposed dwelling can be located a suitable distance away from any other existing dwellings to ensure their right to enjoy their property is not adversely impacted. The final location of the dwelling will be subject to further consideration and as such anyone who has an interest may make further representations at that time. The European Convention, Article 6 also enshrines the right to a fair hearing. This application will be decided by the planning committee and any interested party may address the planning committee, provided they follow the published protocol. Therefore, it is my view there are no Human Rights grounds for refusal of this application.

In view of the above, it is my recommendation to the members that this proposal meets with the exception in CTY10 and that planning permission is granted with the conditions specified.

APPENDIX 1

Objections/representations received raise the following points:

dated 29/10/2020 - objection

planners should apply guidance for development in the countryside

dated 10/11/2020 – objection

application form completion:

- not proposed for dwelling on farm,
- there were previous applications refused on this site for Mrs Gillen

a laneway has been created was supposed to be grass path

Photos:

- sight lines to right not in place
- not infill as it is a small gap site, buildings are not on the road frontage, does not have appearance of built up area, building 4 not a building, just cow shelter

dated 10/11/2021 - representation

no objections provided no impact on 102 or 104

dated 18/11/2020 - objection

photos provided, map provided and neighbour notification letter provided

- vegetation removed
- not a gap site as accompanying development to the rear
- not a farmer
- M/2010/0554/O – application for 2 dwellings

dated 21/12/2020 – objection

Photos of cattle building provided

-same site previously refused for Mrs Gillen

- same site refused for 2 dwellings for applicant – (contrary to CTY1; CTY2a no focal point, no dev on 2 sides and no suitable degree of enclosure; CTY6 no special circumstances; CTY7 as no essential need for business; CTY13 as not suitable degree of enclosure; CTY14 – build up and does not respect character of the area)

dated 28/12/2020 - representation

no planning issues raised in this representation

dated 3/5/2021 - objection

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

dated 3/5/2021 - objection

- not supported by PPS21 paras 3.1, 3.2 CTY12 section 5.00, CTY13 section 5.57, CTY15 and CTY16

dated 3rd May 2021 - objection

- not for a farmer

dated 4/5/2021 - objection

includes extracts from previous report to planning committee recommending refusal

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

date received by Planning Office 4 May 2021 - objection

- has not been farming for 6 years in sense of true farmer
- lacks integration and erodes rural character and would create urban sprawl

date received by Planning Office 5 May 2021 - objection

- not infill
- noise from cattle trucks entering and leaving the site
- loss of privacy

dated 12 May 2021 - representation

-support for the application, refers to previous support letter as not being uploaded,

- owns the lane and others only have a right of way

- the applicant assists with maintenance of the lane and hedges

- previous letter advises:

- Mr McAleer has been farming the land since he purchased it, repairing fencing and drains on his land and on the writers land

- the development will not impact the rural area and will not transform it into a suburban development

date received by Planning Office 19 May 2021- rebuttal of information submitted in support of farming case

Sean Rafferty letter Appendix I Drainage Works

- Mr McAleer did not own the land in 2007, land registry documents attached,
- query flooding issue as not declared on P1 form

Ciaran O'Donnell letter Appendix Major Drainage Works

- Mr McAleer did not own the land in 2017, land registry documents attached,
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- photos not of the site as no buildings shown
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- land farmed by Mrs Davidson until 2019

Shirley Davidson/David Davidson letter Appendix M Conacre letter

- Mr McAleer did not own the land in some of the years, passed to another owner on 12 June 215, land registry documents enclosed
- Mrs Davidson was the sole farmer of the land

dated 24th May 2021 – objection

- the area has been the subject of a number of planning applications over the years
- development impacting on human rights
- the proposal is not an infill site, no frontage to road and accompanying development to the rear
- not an active farmer, previous application for shed states this and did not show that it farming was active for 6 years
- shed approved as an exception to planning policy as was not an active farmer
- only one building on the farm cannot cluster with buildings on the farm
- new laneway provided to the site, did not use existing as preferred by planning
- do not consider having 3 sheep constitutes being a farmer
- DEARA Legislation states active farmer is one who can claim for Basic Payment Scheme (BPS) Cat 3 farmers cannot
- to allow this would allow others to do the same thing

dated 15/6/2021 - objection

- application form, enclosed, clearly indicates this is not for a dwelling on a farm

dated 24/6/2021 – objection

- need to consider the viability of the farm
- brief history of the land: site has been refused planning for dwelling, was sold at the height of the market, around 2008, site put up for sale approx. 4 years ago and only attracted lower bids, owner applied for other development since
- proposal is contrary to CTY1, CTY2a, CTY6, CTY&, CTY13, CTY14, CTY12
- farmer never bought cattle

APPENDIX 2

Extract from Regulation (EU) No 1307/2013

c)

"agricultural activity" means:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
- (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

Conditions/Reasons for Refusal:

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 curtilage of the proposed dwelling, except for the access, shall be limited to the area identified 'proposed new boundary hedge' on the approved plan No. 02 which was date stamp received 21st September 2021.

Reason: To ensure that the development integrates into the landscape.

4. The dwelling hereby permitted shall have a ridge height not more than 5.0m above the finished floor level and the garage hereby approved shall not have a ridge height exceeding 4.0m above the finished floor level.

Reason: In the interests of visual amenity and to protect rural character.

5. The finished floor levels of the dwelling and garage hereby permitted shall not exceed the level of the existing ground level at point A as annotated on drawing number 01 bearing the stamp dated 21 SEP 2020.

Reason: So that the building integrates into the surrounding countryside.

6. Details of existing and proposed levels within the site, levels along the roadside, and the finished floor level of the proposed dwelling shall be submitted for approval at Reserved Matters stage. The dwelling shall be built in accordance with levels agreed at Reserved Matters stage.

Reason: To ensure that the dwelling integrates into the surrounding countryside.

7. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All existing boundaries shall be retained and augmented with trees and native species hedging. The north west, northeast and south east boundaries of the area identified in red and blue on drawing No 01 bearing the stamp dated 21 SEP 2020 shall be allowed to grow up to a height of at least 3 meters and shall be retained at that height. All new curtilage boundaries including both sides of any proposed access laneway shall also be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage.

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.

8. 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 Local Planning Authority, 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 Local Planning Authority gives its written consent to any variation.

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

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 including sight lines of 2.4m by 90.0m in both directions and a forward sight distance of 90.0m. 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.

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

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

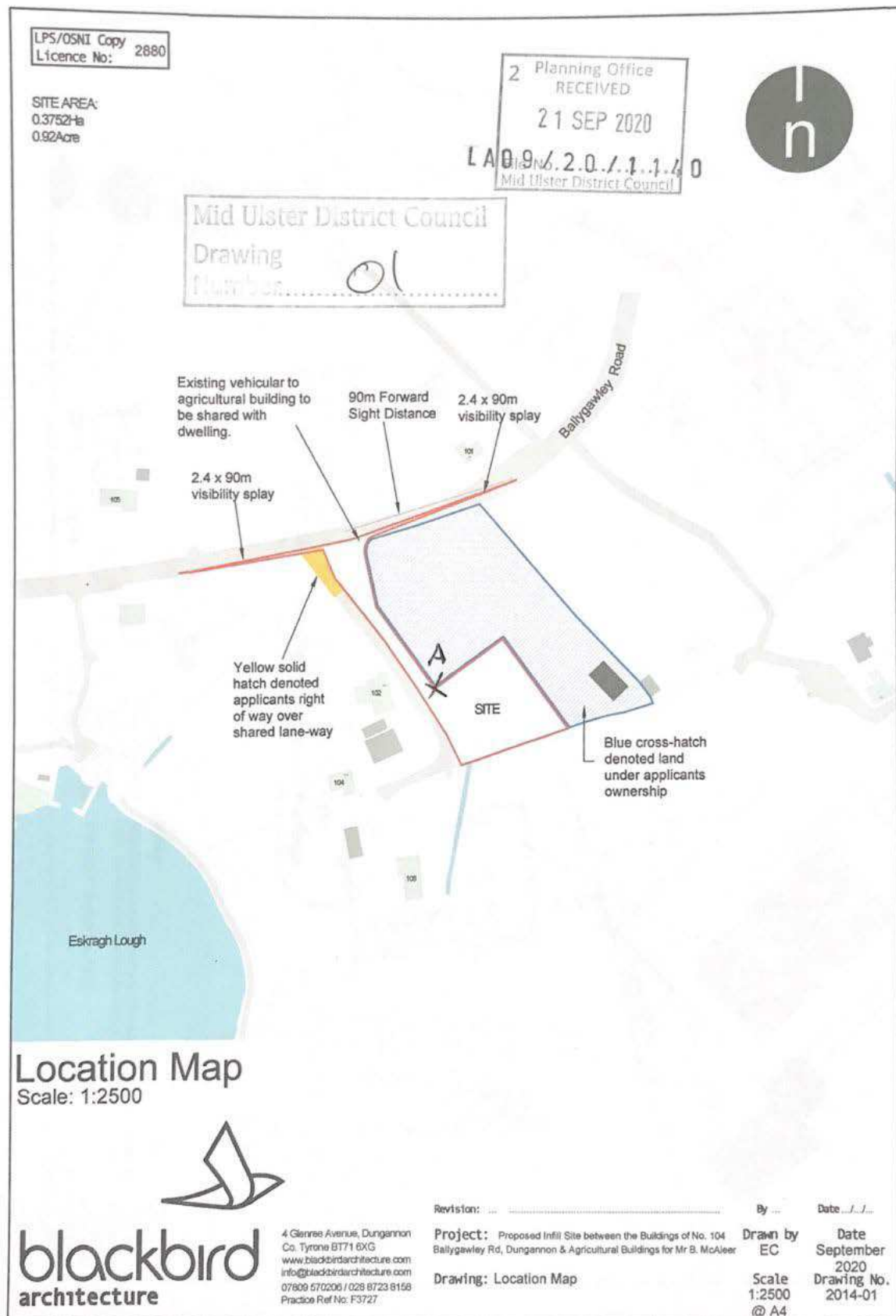
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

4. The design of the proposal will be assessed at RM stage to ensure there will be no detrimental impacts on neighbouring residential amenity through over looking, over shadowing or over dominance.

Signature(s)

Date:

Location map with point A identified





Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1140/O	Target Date: 01/01/2020
Proposal: An infill dwelling and detached garage	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road Glenadush
Referral Route: Objections, recommendation to refuse	
Recommendation:	Refuse
Applicant Name and Address: Mr Bernard Mc Aleer 7 Glenree Avenue Dungannon	Agent Name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Executive Summary: Contrary to CTY1, 8, 13 and 14 of PPS21. The site does not meet the criteria for a gap site, is prominent, lacks integration and will further erode rural character.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

Letters of Support	None Received
Letters of Objection	4
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

Description of proposal

This is an outline planning application for an infill dwelling and detached garage in the countryside.

Characteristics of Site and Area

This site is located in the SE corner of a larger agricultural field, and is accessed via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the agricultural field are within the applicant's ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

Planning Assessment of Policy and Other Material Considerations

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

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

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

Dungannon and South Tyrone Area Plan 2010:

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

Key Planning Policy

SPPS

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

Design Guidance: Building on Tradition

Relevant Planning History

LA09/2018/1349/F- full planning permission was granted for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds. Granted 03.10.2019. At the time of my site visit this building and access was in place.

LA09/2017/0899/F- permission was refused for cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds on 11.09.2018 for the following reason;

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years and that the development, if permitted, would result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise, odour and flies due to its close proximity. The decision was never appealed.

M/2010/0554/O- Proposed 2 dwellings (detached), Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone, for Bernard McAleer. This permission was refused on 09.11.2010 for the following reasons;

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and / or is not located at a cross-roads; the proposed site is not bounded on at least two sides

with other development in the cluster and does not provide a suitable degree of enclosure; the dwellings would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

3.The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that new dwellings are a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and/ or it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4.The proposal is contrary to Policies CTY1 and CTY7 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 there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work.

5.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

6.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This site incorporated both LA09/2018/1349/F and this subject application site LA09/2020/1140/O. The decision was never appealed.

Representations

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

Consideration

SPPS Strategic Planning Policy Statement for Northern Ireland sets out a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulsters 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 and must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples of development which are considered to be acceptable in the countryside are set out in policy CTY 1, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8 Ribbon Development allows 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.

This site is located adjacent and west of an existing agricultural building. This building is set back approx. 120m from the public road, with the land between the building and the roadside being defined as an existing undeveloped agricultural field. The proposed site is also set back approx. 120m from the public road, and proposes to share the existing access to the agricultural shed. In my view neither the agricultural shed or proposed site represents road frontage development.

This proposed gap site also relies on buildings to the west for consideration as a gap site. No. 102 does not have a frontage to the road, as there is a small agricultural field

between its curtilage and the public road. Plus, No. 102 has accompanying development to the rear, including No 104 and 106 and accompanying sheds, outhouses and garages. The policy is clear that the frontage, which in my view this is not, cannot have accompanying development to the rear which this clearly does.

Given the setback from the public road, and the nature and context of other development in this area, it is my view that this site does not represent a gap within an otherwise continuous and built up frontage.

M/2010/0554/O was refused for 2 dwellings on this site, however, CTY8 did not seem to form part of the assessment and was not included as a reason for refusal in the decision notice. Policy CTY2a and other personal circumstances seemed to form the basis of the assessment. It is my view that this proposal does not meet that criteria of CTY2a in that the site is not associated with a focal point, does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of this area of countryside.

No personal circumstances have been provided in this instance and no other case has been forwarded by the agent for consideration.

In the agents assessment of the gap, he relies on buildings that clearly do not have a road frontage or shared frontage, and are set behind existing development which the policy resists (see building 01 and 02 indicated on drawing No. 03). Plus, building No. 4 indicated on drawing No. 03 is not visible in the landscape and is not read as a visual entity in the landscape when assessing the built up frontage, as it cannot be clearly viewed from public vantage points and in my view is not road frontage.

In terms of policy CTY13 and 14, it is my view that a dwelling of any size or scale cannot satisfactorily integrate onto this site. The site is elevated from the public road, any dwelling will break the skyline and there is no backdrop when viewed from the public road. There is insufficient vegetation to assist with integration. Plus a dwelling will read with other dwellings and development in the area which will lead to a further erosion of rural character.

Previously on the site under M/2010/0554/O for 2 dwellings, it was considered by the then Department under the same policy PPS21, that development on this site would be contrary to;

- Policy CTY13 of Planning Policy Statement 21 in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

- Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This decision or reasons for refusal were never appealed by the applicant and I am of the same view that the proposal would be contrary to CTY13 and 14.

PPS3 Access, Movement and Parking

DfI Roads were consulted on the proposed vehicular access to this site and they raise no objections to the proposal subject to sight splays of 2.4m by 90m in both directions and a forward sight distance of 90m with no blind spots where the access is on the inside of a bend.

Other considerations

The site is not subject to flooding. No land contamination issues have been identified. The site is not located within a protected area, nor is it close to built heritage or archaeological interests.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission is 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 CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. The proposal would not respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and as a result would have a detrimental impact on the character of this area of countryside.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for it to integrate into the landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode, the rural character of this area of countryside.

Signature(s)

Date:

ANNEX	
Date Valid	21st September 2020
Date First Advertised	6th October 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 101 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 102 Ballygawley Road Dungannon Tyrone Brian Quinn 102 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 104 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 105 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 106 Ballygawley Road,Dungannon,Tyrone,BT70 1TA Brian Donoghue Carraig Na Moil, Glendadush, 105 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Eamonn Cushnahan Email Address	
Date of Last Neighbour Notification	10th December 2020
Date of EIA Determination	No need to screen as not schedule 1 or 2 development, nor is the site located within a sensitive area
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1140/O	Target Date: <add date>
Proposal: An infill dwelling and detached garage (farm case submitted)	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road, Glenadush
Applicant Name and Address: Bernard Mc Aleer 7 Glenree Avenue Dungannon	Agent name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Summary of Issues: Dwelling on a farm, number of buildings and length of time.	
Summary of Consultee Responses: DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 90.0 m in both directions and a forward sight distance of 90.0m. DEARA – Farm has been established for over 6 years, no recent claims and claims associated with another business, business ID issued in 2019 but member has been The business number associated with planning application LA09/2020/1140/O was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011.	
Characteristics of the Site and Area: This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.	

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remained of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

Description of Proposal

This is an outline planning application for an infill dwelling and detached garage (farm case submitted)

Deferred Consideration:

Members are advised this application was deferred at the planning committee on 11th January 2021 for a meeting with the Planning Manager to discuss the application and explore the case. At the meeting on 20 January 2021 it was made clear this does not meet the criteria for an infill opportunity under Policy CYTY8, it was noted that planning permission had been granted for an agricultural building on this land and information was requested on the farming case for consideration against Policy CTY10.

Committee members will be well aware of the requirement of Policy CTY10 when considering dwellings on a farm. There are 3 criteria the policy says must be met and also there is an exception within the policy where there is no site beside existing buildings on the farm.

a) The farm business must be currently active and established for at least 6 years.

In support of this the applicant submitted a P1C – Dwelling on a Farm application form and advised the farm business was allocated on 13 June 2019. Additional information was also provided to set out what the applicant has been doing with the land and how long they have had the land.

DEARA have advised the business number associated with this planning application was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011, this client reference number was created for the purposes of land identification when DARD required proof of ownership of land before they would allocate a field number on their system.

I undertook a site inspection on 2 September 2021 and noted there were 8 sheep in the field as can be seen in fig 1 and 2 below, I consider this illustrates that Mr McAleer is a farmer and the farm is currently active.



Fig 1 view of application site from in front on Old Ballygawley Road



Fig 2 view of application site from in front and west on Old Ballygawley Road

Further information submitted indicates the applicant gained control of the land in 2007. In 2010, 2011 and 2012 Mr Cush rented the land and sowed potatoes. Mr Cush has passed away so this information cannot be verified by Mr Cush, however there are aerial photographs which OSNI have flown on 31 August 2010 (fig 3) and google streetview

photographs from April 2011 (fig 4) that support the applicants version of events that crops were being grown at those times.



Fig 3 - OSNI aerial photograph of the land flown 31/08/20



Fig 4 – Google streetview image captured April 2011

The applicant advises they employed Mr Cush to sow out the land in grass seed in 2012 and from then until 2019 it was taken by Mrs Davidson who advises she only had to put her animals on the land and cut the silage as Mr McAleer carried out all other works to maintain the hedges, fences and drains in the field. An aerial photograph from OSNI flown on 7 June 2013 shows there has been some work done to the land as it is bare earth with clearly visible marks of machinery having been on the land (fig 5). Had this been sown in 2012 as advised then it should have been in grass, however it is evident that at this time work had been done to the land.

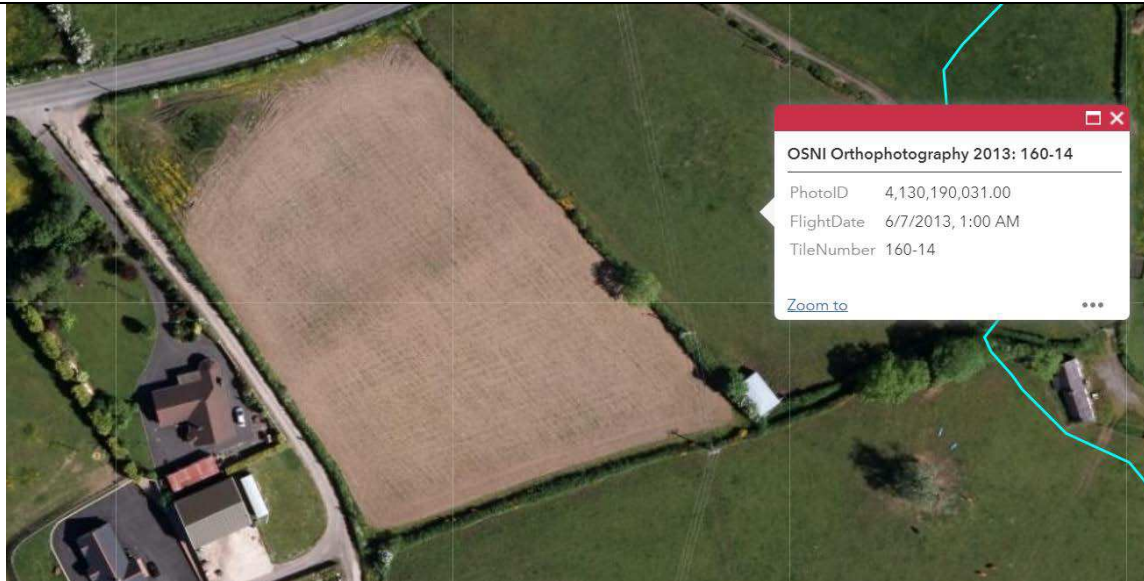


Fig 5 – OSNI aerial photograph of the land on 7 June 2013

Additional information provided in support of the application states:

- 1) the applicant engaged 3 different contractors between 2014 and 2020 to carry out works for the maintenance of the hedgerows. Invoices have been submitted which the applicant advises were written up recently from the contractors records and these are from:
 - S O'Neill for hedge cutting in July and October 2014,
 - K Quinn for hedge cutting in July and October 2015 and
 - D Dobson for hedge cutting in July and October 2016, 2017, 2018, 2019 and 2020
- 2) the applicant engaged Sean Rafferty to carry out works to the drains and fences in 2007-2008
- 3) Mr Ciaran O'Donnell carried out major works to the drains in 2017 where directional drilling was carried out and photographs are provided to show this. I consider the photographs are from the north west corner of this field as it is clear in the photographs there are trees and electricity poles in the south east corner that are still on site today. This can be seen below in the photograph provided by the applicant and in the google streetview image from June 2015 (Fig 7).



Fig 7 photograph of drainage work being undertaken and google streetview map, not trees and electric pole in middle of the pictures.

4) Mrs Davidson has advised that she took the land between 2012 and 2019 and claimed single farm payment on it. She also advised that Mr McAleer maintained the ground and she put her animals on it and took silage off it.

Members will be aware the policy refers to the farm business having to be active and established. Farming activity can take many different forms, the SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity (see appendix 2). In this case it is clear Mr McAleer has been investing in the land and obtaining a return for that investment, and this is the common understanding of what a business is. There is no dispute that the land has been used for agricultural activities as it has been shown that it was used for growing potatoes and keeping animals on it, which, in my view, falls under the definition of agricultural activities and as it has been ongoing since before 2015 (6 years ago) then I consider this is an established agricultural business.

In light of the above information, I am content that this is an active and established farm business and criteria a of CTY10 has been met.

b) no dwellings or development opportunities have been sold off ... within 10 years of the date of the application....

I have checked the land identified as being in Mr McAleers ownership here and there have not been any sites or dwellings sold off the farm in the 10 years before the application was submitted. I am content that criteria b of CTY10 has been met.

c) new buildings should be sited to visually link or cluster with an established group of buildings on the farm and where practicable access should be from existing lanes.

It is quite clear there is no established group of buildings on this farm, Mr McAleer received planning permission for the farm building located in the south east corner of the field on 3rd October 2019. Members could refuse the application on the basis that it does not cluster or visually link with a group of buildings on the farm. That said, the policy provides an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirement of Policies CTY13(a-f), CTY14 and CTY16. As there is no group of buildings associated with this farm I consider it appropriate to assess the proposal under this exception in the policy.

The previous case officer report has considered the potential for a dwelling and garage to integrate on this site and has raised concerns about the potential visual impact of this. I agree that a dwelling would be visible on the site, but only when viewed from the public road immediately in front of the site and for approximately 200 metres on approach from Dungannon, as the vegetation to the west completely screens the site from view until the

end of the laneway, identified in fig 6 with the red arrow.



Fig 6 – view from the west, access to the site identified by red arrow

The photograph below (fig 7) shows the view from the west, a dwelling as proposed (siting shown with the blue arrow) could break the skyline here, as it does not benefit from screening or clustering with the existing farm building (red arrow) or the other development to the west (black arrow). A dwelling here could be prominent in the landscape, when seen from this critical view.



Fig 6, siting proposed in blue, existing agricultural building in red and other buildings in black

This application is for outline planning permission and as such the members can consider if there are any conditions that would make this development acceptable. If there are no conditions that could make it acceptable then the development should be refused.

Conditions can be attached that deal with the size, scale, design and location of a dwelling on the site as well as landscaping conditions that can require new planting to be provided and allow existing planting to be retained at a certain height.

It is clear there are long established boundaries on the south and west of the identified site as well as within the applicants control to the north and east boundaries of the field. These can be conditioned to grow on to a height of 3 metres to assist the integration of any dwelling. Additional landscaping can be conditioned along the side of the lane and the

curtilage of the proposed dwelling which will, in my opinion, also assist in the integration of a dwelling on the site, but is not solely relied upon to provide the screening.

Coupled with the above conditions I consider it would be appropriate to control the ridge height of any dwelling and reduce the ground levels to ensure the rising ground and hedges to the rear (south) can provide a suitable backdrop. In my assessment of the site, I consider siting the dwelling as proposed in the indicative site plan with the finished floor levels the same as the existing ground level at the NE curtilage of the proposed site and a ridge height of 5.5m above the finished floor levels would ensure that a dwelling here is not prominent in the landscape. I consider it would also be appropriate to limit the ridge height of any garage to 4m above finished floor levels and these should be the same as the dwelling.

Rural character is a visual assessment that takes into account the existing development and character of the surrounding area. This site is located beside a number of other dwellings and buildings. These are well screened from public view and set back from the public road. The workers cottage opposite the site has little in the way of vegetation around it and is the most obvious development in view. As can be seen in Fig 6 a dwelling in this site would not be critically viewed with other development as to give the impression that the area has reached a critical stage in terms of its character. As one moves along the Old Ballygawley Road from the east to the west the existing development is well screened and set back from the road, in my opinion, a dwelling of a suitably scale and design would also, in a short space of time be well screened and would not detract from the rural character. On approach from the west to the east, any one travelling along the road will not be aware on the dwelling until they are passed it. I do not consider a dwelling here would adversely impact on the rural character of the area.

The application form has indicated that any development here will be served by a septic tank. These can be a number of different types that could be acceptable here and the consent to discharge is a matter that is dealt with by the Environment Agency.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Objections

There have been a number of objections to the proposed development, when it was proposed as infill dwelling and when the details of the farming case were presented, these are summarised in Appendix 1 and a number of the issues raised have been addressed in the above considerations.

Urban sprawl relates to the spreading of settlements into the surrounding countryside in an unplanned fashion. In this case the site is well away from any settlements and would not result in urban sprawl.

The proposed development is for a dwelling, noise from cattle trucks coming and going to the site would be in relation to the agricultural activity and not this dwelling.

The objector has raised issues in relation to Human Rights, these may only be considered in respect to the proposal for a dwelling that is being considered. Article 1 of Protocol 1 of the European Convention on Human Rights which covers the protection of property and the peaceful enjoyment of possessions. The Human Rights Act 1998 and the Convention refer to both Article 1 of the First Protocol, which provides for the protection of property and peaceful enjoyment of possessions and Article 8 of the Convention. These are qualified rights and the legislation clearly envisages that a balance be struck between the interests of individuals and those of society as a whole. The proposed dwelling can be located a suitable distance away from any other existing dwellings to ensure their right to enjoy their property is not adversely impacted. The final location of the dwelling will be subject to further consideration and as such anyone who has an interest may make further representations at that time. The European Convention, Article 6 also enshrines the right to a fair hearing. This application will be decided by the planning committee and any interested party may address the planning committee, provided they follow the published protocol. Therefore, it is my view there are no Human Rights grounds for refusal of this application.

In view of the above, it is my recommendation to the members that this proposal meets with the exception in CTY10 and that planning permission is granted with the conditions specified.

APPENDIX 1

Objections/representations received raise the following points:

dated 29/10/2020 - objection

planners should apply guidance for development in the countryside

dated 10/11/2020 – objection

application form completion:

- not proposed for dwelling on farm,
- there were previous applications refused on this site for Mrs Gillen

a laneway has been created was supposed to be grass path

Photos:

- sight lines to right not in place
- not infill as it is a small gap site, buildings are not on the road frontage, does not have appearance of built up area, building 4 not a building, just cow shelter

dated 10/11/2021 - representation

no objections provided no impact on 102 or 104

dated 18/11/2020 - objection

photos provided, map provided and neighbour notification letter provided

- vegetation removed
- not a gap site as accompanying development to the rear
- not a farmer

- M/2010/0554/O – application for 2 dwellings

dated 21/12/2020 – objection

Photos of cattle building provided

-same site previously refused for Mrs Gillen

- same site refused for 2 dwellings for applicant – (contrary to CTY1; CTY2a no focal point, no dev on 2 sides and no suitable degree of enclosure; CTY6 no special circumstances; CTY7 as no essential need for business; CTY13 as not suitable degree of enclosure; CTY14 – build up and does not respect character of the area)

dated 28/12/2020 - representation

no planning issues raised in this representation

dated 3/5/2021 - objection

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

dated 3/5/2021 - objection

- not supported by PPS21 paras 3.1, 3.2 CTY12 section 5.00, CTY13 section 5.57, CTY15 and CTY16

dated 3rd May 2021 - objection

- not for a farmer

dated 4/5/2021 - objection

includes extracts from previous report to planning committee recommending refusal

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

date received by Planning Office 4 May 2021 - objection

- has not been farming for 6 years in sense of true farmer
- lacks integration and erodes rural character and would create urban sprawl

date received by Planning Office 5 May 2021 - objection

- not infill
- noise from cattle trucks entering and leaving the site
- loss of privacy

dated 12 May 2021 - representation

-support for the application, refers to previous support letter as not being uploaded,

- owns the lane and others only have a right of way

- the applicant assists with maintenance of the lane and hedges

- previous letter advises:

- Mr McAleer has been farming the land since he purchased it, repairing fencing and drains on his land and on the writers land

- the development will not impact the rural area and will not transform it into a suburban development

date received by Planning Office 19 May 2021- rebuttal of information submitted in support of farming case

Sean Rafferty letter Appendix I Drainage Works

- Mr McAleer did not own the land in 2007, land registry documents attached,
- query flooding issue as not declared on P1 form

Ciaran O'Donnell letter Appendix Major Drainage Works

- Mr McAleer did not own the land in 2017, land registry documents attached,
- query flooding issue as not declared on P1 form,
- photos not of the site as no buildings shown
- billheads not acceptable proof, no departmental proof

Blackbird Letter dated 1 December 2017

- applicant has stated he is not active and established as a farmer, does not claim single farm payment

Ann McNulty letter Appendix L – Letter of Support

- objector claims they own the lane as it was to his parents small farm
- query flooding issue as not declared on P1 form
- land farmed by Mrs Davidson until 2019

Shirley Davidson/David Davidson letter Appendix M Conacre letter

- Mr McAleer did not own the land in some of the years, passed to another owner on 12 June 215, land registry documents enclosed
- Mrs Davidson was the sole farmer of the land

dated 24th May 2021 – objection

- the area has been the subject of a number of planning applications over the years
- development impacting on human rights
- the proposal is not an infill site, no frontage to road and accompanying development to the rear
- not an active farmer, previous application for shed states this and did not show that it farming was active for 6 years
- shed approved as an exception to planning policy as was not an active farmer
- only one building on the farm cannot cluster with buildings on the farm
- new laneway provided to the site, did not use existing as preferred by planning
- do not consider having 3 sheep constitutes being a farmer
- DEARA Legislation states active farmer is one who can claim for Basic Payment Scheme (BPS) Cat 3 farmers cannot
- to allow this would allow others to do the same thing

dated 15/6/2021 - objection

- application form, enclosed, clearly indicates this is not for a dwelling on a farm

dated 24/6/2021 – objection

- need to consider the viability of the farm
- brief history of the land: site has been refused planning for dwelling, was sold at the height of the market, around 2008, site put up for sale approx. 4 years ago and only attracted lower bids, owner applied for other development since

- proposal is contrary to CTY1, CTY2a, CTY6, CTY8, CTY13, CTY14, CTY12
- farmer never bought cattle

APPENDIX 2

Extract from Regulation (EU) No 1307/2013

c)

"agricultural activity" means:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
- (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

Conditions/Reasons for Refusal:

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 curtilage of the proposed dwelling, except for the access, shall be limited to the area identified 'proposed new boundary hedge' on the approved plan No. 02 which was date stamp received 21st September 2021.

Reason: To ensure that the development integrates into the landscape.

4. The dwelling hereby permitted shall have a ridge height not more than 5.0m above the finished floor level and the garage hereby approved shall not have a ridge height exceeding 4.0m above the finished floor level.

Reason: In the interests of visual amenity and to protect rural character.

5. The finished floor levels of the dwelling and garage hereby permitted shall not exceed the level of the existing ground level at point A as annotated on drawing number 01 bearing the stamp dated 21 SEP 2020.

Reason: So that the building integrates into the surrounding countryside.

6. Details of existing and proposed levels within the site, levels along the roadside, and the finished floor level of the proposed dwelling shall be submitted for approval at Reserved Matters stage. The dwelling shall be built in accordance with levels agreed at Reserved Matters stage.

Reason: To ensure that the dwelling integrates into the surrounding countryside.

7. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All existing boundaries shall be retained and augmented with trees and native species hedging. The north west, northeast and south east boundaries of the area identified in red and blue on drawing No 01 bearing the stamp dated 21 SEP 2020 shall be allowed to grow up to a height of at least 3 meters and shall be retained at that height. All new curtilage boundaries including both sides of any proposed access laneway shall also be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage.

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.

8. 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 Local Planning Authority, 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 Local Planning Authority gives its written consent to any variation.

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

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 including sight lines of 2.4m by 90.0m in both directions and a forward sight distance of 90.0m. 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.

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

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

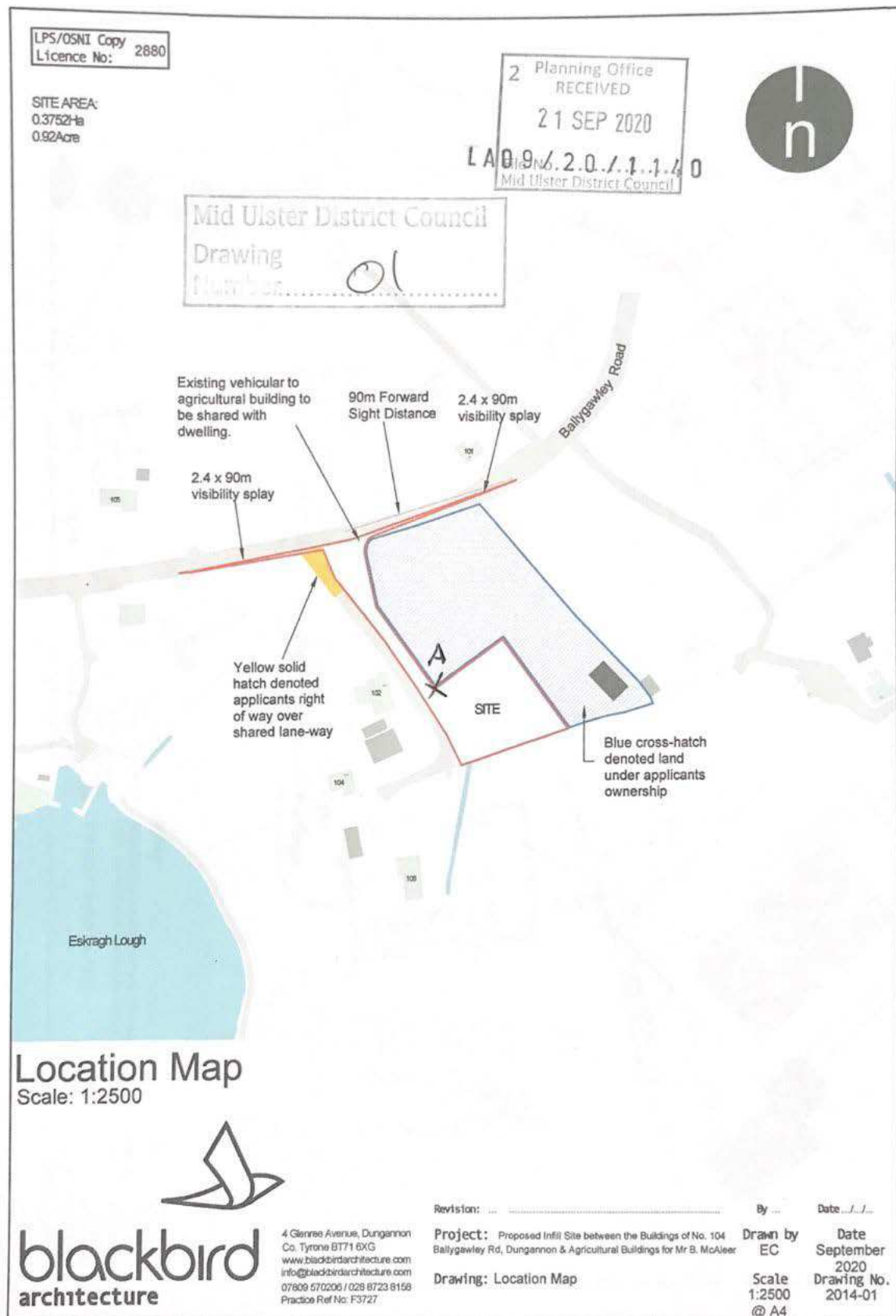
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

4. The design of the proposal will be assessed at RM stage to ensure there will be no detrimental impacts on neighbouring residential amenity through over looking, over shadowing or over dominance.

Signature(s)

Date:

Location map with point A identified





Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1140/O	Target Date: 01/01/2020
Proposal: An infill dwelling and detached garage	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road Glenadush
Referral Route: Objections, recommendation to refuse	
Recommendation:	Refuse
Applicant Name and Address: Mr Bernard Mc Aleer 7 Glenree Avenue Dungannon	Agent Name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Executive Summary: Contrary to CTY1, 8, 13 and 14 of PPS21. The site does not meet the criteria for a gap site, is prominent, lacks integration and will further erode rural character.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

Letters of Support	None Received
Letters of Objection	4
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

Description of proposal

This is an outline planning application for an infill dwelling and detached garage in the countryside.

Characteristics of Site and Area

This site is located in the SE corner of a larger agricultural field, and is accessed via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the agricultural field are within the applicant's ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

Planning Assessment of Policy and Other Material Considerations

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

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

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

Dungannon and South Tyrone Area Plan 2010:

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

Key Planning Policy

SPPS

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

Design Guidance: Building on Tradition

Relevant Planning History

LA09/2018/1349/F- full planning permission was granted for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds. Granted 03.10.2019. At the time of my site visit this building and access was in place.

LA09/2017/0899/F- permission was refused for cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds on 11.09.2018 for the following reason;

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years and that the development, if permitted, would result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise, odour and flies due to its close proximity. The decision was never appealed.

M/2010/0554/O- Proposed 2 dwellings (detached), Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone, for Bernard McAleer. This permission was refused on 09.11.2010 for the following reasons;

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and / or is not located at a cross-roads; the proposed site is not bounded on at least two sides

with other development in the cluster and does not provide a suitable degree of enclosure; the dwellings would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

3.The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that new dwellings are a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and/ or it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4.The proposal is contrary to Policies CTY1 and CTY7 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 there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work.

5.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

6.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This site incorporated both LA09/2018/1349/F and this subject application site LA09/2020/1140/O. The decision was never appealed.

Representations

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

Consideration

SPPS Strategic Planning Policy Statement for Northern Ireland sets out a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulsters 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 and must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples of development which are considered to be acceptable in the countryside are set out in policy CTY 1, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8 Ribbon Development allows 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.

This site is located adjacent and west of an existing agricultural building. This building is set back approx. 120m from the public road, with the land between the building and the roadside being defined as an existing undeveloped agricultural field. The proposed site is also set back approx. 120m from the public road, and proposes to share the existing access to the agricultural shed. In my view neither the agricultural shed or proposed site represents road frontage development.

This proposed gap site also relies on buildings to the west for consideration as a gap site. No. 102 does not have a frontage to the road, as there is a small agricultural field

between its curtilage and the public road. Plus, No. 102 has accompanying development to the rear, including No 104 and 106 and accompanying sheds, outhouses and garages. The policy is clear that the frontage, which in my view this is not, cannot have accompanying development to the rear which this clearly does.

Given the setback from the public road, and the nature and context of other development in this area, it is my view that this site does not represent a gap within an otherwise continuous and built up frontage.

M/2010/0554/O was refused for 2 dwellings on this site, however, CTY8 did not seem to form part of the assessment and was not included as a reason for refusal in the decision notice. Policy CTY2a and other personal circumstances seemed to form the basis of the assessment. It is my view that this proposal does not meet that criteria of CTY2a in that the site is not associated with a focal point, does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of this area of countryside.

No personal circumstances have been provided in this instance and no other case has been forwarded by the agent for consideration.

In the agents assessment of the gap, he relies on buildings that clearly do not have a road frontage or shared frontage, and are set behind existing development which the policy resists (see building 01 and 02 indicated on drawing No. 03). Plus, building No. 4 indicated on drawing No. 03 is not visible in the landscape and is not read as a visual entity in the landscape when assessing the built up frontage, as it cannot be clearly viewed from public vantage points and in my view is not road frontage.

In terms of policy CTY13 and 14, it is my view that a dwelling of any size or scale cannot satisfactorily integrate onto this site. The site is elevated from the public road, any dwelling will break the skyline and there is no backdrop when viewed from the public road. There is insufficient vegetation to assist with integration. Plus a dwelling will read with other dwellings and development in the area which will lead to a further erosion of rural character.

Previously on the site under M/2010/0554/O for 2 dwellings, it was considered by the then Department under the same policy PPS21, that development on this site would be contrary to;

- Policy CTY13 of Planning Policy Statement 21 in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

- Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This decision or reasons for refusal were never appealed by the applicant and I am of the same view that the proposal would be contrary to CTY13 and 14.

PPS3 Access, Movement and Parking

DfI Roads were consulted on the proposed vehicular access to this site and they raise no objections to the proposal subject to sight splays of 2.4m by 90m in both directions and a forward sight distance of 90m with no blind spots where the access is on the inside of a bend.

Other considerations

The site is not subject to flooding. No land contamination issues have been identified. The site is not located within a protected area, nor is it close to built heritage or archaeological interests.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission is 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 CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. The proposal would not respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and as a result would have a detrimental impact on the character of this area of countryside.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for it to integrate into the landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode, the rural character of this area of countryside.

Signature(s)

Date:

ANNEX	
Date Valid	21st September 2020
Date First Advertised	6th October 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 101 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 102 Ballygawley Road Dungannon Tyrone Brian Quinn 102 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 104 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 105 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 106 Ballygawley Road,Dungannon,Tyrone,BT70 1TA Brian Donoghue Carraig Na Moil, Glendadush, 105 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Eamonn Cushnahan Email Address	
Date of Last Neighbour Notification	10th December 2020
Date of EIA Determination	No need to screen as not schedule 1 or 2 development, nor is the site located within a sensitive area
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1140/O	Target Date: 01/01/2020
Proposal: An infill dwelling and detached garage	Location: Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road Glenadush
Referral Route: Objections, recommendation to refuse	
Recommendation:	Refuse
Applicant Name and Address: Mr Bernard Mc Aleer 7 Glenree Avenue Dungannon	Agent Name and Address: Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
Executive Summary: Contrary to CTY1, 8, 13 and 14 of PPS21. The site does not meet the criteria for a gap site, is prominent, lacks integration and will further erode rural character.	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

Letters of Support	None Received
Letters of Objection	4
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below:

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

Description of proposal

This is an outline planning application for an infill dwelling and detached garage in the countryside.

Characteristics of Site and Area

This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

Planning Assessment of Policy and Other Material Considerations

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

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

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

Dungannon and South Tyrone Area Plan 2010:

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

Key Planning Policy

SPPS

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

Design Guidance: Building on Tradition

Relevant Planning History

LA09/2018/1349/F- full planning permission was granted for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds. Granted 03.10.2019. At the time of my site visit this building and access was in place.

LA09/2017/0899/F- permission was refused for cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds on 11.09.2018 for the following reason;

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years and that the development, if permitted, would result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise, odour and flies due to its close proximity. The decision was never appealed.

M/2010/0554/O- Proposed 2 dwellings (detached), Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone, for Bernard McAleer. This permission was refused on 09.11.2010 for the following reasons;

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and / or is not located at a cross-roads; the proposed site is not bounded on at least two sides

with other development in the cluster and does not provide a suitable degree of enclosure; the dwellings would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

3.The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that new dwellings are a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and/ or it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4.The proposal is contrary to Policies CTY1 and CTY7 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 there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work.

5.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

6.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This site incorporated both LA09/2018/1349/F and this subject application site LA09/2020/1140/O. The decision was never appealed.

Representations

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

Consideration

SPPS Strategic Planning Policy Statement for Northern Ireland sets out a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulsters 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 and must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples of development which are considered to be acceptable in the countryside are set out in policy CTY 1, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8 Ribbon Development allows 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.

This site is located adjacent and west of an existing agricultural building. This building is set back approx.. 120m from the public road, with the land between the building and the roadside being defined as an existing undeveloped agricultural field. The proposed site is also set back approx. 120m from the public road, and proposes to share the existing access to the agricultural shed. In my view neither the agricultural shed or proposed site represents road frontage development.

This proposed gap site also relies on buildings to the west for consideration as a gap site. No. 102 does not have a frontage to the road, as there is a small agricultural field

between its curtilage and the public road. Plus, No. 102 has accompanying development to the rear, including No 104 and 106 and accompanying sheds, outhouses and garages. The policy is clear that the frontage, which in my view this is not, cannot have accompanying development to the rear which this clearly does.

Given the setback from the public road, and the nature and context of other development in this area, it is my view that this site does not represent a gap within an otherwise continuous and built up frontage.

M/2010/0554/O was refused for 2 dwellings on this site, however, CTY8 did not seem to form part of the assessment and was not included as a reason for refusal in the decision notice. Policy CTY2a and other personal circumstances seemed to form the basis of the assessment. It is my view that this proposal does not meet that criteria of CTY2a in that the site is not associated with a focal point, does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of this area of countryside.

No personal circumstances have been provided in this instance and no other case has been forwarded by the agent for consideration.

In the agents assessment of the gap, he relies on buildings that clearly do not have a road frontage or shared frontage, and are set behind existing development which the policy resists (see building 01 and 02 indicated on drawing No. 03). Plus, building No. 4 indicated on drawing No. 03 is not visible in the landscape and is not read as a visual entity in the landscape when assessing the built up frontage, as it cannot be clearly viewed from public vantage points and in my view is not road frontage.

In terms of policy CTY13 and 14, it is my view that a dwelling of any size or scale cannot satisfactorily integrate onto this site. The site is elevated from the public road, any dwelling will break the skyline and there is no backdrop when viewed from the public road. There is insufficient vegetation to assist with integration. Plus a dwelling will read with other dwellings and development in the area which will lead to a further erosion of rural character.

Previously on the site under M/2010/0554/O for 2 dwellings, it was considered by the then Department under the same policy PPS21, that development on this site would be contrary to;

- Policy CTY13 of Planning Policy Statement 21 in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

- Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This decision or reasons for refusal were never appealed by the applicant and I am of the same view that the proposal would be contrary to CTY13 and 14.

PPS3 Access, Movement and Parking

DfI Roads were consulted on the proposed vehicular access to this site and they raise no objections to the proposal subject to sight splays of 2.4m by 90m in both directions and a forward sight distance of 90m with no blind spots where the access is on the inside of a bend.

Other considerations

The site is not subject to flooding. No land contamination issues have been identified. The site is not located within a protected area, nor is it close to built heritage or archaeological interests.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission is 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 CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. The proposal would not respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and as a result would have a detrimental impact on the character of this area of countryside.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for it to integrate into the landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode, the rural character of this area of countryside.

Signature(s)

Date:

ANNEX	
Date Valid	21st September 2020
Date First Advertised	6th October 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 101 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 102 Ballygawley Road Dungannon Tyrone Brian Quinn 102 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 104 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 105 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 106 Ballygawley Road,Dungannon,Tyrone,BT70 1TA Brian Donoghue Carraig Na Moil, Glendadush, 105 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Eamonn Cushnahan Email Address	
Date of Last Neighbour Notification	10th December 2020
Date of EIA Determination	No need to screen as not schedule 1 or 2 development, nor is the site located within a sensitive area
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/1322/O	Target Date: <add date>
Proposal: Proposed dwelling	Location: Adj to 59 Drumaspil Road, Drumcrow Dungannon
Applicant Name and Address: Eamonn Donnelly 59 Drumaspil Road Drumcrow Dungannon BT71 6HZ	Agent name and Address: Peter McCaughey 31 Gortnasaor Dungannon BT71 6DA
Summary of Issues: The application is for a small holding, the applicant owns this field and the site is located beside his mother and fathers house. There are special domestic circumstances for choosing this site.	
Summary of Consultee Responses: DFI Roads – access achievable	
Characteristics of the Site and Area: The site is located at lands adjacent to 59 Drumaspil Road. The red line of the site includes a rectangular portion of a larger agricultural field. There are lands which surround the site which are hatched blue, indicating ownership. The lands are generally quite flat throughout with some hedging and post and wire fencing along the SE boundary. The immediate area surrounding the site is made up with a number of existing dwellings and associated outbuildings, however beyond that the lands are largely rural in nature.	

Description of Proposal

The proposal seeks outline planning permission for a site for a dwelling.

Deferred Consideration:

This application was at the planning committee meeting in October 2021 with a recommendation to refuse and it was deferred for an office meeting with the Planning Manager.

An office meeting was held with the Planning Manager where the agent was asked to explore if there is a farming case for a dwelling here.

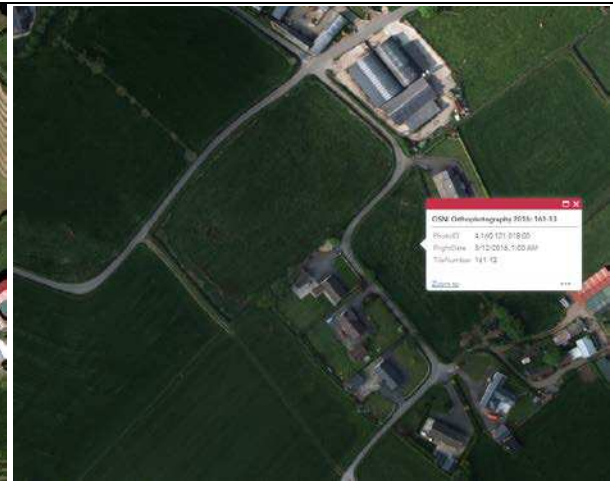
At the meetings and since, additional information was presented in relation to the applicants farming interests and these are:

- the applicant owns this field which is 1.0ha in area and his parents live next door on a 0.2ha plot,
- the applicant cuts the grass and the hedges on the field and also employs an agricultural contractor to carry out works to the lands and maintain hedges and cut grass, the contractor has advised this has been the case for more than 6 years but is unable to provide invoices for the works
- the applicant has been unable to obtain any further receipts from others who he has employed to carry out work to the lands

A dwelling on a farm is considered against Policy CTY10 in PPS21 and sets out 3 criteria that must be met:

- a) that the farm business is currently active and has been established for at least 6 years

The applicant does not have a business ID with DEARA. Agricultural activity is defined in the policy as the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition. While it would be helpful to have receipts and other information to show there is an income and outgoings that would constitute a farm business, I have noted the field is maintained in good agricultural condition with the grass cut and the hedges maintained. Aerial photographs in 2013 appear to indicate the land is in poorer condition however more recent aerals show the grass in better condition which I can only conclude is due to works being carried out to maintain the ground in good agricultural condition.



As the applicant has stated they own the ground and have been maintaining it I am of the view this is an active and established farm and criteria a has been met.

b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

I have checked the land that the applicants own here and I am content this part of the policy is met..

b) 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.

The applicants father and mother live next door to the site and they have a dwelling and garage. This is only 2 buildings and does not constitute a group of buildings for the purposes of the policy, as such the application does not meet Policy CTY10 and members could refuse for this reason. However the applicant has proved medical information in relation to his parents ongoing health issues. Having looked at this information, I do not consider these circumstances themselves would justify a dwelling here under CTY6, however I do consider it could be grounds to allow an exception against the requirement to site beside a group of buildings on the farm. I consider a dwelling located in the south east corner of the field would be close enough to allow the applicant to provide some care and oversight for his parents and also to appear to cluster with the dwelling and garage of the applicants parents. Due to the special circumstances resented I consider it appropriate to

allow this as an exception to criteria c in the policy and recommend planning permission is granted.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any determining weight.

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

3. The dwelling hereby approved shall have a ridge height not exceeding 5.5m above the level of the existing ground.

Reason~: To respect the character of the surrounding area and aid integration.

4. The dwelling hereby approved shall be sited in and its curtilage (except for access laneway) shall not extend beyond the area identified in green on drawing no 01 bearing the stamp dated 31 OCT 2020.

Reason: To ensure the proposal is not prominent in the landscape

5. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4mx 35.0m and a 35.0m forward sight distance shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

Reason: In the interests of road safety

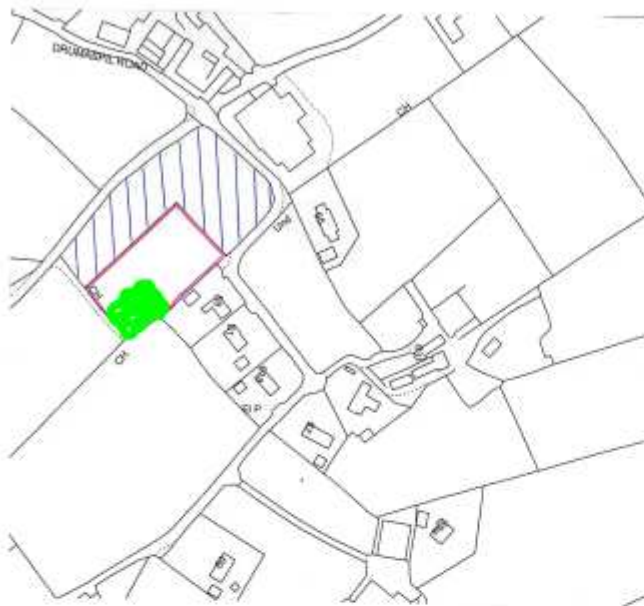
6. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted along all new boundaries of the site identified in green on drawing No 01 bearing the stamp dated 31 OCT 2020. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

Signature(s):

Date

LOCATION MAP



PROPOSED DWELLING ADJACENT TO 59 DRUMASPIL RD,
DRUMCROW, DUNGANNON, CO TYRONE, FOR
MR EAMONN DONNELLY OF 59 DRUMASPIL ROAD,
DRUMCROW, DUNGANNON, CO TYRONE.

Plan No. 161 13. NE.

Scale 1:2500.

Site boundaries edged red.
Additional land owned hatched blue.





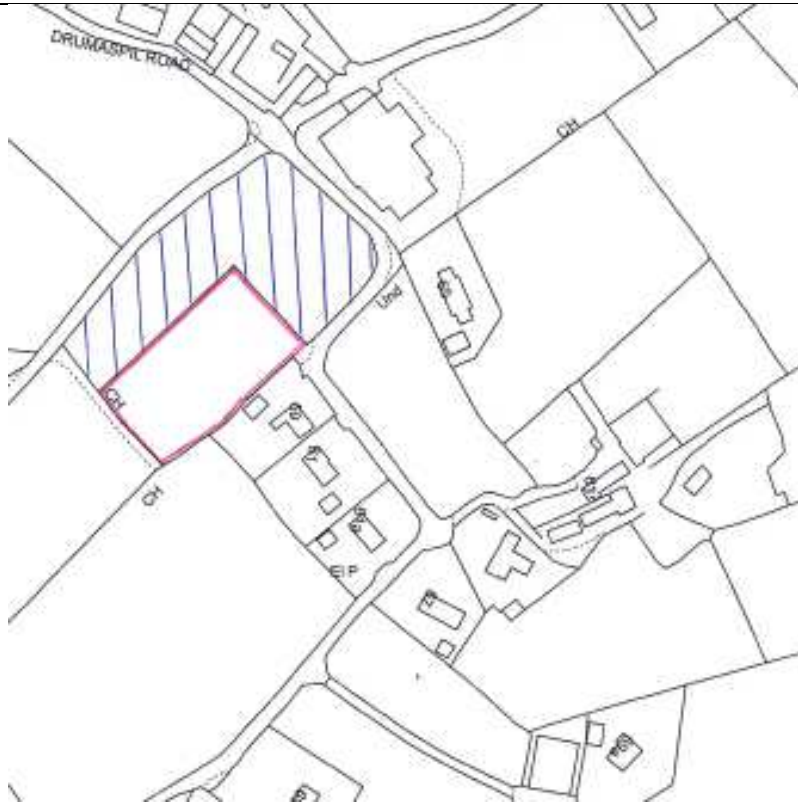
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1322/O	Target Date:
Proposal: Proposed dwelling.	Location: Adj to 59 Drumaspil Road, Drumcrow Dungannon
Referral Route: Refusal – Contrary to CTY 1 of PPS 21.	
Recommendation:	REFUSAL
Applicant Name and Address: Eamonn Donnelly 59 Drumaspil Road Drumcrow Dungannon BT71 6HZ	Agent Name and Address: Peter McCaughey 31 Gortnasaor Dungannon BT71 6DA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Representations:		
Letters of Support	1 (from agent)	
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 were no objections received in relation to the proposal.		
Characteristics of the Site and Area		
The site is located at lands adjacent to 59 Drumaspil Road. The red line of the site includes a rectangular portion of a larger agricultural field. There are lands which surround the site which are hatched blue, indicating ownership. The lands are generally quite flat throughout with some hedging and post and wire fencing along the SE boundary. The immediate area surrounding the site is made up with a number of existing dwellings and associated outbuildings, however beyond that the lands are largely rural in nature.		
Description of Proposal		
Outline planning permission is sought for a proposed dwelling.		
Planning Assessment of Policy and Other Material Considerations		
<u>Planning History</u>		
There is not considered to be any relevant planning history associated with this site.		
<u>Representations</u>		
Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 59 Drumaspil Road. At the time of writing, no third party representations have been received.		
<u>Planning Assessment of Policy and Other Material Considerations</u>		
<ul style="list-style-type: none">• Dungannon and South Tyrone Area Plan 2010• Strategic Planning Policy Statement (SPPS)• PPS 21: Sustainable Development in the Countryside• PPS 3: Access, Movement and Parking• Local Development Plan 2030 - Draft Plan Strategy		
The Dungannon and South Tyrone Plan 2010 identifies the site as being in the rural countryside. There are no other zonings or designations within the Plan.		

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. The agent was asked what policy they would like the proposal to be assessed against and a number of policies were suggested, including CTY 2a, CTY 6 and CTY 10 so each of these policies will be addressed within this report.

CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided 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 dwelling. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. There is a crossroads located approx. 75m north of the red line of the site which is considered to be too far removed from the site. The site does not have any other focal point and thus fails on this criterion. The identified site is also is not bounded on two sides by development therefore failing on this policy requirement also. Having considered all these points I feel this proposal fails with the requirements of CTY 2a.

Policy CTY 6 of PPS 21 permits a dwelling in the countryside for the long-term needs of the applicant, where there are compelling and site specific reasons for this related to the applicants personal or domestic circumstances and provided the following criteria are met:

- The applicant can provide evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused, and
- There are no alternative solutions to meet the particular circumstances of the case, such as an extension to the existing dwelling, the conversion or reuse of an existing building within the site curtilage, or the use of a temporary mobile home for a limited period of time to deal with immediate short term circumstances.

The agent has submitted a letter in support of this application which details why the applicant feels they meet the Policy requirements of CTY 6. Medical evidence has been sought via phone call on 20th May 2021 from the agent to substantiate the information within the letter provided, however to date nothing further has been received from the

agent or applicant. Due to the sensitive and personal nature relating to the applicant's parent, the specifics of the supporting information will not be detailed in this report.

It is considered that this proposal fails on criterion (b) of CTY 6, where are alternative solutions to meet the particular circumstances of the case. We feel that an extension or annex attached to the existing dwelling would be a possibility in this instance. The curtilage of the existing dwelling which is noted as the applicants address alongside his parents is large enough to be able to accommodate this with ease. In this instance, although we remain empathetic towards the applicant and their families circumstances, we feel that there are alternative available to the applicant and thus the proposal fails criterion (b) of CTY 6 and as such must be recommended for refusal.

We also investigated the possibility of a proposed dwelling being allowed under CTY 10 for a dwelling on a farm. One receipt was received from M. Campbell dated 19th April 2021 which stated that they confirm they carried out agricultural works on the lands for about 8 years. Again, this wouldn't be enough information for us to be able to determine if the farming business is currently active and has been established for over 6 years. No further information was received in relation to a farming business despite requests dating back to May 2021.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. The site benefits from some existing hedging along its southern and western boundaries, however the remainder of the boundaries appear undefined therefore integration may be quite limited at this site. The proposed site may also create or add to a ribbon of development at this location.

Dfl Roads were consulted in relation to the proposal and have raised no concerns, subject to condition.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refusal is recommended.

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or is not located at a cross-roads. The proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure. The dwelling would if permitted significantly alter the existing character of the cluster visually intrude into the open countryside.
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3. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years.

5. 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 addition of ribbon development along Drumaspil Road.

6. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

7. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:

ANNEX

Date Valid	23rd October 2020
Date First Advertised	3rd November 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) Peter McCaughey 31 Gortnasaor, Dungannon, BT71 6DA The Owner/Occupier, 59 Drumaspil Road Drumaspil Dungannon	
Date of Last Neighbour Notification	26th November 2020
Date of EIA Determination	

ES Requested	Yes /No
Planning History Ref ID: LA09/2020/1322/O Proposal: Proposed dwelling Address: Adj to 59 Drumaspil Road, Drumcrow, Dungannon, Decision: Decision Date: Ref ID: M/1992/0374 Proposal: Extension to dwelling Address: 59 DRUMASPIL ROAD DRUMCROW DUNGANNON Decision: Decision Date:	
Summary of Consultee Responses DfI Roads – Content.	
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

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/0129/O	Target Date: 29 March 2021
Proposal: Proposed site for dwelling house & double domestic garage.	Location: 40M (Approx.) Ne Of 2 Ballynagilly Road Cookstown Co Tyrone BT80 9SX.
Applicant Name and Address: Mr James Harkness Crieve House 91 Loughfea Road Cookstown BT80 9SR	Agent name and Address: R G Leonard 33 Sessiagh Road Tullyhogue Cookstown BT80 8SN
Summary of Issues: Two objections have been received The proposal is contrary to the SSPS and policies CTY 1, CTY 2a, CTY 8 and CTY 14 of PPS 21.	
Summary of Consultee Responses:	
Characteristics of the Site and Area The site is located within the open countryside, outside any settlement limits as defined by the Cookstown Area Plan. The red line of the application site is located in the north western corner of a larger piece of land which is densely planted with trees. The site sits at a level slightly lower than the road and is a flat piece of land. The site has strong boundaries on all sides given the densely planted woodland on site. The surrounding area is mainly agricultural, with a number of single dwellings located to the west of the site travelling along the ballynagilly road. There is a dwelling located immediately south west of the application and another located to the west.	

Description of Proposal

This is an outline planning application for a proposed site for a dwelling house and double domestic garage 40m NE of 2 Ballynagilly Road, Cookstown.

Deferred Consideration:

This application was presented before the Members in May 2021 with a recommendation to refuse, and it was agreed by Members to defer the application for an office meeting with the Service Director. The deferred office meeting took place on 18 November 2021.

Following the deferred office meeting I carried out a site visit. As per the case officer's report for the Committee meeting in May 2021 I agree with the conclusion that an approval on the application site will add to a ribbon of development which is contrary to Policy CTY 8 of PPS 21. The agent contended at the office meeting the site will not be seen as it is in a forested area. However, the proposed access to the new dwelling will allow the public to see and know there is a dwelling at this location. The agent was questioned on a possible farming case on behalf of the applicant. Following the office meeting we received a farm map from 2017. The application site is not sited to cluster or visually link with the farm buildings. Having spoken to the agent on 5th and 20th January 2023, he confirmed the applicant does not wish to pursue a farming case as he does not want a new dwelling to be sited beside his farm as he wishes to sell on the application site if it is approved. As there is no farming case, and this is confirmed in January 2023, and a new dwelling at this location will add to a ribbon of development I recommend a continued refusal of this application for the reasons set out below.

Conditions/Reasons for Refusal:**Refusal Reasons****Reason 1**

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

Reason 2

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building would, if permitted would add to a ribbon of development resulting in a suburban style build-up and, as such would cause a detrimental change to the rural character of the countryside.

Signature(s):Karen Doyle

Date: 20 January 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0129/O	Target Date:
Proposal: Proposed site for dwelling house & double domestic garage.	Location: 40m (approx.) NE of 2 Ballynagilly Road Cookstown Co Tyrone BT80 9SX.
Referral Route: Contrary to policy and objections received	
Recommendation:	Refusal
Applicant Name and Address: Mr James Harkness Crieve House 91 Loughfea Road Cookstown BT80 9SR	Agent Name and Address: R G Leonard 33 Sessiagh Road Tullyhogue Cookstown BT80 8SN
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Summary of Issues

Two objections have been received

The proposal is contrary to the SSPS and policies CTY 1, CTY 2a, CTY 8 and CTY 14 of PPS 21.

Characteristics of the Site and Area

The site is located within the open countryside, outside any settlement limits as defined by the Cookstown Area Plan. The red line of the application site is located in the north western corner of a larger piece of land which is densely planted with trees. The site sits at a level slightly lower than the road and is a flat piece of land. The site has strong boundaries on all sides given the densely planted woodland on site. The surrounding area is mainly agricultural, with a number of single dwellings located to the west of the site travelling along the ballynagilly road. There is a dwelling located immediately south west of the application and another located to the west.

Description of Proposal

This is an outline planning application for a proposed site for a dwelling house and double domestic garage 40m NE of 2 Ballynagilly Road, Cookstown.

Planning Assessment of Policy and Other Material Considerations

The Cookstown Area Plan identifies the site as being outside any defined settlement limits. There are no other specific designations or zonings.

- Cookstown Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 - Draft Plan Strategy

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

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

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission for a single dwelling in the countryside. However, the proposal does not meet any of the policies listed within CTY 1.

At application stage the agent did not provide any additional information or details as to what policy criteria they want the application to be assessed under however, the proposal does not meet any of the policies listed.

Policy CTY2a relates to planning permission within an existing cluster of development provided it meets all the criteria listed including that the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads which is not the case. The policy also states that the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The site is only bounded on one side. As a result, the proposal fails to meet policy CTY 2a.

Policy CTY 6 states that permission will be granted for a dwelling in the countryside for the long-term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances. No compelling evidence has been provided to be assessed under this policy.

Policy 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 it 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 terms of a continuous and built up frontage I am content whilst travelling west of the Ballynagilly Road, No2a, 2, 4 & 6 Ballynagilly Road represents an continuous and built up frontage. However, as there is no development to the east of the site, there is no gap, which can be filled. As a result, the policy fails to meet the exception to Policy CTY8.

No farm information has been provided to allow the application to be assessed under CTY 10.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore, no design details has been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. Given the strong level of planting existing on site, I am content a dwelling located here would not require additional planting to integrate and a dwelling would blend with the existing landform of strong planting.

Policy CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of the area. I am content that a dwelling in this location would not be a prominent feature in the landscape and a well-designed dwelling would respect the pattern of development. As previously noted the proposal fails under policy CTY 8 in that I do not consider this a gap site between a substantial and continuously built up frontage and as a result it not only would lead to forming ribbon but also result in a change to the rural character. A dwelling at this location would result in a suburban style of build-up of development when viewed with the existing dwellings to the west of the site. I believe the site, which is defined by its strong mature woodlands, represents an important visual break in relation to the other houses along the Ballynagilly Road.

PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

The main points raised in the objection letters received are that a dwelling located at this application site would impact upon neighbouring amenity in terms of overlooking and overshadowing. However, as this is an outline application these concerns could not be fully assessed, but I do not believe this would be an issue. The objector also raised concerns that a dwelling here would impact on the rural character of the area and this has been addressed within the body of the report above. The objection also raised concerns with road safety however, DfI Roads were consulted and had no objection and I do not believe a single dwelling here would lead to any road safety concerns listed by the objector. Furthermore, the objector states the site is located within an Area of Outstanding Natural Beauty but this is not the case. However the objector raised concerns regarding the loss of habitats for animals in the area including some protected species. I do consider these valid concerns, however as the application is recommended for refusal it was deemed unnecessary to request further information from the applicant and subsequently consult NIEA at this time.

Other Material Considerations

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

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refusal

Reasons for Refusal

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

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted would add to a ribbon of development resulting in a suburban style build-up and, as such would cause a detrimental change to the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	1st February 2021
Date First Advertised	16th February 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 2 Ballynagilly Road Cookstown Tyrone James McCusker 2 Ballynagilly Road, Cookstown, Co Tyrone, BT80 9SX The Owner/Occupier, 2a ,Ballynagilly Road,Cookstown,Tyrone,BT80 9SX The Owner/Occupier, 4 Ballynagilly Road Cookstown Tyrone James McCusker	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0129/O Proposal: Proposed site for dwelling house & double domestic garage. Address: 40m (approx.) NE of 2 Ballynagilly Road, Cookstown, Co Tyrone BT80 9SX., Decision: Decision Date: Ref ID: I/1993/0376 Proposal: Dwelling Address: 150M WEST OF JUNCTION OF LOUGH FEA ROAD AND BALLYNAGILLY ROAD COOKSTOWN Decision: Decision Date: Ref ID: I/1989/0179 Proposal: Dwelling Address: 150M WEST OF JUNCTION OF LOUGH FEA ROAD AND BALLYNAGILLY ROAD COOKSTOWN Decision: Decision Date: Ref ID: I/1989/0416 Proposal: 11 KV Rural Spur Address: BALLYNAGILLY ROAD CREEVE COOKSTOWN Decision: Decision Date:	

Ref ID: I/1994/0396
 Proposal: Dwelling
 Address: 150M W OF JUNCTION OF LOUGH FEA ROAD & BALLYNAGILLY ROAD
 COOKSTOWN
 Decision:
 Decision Date:

Ref ID: I/2003/0097/O
 Proposal: Dwelling and garage (domestic)
 Address: Site adjacent and to the east of 4 Ballynagilly Road, Cookstown
 Decision:
 Decision Date: 23.06.2003

Ref ID: I/2004/0657/O
 Proposal: Dwelling & Garage
 Address: 80m (Approximately) South East of 4 Ballynagilly Rd, Cookstown
 Decision:
 Decision Date: 08.12.2005

Ref ID: I/2007/0325/RM
 Proposal: Proposed dwelling and domestic garage
 Address: Approx 80m south east of 4 Ballynagilly road, Cookstown
 Decision:
 Decision Date: 21.08.2007

Ref ID: I/2004/0260/F
 Proposal: One and a half storey dwelling and garage.
 Address: East of 4 Ballynagilly Road, Cookstown.
 Decision:
 Decision Date: 17.05.2004

Summary of Consultee Responses

Drawing Numbers and Title

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

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

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/0599/O	Target Date: 9 June 2021
Proposal: Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping	Location: Adjacent And To The N.W. Of 6 Rogully Road Loup Moneymore
Applicant Name and Address: Ashling MC Nicholl 1 Rogully Road Loup Moneymore	Agent name and Address: Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area The site is located approximately 0.45kn south east of the development limits of The Loup, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore in which the red line covers a roadside agricultural field that is bounded by mature vegetation on all boundaries. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area. Representations Three neighbour notification were sent out however no representations were received.	

Description of Proposal

This is an outline application for the provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping, the site is located adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore.

Deferred Consideration:

This application was presented before the Planning Committee in December 2021 with a recommendation to refuse, where it was agreed by Members to defer the application for an office meeting with the Service Director. The application was presented in January 2023 with a recommendation to refuse and Members agreed to defer the application for a site visit which took place 24 January 2023

This application is being considered under Policy CTY 8 and it 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. For the purposes of CTY 8 the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

At the site visit I pointed out the buildings at nos 2, 4 and 4b do not have a frontage to the Rogully Road. For the purposes of policy CTY 8, a building has a frontage to the road if the plot on which it stands abuts or shares a boundary with the road. The buildings at Nos 2, 4 and 4b all have a physical separation from the Rogully Road, either a fence, hedge or tree line and these prevent the buildings from having a road frontage.

As such this application does not meet the requirements to be considered as a exception to CTY 8 for a building which will add to a ribbon of development and I therefore recommend a continued refusal of this application based on the reasons below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Rogully Road as the site is not within a substantial and continuously built up frontage.

Reason 3

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that the buildings would, if permitted, add to a ribbon of development and would not respect the traditional pattern of settlement exhibited in that area and thereby will result in a suburban style build-up of development when viewed with existing and approved building resulting in a detrimental change to further erode the rural character of the countryside.

Signature(s):Karen Doyle

Date: 24 January 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/0599/O	Target Date: 9 June 2021
Proposal: Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping	Location: Adjacent And To The N.W. Of 6 Rogully Road Loup Moneymore
Applicant Name and Address: Ashling MC Nicholl 1 Rogully Road Loup Moneymore	Agent name and Address: Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area The site is located approximately 0.45km south east of the development limits of The Loup, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore in which the red line covers a roadside agricultural field that is bounded by mature vegetation on all boundaries. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area. Representations Three neighbour notification were sent out however no representations were received.	

Description of Proposal

This is an outline application for the provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping, the site is located adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore.

Deferred Consideration:

This application was presented before the Planning Committee in December 2021 with a recommendation to refuse, where it was agreed by Members to defer the application for an office meeting with the Service Director. Following the office meeting I carried out a site visit.

This application is being considered under Policy CTY 8 and it 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. For the purposes of CTY 8 the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It can be seen from the aerial photo, the dwelling at number 4 Rogully Road is set back behind a roadside agricultural field and therefore does not have a frontage to the road. It is clear there is ranch style timber fence to the front of the garden at number 4 which separates the garden from the field in front which is at the roadside. This is also the case with the business premises at number 4b Rogully Road, which is a lawful development following a certificate of lawfulness issued under LA09/2022/0009/LDE. To the fore of number 4b is a mature hedge which separates that property from the roadside field and I therefore do not consider this has a frontage to the roadside. As I do not consider that numbers 4 and 4b have a frontage to the road I do not consider this site to be within a substantial and continuously built up frontage as set out in the policy. Turning to a small gap site sufficient only to accommodate up to a maximum of two dwellings, as the site is not within a substantial and continuously built up frontage the application site does not comprise a small gap site in such a frontage. As I do not consider there is substantial and continuously built up frontage it is therefore not possible for the application site to respect the existing development pattern along the frontage.

Given I do not consider there is a small gap site in a substantial and continuously built up frontage the application does not meet the requirement of the exception allowed for in Policy CTY 8. If the application is approved it will extend a ribbon of development as new dwellings will have a common frontage and a visual linkage with the other dwellings and business premises along this stretch of the Rogully Road. I recommend a refusal of this application based on the reasons below.

Conditions/Reasons for Refusal:**Refusal Reasons****Reason 1**

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

Reason 2

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Rogully Road as the site is not within a substantial and continuously built up frontage.

Reason 3

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted, add to a ribbon of development and would not respect the traditional pattern of settlement exhibited in that area and thereby will result in a suburban style build-up of development when viewed with existing and approved building resulting in a detrimental change to further erode the rural character of the countryside.

Signature(s):Karen Doyle

Date: 13 December 2022



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0599/O	Target Date:
Proposal: Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping	Location: Adjacent and to the N.W. of 6 Rogully Road Loup Moneymore
Referral Route: To Committee - Refusal - Contrary to CTY 1, 8 and 14 of PPS 21.	
Recommendation:	REFUSE
Applicant Name and Address: Ashling Mc Nicholl 1 Rogully Road Loup Moneymore	Agent Name and Address: Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 8 and 14 of PPS 21.

Characteristics of the Site and Area

The site is located approximately 0.45km south east of the development limits of The Loup, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore in which the red line covers a roadside agricultural field that is bounded by mature vegetation on all boundaries. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

Representations

Three neighbour notification were sent out however no representations were received.

Description of Proposal

This is an outline application for the provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping, the site is located adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore.

Planning Assessment of Policy and Other Material Considerations

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 - Ribbon Development

CTY 13 - Integration and Design of Buildings in the Countryside; and

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

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

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

With regards to the continuous and built up frontage, I note that immediately east of the site sits two detached dwellings Nos. 06 and 08 Rogully Road both sharing a common

frontage onto the public road. I note that the character of the area is sporadic dwellings on the road side with farm groups established up the laneway. To the west immediately sits a detached shed with further detached dwellings further west, however this detached shed has no planning permission which has been raised to enforcement. Despite this, I would still contend that the shed does not share a common frontage as it is set back with an intervening agricultural field between the shed and road but as such it cannot be counted as part of the continuous and built up frontage. Therefore I contend that the gap is between No. 6 and 4a Rogully Road, with this in mind I am content that this would be able to constitute as a continuous and built up frontage. In terms of the gap, whilst I note that this application has applied for two dwellings in line with what the policy allows, I hold the opinion that the gap between Nos. 04a and 06 Rogully Road would be able to accommodate more than two modest sized dwellings. I hold the view that this would be contrary to CTY 8 as this is seen as an important gap any permission would lead to a build up of dwellings and create a ribbon of development along the Rogully Road.

I note that the agent provided additional information to trying to demonstrate how the site complies under CTY 8 referring to similar applications approved within the district. Upon review of the additional information I hold the view that none of the applications share similarities with this application and nothing submitted was sufficient in changing my view that this application fails under CTY 8.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I hold the opinion that an appropriately designed dwelling with a ridge height no more than 7.5m with adequate landscaping, existing and proposed, would not conflict with this policy in relation to integration.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I note that the character of the area is currently characterised by individual dwellings set by the roadside or buildings set up back of the road on laneways with important gaps providing visual breaks. In this instance a dwelling would lead to the loss of an important visual break and change the rural character as a result of a build up of dwellings, in addition to creating and leading to ribboning.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response requested amended plans showing the 2.4 x 70 metre sightlines and the red outline extended to demonstrate deliverability of sightlines. As such these were subsequently submitted, in which DFI Roads confirmed that they were content subject to conditions, showing compliance under PPS 3.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent

<p>Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.</p> <p>I have no flooding or residential amenity concerns.</p>	
<p>Neighbour Notification Checked</p>	<p>Yes</p>
<p>Summary of Recommendation:</p> <p>Refusal</p>	
<p>Reasons for Refusal:</p> <p>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.</p> <p>2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the gap is able to accommodate more than two dwellings permitted under this policy and would create a ribbon of development along the Rogully Road.</p> <p>3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that if permitted would create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.</p>	
<p>Signature(s)</p> <p>Date:</p>	

ANNEX	
Date Valid	14th April 2021
Date First Advertised	27th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 4a Rogully Road Moneymore The Owner/Occupier, 4b Rogully Road, Moneymore, Londonderry, BT45 7TR The Owner/Occupier, 6 Rogully Road Moneymore Londonderry	
Date of Last Neighbour Notification	6th May 2021
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0599/O Proposal: Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping Address: Adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore, Decision: Decision Date: Ref ID: I/1977/0361 Proposal: 11 KV O/H LINE Address: BALLYROGULLY, LOUP Decision: Decision Date:	
Summary of Consultee Responses	
Drawing Numbers and Title	

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

Drawing No. 01/1
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

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/0719/F	Target Date: 5 July 2021
Proposal: Proposed farm dwelling and garage	Location: Approx 25M East Of 25 Creagh Hill Road Toomebridge
Applicant Name and Address: Mr Brendan Mulholland 107 Deerpark Road Toomebridge	Agent name and Address: Cmi Planners Ltd 38B Airfield Road Toomebridge BT41 3SG
Summary of Issues: To Committee - Refusal - Contrary to CTY 1, 8, 10, 13 and 14 of PPS 21.	
Summary of Consultee Responses: 	
Characteristics of the Site and Area The site is located approximately 1.1km north of the development limits of Creagh, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as Approx. 25m East of 25 Creagh Hill Road Toomebridge, in which the red line covers a small roadside portion of a much larger agricultural field accessed via an existing access. The immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.	
Description of Proposal This is a full application for a farm dwelling and garage, the site is located at Approx. 25m East of 25 Creagh Hill Road Toomebridge.	

Deferred Consideration:

This application was presented before the Planning Committee with a recommendation to refuse in February 2022. Members agreed to defer the application for a meeting with the Service Director following which I carried out an inspection of the site.

From an inspection of the site I do consider there to be a focal point with which this site is associated. The premises of SDC and Annahorish Primary School are to the south of the application site but are too far removed to be considered as a focal point for association with the application site. I do not consider any merit in pursuing a dwelling in a cluster at this location.

Planning permission was granted for a farm dwelling and was transferred off the farm holding in October 2012, and since the date of submission of this application the 10 year period has now expired and an application for a farm dwelling can be considered. The application meets criteria (a) and (b) of CTY 10.

Having carried out a site visit I do not consider the application satisfies criteria (c) of CTY 10. From the site visit it is apparent the site is too far removed to either be visually linked or sited to cluster with the group of buildings on the farm and therefore fails to meet criteria (c).

Should a dwelling on this site be considered under CTY 10 it must also meet the requirements of CTY 13 (a-f), CTY 14 and CTY 16 of PPS 21.

Referring to CTY 13 it is my opinion the site is an open site, which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. The proposed dwelling will rely primarily on the use of new landscaping for integration which is contrary to CTY 13.

Policy CTY 14 permits a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. From my site visit it is clear that a new dwelling at this location will add to a ribbon of development which will further erode the rural character of this area.

As such the proposed dwelling must also be considered in the context of Policy CTY 8 which states that planning permission will be refused for a building which adds to a ribbon of development. This application site is not a gap site for the purposes of CTY 8. There is currently a line of 3 road frontage dwellings to the immediate west of the application site and this application will extend that line of ribbon development and is therefore contrary to Policy CTY 8.

Having considered all the relevant policies, it is my opinion that planning permission should be refused for this application based on the reasons cited below.

Conditions/Reasons for Refusal:**Refusal Reasons****Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

Reason 2

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

Reason 3

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries, is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

Reason 4

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

Reason 5

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 addition of ribbon development along Creagh Hill Road.

Signature(s):Karen Doyle

Date: 23 January 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0719/F	Target Date:
Proposal: Proposed farm dwelling and garage	Location: Approx 25m East of 25 Creagh Hill Road Toomebridge
Referral Route: To Committee – Refusal - Contrary to CTY 1, 8, 10, 13 and 14 of PPS 21.	
Recommendation:	
Applicant Name and Address: Mr Brendan Mulholland 107 Deerpark Road Toomebridge	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

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

To Committee - Refusal

Characteristics of the Site and Area

The site is located approximately 1.1km north of the development limits of Creagh, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. I note that the site is identified as Approx. 25m East of 25 Creagh Hill Road Toomebridge, in which the red line covers a small roadside portion of a much larger agricultural field accessed via an existing access. I note that the immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.

Representations

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

Relevant Planning History

H/2009/0093/O - Site of dwelling on a farm (and garage) - 25m North of 105 Deerpark Road, Toomebridge - Permission Granted 09.04.2009

H/2009/0424/F - Dwelling on a farm with attached garage (1 storey) - 25m North of 105 Deerpark Road, Toomebridge - Permission Granted 15.10.2009

Description of Proposal

This is a full application for a farm dwelling and garage, the site is located at Approx. 25m East of 25 Creagh Hill Road Toomebridge.

Planning Assessment of Policy and Other Material Considerations

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

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 - General Principles

PPS 3 - Access, Movement and Parking

PPS 21 - Sustainable Development in the Countryside

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

CTY 1 - Development in the Countryside

CTY 10 - Dwellings on the Farm

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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

(a) the farm business is currently active and has been established for at least 6 years;
 (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.

Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated in 1992. Went on to confirm that the farm business has made claims in each of the previous six years. From such I am content that the farm business is currently active and established as per required by policy.

With respect to (b), upon review of the farm business and after reasonable checks were completed I note that two approvals were attained under the farm business number - H/2009/0093/O and H/2009/0424/F. However after further checks these two permissions were permitted in 2009 beyond the ten years. Upon a land registry check however it was clear that this site H/2009/0424/F has been transferred in October 2012 as such it is within the last ten years. As there has been a transfer off the farm in the previous ten years as such it fails under this part of the policy.

With respect to (c), I note that the registered farm address of the business sits approximately 315m south of the site, with the farm buildings sitting approximately 230m south of the site. I note that there are four farm sheds identified I am content that these can constitute as an existing group of buildings on the farm. With this in mind I hold the opinion that the proposed site is too far to be able to visually link or cluster with this existing group. I hold the opinion that the applicant owns lands between the site and the existing group which would be able to successfully visually link and cluster with this group and any dwelling should be located within these lands. The policy states that where practicable to use an existing laneway for access, I note that the intention is use an existing laneway onto the public road. From such I hold the opinion that the application has failed this part of the policy.

As such the application does not comply under CTY 10. I note that other case has been put forward at this point. in that there is no replacement or conversion opportunity, nor does the site lie within a cluster associated with a focal point. I would argue that the site in this position would extend a ribbon of development along the Creagh Hill Road, as such the application would also fail under CTY 8. Finally there has been no personal and domestic circumstances provided nor any case for a dwelling for non-agricultural business.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that there are a variety of housetypes in the close vicinity of the site as such given this I am content that the proposed dwelling is unlikely to appear as a prominent feature in the landscape. In addition, given the landform and surrounding

landscaping (existing and proposed) I am content that the dwelling and ancillary works would be able to successfully integrate into the landscape. In terms of design, I note that the design is quite simple and has become quite a common housetype seen in the countryside and from such I am content that this is acceptable within this location. However as mentioned previously I hold the opinion that the proposed dwelling in this location is unable to cluster nor visually link with the existing group of buildings on the farm, from such I hold the opinion that application fails under CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape. Upon review of the site further I hold the opinion that if permitted the dwelling would further extend a ribbon of development along the Creagh Hill Road as such would damage rural character. From such the application has failed under CTY 14.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, confirmed that they had no objections to the application subject to the relevant conditions and informatives being added, as a result I am content that the access is acceptable under PPS 3.

A consultation was sent to Rivers Agency, who in their response confirmed that the Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 coastal flood plain. However confirmed that an undesignated culverted watercourse affects the site, the exact positioning is unknown and should be verified on site. Under 6.33 of the policy there is a general presumption against the erection of buildings or other structures over the line of a culverted watercourse in order to facilitate replacement, maintenance or other necessary operations. A suitable maintenance strip of minimum 5m must also be in place. DfI Rivers would recommend that the working strip is shown on a site layout drawing and be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Access to and from the maintenance strip should be available at all times. In addition by way of a planning informative, prospective purchasers whose property backs onto this watercourse should be made aware of their obligations to maintain the watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

Rivers Agency went on to confirm that the development is located partially within a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment is not required by the policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development

and any impacts beyond the site. If the proposal is to discharge into a watercourse then an application should be made to the local DfI Rivers office for consent to discharge storm water under Schedule 6 of the Drainage (NI) Order 1973. Finally confirmed that FLD 4 and 5 do not apply.

I have no ecological or residential amenity concerns.

I recommend refusal given the failure under CTY 1 of PPS 21.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along the Creagh Hill Road.

3.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that other dwelling(s)/development opportunities have not been sold off from the farm holding within 10 years of the date of the application. Nor does the proposed new building visually linked or sited to cluster with an established group of buildings on the farm.

4.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

5.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	10th May 2021
Date First Advertised	25th May 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 23 Creagh Hill, Toomebridge, Toome, Londonderry, BT41 3SR The Owner/Occupier, 24 Creagh Hill Toomebridge Toome The Owner/Occupier, 25 Creagh Hill Toomebridge Toome The Owner/Occupier, 26 Creagh Hill Toomebridge Toome The Owner/Occupier, 90 Deerpark Road Toomebridge Toome	
Date of Last Neighbour Notification	25th May 2021
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0719/F Proposal: Proposed farm dwelling and garage Address: Approx 25m East of 25 Creagh Hill Road, Toomebridge, Decision: Decision Date: Ref ID: H/2004/0889/O Proposal: Site of Dwelling and Garage. Address: 80m North of 25 Creagh Hill Road, Toomebridge. Decision: Decision Date: 24.10.2005 Ref ID: H/1983/0235 Proposal: HOUSE AND DETACHED STORE Address: CREAGH HILL, TOOMEBRIDGE Decision: Decision Date:	

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

Drawing No. 04
Type: Proposed Plans
Status: Submitted

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

Drawing No. 05
Type: Proposed Plans
Status: Submitted

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

Drawing No. 03
Type: Proposed Plans
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/0874/O	Target Date: 4 August 2021
Proposal: Dwelling and garage on a rounding off site in a cluster	Location: 30M N.E. Of 122 Creagh Road Anahorish Castledawson Magherafelt
Applicant Name and Address: Mr Malachy Gribbin 154A Creagh Road Castledawson Magherafelt BT45 8EY	Agent name and Address: No Agent
Summary of Issues: An exception to CTY 2a	
Summary of Consultee Responses: 	
Characteristics of the Site and Area The site is located approximately 1km north west of the development limits of Creagh and it is designated to be within the open countryside as per the Magherafelt Area Plan 2015. The red line covers a roadside agricultural field that is covered with a mix of trees and hedging throughout the site. The immediate area is defined by a mix of residential, commercial and agricultural with the wider being predominately agricultural. Relevant planning history H/2002/0347/O - Site of Dwelling & Garage. - 70 Metres South East of 124 Creagh Road, Castledawson ' Permission Refused ' Appeal dismissed H/1999/0453 - Site of Dwelling ' Adjacent to 122 Creagh Road, Castledawson ' Permission Refused - 25.05.2000	

2003/A233 - Site of Dwelling & Garage. - 70 Metres South East of 124 Creagh Road, Castledawson - Appeal dismissed - 30.03.2004

Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

Description of Proposal

This is an outline application for a dwelling and garage on a rounding off site in a cluster, the site is identified as 30m N.E. of 122 Creagh Road, Anahorish, Castledawson.

Deferred Consideration:

The application has been submitted as a dwelling in a cluster and is being considered in the context of Policy CTY2a of PPS 21. The cluster lies outside a farm, it consists of four or more buildings of which at least three are dwellings, it appears as a visual entity and is associated with the focal point of Gribben House. I also consider the development of this site can be absorbed into the existing cluster through a rounding off and it will not significantly alter its existing character or visually intrude into the open countryside on account of the dwellings to the south west of the application site. There will be no adverse impact on residential amenity.

However, although the site will provide a suitable degree of enclosure, the site is not bounded on at least two sides with other development in the cluster.

To the rear of the site, to the south west, the site is partly bounded by a private laneway serving a single dwelling and this same lane bounds the site to the south east. To the north/north east of the site is the Creagh Road and there is no development on the opposite side of the road. To the north west, the site is bounded by a different private laneway which serves a single dwelling. The only boundary with development is part of the south west boundary which is bounded by the garden of No 122. Therefore, the application site fails to satisfy this criteria, as laneways are not considered development for the purposes of this policy and this has been found by the Planning Appeals Commission in a number of other similar cases. Although planning permission has been granted for a dwelling in a cluster to the northwest of this site, this was approved in January 2023 and is not yet built and cannot be relied upon as development bounding the application site as it is presently an agricultural field.

Policy CTY 2a requires an application for a dwelling at an existing cluster to meet all of the six criteria listed in PPS 21. Given the application site is not bounded on at least two sides with other development in the cluster this application does not meet Policy CTY2a. However, it is my opinion that this application can be treated as an exception to policy since the application is considered to meet five of the six listed criteria and is therefore very much within the spirit of the policy. Although the site is not bounded on two sides there are two lanes, one to each side of the application site and a dwelling to the rear of the application site. On account of this, I do not consider a new dwelling will result in urban sprawl at this location and a dwelling on this site will provide a natural ending to the cluster of development associated with the focal point.

It is my recommendation to approve the planning application subject to the conditions listed below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 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.

Condition 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.

Condition 3

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

Reason: In the interest of visual amenity.

Condition 4

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

Reason: To ensure the dwelling integrates into the landform.

Condition 5

The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

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

Condition 6

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details

of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

Condition 7

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

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

Condition 8

C01 - 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.

Signature(s):Karen Doyle


Date: 20 January 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0874/O	Target Date:
Proposal: Dwelling and garage on a rounding off site in a cluster	Location: 30m N.E. of 122 Creagh Road Anahorish Castledawson Magherafelt
Referral Route: To Committee - Refusal - Contrary to CTY 1, 2a, 8 and 14 of PPS 21.	
Recommendation:	
Applicant Name and Address: Mr Malachy Gribbin 154a Creagh Road Castledawson Magherafelt BT45 8EY	Agent Name and Address:
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report		
Site Location Plan		
		
Consultations:		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues		
To Committee - Refusal - Contrary to CTY 1, 2a, 8 and 14 of PPS 21.		
Characteristics of the Site and Area		
<p>The site is located approximately 1km north west of the development limits of Creagh and it is designated to be within the open countryside as per the Magherafelt Area Plan 2015. The red line covers a roadside agricultural field that is covered with a mix of trees and hedging throughout the site. The immediate area is defined by a mix of residential, commercial and agricultural with the wider being predominately agricultural.</p> <p>Relevant planning history H/2002/0347/O - Site of Dwelling & Garage. - 70 Metres South East of 124 Creagh Road, Castledawson - Permission Refused - Appeal dismissed</p> <p>H/1999/0453 - Site of Dwelling - Adjacent to 122 Creagh Road, Castledawson ? Permission Refused - 25.05.2000</p>		

2003/A233 - Site of Dwelling & Garage. - 70 Metres South East of 124 Creagh Road, Castledawson - Appeal dismissed - 30.03.2004

Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

Description of Proposal

This is an outline application for a dwelling and garage on a rounding off site in a cluster, the site is identified as 30m N.E. of 122 Creagh Road, Anahorish, Castledawson.

Planning Assessment of Policy and Other Material Considerations

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

With regards to the first criteria, I am content that the cluster lies outside a farm and consists of four or more buildings in that at least three of these are dwellings. Furthermore I am content that

the cluster appears as a visual entity wherein I am content that the old 'Gribbin House' factory building is able to provide a focal point for the cluster.

In terms of suitable degree of enclosure I am not content that the site is bounded on two sides with other development within the cluster. I note that No.122 sits north west of the site with no direct bounding with the site, only the laneway into No.122 runs along the northern boundary of the site but I would not be content that this is sufficient to categorised as bounding on one side. I note that No.120 sits to the west of the site with the laneway into the property running through the site and along the western boundary. After group discussions it has been concluded that the site unfortunately not bound on two sides with development with other development in the cluster. Furthermore as the site lies at the outer limit of the cluster I am content that it can be absorbed into the cluster as it would round the cluster off in the south eastern corner of the site. However upon review of the site I would contend that a dwelling in this location would actually extend a ribbon of development which would visually intrude into the open countryside. Finally, I am content that an appropriately designed dwelling would not have an adverse impact on neighbouring amenity.

I note that no other case has been put forward by the applicant, in that there is no replacement or conversion opportunity, no farm case provided, it has been argued that it fails the infill policy as extends the ribbon of development. Finally there has been no personal and domestic circumstances provided nor any case for a dwelling for non-agricultural business.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore there are no exact design or siting details have been provided, however, I am content that an appropriately designed dwelling will not appear as visually prominent. I note that there is existing landscaping which should be retained where possible with additional landscaping added where necessary to aid integration. Therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 6.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that there is already a suburban style build-up of development feel to the area given the number of houses already in place and that any dwelling would become part of this. In addition, a dwelling in this location would lead to the extending of a ribbon of development along the Creagh Road. As such, I am of the opinion that this application is likely to cause detrimental change to the character of the area, failing under CTY 14.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.	
Neighbour Notification Checked	Yes
Summary of Recommendation:	
Refusal	
Reasons for Refusal:	
<p>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.</p> <p>2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and the dwelling would if permitted further erode the existing character of the cluster and visually intrude into the open countryside</p> <p>3. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of a ribbon development along the Creagh Road.</p> <p>4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that if permitted would add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.</p>	
Signature(s)	
Date:	

ANNEX	
Date Valid	9th June 2021
Date First Advertised	22nd June 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 120 Creagh Road, Castledawson, Londonderry, BT45 8EY The Owner/Occupier, 121 Creagh Road Castledawson Londonderry The Owner/Occupier, 122 Creagh Road Castledawson Londonderry The Owner/Occupier, 123 Creagh Road Castledawson Londonderry	
Date of Last Neighbour Notification	9th July 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/0874/O Proposal: Dwelling and garage on a rounding off site in a cluster Address: 30m N.E. of 122 Creagh Road, Anahorish, Castledawson, Magherafelt, Decision: Decision Date: Ref ID: H/1999/0453 Proposal: SITE OF DWELLING Address: ADJACENT TO 122 CREAGH ROAD CASTLEDAWSON Decision: Decision Date: 25.05.2000 Ref ID: H/2002/0347/O Proposal: Site of Dwelling & Garage. Address: 70 Metres South East of 124 Creagh Road, Castledawson Decision: Decision Date: Ref ID: H/1988/0320 Proposal: ALTERATIONS AND ADDITIONS BUNGALOW Address: 122 CREAGH ROAD CASTLEDAWSON Decision:	

<p>Decision Date:</p> <p>Ref ID: H/1999/0153 Proposal: SITE OF DWELLING AND GARAGE Address: 250M SOUTH OF 122 CREAGH ROAD CASTLEDAWSON Decision: Decision Date:</p> <p>Ref ID: H/1998/0618 Proposal: DWELLING Address: TO REAR OF 122 CREAGH ROAD CASTLEDAWSON Decision: Decision Date:</p> <p>Ref ID: H/1998/0211 Proposal: SITE OF DWELLING AND GARAGE Address: REAR OF 122 CREAGH ROAD CASTLEDAWSON Decision: Decision Date:</p> <p>Ref ID: H/2014/0435/F Proposal: New 33kv 3x200mm AAC system reinforcement between Creagh Sub Station and Tobermore. Overhead line will consist of single wood pole structures and double wood pole structures (H Poles) Address: From: 122 Creagh Road Castledawson (VIA) Creagh Annaghmore Killyneese Aghagaskin Glenmaquill Grange Dromore Drumsamney Moyasset To 42 Desertmartin Road Tobermore, Decision: PG Decision Date: 15.12.2016</p>
<p>Summary of Consultee Responses</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1182/F	Target Date: <add date>
Proposal: Retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm. (amended description)	Location: Approx 70m N.E. of 70 Drumgrannon Road Dungannon
Applicant Name and Address: George Troughton 76 Drumgrannon Road Broughadowey Dungannon	Agent name and Address: 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Summary of Issues: The building was constructed and used as a shop and caused intensification of use of a sub standard access to a public road. The applicant has amended the proposal; to retain the building for ancillary uses associated with the farm.	
Summary of Consultee Responses: DFI Roads – refusal recommended, substandard access onto a protected route DFI Rivers – Drainage Assessment required if the proposal exceeds 1000sqm NI Water – recommend to approve EHO – no comment to make DAERA – farm business is currently active and established for over 6 years	
Characteristics of the Site and Area: This application is on Grange Farm and is located 70m NE of No 70 Drumgrannon Road, approx. 1 kilometre north west of the village of The Moy. Access is from an existing private lane off the A29 Protected Route. It is in the rural area outside of any defined settlement limits. The application site is set back over 300metres from the public road on lands that are rising to the	

west, with existing agricultural sheds and chicken houses behind them to the west.

Description of Proposal

This application is for retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm. (amended description) building has dark metal walls and roof with an overhang to the front, it measures 9.2m wide, 16m long and 4m in height. The associated works, as on the site and on the submitted drawings appear to be a car parking area, turning area and new lane off the existing to provide access to the development and other buildings at the rear.

Deferred Consideration:

Members will be aware of this application which was before the Committee on 7 December 2021 and 6th September 2022 where it was deferred to allow the applicants to revisit the scheme and consider the use on the site. Members will also be aware an enforcement notice has been issued in respect of the unauthorised retailing operations from the site, this notice comes into effect on 1 February 2023 unless there is an appeal lodged against it.

Originally this proposal was for the retention of the buildings as a farm and factory shop, with a footprint of 104sqm (external) and gross internal floorspace of 93sqm. Amended details have been submitted, it is now proposed to retain the building for ancillary office, store and sale of good produced on the farm. The proposal now shows area for the display of farm produce produced on the farm as approx. 57sqm, storage use is 9sqm, office use is 11sqm and the counter area is 12sqm.

Following the submission of the revised details 1 further letter of objection was received which highlights the very real issues that are experienced by road users and those accessing this laneway. The objection sets out that lives have been lost at these bends and that accidents have occurred here. Members should be very much aware of these concerns in making any decision about this proposal and whether or not there is intensification of the use of the access from the current proposal and to what extent the Council has control over this.

In taking account of this Members are advised Section 23 of the Planning Act (NI) 2011 sets out the meaning of development and Section 24 states that planning permission is required for the carrying out of any development of land.

Section 23 (3) states '*The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—*

....

(d) the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building occupied together with land so used;

...'

Section 24 (3) states '*Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is its normal use.*

The Planning Act sets out that using land and buildings for agricultural purposes does not require planning permission as it is not considered to be development. Where new

buildings are proposed these are granted planning permission if they meet the limitations in a development order. Members will be more familiar with this as the Planning (General Permitted Development) Order (NI) 2015, as amend (GPDO). The provision of this building could be assessed against the criteria in Part 7 of the Schedule to the GPDO it permits *'the carrying out on agricultural land comprised in an agricultural unit of—*
(a) *works for the erection, extension or alteration of a building; or*
(b) *any excavation or engineering operation;*
reasonably necessary for the purposes of agriculture within that unit.'

I do not consider the exclusion contained in Article 3(5) of the GPDO would prevent this building as the building itself does not require the alteration to an access to the public road or impact on an existing access and the legislation cannot, in my opinion, require this to be done.

There is a mechanism for the assessment of the development against the legislation through submission of a Certificate of Lawful Use or Development (CLUD). A CLUD is limited in what can be considered and in this case here may be issues with the retail element of the scheme. The retail element is proposed as only for goods produced on the farm, which could, in my opinion be an ancillary use to the overall farming activities here. It is useful to take account of Article 3 (3) of the Planning (Use Classes) Order (NI) 2015 (UCO) which states *' A use which is included in and ordinarily incidental to any use in a Class specified in the Schedule is not excluded from the use to which it is incidental merely because it is specified in the Schedule as a separate use.'* While there is no reference to agricultural activity in the UCO it is helpful to establish that some development may be ancillary to the primary use and as such does not require an express and separate consent.

Members have been asked to assess this proposal and I consider the relevant planning policy, for this proposal is contained in Policy CTY12 of PPS21. It sets out 5 criteria that all development must meet and an 3 additional criteria where it relates to new buildings. In this case, it was clear from the previous reports that visually the building is not offensive, it is small in scale, respects the character of the existing buildings and clusters with the much larger agricultural buildings to the rear of it. (see below)



The building is not readily visible from public vantage points in the local area and it is well screened from the main road by the existing vegetation to the east. The building is not located beside or close to any recognised natural or built heritage features and the closest residential property, No 70 to the south, is associated with the farm. As such I do not consider the proposal will adversely affect residential amenity or natural or built heritage

features.

There is a requirement to consider if the proposal is necessary for the efficient use of the holding. In consideration of this members may take account of the following~:

- **location**, this building is at the entrance to the Grange Farm complex of buildings and is sited immediately beside them. It is not unusual to have the office unit at the entrance to the complex where anyone visiting the facility is aware of where to report to as the first point of contact and for the facility to monitor visitors from a bio security perspective
- **other buildings on the site**, at the members site visit the applicants showed members around the other buildings and it was clear these are used for a variety of purposes associated with the existing business here. There are large poultry units where chickens are kept, animal houses where beef cattle are kept, large cold storage facilities, dry storage areas, a production line for preparing vegetables as well as an area for finishing off butchery. At the visit these buildings all appeared to be used to capacity.

In light of the above, I conclude that members could reasonably consider the proposed building does meet with the requirements of CTY12. That said it is important, in the light of the objections and the sub standard access to this complex, that any retail element of the proposal remains ancillary to the overall agricultural use on the site. It has been shown, as referred to in the previous reports, there was some level of retail activity on the site before the new building was erected. By limiting the area for retailing and the produce that can be sold, I consider this will ensure the level of activity will be in line with what was already established on the site and what could be deemed as ancillary to the primary use on the site. The application has been amended and has indicated that only goods produced on the farm may be sold from here. I consider it is necessary to attach a condition to set out clearly what that means.

I propose the members consider the following conditions to be attached to any permission: 'Only the area identified in blue on the proposed ground floor plan 1/50 shown on drawing No 01 Rev 1 received 8 DEC 2022 shall be used for the display of any goods and produce.

Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.

The goods and produce sold from this building shall only be those produced and packaged on Grange Farm and shall not include any produce that has been prepared, altered or packaged outside the farm as indicated in yellow on the farm boundary map date stamp received 16 AUG 2021 or identified within the blue line on the location map shown on drawing no 01 Rev 1 received 8 DEC 2022.

Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.

In my opinion, given the previous uses on the site and the revised proposal, this application does meet with CTY12 and with the suggested conditions attached the use of the access will be reduced as the premises will no longer operate as a general convenience store.

Conditions:

1. Within 2 weeks of the date of this decision the building shall be altered internally in accordance with the details shown on drawing No 01 Rev 1 received 8 DEC 2022.
Reason: To prevent an unauthorised retailing use occurring on the site.
2. Only the area identified in blue on the proposed ground floor plan 1/50 shown on drawing No 01 Rev 1 received 8 DEC 2022 shall be used for the display of any goods and produce.
Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.
3. The goods and produce sold from this building shall only be those produced and packaged on Grange Farm and shall not include any produce that has been prepared, altered or packaged outside the farm as indicated in yellow on the farm boundary map date stamp received 16 AUG 2021 or outside the lands identified by the blue line on the location map shown on drawing no 01 Rev 1 received 8 DEC 2022.
Reason: To ensure retail remains ancillary to the primary agricultural activity on the site

Signature(s):**Date**



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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1182/F	Target Date: <add date>
Proposal: Retention of farm and factory shop and associated works.	Location: Approx 70m N.E. of 70 Drumgrannon Road Dungannon
Applicant Name and Address: George Troughton 76 Drumgrannon Road Broughadowey Dungannon	Agent name and Address: 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Summary of Issues: The acceptability of and the level of retail activity on this site in the countryside The intensification of use of a substandard access onto a protected route Objection received in relation to the dangerous access	
Summary of Consultee Responses: DFI Roads – refusal recommended, substandard access onto a protected route DFI Rivers – Drainage Assessment required if the proposal exceeds 1000sqm NI Water – recommend to approve EHO – no comment to make DAERA – farm business is currently active and established for over 6 years	
Characteristics of the Site and Area: This application is on Grange Farm and is located 70m NE of No 70 Drumgrannon Road, approx. 1 kilometre north west of the village of The Moy. Access is from an existing private lane off the A29 Protected Route. It is in the rural area outside of any defined settlement limits. The application site is set back over 300metres from the public road on lands that are rising to the west, with existing agricultural sheds and chicken houses behind them to the west.	

Description of Proposal

This application is for the retention of a building for retail purposes and associated works. The building has dark metal walls and roof with an overhang to the front, it measures 9.2m wide, 16m long and 4m in height. The associated works, as on the site and on the submitted drawings appear to be a car parking area, turning area and new lane off the existing to provide access to the development and other buildings at the rear.

Deferred Consideration:

This application was before the Planning Committee on 7 December 2021 where, following discussions and presentations on behalf of the objectors and the applicant, it was deferred for meetings with the Planning Manager, the applicant, the objectors and a member's site visit.

At the deferral meeting with the objector, it was identified that is no issue with the appearance or location of the building, the issue of concern relates to the use and access that is being used. The objectors reiterated concerns in relation to the unsafe access, how they frequently have to wait on the main road for the access to their property to clear and they have been involved in accidents while waiting on the road. They advised they had counted 189 vehicles using the access on 11 December, the day after the planning committee. Additionally they advised a new neighbour has been involved in 37 incidents since moving in.

At the deferral meeting with the applicants it was accepted there is no issues with the appearance or location of the building, concerns relate to the use of the building and the access that is being used. The applicants accept this site is accessed off a protected route and while it may meet the consequential amendment to AMP3 in PPS21 because the access is off an existing lane, the access must be improved in accordance with AMP2 of PPS3. All accept this access is not up to the required standard, it is located on bad corners which limits sight lines, the access is not wide enough to allow 2 vehicles to pass and results in vehicles having to queue on the public road. The concept of the farm shop, what produce can be sold and the activity that is associated with it was further discussed as well as the historic uses on the site. Additional information about a farm shop decision in Lisburn and Castlereagh Area was submitted for consideration.

Members attended a site visit on 14 January 2022 to see the access, the buildings and the wider facility here. Officers from DFI Roads were also in attendance and highlighted the issues with the existing access and what that is required to meet the necessary standard:

- Widen the access to allow 2 way traffic and widen the bell mouth at the junction to allow for larger vehicles entering the lane
- Improve the sight lines to 4.5m x 124m to the northwest and provide a 124m forward sight line from this direction, this requires additional lands, including the garden and parking areas of properties on the opposite side of the road
- Improve the sight lines to 4.5m x 147m to the southeast and 147m forward sight line, this would require additional 3rd party lands to provide this.

Following the meetings additional information was provided for consideration, this included:

Email on 17 January 2022

- Auto tracking details showing vehicles using the access
- Cash sales information entitled JAN 2017 to DEC 2019 beginning 16/04/2018 and ending 30/12/2019 approx 1362 transactions totalling £152,498.56

- Details of EHO visits to the site 22 May 2008 (potato peeling area, warehouse), 18/11/09 wholesale business 11 DEC 2009 (water sample), 29 January 2020 (water sample)
- Invoice samples from old shop in yard (x4) 07/08/2019
- Food Business Establishment Approve – granted 14/03/11, dated 27/7/11 for coldstore activities. Beef, pork, lamb, duck, chicken, turkey and fish bought in from suppliers and supplied onto customers
- Invoices for cattle killing from Lakeview Farm Meats (x3) 25/06/2020, 30/07/2020, 08/10/2020
- Transport Assessment Form 105.1sqm floor space farm shop, 8 car parking spaces, recognises speed limit on road unsuitable for forward sight lines, traffic generated by proposal is cars, existing traffic primarily HGV
- P1C form for farm business
- Covering letter from agent advising the applicant will accept conditions restricting the hours of use of the shop and types of goods sold, accept the proposal is in a new building and has set out health and safety reasons, parking and servicing issues, protection of food prep areas, bio security and compliance with other statutory agencies as reason why cannot operate shop from existing buildings therefore have relocated to new building
- Letter from MRA setting out there are road safety issues with the bends here, a collision history is not associated with the access, small increase in traffic using the site questioning the previous expansion of the farm being permitted, questioning the road speeds being used to calculate the sight lines, accepting the applicant cannot improve the access to the required standard but that DFI Roads can reduce the speed limit, offering to provide additional signage along the road to identify the dangers

Email on 19 January 2022 sets out the proposal is for relocation of the farm shop that has been in place for a number of decades, setting out precedent cases for farm shops and identifying the types of goods that could be sold from them as from local area (parish and Lisburn & Castlereagh Council). Attachments provided include :

- Sage printout from 31/03/2016 – 30/04/2018 showing 2579 transactions in that period (105 weeks, this equates to approx. 5 transactions per day if Sundays are not included)
- 7 random cash sales, (06/04/2016, 15/09/2016, 02/12/2016, 31/03/2017, 27/06/2017, 20/10/2017, 26/02/2018)
- Written ledgers - May 97 (76 transactions), Oct 2000 (76 transactions) Feb 04 (61 transactions)
- Images of where sales were carried out in existing building

This additional information has been advertised, neighbours notified, DFI Roads and DAERA have commented on the information.

Members will be aware this proposal is to retain a new building for retailing in the countryside, it is based on the proposal being for a farm shop and the applicant has advised there has been a retail element ongoing here for some time. The Strategic Planning Policy Statement for Northern Ireland sets out that retail in the countryside should be resisted and that farm shops may be a general exception to that policy (para 6.279). It further indicates these should be within existing buildings and not have any adverse impact on the vitality and viability of an existing centre. The SPPS and CTY11 of

PPS21 allow farm diversification proposal which may, in exceptional circumstances involve new buildings, but usually it should be within existing buildings on the holding. The applicant has advised this is a farm diversification proposal and has provided a farm business ID that DAERA have confirmed is currently active and has been established in excess of 6 years. They have provided information they wish to be considered to show there is an established use here. Members are advised the most appropriate way to do this is by the submission of a Certificate of Lawful Use or Development, however in this case it is unlikely to succeed as the area that was used for sales is no longer used for sales, the applicants have advised the use has been transferred to the new building. None of the information that has been provided would indicate there was anything other than infrequent sales and it was mainly wholesale from the site. The names on the ledgers would suggest local businesses came to the site to buy directly from here, there is nothing to suggest this was frequently used by the general public. On the basis of the information that has been provided I do not consider there has been an established retail use carried on from the site. The information that has been presented shows there was incidental sales from the premises, ancillary to the main farm business on the site. This may not have necessarily required planning permission. That said, while there may not have been an established retail use, there is an allowance for a farm shop under farm diversification policies. It is clear the shop is run in conjunction with the farm and other established uses on the site. From the site visit it was apparent there is produce sold here which is from the farm business however it is also acting as a mini market and general convenience goods retailing, which sits outside what could reasonably be classed as farm produce. The applicants have been afforded the opportunity to reduce the range of goods within the shop, to the range that was previously offered from the farm and this has not been done. It is possible that planning permission could be granted with restrictive conditions to permit the shop to operate as a farm shop, however, given the current and on-going scale of retailing this is unlikely to cease or reduce the use. The SPPS and Farm Diversification policies do suggest a new building may be permitted, the applicant has put forward their reasons for this, which would tend to be in accordance with the exceptions set out in CTY11. The building is sited to cluster with the other building so the farm and it is accepted there is no issue with its appearance, however this proposal for the retention of this shop is exceeding what would be reasonably taken to be a farm shop and as such there is no policy support for it and it should be refused.

Further to the current activities being unacceptable, this proposal is resulting in the intensification of the use of a substandard access onto a protected route and DFI Roads have advised the access requires the following improvements:

- access to be widened to accommodate 2 way traffic
- 4.5m x 124m sightline to northwest
- 124m forward sightline from the northwest
- tangential sightline to northwest
- 4.5m x 147m sightline to southeast
- 147m forward sightline from northeast

To provide these improvements will require 3rd party lands on both sides of the road. Members are aware that Policy AMP2 of PPS3 requires access improvements where the access use is being intensified. Intensification of the use of an access is set out in DCAN 15 as a more than 5% increase in the use of the access. This lane provides access to 3 dwellings as well as Grange Farm and other farm buildings and lands. In the consideration of the application for the expansion of Grange Farm for the provision of 3 additional poultry units (LA09/2015/0176/F), an Environmental Statement was submitted which indicated the

expansion of the farm would generate an additional 2.1 movements per day. The existing use from Grange Farm is indicated at 2.1 movements per day and the 3 dwellings would equate to approx. 10 movements per dwelling per day and so the total use of the access, before the shop as constructed was approx. 35 vehicle movements per day. The objector has indicated they counted 189 vehicles using the access in one day. There is no other information to refute this and taking account of the historic information provided in the previous application this equates to over 500% increase in the use of the access. It is clear this proposal has resulted in the intensification of the use of a substandard access. The applicants have indicated they are unable to improve the access to the required standard. DFI Roads have advised they are still opposed to the proposal as the access is dangerous.

I consider there is the potential to accept a farm shop here, however this shop is excessive to what is reasonable for a farm shop and the access requires improvement. As such I recommend this application is refused due to scale of the operations and the road safety concerns around the use of this substandard access onto this protected route.

Reasons for Refusal:

1. The Shop is acting as mini supermarket rather than for goods primarily produced on this farm shop and is therefore in conflict with the Strategic Planning Policy Statement for Northern Ireland: Town Centres and Retailing and PPS21; Sustainable Development in the Countryside Policy CTY1 in that insufficient justification for the development has been provided and CTY11 in that it has not been demonstrated this is run in conjunction with the farm business.
2. The proposal is contrary to Policy AMP2 of Planning Policy Statement 3 – Access, Movement and Parking, in that the proposal has resulted in the intensification of the use of a substandard access to the public road which cannot be brought up to the necessary visibility standards and as a result increases the danger to users of the access and the users of the adjacent protected route.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1182/F	Target Date:
Proposal: Retention of farm and factory shop and associated works	Location: Approx 70m N.E. of 70 Drumgrannon Road Dungannon
Referral Route: There are a number of objections to this proposal which is contrary to Policy CTY 1 and CTY 11 in PPS 21, along with AMP 2 in PPS 3.	
Recommendation: Refusal	
Applicant Name and Address: George Troughton 76 Drumgrannon Road Broughadowey Dungannon	Agent Name and Address: 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Refuse
Statutory	Rivers Agency	Advice
Statutory	NI Water - Strategic Applications	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

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

Contrary to PPS 21 and PPS 3.

Characteristics of the Site and Area

This application site known as Grange Farm is located approximately 70 metres N.E. of No 70 Drumgrannon Road and is 1 kilometre to the North East of the Moy village. It gains access off the A29 Protected Route, which is the longest North – South route in the North of Ireland, starting in Portrush and culminating at the Border just outside of Silverbridge. The site is located in the rural countryside and is undefined in the Dungannon and South Tyrone Area Plan (DSTAP). The surrounding area is rural, characterised by farm holdings located off laneways with some individual dwellings and business located along the roadside also.

The site is set back over 300 metres and to the west of the main road, on land which is elevated at a higher level than the road. It is accessed via a private laneway which serves a number of dwellings. This is tarmaced and as it nears the farm grouping, a new section veers off to the north which appears to have been constructed recently. This new laneway leads to a tarmaced parking area to the south where the building subject of this application is located in the south western corner of the site.

There is also designated parking spaces which are set out at an angle to the laneway which defines the northern boundary of the site by a post and wire fence. The western boundary of the site is defined by a retaining wall, beyond which sits an agricultural building at a higher level. This building sits parallel to and just outside of the application site with a large colourful mural adorning a large expanse of its outer wall.



The shop building sits with the southern gable siding onto the original laneway which continues in a westerly direction. It sits at a level above the laneway with steps allowing pedestrian access from this end. It has an overhanging roof which provides a sheltered area to the front of the shop which also creates external floorspace for the displaying of a variety of larger bulky items such as firewood, big bags of potatoes, flowers.

The building has a ridge height of 3.6 metres from the 0.35 metre raised platform it sits on and a footprint of 105 sq. metres

Entrance to the shop is located on the eastern elevation via double glazed doors, where two small windows are positioned either side of. A side door is on the northern elevation which faces the car park, however this does not appear to be for access to the public.

The roof and walls of the shop are a grey coated steel cladding. Internally the retail floorspace occupies the entire footprint of the building. The finishes of plywood walls and exposed metal frames create an industrial interior design appearance.

Planning History

LA09/2021/0021/CA - Alleged unauthorised building, farm factory shop and advertisement – ongoing.

A warning Letter was issued in May 2021 seeking the cessation of the unauthorised retail use, demolition/removal of the building and removal of associated advertisements.

LA09/2015/0176/F - Proposed 3 no additional broiler poultry sheds with 6 no feed bins, a biomass boiler shed with fuel bin and a storage shed (to contain in total 111,000 broilers - increasing total site capacity to 258,500 broilers) – Approval 08.02.2016

M/2006/1151/F - 1no Steel Framed Poultry Shed - Approval 13.06.2006

M/2004/1950/F - 2 No steel framed poultry sheds - Approval 07.05.2005

M/2004/0410/F - 2 no steel framed poultry sheds - Approval 19.07.2004

Description of Proposal

Retention of farm and factory shop and associated works on land approximately 70 metres North East of No 70 Drumgrannon Road, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020 and the period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS outlines the aim to providing sustainable development and with respect to that should have regard to the Development Plan and any other material considerations. It retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The proposed net floorspace of the building to be retained as part of this application is significantly below the 1,000 sq. metres threshold for submitting a Retail Impact Assessment, as the SPPS requires. The SPPS advises that the policy provision of PPS 21: Sustainable Development in the Countryside are retained. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and includes Farm Diversification. 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'.

As this application site is located in the rural countryside, outside of any designated settlement development limit identified in the DSTAP, the relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted.

Policy CTY 11 states that permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. It sets out a list of criteria whereby the development proposed demonstrates;

- a) The farm or forestry business is currently active and established

A Supporting Statement, farm maps along with floorplan and elevations of the building were submitted as part of this development proposal. No other information to verify that the farm business is currently active and established has been presented. Although the planning history surrounding the site would suggest the farm is currently active and established, this has not been demonstrated by the provision of a P1C form to consult DAERA as part of this submission.

- b) The character and scale are appropriate to its location

The building this application seeks to retain is sited to the front of a large grouping of agricultural buildings. It measures 6.6 metres wide, 15.9 metres long and is finished in materials which are not uncommon in the countryside. However, the large flamboyant colourful mural on the outer wall of the agricultural building adjacent to the site is out of keeping with this rural area, and its advertisement of Grange Farm is also unauthorised.



- c) It will not have an adverse impact on the natural or built heritage

I have no concerns regarding any implications this building may have on any heritage features, either built or natural.

- d) It will not result in a detrimental impact on the amenity of nearby residential dwellings, including potential problems arising from noise, smell and pollution.

Although the building to be retained does not itself generate any nuisances, its existing retail use does have a detrimental impact on neighbouring amenity. From the site visit is evident this shop is open to the public from the hours of 8 – 5 Monday to Friday and 8 – 4.40 on Saturday. The hours of operation combined with the nature of its retail use has resulted in an escalation in traffic on this laneway, thus impacting on the neighbour's amenity, as is discussed in more detail below.

The policy goes on to say that proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings.

In exceptional circumstances, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they,

- Are essential for the maintenance of the existing farm enterprise
- Are clearly unsuitable for adaptation and reuse
- Cannot be adapted to meeting the requirements of other statutory agencies

Where a new building is justified, it should be satisfactorily integrated with an existing group of buildings.

Paragraph 5.48 of PPS 21 clearly states that where a new building is proposed, or in this instance seeks retrospective planning permission, the applicant will be required to provide sufficient information to satisfactorily demonstrate why existing buildings cannot be used.



2004



2007



2019

In the Supporting Statement the agent has indicated on a map where,

“the sale of farm and factory goods at Grange Farm was historically carried out from a shed in the middle of the farmyard.”

It is evident from the orthophotography that there has been much development on the land surrounding this application site. However it is has not been demonstrated how any of the existing building were “unsuitable” for the retail use in this application

The agent has stated the building to be retained was constructed in order to

- Minimise access from members of the public to the farm for health and safety reasons (potential contamination of food preparation areas),
- Improve traffic management between customers to the shop and HGV deliveries to and from the site.

It is worth noting there is no evidence of any authorised retail element associated with this identified building. Therefore, any retail use is unauthorised and therefore cannot claim to be lawfully established or be justifiable in a need to expand.

The agent claims,

"The proposal for a farm and factory is clearly run in conjunction with the existing business, the applicant and his family are actively involved in both the shop and the farm business, with the shop, the farm and the factory all intertwined."

I have a number of issues with this statement in that there is reference to a "factory" numerous times throughout the agent's statement and the term is also included within the proposal description also. There has been no information provided as to where this factory is located, what it makes, ownership etc. As there is no planning history for such a development within this application site or the associated farm in the applicant's ownership, question arise as to whether it is operating as without the benefit of planning permission.

The Oxford Dictionary defines a Farm Shop as,

*"a shop that sells food and other items **from** a farm directly to the public."*
and a Factory Shop as,

*"a shop in which goods, especially surplus stock, are sold directly by the **manufacturers** at a discount".*

I am not convinced the said building is a "farm shop". While conducting the site visit I was able to gain access to the shop and it was evident there are a range of products on sale, the majority of which are not derived from the associated farm. The range of products included flowers, potatoes, coffee to go, jars of condiments, jam, bakery products, crisps, drinks and a large freezer and chill cabinet section.

From the information obtained during the site visit and that available on the internet advertising the services and products Grange Farm provides, I am not of the opinion the use of the building on this application site would constitute either a farm shop nor a factory shop. My own assessment would suggest this unit has the functioning properties of a wholesale food supplier, providing a retail outlet open to the public and a delivery service to businesses.

The agent goes on to say,

"There is a verifiable functional linkage between a large portion of the stock sold in the shop and that reared, produced and processed on site."

As already stated, this information has not been provided as part of this retrospective application, which has been submitted on the back of an enforcement case open on the unauthorised development on site. It is also contrary to what was viewed during the site visit.

According to the social media account of Grange Farm describes itself as a "Specialist Food Shop" and food wholesaler advertising the sale of Christmas Hampers, Cheese

Boards, Fruit Baskets, beef, Indian prawns, duck and pork. It also operates a daily delivery service of all products and

"Specialises in the supply of eggs, peeled potatoes and chips, meat products and fresh fruit and vegetables to Chinese and Irish takeaways, restaurants and delis."

This confirms my scepticism about the proposal description of this shop as a "farm and factory shop". It seems this is a retail outlet for some small homemade produce along with the usual items available in the average convenience store and products sourced in from other manufacturers.

Thereby I feel the correct policy to determine this application is the SPPS where in Town Centre and Retailing Paragraph 6.279

It may also be worth noting that although the Draft Plan currently does not have any weight, Policy RE 6 – Retail and Related Uses in the Countryside does say that in the countryside, new retail proposals for a farm shop..... will normally be restricted to a net floor area of 100 sq. metres.

Consultations and Representations

NI Water have no objection subject to standard conditions.

The Environmental Health Department of Mid Ulster District Council were consulted and have no concerns.

DfI Rivers have no objections

DfI Roads were consulted and recommended refusal having taken into consideration representations from local councillors and neighbours as well as Accident History from their database. The database shows 1 fatal accident in March 2019, 4 other injury accidents 2018-10, as well as a recent accident they are aware of which has not been uploaded to their database.

The A29 Drumgrannon Road is a Protected Route and Para 5.28 of PPS 3 – Access, Movement and Parking states that in all cases, where access to a Protected Route is acceptable in principle, it will also be required to be safe in accordance with AMP 2. Policy AMP 2 states that permission will only be granted for a development proposal involving direct access, or intensification of the use of an access, onto a public road where;

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic, and
- b) the proposal does not conflict with Policy AMP 3 – Access to Protected Routes.

DfI Roads have concerns as this access is substandard and does not meet the required standards as set out in DCAN 15 and there are a number of issues which need to be overcome in order to bring the access up to standard and improve the safety of this access;

- The access must accommodate two way traffic and as delivery vehicles are expected to utilise this access, Auto Tracking will be required to determine the width and the radii requirements of the access.
- A Transport Assessment Form must be completed.
- A Forward sightline of 147 metres from the south east and 124 metres from the northwest is required.
- 4.5 metres by 124 metres sightline to the northwest is required, with the tangential sight line requiring partial removal of a third party hedge.
- 4.5 metres by 147 metres sightline to the southeast is required.

In order to provide these requirements, third party land is needed and be included within the red line of the site.

The potential impact 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 (NI) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

There were three neighbouring properties notified about this application and it was advertised in the local media.

There are 2 separate objections received from 2 Councillors with both highlighting road safety as a huge concern, particularly because of the intensification of the access.

There are also a number of objections from the neighbouring property at No 82 Drumgrannon Road which note;

- The applicant only has a Right of Way through their property and has encroached it in an attempt to make improvements to the access lane.
- The shop sell products which are not produced on the farm.
- It has resulted in an intensification of the access due to the various amount of traffic movements to and from the shop; delivery of supplies to the shop, employee and customer traffic, wholesale delivery service to businesses, along with the daily everyday traffic generated on a working farm.
- The access is very dangerous as there is no right turning lane and the increased traffic to the shop, particularly when travelling from Dungannon direction have to wait in the road to turn into the farm and as this is just around the corner of a bend, the risk of accident on this dangerous stretch of road is exacerbated.
- Frequently they are hemmed in or cannot gain entry to their property due to their entrance being utilised as a layby, where vehicles wait for oncoming traffic from the shop.
- Lorries and vans make frequent trips to and from the shop outside of normal working hours, resulting in noise and light nuisance causing sleep disturbance.

Neighbour Notification Checked

Yes

Summary of Recommendation:

As there are a number of objections to this proposal and it is deemed contrary to policy, it cannot be determined under the Council's present Scheme of Delegation and must go to the Planning Committee for a decision.

This proposal to retain what is described as a “farm and factory shop” is misleading as it does not correctly describe the type of retailing on the site. It appears the building on site is a retail outlet with a floorspace in excess of 100 sq. metres which sells a wide variety of produce sourced from wholesalers while also providing a delivery service of the goods it sells to local businesses. This type of general convenience retailing goes against the SPPS as retailing is directed towards town centres. If this proposal were to be assessed under the correct use, it would be deemed contrary to SPPS which reiterates inappropriate retail facilities in the countryside must be resisted and this proposal is not considered to be an exceptional case.

I am of the opinion this application fails to comply with the criterial in CTY 1 and CTY 11 of PPS 21 as identified above. It also further jeopardises the safety of road users on what is already a notoriously well documented dangerous road. It fails to meet the criteria required by AMP 2 in PPS 3 and I would agree with DfI Roads this application should be refused.

Reasons for Refusal:

1. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) as retailing is directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted and this proposal is not an exception to policy.
2. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons as to why this development is essential in this rural location and could not be located within a settlement.
3. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm and the farm business is currently active and established. The development, will result in a detrimental impact on the amenity of nearby residential dwellings by reason of traffic generation, and it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.
4. The proposal is contrary to Planning Policy Statement 3 access, Movement and Parking in that it would, if permitted, result in the intensification of use of an existing access) onto the A29 Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	16th August 2021
Date First Advertised	31st August 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 69 Drumgrannon Road Dungannon Tyrone The Owner/Occupier, 71 Drumgrannon Road Dungannon Tyrone The Owner/Occupier, 82 Drumgrannon Road Dungannon Tyrone Dominic Molloy - Email Marian Duffy - Email Barry Monteith - Email	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/1182/F Proposal: Retention of farm and factory shop and associated works Address: Approx 70m N.E. of 70 Drumgrannon Road, Dungannon, Decision: Decision Date: Ref ID: M/1995/0776 Proposal: Dwelling Address: ADJACENT TO 82 DUNGANNON ROAD MOY Decision: Decision Date: Ref ID: M/2009/0264/F Proposal: Replacement dwelling and garage Address: Land approx 460m West of 70 Drumgrannon Road, Dungannon Decision: Decision Date: 12.06.2009 Ref ID: M/2004/0410/F Proposal: 2 no steel framed poultry sheds Address: land 175m NW of 70 Drumgrannon Road, Dungannon Decision:	

Decision Date: 19.07.2004

Ref ID: M/2006/1151/F

Proposal: 1no Steel Framed Poultry Shed

Address: Land approx 175m NW of 70 Drumgrannon Road Dungannon

Decision:

Decision Date: 13.06.2006

Ref ID: M/2004/1950/F

Proposal: 2 No steel framed poultry sheds

Address: Land 175m North West of 70 Drumgrannon Road, Dungannon

Decision:

Decision Date: 07.05.2005

Ref ID: M/2005/0373/O

Proposal: Erection of new two storey dwelling and detached garage

Address: Site adjacent to 82 Moy Road and Drumgrannon Road, Moy, Dungannon

Decision:

Decision Date: 23.08.2005

Ref ID: M/2001/0753/F

Proposal: Change of House type from previously approved application Ref:M/95/0776.

Address: Adjacent to 82 Dungannon Road Moy Co Tyrone

Decision:

Decision Date: 15.11.2001

Ref ID: M/1975/0312

Proposal: ERECTION OF BUNGALOW

Address: CULLKEERAN, MOY ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1994/6100

Proposal: Replacement Dwelling Dungannon Road Moy

Address: Dungannon Road Moy

Decision:

Decision Date:

Ref ID: M/1995/6076

Proposal: Dwelling 82 Drumgrannon Road Moy

Address: 82 Drumgrannon Road Moy

Decision:

Decision Date:

Ref ID: LA09/2015/0176/F

Proposal: Proposed 3 no additional broiler poultry sheds with 6 no feed bins, a biomass boiler shed with fuel bin and a storage shed (to contain in total 111,000 broilers - increasing total site capacity to 258,500 broilers)

Address: Land approx. 230m North of 70 Drumgrannon Road, Dungannon,

Decision: PG

Decision Date: 08.02.2016

Summary of Consultee Responses
DRD Roads
Environmental Health
Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted Drawing No. 02 Type: Road Access Plan Status: Submitted
Notification to Department (if relevant)
Date of Notification to Department: Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/1299/F	Target Date: 29 October 2021
Proposal: Proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan	Location: Site Adjacent To 41 Waterfoot Road Ballymaguigan Magherafelt
Applicant Name and Address: James Sheridan 41 Waterfoot Road Ballymaguigan Magherafelt	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Summary of Issues:	
Summary of Consultee Responses:	
Description of Proposal This is a full planning application for a proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan, Magherafelt.	
Deferred Consideration: This application was presented before Members in June 2022 with a recommendation to approve the application. However, the application was deferred by Members to allow the consideration of a late objection which was received prior to the Committee meeting. The late objection was received from Eamon Close who owns the neighbouring property at No 43 to the rear of the application site. Mr Close has made a number of objections, all of which have been considered in the previous case officer report. The objector claims the applicant has remove a tree from the middle of the lane on his site location plan, however I do not see any notes or annotations showing what is claimed by the	

objector. The access lane to the site is within the control of the applicant and he has signed Certificate A to reflect this. Previously the applicant included a laneway to the immediate west of his lands, and following a challenge by the objector the red line was amended and reduced to remove that laneway from the red line.

As well as the challenge to the land ownership the objector raised the following concerns that were addressed in the case officer report before Members in June 2022. Firstly the issue of overlooking has been addressed and there are no windows in the elevation overlooking the objector's property. Secondly, concerns over sewage and the initial proposal had included a septic tank and this has since changed to a proposed public connection and this matter does not need to be revisited.

Having previously addressed all the concerns at great length in the case officer report I am content the issues raised in the late objection to the application do not change the view taken on this application and an approval is recommended subject to the conditions listed below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 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.

Condition 2

C06 - The vehicular access, including visibility splays and any forward sight line shall be provided in accordance with the approved plans, prior to the commencement/occupation/operation of any works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

The existing mature vegetation on the eastern and southern boundaries of the site shall be permanently retained.

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

Condition 4

If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of occupation of the building for its permitted use, another tree or trees shall be planted at the

same place and those trees shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

Signature(s):Karen Doyle

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1299/F	Target Date:
Proposal: Proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan	Location: Site adjacent to 41 Waterfoot Road Ballymaguigan Magherafelt
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: James Sheridan 41 Waterfoot Road Ballymaguigan Magherafelt	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Summary of Issues

3 letters of objection have been received from the neighbour at No.43 Waterfoot Road. The concerns raised have all been considered as part of the assessment of this planning application. The points raised within the objections have been summarised below:

- Issues raised over lands contained within the red line.
- Issues regarding overlooking and privacy issues to No. 43
- Concerns over sewage and the initial proposal had included a septic tank. This has since changed to a proposed public connection.

I am content that all issues have been addressed throughout this application process. The red line was amended to include only lands contained within the applicants ownership. The initial proposal has changed and there will no issues with overlooking or loss of privacy. Any concerns regarding sewage the applicant will be aware that separate consent is required and this is not a planning issue.

Characteristics of the Site and Area

The site is located within the settlement limits of Ballymaguigan as per the Magherafelt Area Plan 2015. The red line of the application site includes a single storey, detached dwelling which is set back slightly from the public road. The site also has two outbuildings located to the rear of the site. The site has a garden area to the front of the property with two access points at the roadside. The boundaries to the east and south of the site are defined by a mature hedgerow, which provides strong screening of the site. The surrounding area is a mix of residential dwellings and agricultural lands further beyond the site.

Description of Proposal

This is a full planning application for a proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan, Magherafelt BT45 6LQ.

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 7: Quality Residential Environments
PPS 3: Access, Movement and Parking

The site is located within the Settlement Limit of Ballymaguigan and has no other zonings or designations within the Plan. It is also located within an area identified as an Archaeological Site and Monument. Historic Environment Division (HED) were consulted and responded with no objection to the proposal.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Policy QD1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. I am content that the proposal respects the surrounding context and is appropriate to the character of the site in terms of layout and scale. It has a slightly higher ridge height than the dwelling adjacent, but I am content it will not over dominate. There are no features of archaeological and built heritage or landscape features that will be affected by the development.

I am content that given the proposal is located within the existing curtilage of the dwelling at No 41 there is adequate private open space for both properties. The boundaries of the site are existing and mature and aid integration with the surrounding area. As this is a single dwelling within the settlement limits of Ballymaguigan the proposal can access existing neighbourhood facilities. There is adequate provision for parking within the curtilage of the site.

In terms of the design of the dwelling, there has been a number of alterations to the proposal with it not being a semi-detached dwelling. Concerns were raised regarding potential overlooking and loss of privacy with No.41 however, it was agreed on balance it was acceptable as this was the applicants home. The proposed dwelling has been designed so that there is only two windows and a utility room door located at the rear of the property which would look onto the rear of 41. From this, I am content there will be no issues with overlooking or loss of privacy. Initial plans included a window on the first floor which looked towards No43 and the objector raised concerns. This has since been removed and the design does not cause any issues with regards overlooking the property No.43. In terms of the design, the proposed dwelling adjoins the

existing dwelling but will face east. It was agreed at an internal group meeting that the proposed design of the dwelling was acceptable within the settlement limits of Ballymaquigan. I have no concerns relating to crime.

PPS 3: Access, Movement and Parking

DfI Roads were consulted and offered no objection subject to a condition being attached to any approval.

PPS 6: Planning, Archaeology and Built Heritage

Historic Environment were consulted as the site is located within an area identified as an archaeological site and monument. HED responded to confirm they assessed the application and is content that the proposal is satisfactory to SPPS and PPS 6 Archaeological policy requirements.

Other Material Considerations

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Approval subject to conditions

Conditions

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

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

2. The vehicular access including visibility splays 2.4 x 60 metres and a 60 metre forward sight distance, shall be provided in accordance with Drawing No 02 Rev 03 bearing the date stamp 01 Apr 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing mature vegetation on the eastern and southern boundaries of the site shall be permanently retained.

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

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

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

Informative

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 approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Planning Authority or other statutory authority.
5. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.
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 road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.
7. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

Signature(s)

Date:

ANNEX	
Date Valid	3rd September 2021
Date First Advertised	21st September 2021
Date Last Advertised	3rd May 2022
Details of Neighbour Notification (all addresses) The Owner/Occupier, 39a Waterfoot Road Magherafelt The Owner/Occupier, 41 Waterfoot Road Magherafelt Londonderry The Owner/Occupier, 43 Waterfoot Road Magherafelt Londonderry Eamon Close 43, Waterfoot Road, Magherafelt, Londonderry, Northern Ireland, BT45 6LQ Eamon Close 43, Waterfoot Road, Magherafelt, Londonderry, Northern Ireland, BT45 6LQ The Owner/Occupier, 44 Waterfoot Road Magherafelt Londonderry Eamon Close	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/1299/F Proposal: Proposed dwelling in a cluster Address: Site adjacent to 41 Waterfoot Road, Ballymaguigan , Magherafelt, Decision: Decision Date: Ref ID: H/2000/0545/O Proposal: Site of 4 No Dwellings Address: Approx. 50 m north of 26 Moss Road, Ballymaguigan, Magherafelt Decision: Decision Date: 02.03.2001 Ref ID: H/2001/0238/O Proposal: Site of dwelling Address: Waterfoot Road, Ballymaguigan, Magherafelt Decision: Decision Date: 15.05.2001 Ref ID: H/2001/0449/O Proposal: Site Of Dwelling Address: 120m S of 43 Waterfoot Road, Ballymaguigan, Magherafelt	

Decision:
Decision Date: 18.12.2001

Ref ID: H/1993/0592
Proposal: SITE OF BUNGALOW AND GARAGE
Address: R/O 43 WATERFOOT ROAD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2001/0452/O
Proposal: Site Of Dwelling
Address: 80m S Of 43 Waterfoot Road, Ballymaguigan, Magherafelt
Decision:
Decision Date: 18.12.2001

Ref ID: H/1998/0273
Proposal: DWELLING AND GARAGE
Address: ADJACENT TO 41 WATERFOOT ROAD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2001/0451/O
Proposal: Site Of Dwelling
Address: 60m S of 43 Waterfoot Road, Ballymaguigan, Magherafelt
Decision:
Decision Date: 18.12.2001

Ref ID: H/1997/0487
Proposal: SITE OF DWELLING
Address: ADJACENT TO 41 WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1988/0283
Proposal: SITE OF DWELLING AND GARAGE
Address: WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1988/0567
Proposal: BUNGALOW WITH GARAGE
Address: WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2006/0775/F
Proposal: Erection of a dwelling and detached garage
Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt
Decision:
Decision Date: 27.02.2007

Ref ID: H/2003/0699/O
Proposal: Site of dwelling and garage.
Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt.
Decision:

Decision Date: 23.03.2004

Ref ID: H/1974/0419

Proposal: 11KV O/H LINES (C.3459A)

Address: BALLYMAGUIGAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2007/0239/F

Proposal: Erection of a dwelling and detached garage

Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 21.06.2007

Ref ID: H/1993/0244

Proposal: SITE OF DWELLING

Address: ADJ TO 41 WATERFOOT ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1985/0207

Proposal: BUNAGLOW

Address: WATERFOOT ROAD, BALLYMAGUIGAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0322%

Proposal: CHANGE OF USE FROM AGRICULTURAL FIELD TO TRAINING
FIELD WITH BALL STOPS ALSO FLOODLIGHTING ON MAIN PITCH

Address: SHORE ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2005/0420/RM

Proposal: Dwelling & Garage

Address: Junction Of Waterfoot Road & Shore Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 21.07.2005

Ref ID: LA09/2017/1224/NMC

Proposal: Removal of Access from Site to Moss Road

Address: 85 Meters West of 16 Moss Road, Ballymaguigan, Magherafelt,

Decision: WITHDR

Decision Date: 26.09.2017

Ref ID: LA09/2017/1322/F

Proposal: To vary condition No.2 of application LA09/2017/0167/F

Address: 85m West of 16 Moss Road, Ballymaguigan,

Decision: WITHDR

Decision Date: 14.11.2017

Ref ID: LA09/2021/0988/F

Proposal: Proposed dwelling within existing development limits

Address: 16A Moss Road, Ballymaguigan,

Decision: PG

Decision Date: 25.08.2021

Summary of Consultee Responses

Drawing Numbers and Title

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

Drawing No. 02 REV 03
Type: Site Layout or Block Plan
Status: Submitted

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2021/1449/O	Target Date: 30 November 2021
Proposal: Proposed dwelling and garage within a cluster site	Location: 15M East Of 6 Tamnadeese Road Castledawson
Applicant Name and Address: Derek Fulton 91 Moneymore Road Magherafelt	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Summary of Issues: This application was presented as a refusal at October Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 13 and CTY 14.	
Summary of Consultee Responses:	
Description of Proposal The applicant is seeking outline planning approval for a dwelling and garage under policy CTY2a.	
Deferred Consideration: This application for a dwelling in a cluster was recommended for refusal at October Planning Committee. It was contended by the case officer that the cluster was not a visual entity in the landscape and wasn't bounded on 2 sides with other development. Issues were also raised about prominence and the lack of integration afforded by the site. Members agreed to defer this application for an office meeting.	

At the office meeting the agent made a case for compliance with CTY2A of PPS 21. It was argued that the Castledawson Roundabout is a obvious focal point in this immediate area and by its very presence and when viewed with adjacent developments such as the park and ride, KFC, dwellings, industrial buildings and the new road it has a unique visual entity at this location. It was further argued that a dwelling on this site would be a rounding off of this cluster and that the Farm Dwelling to the East and walkway to the bridge over the roundabout could both be considered development on the SE section of the site.

Having carried out a site inspection i would agree that the Castledawson Roundabout and the range of other development adjacent to the roundabout, in particular the development to the West does give this area its own visual entity as a cluster. I would also agree that the Roundabout itself is a focal point. There is more limited development to the East of the roundabout but from standing on site the area does feel urbanised and lacking of any rural character. The farm dwelling to the SE of the site and walkway to the bridge could only loosely be considered development bounding the site but there is still an appreciation of some form of development.

The site rises gently in a Northern direction from the public road and whilst it has limited boundary treatment, a modest single storey dwelling would benefit from a backdrop of rising landform and semi mature trees further to the North. It would also read and cluster with the adjacent 2 storey dwelling and outbuilding to the West. This would go some way to further integrating a dwelling on this site.

When considering the surrounding context which takes in 4 busy main roads, a large roundabout with walkway/bridge, various industrial, commercial and residential buildings, it is my opinion that any rural character on sites adjacent to the roundabout has already been lost and replaced by urban style development.

On re-consideration of this proposal I recommend that it be approved as a dwelling in an existing cluster. Any dwelling should however be conditioned to have a 5.5m ridge height and new planting provided along all boundaries. At Reserved Matters stage, if a dwelling and hardsurfacing in excess of 1000m² is proposed a Drainage Assessment will be required in line with the provisions of PPS 15.

Conditions/Reasons for Refusal:

Approval Condtions

Condition 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.

Condition 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.

Condition 3

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 RS1 Form, including visibility splay of 2.4m x 60m in each direction and a forward sight distance of 60m prior to commencement of development.

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

Condition 4

The proposed dwelling shall have a ridge height of no more than 5.5 metres above finished floor level.

Reason: To ensure that the development satisfactorily integrates and is not overly prominent on this roadside site.

Condition 5

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

Reason: In the interest of visual amenity

Condition 6

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

Reason: To ensure the dwelling integrate into the landform

Condition 7

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation. -

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape

Signature(s):Karla McKinless

Date: 19 January 2023

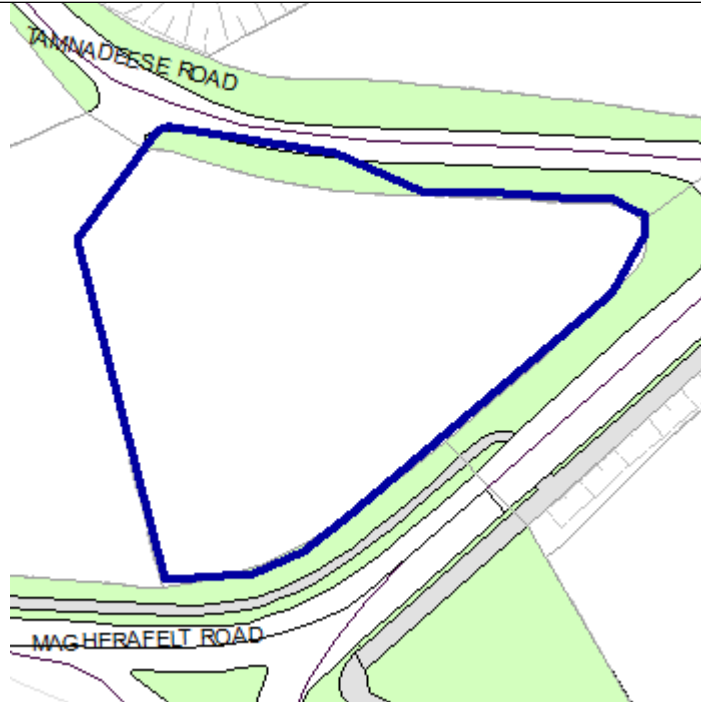


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 October 2022	Item Number: 5.3
Application ID: LA09/2021/1449/O	Target Date: 30 November 2021
Proposal: Proposed dwelling and garage within a cluster site	Location: 15M East Of 6 Tamnadeese Road Castledawson
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Derek Fulton 91 Moneymore Road Magherafelt	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

None

Characteristics of the Site and Area

The site in question is located approx 15M East of 6 Tamnadeese Road, Castledawson and is located outside any designated settlement limits as identified in the Magherafelt Area Plan, 2015. The proposed site is an irregular triangular shaped parcel of land with boundaries of hedgerow and scattered vegetation. The roadside boundary is relatively exposed. The wider surrounding area can be characterised as open countryside and mixed use of residential and commercial.

The site plot size measuring approximately 0.44 of a hectare and the topography elevates in a west to north west direction.

Description of Proposal

The applicant is seeking outline planning approval for a dwelling and garage under policy CTY2a.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Planning Assessment of Policy and Other Material Considerations

The Strategic Planning Policy Statement (SPPS) for Northern Ireland-Planning for Sustainable Development, is a material consideration. The SPPS sets out that planning authorities should be retained under transitional arrangements. The SPPS 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.

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

Section 45 (1) of The Planning Act (Northern Ireland) 2011, states that, where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.

Planning Assessment of Policy and Other Material Considerations:

The application is considered against the following:

SPSS

The Magherafelt Area Plan 2015,
PPS 21 Sustainable Development in the Countryside
PPS 3 Access, Movement and Parking.

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, no third-party objections were received.

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a.

The principle of the application is considered under PPS 21, CTY 2a, New Dwellings in Existing Clusters under CTY 2a all criteria must be met.

- a) 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;
- b) The cluster appears as a visual entity in the local landscape;
- c) The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
- d) The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- e) 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
- f) Development would not adversely impact on residential amenity.

The proposal fails a number of the above criteria under PPS 21, CTY2a, namely b, c, d, and e. The proposed cluster does not appear as a visual entity in the local landscape and the proposed focal point for the application is the existing Castledawson roundabout. The site is not bounded on at least two sides with other development in the cluster and which there is some degree of vegetation along the boundaries of the site, I do not feel that it is sufficient to provide an acceptable degree of enclosure. The proposal if permitted, would fail integrate successfully into the surrounding landscape and would not be adequately absorbed into the existing landscape and rural area. The site is elevated quite steeply and a dwelling here would be unduly prominent, visually intrusive and open to critical views.

Policy CTY 13 stipulates that planning permission will be granted for a building in the

countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal is for outline planning permission and details of design have not been submitted at this stage. However, the proposed site is a roadside location and given the topography of the site and the steep elevations of the land, I believe that the proposal has the potential to be prominent and visually intrusive on the site. The site lacks sufficient natural boundaries to aid integration and provide a suitable degree of enclosure for the proposal dwelling to integrate into the local landscape.

In terms of Policy CTY14 Planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. Rural character is somewhat lacking in this area due to the mixed use around Castledawson roundabout, I believe that a dwelling here would not significantly impact on the rural character of the area.

PPS 3 Access, Movement and Parking

DFI Roads were consulted on this proposal and responded to say they had no objections subject to conditions being added.

Conclusion

In conclusion I consider the proposal to be unacceptable as it is contrary to PPS 21, Policy CTY2A and CTY 13 and recommend permission is refused.

Summary of Recommendation:

The proposal to be unacceptable as it is contrary to PPS 21, Policy CTY2A and CTY 13 and recommend permission is refused.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape.

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New

Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster.

Reason 3

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, - Integration and Design of Buildings in the Countryside in that a dwelling located on this site would be visually intrusive and a prominent feature in the landscape due to the steep elevations and topography of the site. The application site lacks sufficient natural boundaries and would be unable to provide a suitable degree of enclosure for the proposed dwelling to integrate sufficiently into the landscape.

Signature(s): Siobhan Farrell

Date: 22 September 2022

ANNEX	
Date Valid	5 October 2021
Date First Advertised	19 October 2021
Date Last Advertised	19 October 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 6 Tamnadeese Road Castledawson Londonderry BT45 8DW The Owner / Occupier 7 Tamnadeese Road Castledawson Londonderry BT45 8DW The Owner / Occupier 36 Magherafelt Road Castledawson Londonderry BT45 8DN	
Date of Last Neighbour Notification	18 October 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Rivers Agency-Substantive: TBCResponseType: FR	
Drawing Numbers and Title Site Layout or Block Plan Plan Ref: 02 Site Location Plan Plan Ref: 01	

Notification to Department (if relevant)

Not Applicable



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2022/0122/O	Target Date: <add date>
Proposal: Dwelling in accordance with CTY7 of PPS21	Location: Land 20m South East of 96 Reenaderry Road Derrytresk Coalisland
Applicant Name and Address: Mr Stephen McCaffrey 8 Dernmore Close Clonoe	Agent Name and Address: Darcon Architectural Services 6 Ardean Close Moortown BT80 0JN
Summary of Issues: This application is for a dwelling for a business that has not been established and information has not been provided to show why it is essential. The site is also located within a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions and a dwelling is not an exception.	
Summary of Consultee Responses: DFI Rivers - development inside 1 in 100 year flood area	
Characteristics of the Site and Area: The site is located in the rural countryside as defined by the Dungannon and South Tyrone Area Plan 2010, approx. 1.6km northeast of Tamnamore and adjacent the Reenaderry Rd.	



Fig 1: View of site, identified by red arrow, on southwest approach along Reenaderry Rd.

The site is a relatively open and flat square shaped plot comprising a large roadside field albeit excluding a narrow strip of the field to the southwest of the site. The roadside portion of the excluded strip comprises a gravelled yard containing a mobile building and ancillary informal parking (see Fig 1, above).

Post and wire fencing and low hedging interspersed few trees defines the northwest (roadside), northeast and southeast (rear) boundaries of the site. The southwest boundary of the site is open on the remainder of the host field and the aforementioned gravelled yard.



Fig 1: View of site, identified by red arrow, on northeast approach along Reenaderry Rd.

Critical views of the site are from the minor Reenadeery Rd over a short distance on southwest approach, longer distance on northeast approach and passing along its roadside frontage.

The immediate area is largely characterised by flat low-lying agricultural land interspersed with single dwellings, ancillary buildings and farm holdings; and its location just north of Coalisland Disused Canal, which connects into the River Blackwater. A modest (listed) dwelling sits immediately adjacent the Canal (archaeological site and monument) just southwest of the host field; and two bungalows (nos. 96 & 96a Reenaderry Rd) sits immediately northwest site to the opposite side of the road. The two bungalows are bound to the southwest and northeast respectively by what appear to be a large industrial shed with a gravelled yard to the front and another large industrial shed on a much larger gravelled yard containing no. of lorries / lorry trailers. The industrial sheds and yards noted alongside the small gravelled yard to the southwest of the site containing a mobile appear to be in association with 'McCaffrey Transport'.

Description of Proposal

This is an outline application for a proposed dwelling in accordance with CTY7 of PPS21 to be located on lands 20m South East of 96 Reenaderry Road Derrytresk Coalisland.

Deferred Consideration:

This application was before the Committee on 7 June 2022 with a recommendation to refuse, where it was deferred for meeting with the Service Director. At the deferral meeting on 16 June 2022 it was indicated the proposal is for the son of the owner of the haulage business here. The owner wishes to retire and this dwelling is for his son to live in and due

to the high value of the equipment and other items that are stored here someone is needed on site for security purposes. The applicants son currently lives 10-15 miles away and has outgrown there house and needs a larger dwelling as well. At the meeting it was indicated there is a dwelling here which the applicant could live in to provide the security, or the applicants father is still on site and could provide the necessary security. It was indicated that all the lands owned by the applicant is within the 1 in 100 year flood plain and contrary to planning policy FLD1 of PPS15. The applicants representative was advised that this could only be challenged by the submission of a report from a hydrologist.

Members will be aware that Policy CTY7 has a requirement to prove there is a need for a dwelling for an established non-agricultural business. There is a haulage yard here that does not have the benefit of planning permission and no details have been provided to certify that it is immune from enforcement action. The enforcement team have been alerted to this. A business may only be certified as lawful for planning purposes through the submission of a successful application for a certificate of lawful use or development. No such certificate exists here. As it has not been demonstrated there is an established business here then it cannot be demonstrated there is a need for dwelling for that business.

The site and lands around it are within an area that DFI Rivers records indicate is within a 1 in 100 year flood event. There are some categories of development which may be permitted in these areas however a dwelling is not one of these categories. The policy does not allow for infilling to raise development out of a flood area as this is moving the problem elsewhere and could result in someone else's property being flooded due to the displacement of flood water. A hydrological report for this area is likely to be a very costly due to the extensive nature of it as it would be modeling the entire Lough Neagh basin.



As there has been no new information presented to justify this proposal and it is in a flood plain I recommend planning permission is refused.

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 CTY7 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 it is required in

connection with an established non-agricultural business enterprise.

3. The proposal is contrary to Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of Planning Policy Statement 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2022/0122/O	Target Date:
Proposal: Dwelling in accordance with CTY7 of PPS21	Location: Land 20m South East of 96 Reenaderry Road Derrytresk Coalisland
Referral Route: Refusal	
Recommendation: Refuse	
Applicant Name and Address: Mr Stephen McCaffrey 8 Dernmore Close Clonoe	Agent Name and Address: Darcon Architectural Services 6 Ardean Close Moortown BT80 0JN
Executive Summary: The proposal is contrary to: Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy. The Policy CTY7 of PPS 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated it is required in connection with an established non-agricultural business enterprise; and Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	NIEA	Advice
Non Statutory	Shared Environmental Services	Substantive Response
Statutory	Rivers Agency	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice

Representations:

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

Description of Proposal

This is an outline application for a proposed dwelling in accordance with CTY7 of PPS21 to be located on lands 20m South East of 96 Reenaderry Road Derrytresk Coalisland.

Characteristics of the Site and Area

The site is located in the rural countryside as defined by the Cookstown Area Plan 2010, approx. 1.6km northeast of Tamnamore and adjacent the Reenaderry Rd.



Fig 1: View of site, identified by red arrow, on southwest approach along Reenaderry Rd.

The site is a relatively open and flat square shaped plot comprising a large roadside field albeit excluding a narrow strip of the field to the southwest of the site. The roadside portion of the excluded strip comprises a gravelled yard containing a mobile building and ancillary informal parking (see Fig 1, above).

Post and wire fencing and low hedging interspersed few trees defines the northwest (roadside), northeast and southeast (rear) boundaries of the site. The southwest

boundary of the site is open on the remainder of the host field and the aforementioned gravelled yard.



Fig 1: View of site, identified by red arrow, on northeast approach along Reenaderry Rd.

Critical views of the site are from the minor Reenadeery Rd over a short distance on southwest approach, longer distance on northeast approach and passing along its roadside frontage.

The immediate area is largely characterised by flat low-lying agricultural land interspersed with single dwellings, ancillary buildings and farm holdings; and its location just north of Coalisland Disused Canal, which connects into the River Blackwater. A modest (listed) dwelling sits immediately adjacent the Canal (archaeological site and monument) just southwest of the host field; and two bungalows (nos. 96 & 96a Reenaderry Rd) sits immediately northwest site to the opposite side of the road. The two bungalows are bound to the southwest and northeast respectively by what appear to be a large industrial shed with a gravelled yard to the front and another large industrial shed on a much larger gravelled yard containing no. of lorries / lorry trailers. The industrial sheds and yards noted alongside the small gravelled yard to the southwest of the site containing a mobile appear to be in association with 'McCaffrey Transport'.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking
Development Control Advice Note 15: Vehicular Standards
Planning Policy Statement 21: Sustainable Development in the Countryside
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

Planning History

No relevant planning history

Consultees

1. River's Agency (River's) were consulted as Flood Maps NI indicated the site was located within the fluvial floodplain. River's responded as follows from a drainage and flood risk aspect under PPS15 (Revised) Planning and Flood Risk, Policy:
 - FLD1 Development in Fluvial Flood and Coastal Plains - The Strategic Flood Map indicates the site lies entirely within the 1 in 100 year fluvial flood plain. Development within the flood plain is contrary to Policy FLD 1 and would require the Planning Authority to deem it an exception, then to allow proper consideration of flood risk to the site Rivers recommend the applicant undertakes a Flood Risk Assessment (FRA) appropriate to the scale of development. The FRA should be carried out under the direction of a qualified and competent professional. Taking into account the precautionary approach of PPS 15 it is recommend that any new development be allowed an additional freeboard of 600mm.
 - *FLD2 - Protection of Flood Defence and Drainage Infrastructure* – An undesignated watercourse flows along the eastern and southern boundary of the site. Under para. 6.32 of the policy a 5m maintenance strip is required unless the watercourse can be maintained from the opposite bank by agreement with the landowner.
 - *FLD3 - Development and Surface Water* - If the proposal involves an increase in hardstanding of 1000m² or more, then a Drainage Assessment is required. If a Drainage Assessment is not required by the policy the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere.

With regard to the above, specifically bullet point 1, Planning does not deem this proposal an exception under Policy FLD 1 of PPS15 therefore it is contrary to

Policy FLD 1 of PPS15 and the additional information required i.e. FRA has not been requested. The principle of this development has not been established.

2. DfI Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
3. Historic Environment Division (HED) were consulted as the site is located within the buffer of an archaeological site and monument (TYR047:502 - Coalisland Canal) and in close proximity to a Listed Building (HB13/04/016 - Canal structure 'Lock House')
 - HED (Historic Buildings) considered the impacts of the proposal on the building and advised that it requires additional information to allow a substantive response under Paragraph 6.12 (setting) of SPPS for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.
 - HED (Historic Monuments) is content the proposal is acceptable to SPPS and PPS6 policy requirements subject to conditions and informatives.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by Historic Buildings has not been requested.

4. NIEA – were consulted as the site appears to connect to the Torrent River / Coalisland Canal to the south providing a potential pathway to designated sites (SACs / SPA / Ramsar sites).
 - Water Management Unit is content with the proposal subject to Conditions, the applicant noting the advice in the Explanatory Note, referring and adhering to Standing Advice and obtaining any relevant statutory permissions.
 - Inland Fisheries is content the application in principle is unlikely to have any significant impact on fisheries interests in the vicinity, but would require more detailed information.
 - Natural Environment Division (NED) has considered the impacts of the proposal and requires further information to be able to determine whether the proposal would have a likely significant effect on a protected sites. NED highlights the application site is within and hydrologically linked, to Lough Neagh and Lough Beg SPA and RAMSAR, which are designated under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended); and Lough Neagh ASSI which is declared under the Environment Order (Northern Ireland) 2002 (as amended). As such, NED recommend that that the applicant must demonstrate how they intend to ensure that there will be no adverse impacts upon the designated sites during the construction and operational phases of the development. Additionally, NED seeks a Preliminary Ecological Appraisal to assess the site for potential natural heritage interests and the location of the proposed septic tank and soakaway.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by Inland Fisheries and NED has not been requested.

5. Shared Environmental Services (SES) – considered this application in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). SES advised the proposed development is situated wholly within Lough Neagh and Lough Beg Ramsar site. It also lies within the fluvial flood plain. Watercourses adjacent to the site provide a potential pathway for likely significant effects to Lough Neagh and Lough Beg SPA. Further information is required to enable a Habitats Regulations Assessment (HRA) to be completed as follows:
 - DfI Rivers has requested that if the proposed development is to be considered as an exception to PPS15, a Flood Risk Assessment is required. This information is required to inform the HRA in respect of the proposal's location within the flood plain.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by SES has not been requested.

Consideration

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 'Development in the Countryside'. The applicant has applied under one of these instances Policy CTY 7 of PPS 21 - Dwellings for Non-Agricultural Business Enterprises.

Policy CTY 7 states planning permission will be granted for a dwelling house in connection with an established non-agricultural business enterprise where a site specific need can be clearly demonstrated that makes it essential for one of the firm's employees to live at the site of their work. Where such a need is accepted the dwelling house will need to be located beside, or within, the boundaries of the business enterprise and integrate with the buildings on the site. Planning permission granted under this policy will be subject to a condition restricting occupation of the dwelling for the use of the business.

The applicant's father submitted a letter on the 11th April 2022 to advise that he Martin McCaffrey, who resides at 96 Reenaderry Rd located opposite the site, is the director of McCaffrey Transport Ltd located adjacent the site. That he requires the presence of his son Stephen McCaffrey, on a full-time basis, fully engaged with their family run business. He states that due to the nature of the business out of hours attendance is required 7 days a week. That they have around 20 employees covering a range of shift patterns which his son Stephen assists and manages, as he is not present at all times. As well as managing the employees of the business, he states Stephen manages the financial aspects together with the maintenance and breakdowns. That this regularly requires Stephen to be on site to make and organise repairs at any time of the day or night. Stephen does not currently reside at the business address and this adds difficulty as he has a young family. Stephens' intention to build and reside with his young family will relieve a lot of pressure on him and the business as he also cares for his elderly mother who resides at the neighbouring property 96a Reenaderry Rd. As he devotes a lot of time to caring for his mother he intends to make Stephen a managing director of the business in the near future.

Whilst the information above has been taken into account it has not been demonstrated that in the first instance there is an established non-agricultural business enterprise on or neighbouring this site. Whilst as detailed in 'Characteristics of Site and Area a business 'McCaffrey Transport Ltd' sits adjacent to this site, over a no. of gravelled yards, no planning history for this business exists.

According, I consider this proposal as it stands contrary to Policies CTY1 and CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not merit being considered as an exceptional case as it has not been demonstrated it is in connection with an established non-agricultural business enterprise.

Bearing in mind all of the above. A the principle of this development has not been established under Policy FLD 1 of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy, additional information to demonstrate there is a non-agricultural business enterprise has not been requested. Nor has additional information to address issues raised by HED, NIEA and SES (see 'Consultees' above).

Additional considerations

The site is located within SG Defence Estates relating to Met Office Radar however this proposal would be under the 15.2m height threshold for consultation to Defence Estates. The site is also located within an area of constraint on wind turbines however proposal is for a dwelling.

Recommendation: Refuse

Neighbour Notification Checked	Yes
Summary of Recommendation	Refuse
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 CTY7 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 it is required in connection with an established non-agricultural business enterprise.
3. The proposal is contrary to Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of Planning Policy Statement 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2022/0168/O	Target Date: 6 April 2022
Proposal: Proposed domestic dwelling and garage in a cluster	Location: 25M North Of 2 Coltrim Lane Moneymore
Applicant Name and Address: Mr Mark Hamilton 50 Cookstown Road Moneymore	Agent Name and Address: Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SG
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area The site is located approximately 1.1km south west of the development limits of Moneymore in the rural area, as defined in the Cookstown Area Plan 2010. The site is proposed to be accessed from an existing access which serves a residential dwelling and Railway Karting. The area is characterised with a mix of agricultural uses, dwellings, Railway Karting and J&K Coaches.	
Description of Proposal This is an outline application for a proposed dwelling and garage in a cluster.	

Deferred Consideration:

This application was presented before the Planning Committee in June 2022 with a recommendation to refuse. Members agreed to defer the application for an office meeting with the Planning Manager which took place 16 June 2022.

Following the office meeting I carried out a site visit. It is apparent from the site location plan the agent is relying on the existence of two focal points, 3 dwellings and 2 approved outline sites to meet the tests of Policy CTY 2a of PPS 21.

CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of the six criteria are met. The key issues in this case are

- Cluster does not appear as a visual entity in the local landscape.
- The cluster is associated with a focal point.

If the first three criteria can be met it follows that the site is assessed as to whether it can meet the last three criteria of CTY 2a.

Dealing with the first criteria, it states the cluster of development must lie outside of a farm and consist of four or more buildings of which at least three are dwellings. There are three dwellings with some outbuildings, and it can be said there is a cluster of development, therefore fulfilling the first criteria.

There is an area of land accessed off the Coltrim Road which is currently used as a bus park by JK Coaches. The second criteria require the cluster to appear as a visual entity in the local landscape. Due to the distance and vegetation between the buildings in the cluster it is my opinion these do not appear as a visual entity in the local landscape. The third criteria require the cluster to be associated with a focal point. I agree the bus park can be considered as a focal point, but as the cluster of development does not appear as a visual entity in the landscape it cannot be read as being associated with this focal point and the agent is relying on the approval of two infill dwellings, which have only been approved at outline stage and not yet built, for further dwellings in a cluster.

The agent then refers to a focal point at the Railway Karting track on the site location plan. In assessing if there is a cluster of development, I will go through each of the three aforementioned criteria.

Once again it is clear the agent is relying on the as yet unbuilt dwelling houses which have been approved at outline state. Whilst the dwellings at Nos 2 Coltrim Lane and 50 Cookstown Road can be read together from certain vantage points, they cannot be read with the required third dwelling at No 46 Cookstown Road, and as such they do not read as part of a visual entity as part of a cluster of development. As I do not consider there is a cluster of development which can be read as a visual entity, the cluster is not associated with a focal point, either at Railway Karting or J&K Coach park.

It is apparent the agent is trying to marry the two focal points together and rely on sparsely located houses to create the cluster as a visual entity. This is not within the spirit of the policy. No 46 Cookstown Road cannot be read from any public viewpoints and so it fails to read as

contributing to a cluster of development and does not appear as a visual entity in the local landscape. In trying to achieve this, the agent has created a site which he contends has a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The red line has been drawn in such a way that shows there is development on at least two sides. However, the two sites with outline approval have not been built and a large red line has been drawn to include both No 2 Coltrim Lane and No 50 Cookstown Road and therefore only one side of the proposed site is bounded by other development in the cluster. The agent has also identified No 48 Cookstown Road as a residential dwelling to be included in the number of dwellings for the purposes of the cluster. This is not a residential dwelling, and this is confirmed with a check of the Valuation and Lands Agency register which confirms this is a non-domestic building.

It is my opinion, for the various reasons above, the cluster of development does not read as a visual entity in the local landscape. I therefore conclude the site does not provide a suitable degree of enclosure and it is not bounded on at least two side with other development in the cluster. The site will visually intrude into the open countryside. There are no issues of concern with regards to an adverse impact on residential amenity.

For the reasons above I consider the application fails to meet the first five criteria of Policy CTY 2a and a refusal is being recommended.

Conditions/Reasons for Refusal:

Approval Conditions

Signature(s):Karen Doyle

Date: 20 December 2022



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2022/0168/O	Target Date: 6 April 2022
Proposal: Proposed domestic dwelling and garage in a cluster	Location: 25M North Of 2 Coltrim Lane Moneymore
Applicant Name and Address: Mr Mark Hamilton 50 Cookstown Road Moneymore	Agent Name and Address: Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SG
Summary of Issues:	
Summary of Consultee Responses:	
Description of Proposal This is an outline application for a proposed dwelling and garage in a cluster.	
Deferred Consideration: This application was presented before the Planning Committee in June 2022 with a recommendation to refuse. Members agreed to defer the application for an office meeting with the Planning Manager which took place 16 June 2022. The application was presented with a further recommendation to refuse in January 2023 where it was agreed by Members to defer the application for a site visit with Members. The site visit took place on 24 January 2023. At the site visit the policy context of CTY 2a was discussed and Members took in all the required view points. It is still my opinion the agent is relying on the existence of two focal points, 3 dwellings and 2 approved outline sites to meet the tests of Policy CTY 2a of PPS 21.	

CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of the six criteria are met. The key issues in this case are - Cluster does not appear as a visual entity in the local landscape. - The cluster is associated with a focal point.

If the first three criteria can be met it follows that the site is assessed as to whether it can meet the last three criteria of CTY 2a.

Dealing with the first criteria, it states the cluster of development must lie outside of a farm and consist of four or more buildings of which at least three are dwellings. There are three dwellings with some outbuildings, and it can be said there is a cluster of development, therefore fulfilling the first criteria.

There is an area of land accessed off the Coltrim Road which is currently used as a bus park by JK Coaches. The second criteria require the cluster to appear as a visual entity in the local landscape. Due to the distance and vegetation between the buildings in the cluster it is my opinion these do not appear as a visual entity in the local landscape. The third criteria require the cluster to be associated with a focal point. I agree the bus park can be considered as a focal point, but as the cluster of development does not appear as a visual entity in the landscape it cannot be read as being associated with this focal point and the agent is relying on the approval of two infill dwellings, which have only been approved at outline stage and not yet built, for further dwellings in a cluster.

The agent then refers to a focal point at the Railway Karting track on the site location plan. In assessing if there is a cluster of development, I will go through each of the three aforementioned criteria.

Once again it is clear the agent is relying on the as yet unbuilt dwelling houses which have been approved at outline state. Whilst the dwellings at Nos 2 Coltrim Lane and 50 Cookstown Road can be read together from certain vantage points, they cannot be read with the required third dwelling at No 46 Cookstown Road, and as such they do not read as part of a visual entity as part of a cluster of development. As I do not consider there is a cluster of development which can be read as a visual entity, the cluster is not associated with a focal point, either at Railway Karting or J&K Coach park.

It is apparent the agent is trying to marry the two focal points together and rely on sparsely located houses to create the cluster as a visual entity. This is not within the spirit of the policy.

No 46 Cookstown Road cannot be read from a public view point and so it fails to read as contributing to a cluster of development and does not appear as a visual entity in the local landscape. In trying to achieve this, the agent has created a site which he contends has a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The red line has been drawn in such a way that shows there is development on at least two sides. However, the two sites with outline approval have not been built and a large red line has been drawn to include both No 2 Coltrim Lane and No 50 Cookstown Road and therefore only one side of the proposed site is bounded by other development in the cluster. The agent has also identified No 48 Cookstown Road as a residential dwelling to be included in the number of dwellings for the purposes of the cluster. This is not a residential dwelling, and this is confirmed with a check of the Valuation and Lands Agency register which confirms this is a nondomestic building.

It is my opinion, for the various reasons above, the cluster of development does not read as a visual entity in the local landscape. I therefore conclude the site does not provide a suitable degree of enclosure and it is not bounded on at least two side with other development in the cluster. The site will visually intrude into the open countryside. There are no issues of concern with regards to an adverse impact on residential amenity.

For the reasons above I consider the application fails to meet the first five criteria of Policy CTY 2a and a refusal is being recommended.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point or is not located at a cross-roads, the site is not bounded on at least two sides with other development in the cluster and the dwelling would if permitted visually intrude into the open countryside.

Reason 3

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to further erode the rural character of the countryside.

Signature(s):Karen Doyle

Date: 24 January 2023

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2022/0168/O	Target Date:
Proposal: Proposed domestic dwelling and garage in a cluster	Location: 25m North of 2 Coltrim Lane Moneymore
Referral Route: To Committee - Refusal - Contrary to CTY 1 and 2a of PPS 21.	
Recommendation:	
Applicant Name and Address: Mr Mark Hamilton 50 Cookstown Road Moneymore	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Summary of Issues

To Committee - Refusal - Contrary to CTY 1 and 2a of PPS 21.

Characteristics of the Site and Area

The site is located approximately 1.1km south west of the development limits of Moneyore, from such the site is located in the open countryside as per defined by the Cookstown Area Plan 2010. The site is identified as 25m North of 2 Coltrim Road, Moneyore, in which the red line covers a portion of a much larger agricultural field. I note that the intention is to use an existing access that already serves a residential dwelling and go kart facility. I note that the immediate and surrounding area are predominately agricultural land uses with a scattering of residential dwellings and go kart facility nearby.

Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

Description of Proposal

This is an outline application for a proposed domestic dwelling and garage in a cluster, the site is identified as 25m North of 2 Coltrim Lane, Moneymore.

Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 -Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

Upon review of the guidance I am content that the cluster lies outside a farm and consists of four or more buildings, wherein three of which are dwellings. I note that two sites have been approved to the north of No. 2 Coltrim Road however these are only outline approvals. However, given the distance between the dwellings it is not clear that the cluster appears as a visual entity.

In terms of a focal point, the agent has identified the 'go kart facility' north of the 50 Cookstown Road and the 'Bus park' along Coltrim Road as the second. I am content that both can be constituted as focal points in their own right. However taking the 'go kart facility' first, whilst I acknowledge that it has association with no. 50 Cookstown Road, it does not have any association with No.2 Coltrim Road given the separation distance between the two so cannot be seen to have association with the whole cluster. Likewise, the 'bus park' appears to have association with No.2 Coltrim Road but no association with Nos. 46 and 50 Cookstown Road. As such I hold the view that the application has failed to demonstrate an associated focal point with the cluster.

In terms of enclosure I note that the site bounds with two dwellings one on the eastern boundary and one on the southern boundary, wherein I am content that the site is suitably bounded and will subsequently be absorbed into the cluster without significantly altering the existing character of the area. Finally, I am content that a dwelling in this location is unlikely to have an adverse impact on residential amenity. Given the issues with being a visual entity and the focal point I hold the view that the application fails under CTY 2a.

I note that the agent confirmed that there were no other cases that this application could be considered under, upon review of the remaining policies under CTY 1 I would agree with this, as such it will be taken forward as a refusal.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 8m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.

Neighbour Notification Checked

Yes


Summary of Recommendation:

Refusal

Reasons for Refusal:

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape and the cluster is not associated with a focal point or is not located at a cross-roads.

Signature(s) 

Date: 8/5/22.

ANNEX	
Date Valid	9th February 2022
Date First Advertised	22nd February 2022
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Coltrim Road, Moneymore, Londonderry, BT45 7QG The Owner/Occupier, 2 Coltrim Lane, Moneymore, Londonderry, BT45 7YZ The Owner/Occupier, 46 Cookstown Road Moneymore Londonderry The Owner/Occupier, 50 Cookstown Road Moneymore Londonderry	
Date of Last Neighbour Notification	24th February 2022
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: I/2000/0190/F Proposal: Use of land for cart track Address: Adjacent to no 46 Cookstown Road Moneymore Decision: Decision Date: 20.12.2000 Ref ID: I/2000/0827/F Proposal: Replacement dwelling Address: Railway View Cookstown Road Moneymore Decision: Decision Date: 28.02.2001 Ref ID: LA09/2018/0500/LDP Proposal: Proposal for the erection of a new dwelling & garage. Address: Coltrim Lane, Moneymore (Approx. 220m from junction with cookstown road)., Decision: PR Decision Date: Ref ID: LA09/2017/0810/F Proposal: New Dwelling Address: Coltrim Lane, Moneymore (approx. 220m from Junction with Cookstown Road),	

Decision: DEF

Decision Date:

Ref ID: LA09/2020/1244/O

Proposal: Proposed infill dwelling & garage (site 2).

Address: 25m NE of 2 Coltrim Road Moneymore.,

Decision: PG

Decision Date: 02.03.2021

Ref ID: LA09/2017/1490/F

Proposal: Retrospective widening of existing access and laneway (amended description)

Address: Adjacent to 50 Cookstown Road, Moneymore,

Decision: PG

Decision Date: 07.06.2018

Ref ID: LA09/2020/1238/O

Proposal: Infill dwelling & garage (site 1)

Address: 70m NE of 2 Coltrim Road Moneymore,

Decision: PG

Decision Date: 15.02.2021

Ref ID: LA09/2016/1259/F

Proposal: Variation of Condition No's 3 and 4 of Planning Approval I/2000/0565/F

Address: Adjacent to 46 Cookstown Road, Moneymore,

Decision: PG

Decision Date: 27.06.2017

Ref ID: I/2002/0208/F

Proposal: Reduction in the area of car parking area from that originally approved under planning permission I/2000/0565.

Address: Cart Track, adjacent to No 46 Cookstown Road Moneymore

Decision:

Decision Date: 23.12.2002

Ref ID: I/2001/0619/F

Proposal: Office and Store

Address: Adjacent to 46 Cookstown Road Moneymore

Decision:

Decision Date: 13.01.2004

Ref ID: I/2000/0565/F

Proposal: Use of land for cart track

Address: Adjacent to 46 Cookstown Road Moneymore

Decision:

Decision Date: 18.06.2001

Ref ID: I/1999/0490/O

Proposal: Dwelling house

Address: Adjacent to no 46 Cookstown Road Moneymore

Decision:

Decision Date: 14.04.2000

Ref ID: I/2001/0257/F

Proposal: Bus parking area with ancillary facilities including small building - office, WC and canteen

Address: 120 metres south east of Coltrim Cross Roads Coltrim Lane Moneymore

Decision:

Decision Date: 01.10.2002

Ref ID: I/2000/0334/F

Proposal: Dwelling

Address: Adjacent to no 46 Cookstown Road Moneymore

Decision:

Decision Date: 08.11.2000

Ref ID: I/2004/0081/F

Proposal: Amendment to previous condition 03 on Planning Permission I/2000/0565 for the approval of 2 No Karts (Rotax Leisure Kart) as tested and evaluated in accordance with guidelines agreed with statutory bodies

Address: Adjacent to no. 46 Cookstown Road, Moneymore

Decision:

Decision Date: 01.07.2004

Ref ID: LA09/2021/1594/F

Proposal: Part retrospective application for extension to existing car parking area

Address: 80m NW of 48 Cookstown Road, Moneymore,

Decision:

Decision Date:

Ref ID: LA09/2022/0168/O

Proposal: Proposed domestic dwelling and garage in a cluster

Address: 25m North of 2 Coltrim Lane, Moneymore,

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2022/0242/F	Target Date: 21 April 2022
Proposal: Retention of domestic store as built (not in accordance with LA09/2021/0259/F)	Location: 20 Ardchrois Donaghmore
Applicant Name and Address: Conrad McGuigan 20 Ardchrois Donaghmore Co Tyrone	Agent name and Address: C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area The site is within the settlement limit of Donaghmore as defined in the Dungannon and South Tyrone Area Plan 2010. To the southwest and abutting the boundary of the site contains an operational petrol filling station, a 'Todays Extra' shop and its curtilage which includes hard surfaced forecourt, pumps, canopy, car wash, external customer toilets and ancillary parking. The filling station sits adjacent and fronting unto the Pomeroy Road, to the very north of the village, close to the edge of the settlement limits and just southeast of Backford Bridge. The curtilage of the filling station is bound along its roadside frontage by a footpath; its rear and south side by low fencing; and its north side by the Torrent River which is lined by a mix of mature vegetation. The filling station / shop is a single storey building with a relatively rectangular shaped floor plan and low pitched roof construction. A line of small business units (excluded from the red line of the site) adjoin the southern gable of the filling station. The units which combined cover a similar	

area to the filling station and which run at an angle to the shop comprises a hairdressers, chinese and chip shop.

A large house within the curtilage of the application site sits on lands to the immediate rear of the petrol station which is the subject of this application. This dwelling is currently accessed through the site, to the north side of the filling station. It has however recently gained planning approval to be accessed directly off a residential road to its south.

The area surrounding the site is characterised by its edge of settlement limit location. Residential housing including Ardchrois and Torrent View, two well established housing developments runs to its southeast/east and agricultural lands rise away to its north along the Tullyaran Rd. A large farm cluster sits just northwest of the site, to both sides of the Tullyaran Rd, at its access off the Pomeroy Rd. A public house 'Brewery Off Sales' exists to the opposite side of the Pomeroy Rd to the filling station with the Torrent Valley Business Park to its west again.

Description of Proposal

This is a full application for Retention of domestic store as built (not in accordance with LA09/2021/0259/F) at 20 Ardchrois, Donaghmore.

Deferred Consideration:

This application was presented before the Planning Committee in May 2022 with a recommendation to refuse whereby Members agreed to carry out a site visit and look at the issues of concern on the ground. The site visit took place on 27 May 2022.

A domestic store/garage was approved under LA09/2021/0259/F but it has not been constructed in accordance with the approved drawings. The shed has been constructed in a different position which is closer to neighbouring dwellings. Although the footprint of the building reflects what was approved the shed has been constructed higher than what was approved. Prior to the site visit the agent contacted the Planning Department and advised amended plans will be submitted to show a reduction in the shed, as presently built, to the height which was approved under LA9/2021/0259/F.

The application was refused on the basis of the dominance of the scale, height and massing of the shed as constructed when viewed from the neighbouring properties. I will assess the application based on the reduced height of the shed as now proposed by the agent.

In terms of dominance, the shed was originally approved 4m from the common boundary with the rear of the properties at Torrent View. The shed has been constructed 3m closer to these properties with a separation distance of 1m from the common boundary. I consider that if the shed is reduced in height to what was approved this will mitigate any negative impact in terms of dominance when considering the previous approval. Referring to the refusal reason for scale, height and massing, I do not consider the shed being located 3m closer to the common boundary at the reduced height as a reason to justify a refusal of this application. Planting has been carried out to the rear of the shed with the common boundary and the distance between the shed and the common boundary will allow the applicant to carry out necessary works for the upkeep and general maintenance of the shed.

In terms of overshadowing, it was acknowledged in the report for the shed that was approved under LA90/2021/0184/F there will be a degree of overshadowing and paragraph A33 in APPS does state that overshadowing to a garden area on its own will rarely constitute grounds to justify a refusal reason. I agree with the consideration of overshadowing on this application and do not consider it to be a justifiable reason for refusal as detailed by the case officer in her report.

I recommend an approval of the application subject to the conditions listed below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

Reason: This is a retrospective application.

Condition 2

Within 3 months from the date of this planning permission the ridge height of the shed shall be reduced to 5.8m as per drawing no 03 Rev 1.

Reason: In the interests of residential amenity of 16, 18 and 20 Torrent View, Donaghmore.

Condition 3

The domestic store shall not be occupied at any other time other than for the purposes ancillary to the residential use of the dwelling house known as 20 Ardchrois, Donaghmore.

Reason: In the interests of residential amenity of neighbouring dwellings at 16, 18 and 20 Torrent View, Donaghmore.

Signature(s):Karen Doyle

Date: 23 January 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 03/05/2022	Item Number:
Application ID: LA09/2022/0242/F	Target Date:
Proposal: Retention of domestic store as built (not in accordance with LA09/2021/0259/F)	Location: 20 Ardchrois Donaghmore
Referral Route: 1. Contrary to Policy EXT 1 – Residential Extensions and Alterations in PPS 7 Addendum in that the scale, height and massing of the building is dominant when viewed from the boundary of dwellings to the rear at No. 18, No. 19 and No. 20 Torrent View.	
Recommendation:	Refusal
Applicant Name and Address: Conrad McGuigan 20 Ardchrois Donaghmore Co Tyrone	Agent Name and Address: C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
Executive Summary: LA09/2021/0259/F granted approval for a domestic store/garage at the land to the rear and within the curtilage of No. 20 Ardchrois, Donaghmore. This application is for the retention of the building constructed which is larger and not building in the approved location. I consider the scale of the current building is unacceptable and it is now 3m closer to the boundary of dwellings to the rear at No. 18, 19 and 20 Torrent View. I consider the building is now dominant when viewed from these properties especially No.20.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Representations:

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

Characteristics of the Site and Area

The site is within the settlement limit of Donaghmore as defined in the Dungannon and South Tyrone Area Plan 2010.

To the southwest and abutting the boundary of the site contains an operational petrol filling station, a 'Todays Extra' shop and its curtilage which includes hard surfaced forecourt, pumps, canopy, car wash, external customer toilets and ancillary parking. The filling station sits adjacent and fronting unto the Pomeroy Road, to the very north of the village, close to the edge of the settlement limits and just southeast of Backford Bridge.

The curtilage of the filling station is bound along its roadside frontage by a footpath; its rear and south side by low fencing; and its north side by the Torrent River which is lined by a mix of mature vegetation.

The filling station / shop is a single storey building with a relatively rectangular shaped floor plan and low pitched roof construction. A line of small business units (excluded from the red line of the site) adjoin the southern gable of the filling station. The units which combined cover a similar area to the filling station and which run at an angle to the shop comprises a hairdressers, chinese and chip shop.

A large house within the curtilage of the application site sits on lands to the immediate rear of the petrol station which is the subject of this application. This dwelling is currently accessed through the site, to the north side of the filling station. It has however recently gained planning approval to be accessed directly off a residential road to its south.

The area surrounding the site is characterised by its edge of settlement limit location. Residential housing including Ardchrois and Torrent View, two well established housing developments runs to its southeast/east and agricultural lands rise away to its north along the Tullyaran Rd. A large farm cluster sits just northwest of the site, to both sides of the Tullyaran Rd, at its access off the Pomeroy Rd. A public house 'Brewery Off Sales' exists to the opposite side of the Pomeroy Rd to the filling station with the Torrent Valley Business Park to its west again.

Description of Proposal

This is a full application for Retention of domestic store as built (not in accordance with LA09/2021/0259/F) at 20 Ardchrois, Donaghmore.

Planning Assessment of Policy and Other Material Considerations

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

Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, 2no. third party objections were received.

Objections were received from the owners of properties at No. 19 and No. 20 Torrent View which submitted the same objection letter and the issues raised in the letter will be assessed and re-buffed. Initially both owners of No. 19 and No. 20 state they did not receive a neighbour notification letter for planning approval LA09/2021/0259/F. A letter was sent to both addresses on the 3rd March 2021 so I am content the statutory requirements for neighbour notification have been met. The same neighbours as LA09/2021/0259/F were sent neighbour letters for this application and no letters have been received back to myself by Royal Mail.

Planning History

Application Site History

LA09/2018/1683/F - Proposed new access - Approx. 30m North East of 21 Pomeroy Road Donaghmore – Permission Granted 25.02.2019

LA09/2021/0259/F - Proposed domestic store/garage - 20 Ardchrois, Donaghmore – Permission Granted 29.04.2021

LA09/2021/0124/CA – The application is the subject of an ongoing enforcement case. The objectors state in their letter that the breach was notified on the 21st June 2021 and works

were allowed to progress. This is a separate matter and is considered as part of the enforcement case and cannot be commented on in this assessment.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

As the site is within the settlement limit of Donaghmore SETT 1 is the relevant policy within the Plan. The site is not within any other designation or zonings within the Plan.

I do not consider the building to be retained is sensitive to the size, character and function of the settlement of Donaghmore. The building is larger than the approved height of 5.8m and is only 1m from the boundary with neighbouring dwellings and is not in the approved siting. The scale and height of the building is unacceptable for a domestic building and out of character for the settlement.

The proposal was approved at a separation distance of 4m from the boundary and the applicant was to provide additional landscaping along the boundary. The revised siting does not respect the constraints of the site.

The building to be retained is higher than the 5.8m and is closer to the boundary than approved with neighbouring dwellings at No.18, 19 and 20. The building will be dominant when viewed from their gardens so will create unacceptable neighbour amenity.

The site is not within the vicinity of any recognised conservation interests.

I am content there are satisfactory arrangements for access and parking at the site as it is located on a large plot. The applicant has stated the building is for domestic uses and has not proposed any additional toilets or kitchen so no sewage disposal is needed.

I am content no additional infrastructure is needed by the developer.

I consider the proposal to retain the existing building does not meet all the criteria in SETT 1.

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.

Addendum to PPS 7 - Residential Extensions and Alterations: sets out planning policy and guidance for achieving quality in relation to proposals for residential extensions and alterations.

No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided by the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (The Addendum). Policy EXT1 of APPS7 indicates that planning permission will be granted for a proposal to extend or alter a residential property where four specific criteria are met.

Scale, Massing, Design and Appearance

The proposal is for the retention of a store/domestic garage on land within the curtilage of No.20 Ardchrois in Donaghmore. A building was approved on the same site through planning approval LA09/2021/0259/F and the proposed garage was 12m in depth and 17.9m in width with a ridge height of 5.8m. In this report it was acknowledged this was a large garage with an industrial appearance but it was considered acceptable in the context of the wider area. The proposed garage was within the curtilage of a large area of land to the rear of No. 20. No. 20 is a three storey dwelling to the south east of the garage which is large in scale and massing. The area to the rear was gravelled and accessed to the rear of Backford filling station in Donaghmore. The site would not become overdeveloped and there was sufficient space left for parking. The approved garage had a separation distance of 4m from the boundary with the dwellings to the rear. In the initial approval additional planting was proposed to the rear to block any negative visual amenity from the garage.

The agent has submitted plans and elevations which match the garage that was approved but this does not match what is currently built on site as shown in figure 1 below.



Figure 1 – Photo from the site visit of shed as built on site.

It appears the garage is higher than the approved 5.8m and has a much higher roller shutter door than what was approved. In terms of scale, height and massing the building currently on site does not have the appearance of a domestic building. At the time of the site visit I was unable to gain access to the inside of the building to check the proposed use. I spoke to the agent on the phone and they confirmed the use was definitely for the applicant's own domestic use.

The objectors at No. 19 and No. 20 state the proposed garage is the equivalent of 10 single garages and twice the height. They contend the proposal is not domestic in scale and is not for a use ancillary to a dwelling. In terms of the domestic use the objectors quote

references from the case officer's report from planning approval LA09/2021/0259/F confirming the building is large in scale and 'would recommend a condition that the building is only used for domestic purposes to limit the use'. The objectors from No. 19 and No. 20 state the description of the proposal as a domestic store/garage is very misleading and a more accurate description would be a two storey shed. The applicant submitted the application for both LA09/2021/0259/F and this application on a PHD from which is for domestic buildings and paid the £291 fee for a domestic building. It is shown on the plans for this application that the building will be used for domestic purposes and it was conditioned in the previous approval for domestic uses. The applicant may intend to use the building for non-domestic uses but at the present moment it is not being used for commercial use so I have to take it on the principle that the building will be domestic.

Overall I consider the scale, height and massing of the building to be retained is unacceptable as it is a higher ridge height than what was currently approved.

Neighbour Amenity

Privacy

There are no windows on any of sides of the garage so I have no concerns about loss of privacy.

Dominance

The approved garage was 5.8m in height and as shown in figure 2 below there was a separation distance of 4m in the approved plans. To mitigate against any negative impacts on visual amenity and dominance when viewed from the dwellings to the rear of the garage it was proposed to have additional planting.

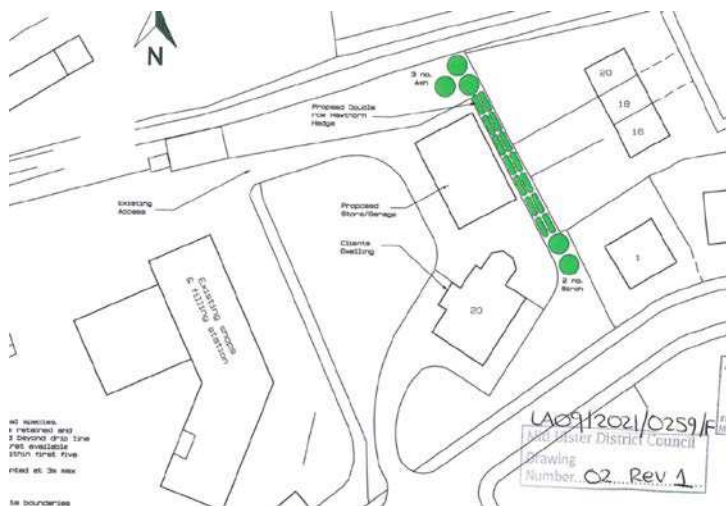


Figure 2 – Snapshot from the approved block plan



Figure 3 – Photo from the site visit showing the separation distance on site.

As shown in figure 3 above the building is sitting at approximately 1m from the boundary with the dwellings to the rear. The dwellings at 18, 19 and 20 Torrent View are also at a slightly lower ground level to the site. In terms of the current location of the building I consider this is unacceptable and is too close to the boundary fence. The building will be a dominant feature when viewed from the rear gardens of the adjacent dwellings.



Figure 4 - Photo from the site visit showing the building has been moved further into the corner of the site.

As shown in figure 4 above the building has been moved into the corner of the site in comparison with the approved siting as shown in figure 1. The building is now completely facing the rear garden of No. 20. The objectors state that proposed landscaping can now not be carried out which I am in agreement with and the applicant's have not met condition 3 of their planning approval.

Condition 3 of planning approval LA09/2021/0259/F stated

“All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing No 02Rev1 bearing the stamp dated 25 MAR 2021 and the appropriate British Standard or other recognised Codes of Practise. The works shall be

carried out prior to the occupation of any part of the building hereby approved. Any trees or hedging that die within 5 years of planting shall be replaced with a new planting of a similar size and species". The applicant has not completed the conditioned landscaping and will be unable to do this as the building has been moved closer to the boundary fence.

I consider the building in its current location will be a dominant feature when viewed from the rear gardens of No. 18-20 Torrent View as shown below in photographs submitted by the objectors.



Figure 5 – Photos sent in by objectors

Overshadowing

It was previously stated in the report for LA09/2021/0184/F that the proposed garage would create some overshadowing to the rear gardens of the dwellings at No.18-20. Figure 6 below shows an overshadowing test based on the approved height of the building at 5.8m and it does show overshadowing to the rear garden of No. 20 in the late afternoon. This matches what was previously acknowledged in the assessment in LA09/2021/0184/F. However paragraph A33 in APPS 7 does state that overshadowing to a garden area on its

own will rarely constitute grounds to justify a refusal of permission. This test is based on the height of the garage at 5.8m so there may well be greater overshadowing with the building currently on site. In consider there is the potential for the building on site to create overshadowing to the whole rear garden of No. 20 including the first 3-4m of the rear garden.

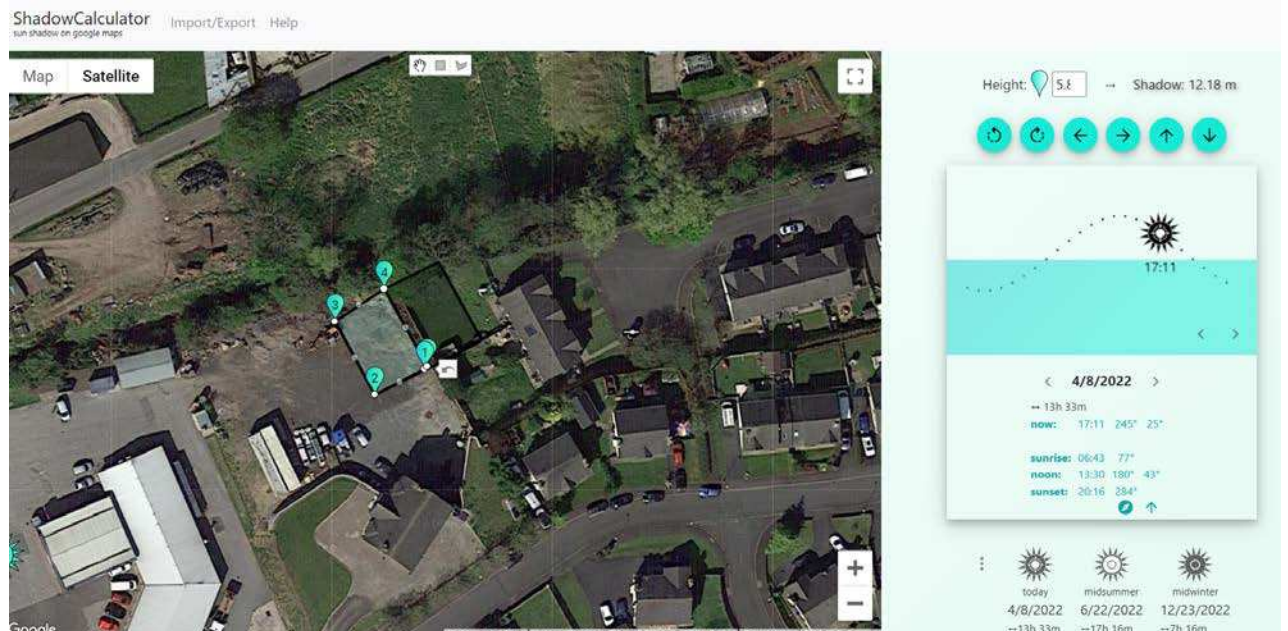


Figure 6 – Overshadowing with building in its current location

Figures 7-8 shows the location of the building and height as currently approved. I have shown the path of the sun at lunchtime and late evening. As stated in the report in the current approval there will be some overshadowing to the rear gardens in the properties at No.18-20 but this was not considered unacceptable as it was not in the main 3-4m of the rear garden space.



Figure 7 – Overshadowing with building in the approved location based on the sun's path for early afternoon

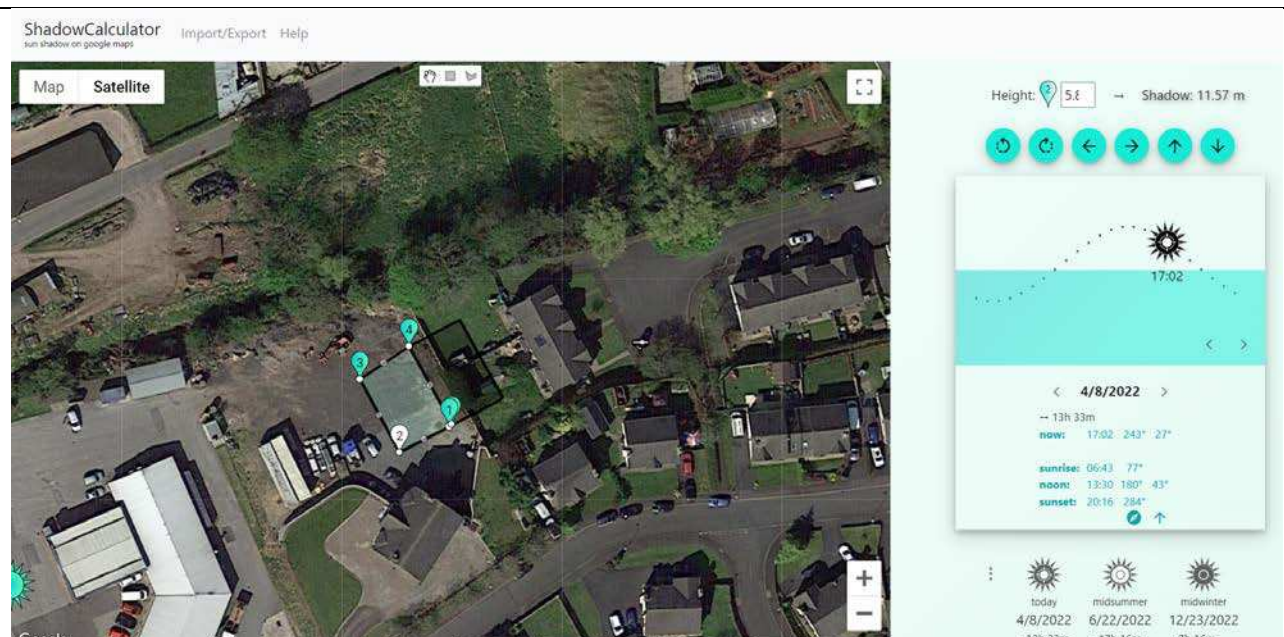


Figure 8 - Overshadowing with building in the approved location based on the sun's path for late afternoon.

The objectors at No. 19 and No. 20 state the shed is located to the southwest boundary of the three dwellings at Torrent View which is the critical side for sunlight. As shown above the garage in its approved location did not create unacceptable overshadowing but as the building is now solely in the corner of the site I am of the opinion it will have an impact on sunlight in the evening for No. 20. But I do not consider the building will create overshadowing and loss of light to any windows at No. 18, 19 and No. 20 Torrent View. Therefore I feel overshadowing cannot be included as a reason for refusal in this application.

Impact on Trees and Environmental Quality of this Area

There are no trees being removed as part of this proposal. In planning approval LA09/2021/0184/F additional planting of trees and hedging was proposed which would have added to the environmental quality of the proposal but these works have not been completed.

Amenity Space, Parking and Manoeuvring

The dwelling at No. 20 is located on a large plot and the garage is on land to the rear of the dwelling. I am content there is sufficient amenity space for the dwelling and for the parking of at least two cars.

Neighbour Notification Checked Yes

Summary of Recommendation:

The proposal is recommended for refusal as it does not meet all the criteria in PPS 7 Addendum Residential Extensions and Alterations and SETT 1 in the Dungannon and South Tyrone Area Plan 2010.

Reasons for Refusal:

1. Contrary to Policy EXT 1 – Residential Extensions and Alterations in PPS 7 Addendum in that the scale, height and massing of the building is dominant when viewed from the boundary of dwellings to the rear at No. 18, No. 19 and No. 20 Torrent View.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2022/0437/F	Target Date: <add date>
Proposal: Retrospective application for the retention of farm dwelling	Location: 59 Derryvaren Road Coalisland
Applicant Name and Address: Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	Agent Name and Address: Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
Summary of Issues: This application is for the retention of a pre fabricated dwelling on a farm. The development is located in a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions and a dwelling is not an exception.	
Summary of Consultee Responses: DFI Rivers - development inside 1 in 100 year flood area	
Characteristics of the Site and Area: The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings. There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63. The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a prefabricated building which is the subject of this application and a shed to the rear.	

Description of Proposal

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland.

Deferred Consideration:

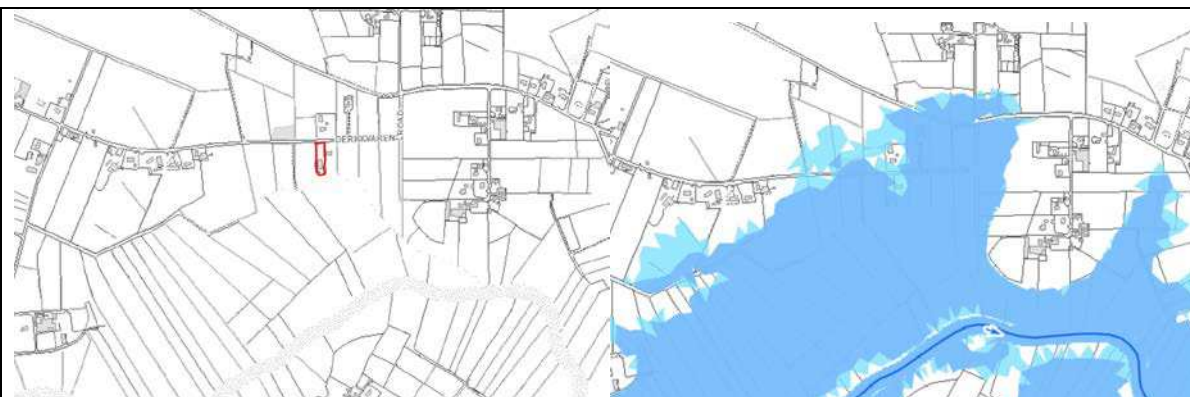
This application was before the Committee on 6 September 2022 with a recommendation to refuse, where it was deferred for meeting with the Service Director. At the deferral meeting on 16 September 2022 it was indicated the proposal is for the applicants farm dwelling and that he had been living in a caravan at the rear of the site. The proposed dwelling is of a temporary nature and the applicant only wants to live in it for a temporary period of 4 or 5 years. The site is within an area the DFI Rivers have advised is a flood plain for a 1 in 100 year flood event, the applicant is an elderly gentlemen and has never seen the site flooding. It would be costly to produce a Flood Risk Assessment and the applicant is unlikely to provide this.

No information has been submitted since the deferral meeting to provide any further information about the applicants farming case or to demonstrate the site sits outside any flood plain. Members are advised there are a number of invoices for buying feed bin, railings and grid supply(possibly cattle grid) from McLaughlin Engineering from 2015 to 2020, invoices for round silage bales from G&C McGahan from 2015 to 2020, receipts from Shane Campbell for hay bales from 2014 to 2020 and details that the farm business id was issued for a cat 3 farm on 16 March 2022. While the recent allocation of a DAERA Business ID gives some indication that farming is currently active, it has not been demonstrated the business has been ongoing for the required 6 years. I agree with the original assessment that some receipts and invoices are on a general template and do not convince me they are contemporaneous for the works carried out..

It is also submitted the applicant is a Lough Neagh Brown Eel fisherman and has licenses issued by DEARA from 2009 until 2021. Members will be aware there is a proposed policy in the Draft Plan Strategy which relates to Lough Neagh fishermen, that said the policy is in draft form and cannot currently be relied on when make decisions on applications.

The proposed dwelling is a prefabricated building and the applicant only wishes to reside here for 4 – 5 years. There is nothing in the policy that would support this proposal with temporary dwellings only permissible for a short period of time (up to 3 years) where a site has planning permission and the development is ongoing in accordance with an approval or there are compelling and site specific reasons to have it here. No new information has been provided to make any additional case for this dwelling on a site specific basis. Members are advised that temporary buildings of this nature are not in keeping with the design guide and they are not particularly appropriate in the countryside.

DFI Rivers Maps show the site within a 1 in 100 year flood event. There are some categories of development which may be permitted in these areas however a dwelling is not one of these categories. The policy does not allow for infilling to raise development out of a flood area as this is moving the problem elsewhere and could result in someone else's property being flooded due to the displacement of flood water. A hydrological report for this area is likely to be a very costly due to the extensive nature of it as it would be modeling the entire Lough Neagh basin.



As there has been no new information presented to justify this proposal and it is in a flood plain I recommend planning permission is refused.

Reasons for Refusal:

Reason 1

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

Reason 2

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

Reason 3

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

Reason 4

Contrary to CTY 14 - Rural Character in PPS 21 in that the design of the dwelling is of a temporary nature and does not reflect the traditional pattern of settlement in the area.

Signature(s)

Date:

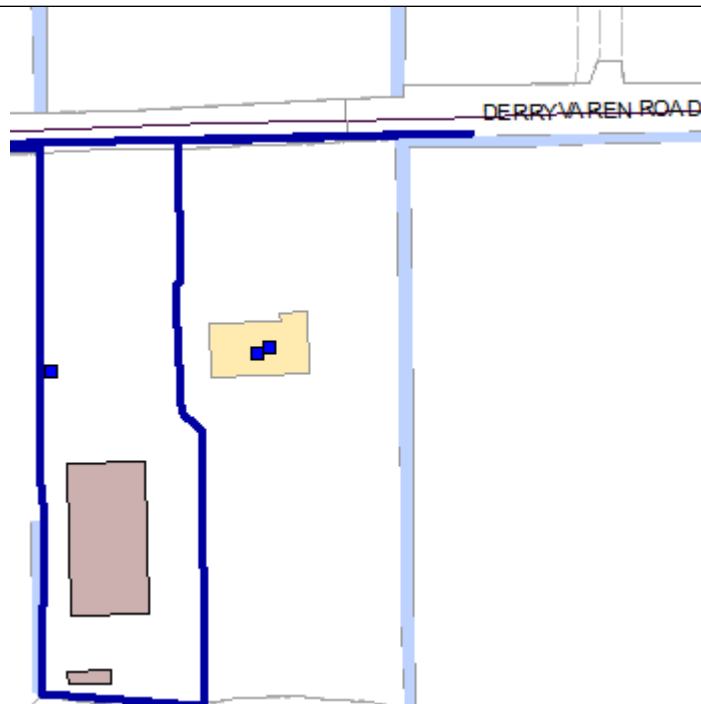


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.28
Application ID: LA09/2022/0437/F	Target Date: 27 May 2022
Proposal: Retrospective application for the retention of farm dwelling	Location: 59 Derryvaren Road Coalisland
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	Agent Name and Address: Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	DAERA - Omagh	Substantive: TBC
	Rivers Agency	Substantive: TBCResponseType: FR

Representations:

Letters of Support	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.

There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.

The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a mobile home which is the subject of this application and a shed to the rear.

Description of Proposal

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections have been received.

Planning History

M/2010/0538/F - Proposed domestic garage - Lands adjacent to 62 Derryvarren Road, Coalisland - Permission Granted 15.04.2011. This is the shed to the rear of the mobile home

Site across the road

M/2008/0554/F – Proposed domestic store for the storage of fisherman's boat car, turf & household utilities - To the rear of 62 Derryvarren Road, Coalisland - Permission Granted – 14.10.2009

Mid Ulster Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations as defined in the Plan.

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

Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

CTY 10 – Dwelling on a Farm

DAERA have confirmed in their consultation response that the farm business has not been in existence for over 6 years and the farm business is category 3. The DAERA ID was only allocated on the 16th March 2022 even-though the applicant states on the P1C form the farm business was established more than 6 years. DAERA state there are no subsidies being claimed at the site by an farm business. The applicant is Mr James Campbell who lives at 59 Derryvaren Road in the mobile home currently on site. The applicant has submitted the following evidence to substantiate claims that the farm business has been active for the past 6 years.

Invoices from SC Groundworks for

1. Ground Maintenance on the 7th March 2018

2. Site Clearance on the 12th August 2015
3. Installation of septic tank on 7th November 2014
4. Installation of pipes on 19th October 2020
5. Levelling of stone on the 15th February 2020
6. Preparation of ground on the 17th July 2020
7. Drain Cleaning on the 11th August 2019
8. Installation of sewage pipe on the 25th September 2018
9. Laying of concrete on the 14th August 2017

Evidence from DAERA for a fishing licence registered to Mr James Campbell from the 3rd August 2021 to 31st December 2021.

A brown eel fishing permit for James Campbell valid from 1st May 2021.

Invoices from MacLaughlin Engineering for

1. A feeding bin on the 1st February 2020
2. Railings on the 6th April 2018
3. Grid Supply on the 20th June 2015

Invoices from Shane Campbell Hay and Straw Sales at 55 Derryvaren Road, Coalisland for

1. 4 Hay Bales on 1st December 2017
2. 4 Hay Bales on 7th December 2016
3. 4 Hay Bales on 3rd December 2015
4. 4 Hay Bales on 5th December 2014
5. 4 Hay Bales on 5th December 2020
6. 4 Hay Bales on 4th December 2019
7. 4 Hay Bales on 3rd December 2018

Invoices from G & C McGahan for

1. 2 round bale silage on 3rd December 2015
2. 2 round bale silage on 28th November 2016
3. 2 round bale silage on 28th September 2017
4. 2 round bale silage on 18th December 2018
5. 2 round bale silage on 13th November 2019

6. 2 round bale silage on 22nd September 2020

The invoices from Shane Campbell and G & C McGahan which relate to farming activity at the site are a Word format and not a named invoice from a company so it is difficult to ascertain the validity of these receipts. The only land the applicant has shown in blue on the site location plan is one field immediately west of the site. Google maps image from May 2022 appear to show the grass at the field has been cut and maintained. On the basis of the evidence provided I am not content there is an active and established farm business at the site for the past 6 years. The invoices from SC Groundworks relate to the mobile home and do not show that there is active farming at the site.

I completed a check of histories on the fields provided and no sites have been sold off from the farm holding within the past 10 years.

The only building on the site is a shed to the rear of the mobile which was granted approval under M/2010/0538/F as a domestic garage. I completed a check on Spatial NI orthophotography and the shed was on site on the 6th July 2013. I am content the shed has been on site for over 5 years and is a building can be used to cluster with. However as there is only one building on site within the farm business I do not consider there is a group of farm buildings to cluster or visually link with.

Overall, I am of the opinion the proposal does not meet the criteria in CTY 10 for a dwelling on a farm.

CTY 13 – Integration and Design of Buildings in the Countryside

There are established trees and mature hedging along the east and west boundaries which will assist in the integration of the building into the landscape.

I have no concerns about the new access as it runs for a short distance through the middle of the site.

The building to be retained is a mobile home which is in not appropriate for a dwelling in the countryside. Mobile homes are normally only allowed on site for a temporary period agreed with the Council pending the construction of a dwelling.

Overall, I consider this dwelling would not integrate into the landscape due to the design of the building.

CTY 14 – Rural Character

I consider the mobile home does not reflect the traditional pattern of settlement in the area. Mobile buildings should only be on land in the countryside for a temporary period and are unacceptable as a rural dwelling. I am of the opinion mobile buildings have an unacceptable impact on rural character and are visually prominent.

PPS 3 Access, Movement and Parking

Policy AMP 2 – Access to Public Roads

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not

prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The proposal is to retain new access at the site. DFI Roads were consulted as the statutory authority and responded with no concerns subject to visibility splays of 2.4m x 70m in both directions. I am content the new access will not prejudice road safety.

The site does not access onto a protected route so there are no concerns.

PPS 15 – Planning and Flood Risk

Policy FLD 1 – Development in Fluvial (River) and Coastal Flood Plains

Rivers Agency confirmed the application site is within the Q100 flood plain. As the proposal is for a farm dwelling it does not meet the criteria to be considered an exception in FLD 1.

There are no other watercourses abutting the site so consideration of other FLD's in the policy is not necessary.

Other Considerations

The site is within Lough Neagh and Lough Beg Ramsar Site but due to the distance from Lough Neagh I am content the proposal is sufficiently removed from the Ramsar for there not to be an unacceptable impact on it.

I have completed checks on the statutory ecological and built heritage map viewers and there are no other issues at the site.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

Reason 2

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the

Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

Reason 3

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

Reason 4

Contrary to CTY 14 - Rural Character in PPS 21 in that the development does not reflect the traditional pattern of settlement in the area.

Signature(s): Gillian Beattie

Date: 17 August 2022

ANNEX	
Date Valid	1 April 2022
Date First Advertised	12 April 2022
Date Last Advertised	12 April 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 63 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 62 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 61 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 64 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 59 Derryvaren Road, Coalisland, Tyrone, BT71 4QP	
Date of Last Neighbour Notification	28 April 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: TBC DAERA - Omagh-Substantive: TBC Rivers Agency-Substantive: TBCResponseType: FR	

Drawing Numbers and Title

Existing Plans Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02
Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/0645/O	Target Date: 1 September 2022
Proposal: Dwelling and domestic garage(CTY 2A)	Location: 70M North Of 135A Five Mile Straight Maghera
Applicant Name and Address: Patrick McKenna 137 Fivemile Straight Fallagloon Maghera BT46 5JP	Agent Name and Address: Architectural Services 5 Drumderg Road Draperstown BT45 7EU
Summary of Issues: This application went forward to October Planning Committee with a recommendation to refuse under CTY2A and was deferred for an office meeting by Members. It was subject to no third party objection.	
Summary of Consultee Responses:	
Description of Proposal This is an outline planning application for a site of dwelling house and garage CTY2a.	
Deferred Consideration: This application for a dwelling in a cluster was deferred for an office meeting by Members at October Planning Committee. The reason for refusal was based on the fact that there was no focal point or cross roads in the cluster. All other CTY2A criteria have been met. At the office meeting there was no disagreement that the cluster was too far removed from any focal points	

and the site clearly wasn't located at a cross roads.

The possibility of obtaining a dwelling under CTY 10 of PPS 21 (Farm Dwellings) was explored. The agent advised that the applicant had no farm buildings and let out his land in conacre and had done so for more than 6 years. He did not have a Farm Business ID but had owned farm lands for more than 6 years. Following the office meeting the applicant has provided further information to substantiate his farm case. A solicitor's letter has been submitted confirming that the applicant has maintained his lands for the past 30 years by way of hedge cutting, fencing etc. It also confirms that the applicant lets his lands out in conacre and collects yearly rents. A signed letter has also been provided by the agricultural contractor who carries out works for the applicant. Whilst this information does prove farming activity for the required period under Policy CTY 10, it remains that the applicant does not have an established farm nor does he have farm buildings to site beside.

Having carried out a site inspection I can advise members that this site does not give rise to any concerns in respect of rural character or integration. It is located down a private laneway and is not subject to any critical views from the public road. It benefits from a mature Southern boundary and semi mature Eastern and Western boundaries and could easily integrate a dwelling with a 6.5m ridge.

It is my consideration that a dwelling on this site would read as part of an existing cluster which has its own visual entity despite not having a focal point. It also has development on 2 sides. There is also a farm case, albeit a weak one in which there is no established farm business or buildings. Furthermore there are clearly no issues with compliance with CTY 13 (Integration) and CTY 14 (Rural Character). There have been no objections from any third party.

On the basis of this consideration I recommend that Members approve this application as an exception to policy. It meets all but 1 of the CTY2A criteria and the applicant has demonstrated that he has an active farm in line with CTY 10 although the remaining CTY 10 criteria are not complied with. A dwelling on this site would not harm rural character and would integrate into the local landscape in line with CTY 13 and CTY 14.

Approval is recommended

Conditions/Reasons for Refusal:

Approval Conditions

Condition 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.

Condition 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.

Condition 3

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 RS1 Form, including visibility splays of 2.4m x 90m in each direction and a forward sight distance of 90m prior to commencement of development.

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

Condition 4

The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level and/or existing ground level.

Reason: To ensure that the development satisfactorily integrates.

Condition 5

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

Reason: In the interest of visual amenity

Condition 6

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

Reason: To ensure the dwelling integrates into the landform.

Condition 7

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape

Condition 8

The existing natural screenings along the Southern, Eastern and Western boundaries of the site shall be permanently retained unless required for splays or 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.

Signature(s):Karla McKinless

Date: 16 January 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 October 2022	Item Number: 5.17
Application ID: LA09/2022/0645/O	Target Date: 1 September 2022
Proposal: Dwelling and domestic garage(CTY 2A)	Location: 70M North Of 135A Five Mile Straight Maghera
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Patrick McKenna 137 Fivemile Straight Fallagloon Maghera BT46 5JP	Agent Name and Address: Architectural Services 5 Drumderg Road Draperstown BT45 7EU
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

No third party objections

The proposal is contrary to CTY 1 & CTY2A of PPS 21

Characteristics of the Site and Area

The red line of the site is located down an existing shared access laneway with the site

being located within part of a larger agricultural field. The field itself is bounded on the north east and south by mature existing trees and hedges with the western boundary is defined by a post and wire fence along the laneway with relatively young trees also planted here. The surrounding area is a mix of agricultural lands and dwellings located throughout the immediate area. Views of the site from the public road are limited given how far it is set back from the road and the existing mature trees and hedges around the site.

Description of Proposal

This is an outline planning application for a site of dwelling house and garage CTY2a.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

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

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

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

- *The cluster of development lies outside of a farm and consists of four or more*

buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.

I am content there is a cluster of development containing dwellings to the east and south of the site including six dwellings identified as 141b, 141a, 143, 135a, 133b, 133a as identified on the site location plan.

- *The cluster appears as a visual entity in the local landscape*

Although the site and surrounding dwellings are well screened by existing mature trees and hedges, the cluster is considered a visual entity in the local landscape when viewed at the site.

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

The agent has identified a fireplace business which is located approximately 400m to the north east of the site. Having viewed this on site I do not believe the cluster is associated with this business, as the cluster is too far removed from this business. The agent also referenced the junction of Fivemile Straight to the Glenshane Road and Glen Road which they claim is reference locally as 'Glen Cross Roads.' I do not consider this junction a cross roads and is located too far away from the site to be associated with the cluster. The agent also referenced a primary school and Church located at this junction, which I also consider too far removed to be considered focal points. Therefore, the proposal fails to comply with this policy.

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

The redline of the application is bounded on two sides with the dwellings 135a, 141a, & 143 Fivemile Straight which bound the site and provides a suitable degree of enclosure.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As mentioned, the site is bounded on at least two sides so the site can be absorbed into the cluster and will not significantly alter its existing character or visually intrude into the open countryside especially given the mature bounding to the site and beyond.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. I am content a dwelling with a ridge height of 7m above finished floor level would be appropriate given the context of the surrounding dwellings and that it would blend with the existing landscape.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I do not believe a dwelling at this location would erode the rural character of the area as there is a cluster of residential dwellings located within close proximity and a dwelling with a ridge height of 7m would not be a prominent feature in the landscape.

PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

Other Material Considerations

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

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

at a cross-roads.

Signature(s): Ciaran Devlin

Date: 20 September 2022

ANNEX	
Date Valid	19 May 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 133A Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 135A Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 141A Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 141B Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 135 Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 137 Five Mile Straight Maghera Londonderry BT46 5JP	
Date of Last Neighbour Notification	28 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/2002/0011/O Proposals: Site Of Dwelling Decision: PG Decision Date: 09-DEC-02 Ref: H/1993/0401 Proposals: RETIREMENT BUNGALOW Decision: PG Decision Date: Ref: H/1993/6063 Proposals: SITE OF RETIREMENT DWELLING ADJ TO 133 FIVE MILE STRAIGHT MAGHERA Decision: QL	

Decision Date:

Ref: H/2002/0381/F

Proposals: Replacement Dwelling.

Decision: PG

Decision Date: 15-JUN-02

Ref: H/2001/1024/O

Proposals: Replacement Dwelling

Decision: PG

Decision Date: 13-APR-02

Ref: H/2001/0131/O

Proposals: Site of Dwelling

Decision: PG

Decision Date: 16-MAR-01

Ref: H/2003/1442/F

Proposals: Proposed replacement dwelling for private residential use.

Decision: PG

Decision Date: 17-AUG-04

Ref: H/1996/0656

Proposals: SITE OF REPLACEMENT DWELLING

Decision: PG

Decision Date:

Ref: H/1988/0359

Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW AND ATTACHED GARAGE

Decision: PG

Decision Date:

Ref: H/2002/0369/F

Proposals: Site for Dwelling.

Decision: PG

Decision Date: 26-JUL-02

Ref: H/2005/0419/O

Proposals: Site Of One & Half Storey Dwelling & Detached Garage

Decision: PR

Decision Date: 22-AUG-06

Ref: H/2002/0445/F

Proposals: Dwelling & Garage.

Decision: PG

Decision Date: 19-AUG-02

Ref: H/2003/1324/F

Proposals: Relocation and change of garage type with covered area to dwelling.

Decision: PG

Decision Date: 08-MAR-04

Ref: H/2004/0410/O

Proposals: Site of Dwelling and Garage.

Decision:

Decision Date:

Ref: H/2005/1050/RM

Proposals: Single Storey Dwelling

Decision: PG

Decision Date: 10-MAY-06

Ref: H/2002/0023/O

Proposals: Site of Dwelling & Garage

Decision:

Decision Date:

Ref: H/2005/0333/F

Proposals: Bungalow and Garage

Decision: PG

Decision Date: 13-FEB-06

Ref: H/1992/6105

Proposals: SITE OF DWELLING 131-137 FIVEMILE STRAIGHT ROAD MAGHERA

Decision: QL

Decision Date:

Ref: LA09/2022/0645/O

Proposals: Dwelling and domestic garage(CTY 2A)

Decision:

Decision Date:

Ref: H/2013/0475/F

Proposals: Proposed farmhouse dwelling and garage

Decision: PG

Decision Date: 30-APR-14

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title
Site Location Plan Plan Ref: 01
Notification to Department (if relevant)
Not Applicable

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/0662/O	Target Date: 6 September 2022
Proposal: Dwelling and domestic garage	Location: 95M SW Of 6 Moss Road Coagh, Cookstown
Applicant Name and Address: Ryan McGuckin 6 Moss Road, Coagh, Cookstown, BT80 0BZ	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: The application went forward to December 2022 Planning Committee with a recommendation to refuse under CTY 1 and CTY 2A of PPS21, as the cluster was not associated with a focal point or was located at a cross roads.	
Summary of Consultee Responses: DFI Roads and NIW have been consulted and have no objections to the proposal	
Description of Proposal This is an outline application for a proposed dwelling and garage, the site is located 95m SW of 6 Moss Road, Coagh.	
Deferred Consideration: This application for a dwelling and garage was previously assessed under policy CTY2A of PPS 21 (Dwelling in a cluster). It was recommended for refusal at December 2022 Planning Committee as it was deemed the cluster was not associated with a focal point nor was it located	

at a cross roads. Members agreed to defer the application so that an office meeting could be facilitated. At the office meeting it was agreed that a site visit be carried out to help inform this deferred consideration.

Following a site inspection I can confirm to members that the site is too far removed from any focal point and the cross roads and so cannot be considered to comply with Policy CTY2A of PPS 21. All other CTY2A criteria are complied with. The site is located within and rounds off its own small cluster of development along the Moss Road - which Members should note, is a rural road that experiences a very high development pressure and is characterised by numerous small and medium sized clusters of dwellings and other buildings. The site is bound on 2 sides by development and has its own visual entity despite not having a focal point.

I have also considered the site in the context of policy CTY8 of PPS21, which allows for the development of a small gap site along a substantial and built up road frontage. Having carried out a site inspection I would advise that it is questionable whether the gap would take a maximum of 2 dwellings, based on the average plot sizes along this part of the Moss Road. However it is important to advise that when travelling either direction along this road this gap does not provide any relief or visual break in the developed appearance of the immediate area. It is also acknowledged that if a dwelling were to be approved here it would create a ribbon of 3 dwellings along this particular section of the Moss Road. As I alluded to earlier, Moss Road is a rural road which has experienced a high level of build up over the years and as a result, has lost all rural character. Another dwelling will not further erode rural character as it is already gone.

On the basis of my assessment, taking into account the particular characteristics of this area, I recommend that Members approve this application as an exception to policy CTY 8 of PPS21. The gap in question does not provide a visual break in this area, which is eroded of rural character and is characterised by ribbons of development.

Approval is recommended.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 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.

Condition 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.

Condition 3

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 RS1 Form, including visibility splay of 2.4m x 60m in each direction and a forward sight distance of 60m prior to commencement of development.

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

Condition 4

The proposed dwelling shall have a ridge height of no more than 5.5 metres above finished floor level.

Reason: To ensure that the development satisfactorily integrates and is not overly prominent on this roadside site.

Condition 5

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

Reason: In the interest of visual amenity

Condition 6

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

Reason: To ensure the dwelling integrate into the landform

Condition 7

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation. -

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape

Signature(s):Karla McKinless

Date: 23 January 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 December 2022	Item Number: 5.22
Application ID: LA09/2022/0662/O	Target Date: 6 September 2022
Proposal: Dwelling and domestic garage	Location: 95M SW Of 6 Moss Road Coagh, Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Ryan McGuckin 6 Moss Road, Coagh, Cookstown, BT80 0BZ	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary: Refusal	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-0662-O.pdf

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

To Committee – Refusal – Contrary to CTY 1 and 2a.

Characteristics of the Site and Area

The site is located approximately 0.2km south west of the development limits of Ballinderry, as

such the site is located within the open countryside as per defined by the Cookstown Area Plan 2010. The site has been identified as 95m South West of 6 Moss Road, Coagh as such the sits along the roadside just a short distance from the settlement of Ballinderry. I note that the red line covers a portion of a much larger agricultural field that sits along the roadside. The immediate and surrounding area is predominately agricultural land uses with a scattering of dwellings.

Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

Description of Proposal

This is an outline application for a proposed dwelling and garage, the site is located 95m SW of 6 Moss Road, Coagh.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010
Mid Ulster Local Development Plan 2030 – Draft Strategy
Strategic Planning Policy Statement (SPPS)
PPS 21: Sustainable Development in the Countryside
PPS 3 - Access, Movement and Parking;

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

countryside; and

- Development would not adversely impact on residential amenity.

I am content that the cluster lies outside and consists of four or more buildings, in which three of these are dwellings (Nos. 8, 8a, 7, 9, 9a Moss Road). In which I am content that the cluster appears as a visual entity.

The agent has stated that the focal point identified in this application is the Evergreen Social Club however upon review of the site I hold the opinion that the social club is too far detached from the cluster to be considered to be associated. With this in mind I hold the view that the application has failed to demonstrate that there is an associated focal point. This point was passed to the agent who stated that was another focal point in the way of 'D Zine'. I have shown the site (in red) and this business (in blue) in the below for comparison.



I hold the view that 'D Zine' does not have any association with the site nor the cluster of development it sits within. More that the site sits in a separate cluster of development from this business as shown below.



With this in mind I hold the view that the cluster is not associated with an identified focal point.

In terms of enclosure I note the site bounds with No. 8a Moss Road along the western boundary, and would bound with No. 7 Moss Road with the intervening road in between which has been already accepted within MUDC. I am content that there is suitable enclosure as a result and is able to round off the cluster effectively. I note that this is quite a rural area with quite a few houses in which I am content that a dwelling in this position would not significantly alter the existing character of the area nor visually intrude into the site. Finally, in this position I am content that an appropriately designed dwelling will not have an adverse impact on neighbouring amenity. Given the issue over the focal point I hold the view that the application has not fully complied under CTY 2a.

I hold the view that the application has failed to demonstrate compliance under CTY2a. I note that I have considered the other policies under CTY 1 and hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 6.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental

impact on the character of the area and would be able to comply under CTY 14.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

A consultation was sent to NI Water who confirmed they had no objections.

I have no flooding, ecological or residential amenity concerns.

I hold the view that the application has not fully complied under CTY 1 and 2a respectively, as such I must recommend refusal.

Summary of Recommendation:

Refuse is recommended

Refusal

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site associated with a focal point or is it located at a cross-roads.

Signature(s): Peter Henry

Date: 7 November 2022

ANNEX	
Date Valid	24 May 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 7 Moss Road Ardboe Cookstown Tyrone BT80 0BZ The Owner / Occupier 9 Moss Road Ardboe Cookstown Tyrone BT80 0BZ The Owner / Occupier 8 Moss Road Ardboe Cookstown Tyrone BT80 0BZ The Owner / Occupier 8A Moss Road Cookstown Tyrone BT80 0BZ	
Date of Last Neighbour Notification	28 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: I/1997/0108 Type: O Status: PCO Ref: I/2005/0175/O Type: O Status: PR Ref: LA09/2020/0278/F Type: F Status: PG Ref: I/2005/0176/O Type: O Status: APPRET Ref: LA09/2022/0662/O Type: O	

Status: PCO

Ref: I/1994/0293B

Type: RM

Status: PCO

Ref: I/2015/0049/O

Type: O

Status: PG

Ref: I/2001/0148/O

Type: O

Status: APPRET

Ref: I/1975/0264

Type: H13

Status: PG

Ref: I/1976/0205

Type: H13

Status: PG

Ref: I/2014/0095/F

Type: F

Status: PG

Ref: I/2000/0102/RO

Type: RM

Status: PG

Ref: I/1999/0469/O

Type: O

Status: PG

Ref: LA09/2021/0707/O

Type: O

Status: PG

Ref: I/2007/0833/O

Type: O

Status: PR

Ref: I/1994/0293

Type: O

Status: PCO

Ref: I/1980/0190

Type: H13

Status: PG

Ref: I/1996/0256

Type: F

Status: PCO

Ref: I/1983/0066

Type: H13

Status: PG

Ref: I/1983/006601

Type: H13

Status: PG

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

NI Water - Single Units West-LA09-2022-0662-O.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/0685/O	Target Date: 9 September 2022
Proposal: Proposed 2 storey dwelling and garage at an existing cluster an focal point under CTY 2a of PPS 21	Location: To Rear Of No 68 Drumconvis Road Coagh BT80 0HF
Applicant Name and Address: Frances Harkness 43 Battery Road, Coagh, Cookstown, BT80 0HH	Agent Name and Address: PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
Summary of Issues: This application was presented to Members at October 2022 Planning Committee with a recommendation to refuse under CTY2A. It was deferred for an office meeting and was presented to Members again as a CTY2A refusal at December Planning Committee. It was then agreed to defer the application so that Members could participate in a site visit.	
Summary of Consultee Responses: No consultations have been carried out to inform this deferred consideration. During the processing of the application consultations were carried out with DFI Roads, who have offered no objection to the proposal.	
Description of Proposal This is an outline application for a proposed 2 storey dwelling and garage at an existing cluster a focal point under CTY 2a of PPS 21, the site is located To Rear of No 68 Drumconvis Road, Coagh.	

Deferred Consideration:

This application for a dwelling in a cluster was recommended for Refusal at both October 2022 and December 2022 Planning Committees as the site failed to comply with Policy CTY2A in that it was not bound on at least 2 sides by development in the cluster. At December Committee it was agreed a site visit with members, the Senior Planner and the Head of Local Planning be facilitated and this took place on the 20th December 2022.

The application is being considered in the context of Policy CTY2A of PPS 21. The cluster lies outside a farm, it consists of four or more buildings of which at least three are dwellings, it appears as a visual entity and is associated with a focal point, a filling station and community hub - shop. There will be no adverse impact on residential amenity. The proposed site is positioned so that it rounds off the cluster and if a dwelling were approved here, if appropriately conditioned in terms of siting, it would not significantly alter its existing character or visually intrude into the open countryside.

However, although the site will provide a suitable degree of enclosure, it is not bounded on at least two sides with other development in the cluster. The SW of the site is bounded by a dwelling and ancillary outbuildings. The SE and NE boundaries are void of development. The NW boundary is bounded by a plantation of conifers. It was noted on the day of the site visit with Members that these conifers appear to be getting felled for commercial purposes and there was evidence of large logs being stacked in an area to the West of the site. Members are advised that there are no Planning Appeals Decisions that I can find that have considered commercial forestry works as development for the purposes of policy CTY2A for me to hold any determining weight to this fact.

Policy CTY2A requires an application for a dwelling at an existing cluster to meet all of the criteria listed in PPS 21. Given the application site is not bounded on at least two side with other development in the cluster this application does not meet policy CTY2A. However, it is my opinion that this application can be treated as an exception to policy since the application is considered to meet five of the six listed criteria and is therefore very much within the spirit of the policy. Although the site is not bounded on two sides, there is a commercial operation on one side and acceptable development on another side. On account of this, i do not consider a dwelling here will result in an erosion of rural character. If appropriately sited with a limited domestic curtilage it will provide a natural rounding off to the cluster of development associated with the focal point.

It is my recommendation to approve this application subject to the conditions listed below.

Conditions/Reasons for Refusal:

Approval Condtions

Condition 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.

Condition 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.

Condition 3

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 RS1 Form, including visibility splay of 2.4m x 120m in each direction and a forward sight distance of 120m prior to commencement of development.

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

Condition 4

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

Reason: To ensure that the development satisfactorily integrates and is not overly prominent on this site.

Condition 5

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

Reason: In the interest of visual amenity

Condition 6

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

Reason: To ensure the dwelling integrate into the landform

Condition 7

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first

planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation. -

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape

Condition 8

The proposed dwelling shall be sited in the area shaded green on drawing number 01 date stamped 27th May 2022

Reason: To ensure that the development is satisfactorily integrated and does not intrude into the local landscape in accordance with the requirements of Planning Policy Statement 21

Condition 9

The curtilage of the proposed dwelling shall be as indicated in orange on the drawing number 01 date stamped 27th May 2022

Reason: To ensure that the development does not visually intrude into the local landscape

Signature(s):Karla McKinless

Date: 24 January 2023



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/0685/O	Target Date: 9 September 2022
Proposal: Proposed 2 storey dwelling and garage at an existing cluster an focal point under CTY 2a of PPS 21	Location: To Rear Of No 68 Drumconvis Road Coagh BT80 0HF
Applicant Name and Address: Frances Harkness 43 Battery Road, Coagh, Cookstown, BT80 0HH	Agent Name and Address: PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
Summary of Issues: This application was presented to Members at October Planning Committee with a recommendation to refuse as it was considered that the proposed dwelling did not meet all the criteria to be considered a dwelling in a cluster, namely that the site is not bounded on at least 2 sides with other development in the cluster and it did not provide a suitable degree of enclosure.	
Summary of Consultee Responses: No consultations have been carried out to inform this deferred consideration. During the processing of the application consultations were carried out with DFI Roads, who have offered no objection to the proposal.	
Description of Proposal This is an outline application for a proposed 2 storey dwelling and garage at an existing cluster a focal point under CTY 2a of PPS 21, the site is located To Rear of No 68 Drumconvis Road, Coagh.	

Deferred Consideration:

At October Planning Committee Members agreed to a defer this application for an office meeting. At the office meeting the agent, Mr Paddy Conlon made a case that this site would satisfactorily integrate a dwelling and he explained how the applicant had been left the land as part of a settlement. The agent was advised that integration was not the only policy test. The CTY 2A policy test required the site to be bound on at least 2 sides by development and it remained the case that this site was only bound on 1 side, the SW, by development. The agent was asked to explore whether the applicant would be able to provide farm details so that a farm dwelling could be considered. I have subsequently been advised by the agent that a farm case can not be made.

The agent has also referenced a CTY 2A case (LA09/2020/1349/O) which members agreed to approve as an exception to policy and has asked if consideration can be given to the precedence set by this case. Having reviewed LA09/2020/1349/O it is apparent that this site was not bound on 2 sides by development, however, it was clearly more representative of the rounding off of a cluster of development in the Countryside than the application under consideration.

On re-consideration I would recommend this application be refused.

Conditions/Reasons for Refusal:**Refusal Reasons****Reason 1**

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.

Signature(s):Karla McKinless**Date:** 22 November 2022



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 October 2022	Item Number: 5.18
Application ID: LA09/2022/0685/O	Target Date: 9 September 2022
Proposal: Proposed 2 storey dwelling and garage at an existing cluster an focal point under CTY 2a of PPS 21	Location: To Rear Of No 68 Drumconvis Road Coagh BT80 0HF
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Frances Harkness 43 Battery Road, Coagh, Cookstown, BT80 0HH	Agent Name and Address: PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
Executive Summary: Refusal	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

To Committee – Refusal – Contrary to CTY 1 and 2a.

Characteristics of the Site and Area

The site is located approximately 1.8m south east of the developments of Coagh, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as to the rear of No. 68 Drumconvis Road, Coagh wherein the red line covers a portion

of a much larger agricultural field with the proposed access running along the eastern boundary of the field. I note that along the western boundary sits a backdrop of mature trees. The surrounding area is a mixture of agricultural lands and residential dwellings with the a rural petrol station nearby.

Relevant planning history

LA09/2021/0080/O - Detached house under policy CTY2A new dwellings in existing clusters - 20M North Of 66 Drumconvis Road Cookstown – Permission Granted – 11/06/21

Representations

Only one Neighbour notification was sent out however no representations received in connection with this application.

Description of Proposal

This is an outline application for a proposed 2 storey dwelling and garage at an existing cluster a focal point under CTY 2a of PPS 21, the site is located To Rear of No 68 Drumconvis Road, Coagh.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 – Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

I am content that the cluster lies outside and consists of four or more buildings, in which three of these are dwellings (Nos. 66, 66a and 68 Drumconvis Road). In which there is an existing filling station and community hub-shop to the west of application site to act as a focal point and the cluster appears as a visual entity as per accepted in LA09/2021/0080/O.

In terms of enclosure I note that the site only bounds with No.68 along the southern boundary of the site but does not bound with any other development on any other boundaries, contrary to policy. However given the backdrop provided by the mature trees to the rear and side of the site I am content that a dwelling in this position would not significantly alter the existing character of the area nor visually intrude into the site. Finally, in this position I am content that an appropriately designed dwelling will not have an adverse impact on neighbouring amenity. Given the issue over the bounding I hold the view that the application has not fully complied under CTY 2a.

I hold the view that the application has failed to demonstrate compliance under CTY2a. I note that I have considered the other policies under CTY 1 and hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration as shown in the concept plan therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 7.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.

I hold the view that the application has not fully complied under CTY 1 and 2a respectively, as such I must recommend refusal.

Summary of Recommendation:

Refuse is recommended

Refusal

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.

Signature(s): Peter Henry

Date: 20 September 2022

ANNEX	
Date Valid	27 May 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 68 Drumconvis Road Coagh Tyrone BT80 0HF	
Date of Last Neighbour Notification	27 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-	
Drawing Numbers and Title Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	
Notification to Department (if relevant) Not Applicable	



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 October 2022	Item Number: 5.18
Application ID: LA09/2022/0685/O	Target Date: 9 September 2022
Proposal: Proposed 2 storey dwelling and garage at an existing cluster an focal point under CTY 2a of PPS 21	Location: To Rear Of No 68 Drumconvis Road Coagh BT80 0HF
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Frances Harkness 43 Battery Road, Coagh, Cookstown, BT80 0HH	Agent Name and Address: PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
Executive Summary: Refusal	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

To Committee – Refusal – Contrary to CTY 1 and 2a.

Characteristics of the Site and Area

The site is located approximately 1.8m south east of the developments of Coagh, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as to the rear of No. 68 Drumconvis Road, Coagh wherein the red line covers a portion

of a much larger agricultural field with the proposed access running along the eastern boundary of the field. I note that along the western boundary sits a backdrop of mature trees. The surrounding area is a mixture of agricultural lands and residential dwellings with the a rural petrol station nearby.

Relevant planning history

LA09/2021/0080/O - Detached house under policy CTY2A new dwellings in existing clusters - 20M North Of 66 Drumconvis Road Cookstown – Permission Granted – 11/06/21

Representations

Only one Neighbour notification was sent out however no representations received in connection with this application.

Description of Proposal

This is an outline application for a proposed 2 storey dwelling and garage at an existing cluster a focal point under CTY 2a of PPS 21, the site is located To Rear of No 68 Drumconvis Road, Coagh.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 – Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

I am content that the cluster lies outside and consists of four or more buildings, in which three of these are dwellings (Nos. 66, 66a and 68 Drumconvis Road). In which there is an existing filling station and community hub-shop to the west of application site to act as a focal point and the cluster appears as a visual entity as per accepted in LA09/2021/0080/O.

In terms of enclosure I note that the site only bounds with No.68 along the southern boundary of the site but does not bound with any other development on any other boundaries, contrary to policy. However given the backdrop provided by the mature trees to the rear and side of the site I am content that a dwelling in this position would not significantly alter the existing character of the area nor visually intrude into the site. Finally, in this position I am content that an appropriately designed dwelling will not have an adverse impact on neighbouring amenity. Given the issue over the bounding I hold the view that the application has not fully complied under CTY 2a.

I hold the view that the application has failed to demonstrate compliance under CTY2a. I note that I have considered the other policies under CTY 1 and hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration as shown in the concept plan therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 7.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.

I hold the view that the application has not fully complied under CTY 1 and 2a respectively, as such I must recommend refusal.

Summary of Recommendation:

Refuse is recommended

Refusal

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.

Signature(s): Peter Henry

Date: 20 September 2022

ANNEX	
Date Valid	27 May 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 68 Drumconvis Road Coagh Tyrone BT80 0HF	
Date of Last Neighbour Notification	27 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-	
Drawing Numbers and Title Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	
Notification to Department (if relevant) Not Applicable	



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1226/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage	Location: 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21.	
Summary of Consultee Responses: DFI Roads consulted and have no objections to the proposal.	
Description of Proposal This is outline planning application for a proposed site for a dwelling and domestic garage.	
Deferred Consideration: This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it	

was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1230/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1230/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The gap in my opinion creates a substantial visual break and would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable

Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Reason 4

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

Signature(s):Karla McKinless

Date: 23 January 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 November 2022	Item Number: 5.20
Application ID: LA09/2022/1226/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage	Location: 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The proposal is contrary to policy.

Characteristics of the Site and Area

The site is located approximately 2km North of the development limits of Draperstown and is located within the open countryside outside any other designations as per the Magherafelt Area Plan 2015. The red line of the site is the northern corner of an existing

larger agricultural field which is relatively flat in nature with shrubs and grass within the field. The eastern boundary is defined by mature trees, with a mature hedge row defining the roadside boundary. The northern boundary is defined by a post and wire fence. The site is located adjacent to the crossroads of Cloane Lane to the north and Cloane Road to the west. The surrounding area is mainly agricultural in nature with single dwellings located throughout.

Representations

No third party representations have been received.

Relevant Site History

LA09/2022/1230/O- Proposed Site for Dwelling and Domestic Garage. 155m South of No.25A Cloane Road, Draperstown. Pending Consideration

LA09/2020/0970/O- Dwelling and garage. Approx. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 5th May 2021

LA09/2021/1532/RM- Dwelling and domestic garage. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 25th January 2022.

Description of Proposal

This is outline planning application for a proposed site for a dwelling and domestic garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

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

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

Development in the countryside.

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

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

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

I do not believe there is a cluster of development which lies outside of a farm. The agent has shown on the site location plan they believe there are three plots to the north of the site which are shown as No.25 and an associated outbuilding, No.25a and an associated outbuilding and then plot 3 which appears to be an agricultural field and farm buildings to the north of this. However, having viewed these on the ground and reviewed ortho images it is clear the buildings in plot 3 are farm buildings with another farm building to the north of these at the rear of No.25. From this, there is no cluster as there are only three buildings identified as the outbuildings and garages have to be excluded.

- *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.*

With regards the above policy criteria, there is no existing cluster as per the policy definition so it fails to meet the above policy. It is noted that the site is located adjacent to 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.*

The site is not bounded by development on any sides. The agent has identified plot three directly adjacent to the north (separated by the Cloane Lane) but this plot adjacent the site is an agricultural field.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As mentioned, the site is not bounded on at least two sides and there is not an existing cluster.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the mature tree boundaries which would provide a backdrop.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would result in the erosion of the rural character of the area.

PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

Other Material Considerations

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons**Reason 1**

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Signature(s): Ciaran Devlin

Date: 17 October 2022

ANNEX	
Date Valid	4 August 2022
Date First Advertised	16 August 2022
Date Last Advertised	16 August 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2020/0970/O Proposals: Dwelling and garage Decision: PG Decision Date: 05-MAY-21 Ref: H/2003/1190/O Proposals: Site of one and a half storey dwelling and garage. Decision: PG Decision Date: 07-DEC-04 Ref: LA09/2022/1230/O Proposals: Proposed Site for Dwelling and Domestic Garage. Decision: Decision Date: Ref: LA09/2022/1226/O Proposals: Proposed Site for Dwelling and Domestic Garage Decision: Decision Date:	

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: L01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1230/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage.	Location: 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21.	
Summary of Consultee Responses: DFI Roads consulted and have no objections to the proposal.	
Description of Proposal This is an outline planning application for a proposed site for a dwelling & domestic garage.	
Deferred Consideration: This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it	

was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1226/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1226/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The gap in my opinion creates a substantial visual break and would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable

Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Reason 4

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

Signature(s):Karla McKinless

Date: 23 January 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 November 2022	Item Number: 5.21
Application ID: LA09/2022/1230/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage.	Location: 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The proposal is contrary to policy.

Characteristics of the Site and Area

The site is located approximately 2km North of the development limits of Draperstown and is located within the open countryside outside any other designations as per the Magherafelt Area Plan 2015. The red line of the site is the southern corner of an existing

larger agricultural field which is relatively flat in nature with shrubs and grass within the field. The eastern boundary is defined by mature trees, with a mature hedge row defining the roadside boundary. The northern boundary is currently undefined with a laneway running adjacent to the southern boundary separating the application site from a dwelling under construction to the south. The surrounding area is mainly agricultural in nature with single dwellings located throughout.

Representations

No third party representations have been received.

Relevant Site History

LA09/2022/1226/O- Proposed Site for Dwelling and Domestic Garage. 100m South of No.25A Cloane Road, Draperstown. Pending Consideration

LA09/2020/0970/O- Dwelling and garage. Approx. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 5th May 2021

LA09/2021/1532/RM- Dwelling and domestic garage. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 25th January 2022.

Description of Proposal

This is an outline planning application for a proposed site for a dwelling & domestic garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

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

Development in the countryside.

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

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

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

I do not believe there is a cluster of development which lies outside of a farm. The agent has shown on the site location plan they believe there are three plots to the north of the site which are shown as No.25 and an associated outbuilding, No.25a and an associated outbuilding and then plot 3 which appears to be an agricultural field and farm buildings to the north of this. However, having viewed these on the ground and reviewed ortho images it is clear the buildings in plot 3 are farm buildings with another farm building to the north of these at the rear of No.25 as seen in the image below. From this, there is no cluster as there are only three buildings identified as the outbuildings and garages have to be excluded.

- *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.*

With regards the above two points, there is no existing cluster as per the policy so it fails to meet the above policy. It is noted that the site is located south of 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.*

The site is bounded on the southern side by a dwelling currently under construction approved under applications LA09/2020/0970/O & LA09/2021/1532/RM. The site is not bounded on any other sides by development.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As mentioned, the site is not bounded on at least two sides and there is not an existing cluster.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the mature tree boundaries which would provide a backdrop.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would result in the erosion of the rural character of the area.

PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

Other Material Considerations

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, in light of this, the draft Plan Strategy does not yet carry determining weight.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

settlement.

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Signature(s): Ciaran Devlin

Date: 18 October 2022

ANNEX	
Date Valid	4 August 2022
Date First Advertised	16 August 2022
Date Last Advertised	16 August 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2022/1230/O Proposals: Proposed Site for Dwelling and Domestic Garage. Decision: Decision Date: Ref: LA09/2020/0970/O Proposals: Dwelling and garage Decision: PG Decision Date: 05-MAY-21 Ref: LA09/2022/1226/O Proposals: Proposed Site for Dwelling and Domestic Garage Decision: Decision Date:	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Outline resp.docx	

Drawing Numbers and Title
Site Location Plan Plan Ref: L01
Notification to Department (if relevant)
Not Applicable