

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2016/1654/A	Target Date:
Proposal: The sign will consist of a flat screen fixed to gable wall with brackets. It shall display moving images and static images for advertising	Location: 53 Main Street Maghera (Walsh's Hotel) Sign to be displayed on the Coleraine Rd side of the building
Applicant Name and Address: Mr Kieran Bradley Walsh's Hotel 53 Main Street Maghera BT46 5BN	Agent name and Address: Mr Sean McKenna 4 Glen Cree Glen Road Maghera BT46 5JB
Summary of Issues:	
Summary of Consultee Responses: Transport NI have concerns that the LED sign creates a traffic hazard which causes a distraction to drivers and may lead to shunting type collisions on the approach to the junction. TNI also have concerns regarding the protected route and the description stating that the LED sign will display moving images. TNI have therefore recommended refusal.	
Characteristics of the Site and Area: The site is located within the settlement limit of Maghera, as defined by the Magherafelt Area Plan 2015. The site is located at Walsh's Hotel, on the junction of Main Street and Coleraine Road, both designated as protected routes. There is currently an LCD screen measuring 5m x 3m attached to the northern gable end of the hotel. The screen is visible when viewed from the North by both drivers and pedestrians on Coleraine road. The site is located within Maghera town centre and an area of archaeological potential. The surrounding area is characterised mainly by retail land uses, with a row of shops opposite the site and a filling station and fast food restaurant immediately adjacent to the site.	
Description of Proposal An application has been made for consent to display an advertisement. The proposal is for the retention of the LCD screen. The sign consists of a flat screen fixed to the gable wall with brackets. The screen will be illuminated internally and will display both static and intermittent images. The screen measures 5 m x 3 m.	

Deferred Consideration:

This application was deferred by the Planning Committee for an office meeting with the applicant following a previous deferral by the Committee for the workshop on signage.

At the office meeting which was attended by DfI Roads, the applicant and his representative from Blazing Digital together with the agent and Cllr McGuigan there was an in depth discussion as to the acceptability of the sign at this location. There was a frustration held by the applicant's representatives as to why this sign is perceived to be dangerous at this location when there are other signs at busier traffic junctions in other districts that have been approved. It was discussed how the sign is a perceived hazard in the opinion of DfI Roads and the applicant's representatives stated it is very difficult to prove it is not a perceived hazard. The application was deferred by the Planning Committee on the basis the sign was to be reduced in size but this is no longer offered by the applicant. The lumen levels of the sign were discussed and whether a reduction in the lumen levels would make the sign more acceptable and not a perceived hazard. Whilst it was agreed that I would meet the representatives on site to view the differing levels DfI Roads have since confirmed that there is no level that would be acceptable to them and the sign would still be considered as a perceived hazard. There are now other unlawful signs being erected which need addressed and there is a concern an approval of this sign will set a precedent for others.

The issues with the sign have been addressed in the case officer report. There are still concerns with the visual impact of the sign of this size and the road safety concerns identified by DfI Roads at this location and I recommend a continued refusal of this application.

Conditions/Reasons for Refusal:**Refusal Reasons**

1. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign does not respect amenity, when assessed in the context of the general characteristics of the locality.
2. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that it would, if permitted, prejudice the safety and convenience of road users since the erection of this proposal in close proximity to a road junction, would distract the attention of motorists from road traffic signals, thereby creating a traffic hazard.
3. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign would be visually intrusive and distract the attention of road users thereby prejudicing the safety and convenience of traffic on this Protected Traffic Route.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Mid-Ulster

Local Planning Office

Mid-Ulster Council Offices

50 Ballyronan Road

Magherafelt

Deferred Consideration Report

Summary	
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Application ID: LA09/2016/1654/A	Target Date:
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Applicant Name and Address: Mr Kieran Bradley Walsh's Hotel 53 Main Street Maghera BT46 5BN	Agent name and Address: Mr Sean McKenna 4 Glen Cree Glen Road Maghera BT46 5JB
Summary of Issues: Amenity and Public Safety	
Summary of Consultee Responses: Transport NI have concerns that the LED sign creates a traffic hazard which causes a distraction to drivers and may lead to shunting type collisions on the approach to the junction. TNI also have concerns regarding the protected route and the description stating that the LED sign will display moving images. TNI have therefore recommended refusal.	

Characteristics of the Site and Area:

The site is located within the settlement limit of Maghera, as defined by the Magherafelt Area Plan 2015. The site is located at Walsh's Hotel, on the junction of Main Street and Coleraine Road, both designated as protected routes. There is currently an LCD screen measuring 5m x 3m attached to the northern gable end of the hotel. The screen is visible when viewed from the North by both drivers and pedestrians on Coleraine road. The site is located within Maghera town centre and an area of archaeological potential. The surrounding area is characterised mainly by retail land uses, with a row of shops opposite the site and a filling station and fast food restaurant immediately adjacent to the site.

Description of Proposal

An application has been made for consent to display an advertisement. The proposal is for the retention of the LCD screen. The sign consists of a flat screen fixed to the gable wall with brackets. The screen will be illuminated internally and will display both static and intermittent images. The screen measures 5 m x 3 m.

Deferred Consideration:

This application was presented before the Planning Committee in March 2017 where it was deferred for the workshop on signage.

This application for a new flat screen sign for the display of moving and static images for advertising is on the rear wall of Walsh's Hotel in Maghera. It falls to be considered under Policy AD 1 of PPS 17: Control of Outdoor Advertisements.

Policy AD 1 address issues of amenity and public safety and states consent will be given for the display of an advertisement where:

- (i) It respects amenity, when assessed in the context of the general characteristics of the locality; and
- (ii) It does not prejudice public safety.

As detailed above the sign measures 5m x 3m and covers the vast majority of the rear gable wall on which it has been fixed to. The application is within the development limits of Maghera at a very busy traffic light junction at the junction of the Coleraine Road/Hall Street/Main Street. There is a mix of business, retail and educational uses in the area with business having their own signage. Nevertheless this advertising sign must be assessed on its effect upon the appearance of the building and the immediate neighbourhood where it is displayed and its impact over long distance views. This sign has been erected without planning permission but this allows a full assessment of its impact. The sign does not respect the amenity of the neighbourhood and dominates the area particularly given the size of the screen and the moving images that are displayed throughout the day and night. The sign appears as incongruous on the host building itself, which although is a hotel use, it appears as a dominant use on the host building.

On approaching the site from the Coleraine Road driving/walking into Maghera town there is a long distance view. Again the sign has the effect of appearing as dominant on the approach into Maghera given the sheer size of it in the streetscape.

Annex A of PPS 17 provides guidance for outdoor advertisements and in it deals with Poster Panel Displays which generally do not relate directly to the land or premises on which they are located as is the case in this application. Having seen the various advertisements being displayed some relate directly to the hotel and upcoming functions itself and other displays are for the benefit of

business not connected to the Hotel itself. Annex A acknowledges poster panel displays rely on size and siting for their impact and they have the potential to be over dominant and obtrusive in the street scene and therefore there is a need to ensure that such displays respect the scale of their surroundings. It is my opinion this guidance reinforces the unacceptability of the sign at this location and at the size as erected and is contrary to Policy AD 1 of PPS 17 by way of its impact on amenity when assessed in the context of the general characteristics of the locality.

Policy AD 1 addresses issues of public safety with a new advertisement. It is acknowledged that by their very nature they are designed to attract the attention of passers-by and therefore have the potential to impact on public safety. There are a number of advertisement types which are likely to pose a threat to public safety and these include:-

- Signs which incorporate moving or apparently moving elements in their display, especially where the whole message is not displayed at one time therefore increasing the time taken to read the whole message;
- Signs sited or designed primarily to be visible from a motorway or other special road.

Policy AD 1 states that in assessing the impact on public safety the vital consideration will be whether the advertisement is likely to be so distracting that it creates a hazard to or endangers people in the vicinity be they drivers cyclists or pedestrians.

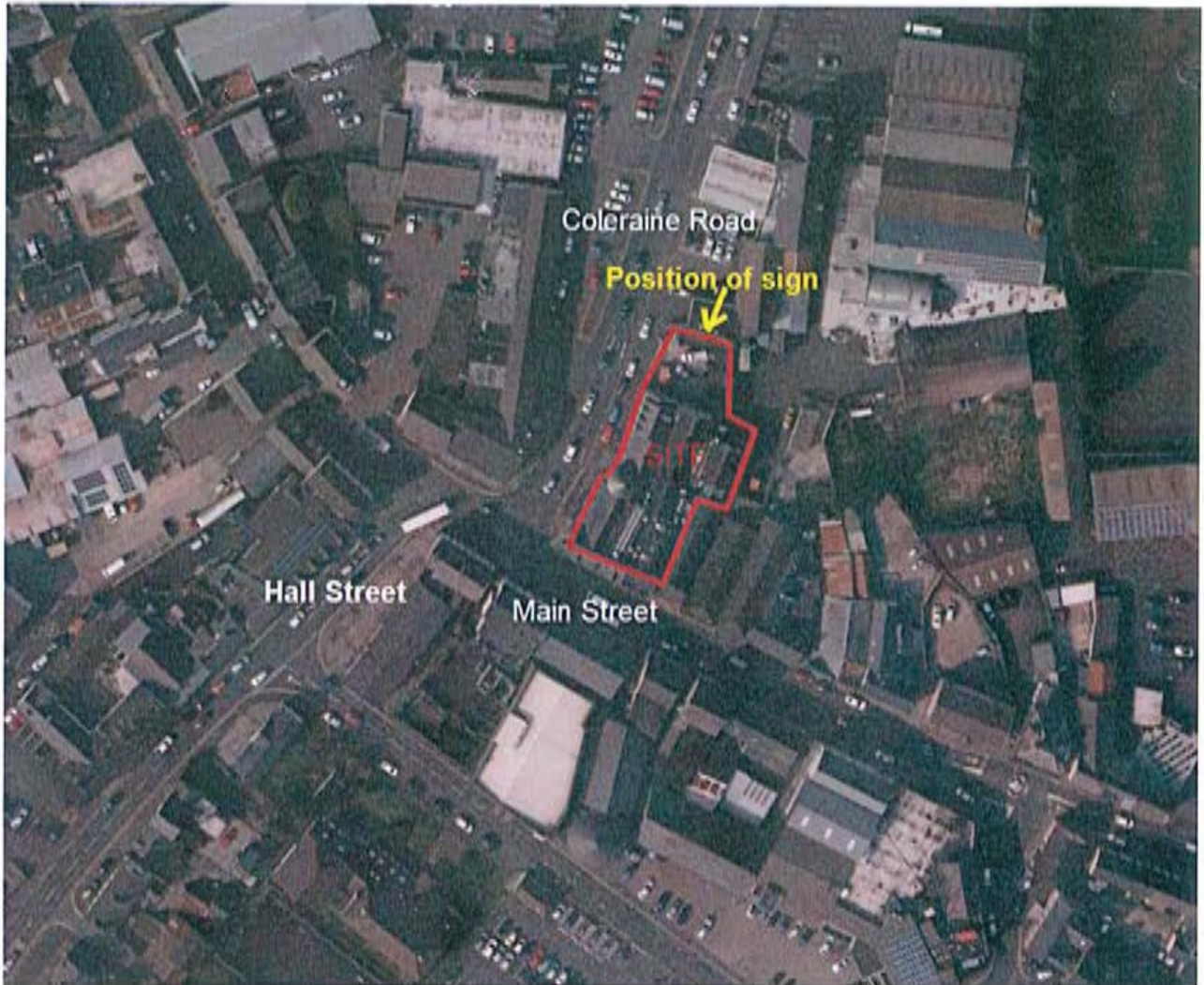
The A29, from which the sign is prominent in the streetscape, is a protected route and this must be given weight when considering this application. Policy AD 1 is clear when it states that signs which are sited or designed primarily to be visible from a special road are likely to pose a threat to public safety. The sign is of such a considerable size in a very prominent location that it has been designed to attract the attention of all people in the vicinity of the application site, indeed it is its very purpose. Transport NI are concerned that it is mounted on the approach to a busy traffic light controlled junction. Vehicles regularly have to queue here as the lights go through the various phases and the erection of this sign, at 5m x 3m, will, in the opinion of TNI, create a road traffic hazard which will distract drivers and may lead to shunting type collisions on the approach to the junction. TNI also have a particular concern that the description states clearly that it shall display moving images. Transport NI have recommended 2 reasons for refusal for this application as they are of the opinion it will prejudice the safety and convenience of road users as it would distract the attention of motorists from road traffic signals and thereby creating a traffic hazard.

Reasons for Refusal:

1. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign does not respect amenity, when assessed in the context of the general characteristics of the locality.
2. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that it would, if permitted, prejudice the safety and convenience of road users since the erection of this proposal in close proximity to a road junction, would distract the attention of motorists from road traffic signals, thereby creating a traffic hazard.
3. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign would be visually intrusive and distract the attention of road users thereby prejudicing the safety and convenience of traffic on this Protected Traffic Route.

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: LA09/2016/1654/A	Target Date:
Proposal: The sign will consist of a flat screen fixed to gable wall with brackets. It shall display moving images and static images for advertising	Location: 53 Main Street Maghera (Walsh's Hotel) Sign to be displayed on the Coleraine Rd side of the building
Referral Route: Recommended for refusal	
Recommendation: Refusal	
Applicant Name and Address: Mr Kieran Bradley Walsh's Hotel 53 Main Street Maghera BT46 5BN	Agent Name and Address: Mr Sean McKenna 4 Glen Cree Glen Road Maghera BT46 5JB
Executive Summary: Proposal in conflict with policy AD1 of PPS 17	
Signature(s): N. Hasson	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response

Representations:

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

Summary of Issues

One objection has been received to the proposed advertising consent application. The objection relates to the following issues:

- The sign is very bright and blinding.
- The sign is a distraction for road users.

Characteristics of the Site and Area

The site is located within the settlement limit of Maghera, as defined by the Magherafelt Area Plan 2015. The site is located at Walsh's Hotel, on the junction of Main Street and Coleraine Road, both designated as protected routes. There is currently an LCD screen measuring 5m x

3m attached to the northern gable end of the hotel. The screen is visible when viewed from the North by both drivers and pedestrians on Coleraine road. The site is located within Maghera town centre and an area of archaeological potential. The surrounding area is characterised mainly by retail land uses, with a row of shops opposite the site and a filling station and fast food restaurant immediately adjacent to the site.

Description of Proposal

An application has been made for consent to display an advertisement. The proposal is for the retention of the LCD screen. The sign consists of a flat screen fixed to the gable wall with brackets. The screen will be illuminated internally and will display both static and intermittent images. The screen measures 5 m x 3 m.

Planning Assessment of Policy and Other Material Considerations

Site History:

H/2006/0898/A relates to an application for a 'screen for projecting images on to'. This application was previously refused on 23rd May 2008. This application related to the same wall as the current application.

Development Plan and Key Policy Considerations:

The site is located on white land within the settlement limit of Maghera, as defined by the Magherafelt Area Plan 2015 and is located adjacent to the A29, a protected route. There is no specific policy within the local development plan material to this application.

The primary policy context is provided by policy AD1 of Planning Policy Statement 17: Control of Outdoor Advertisement (PPS 17). Policy AD 1 of PPS 17 states that consent will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality, and it does not prejudice public safety.

The proposal relates to a 'Poster Panel Display'. Further guidance on this specific advertisement type is found in Annex A of PPS 17. Para 8 relates to predominantly commercial areas and states that the scale of advertisement displays should respect the scale of adjacent buildings and the wider area. Para 12 relates to gable mounted advertising displays and acknowledges that they may offer benefits, such as screening an untidy gable. The guidance states that the form, design, size, proportions and siting of a wall mounted poster panel should be sympathetic to the host building. The panel should be symmetrical and placed above ground level and windows or interesting features of the host building should not be adversely affected. I have concerns that the size and proportions of the advertisement are not sympathetic to the host building or the wider area and the advertisement is dominant and obtrusive in the street scene. I also have concerns that the levels of illumination of the advertisement has the potential for light pollution, especially when viewed at night. Furthermore, this section of the Coleraine Road is straight therefore the screen is visible over long distance views from the north. On balance, it is my opinion that the advertisement does not respect amenity, when assessed in the context of the general characteristics of the locality for the reasons outlined above.

This road is generally very busy and the sign is highly visible when approaching in a southerly direction. Transport NI have concerns that the LED sign creates a traffic hazard which causes a distraction to drivers and may lead to shunting type collisions on the approach to the junction. TNI also have concerns regarding the protected route and the description stating that the LED sign will display moving images. Para 4.11 of PPS 17 states a number of scenarios whereby an

advertisement is likely to pose a threat to public safety. These scenarios include (but are not limited to):

- Illuminated signs which because of their size or brightness could result in glare or dazzle, or otherwise distract road users.
- Signs which incorporate moving elements in their display.
- Signs sited or designed primarily to be visible from a motorway or other special road, in this case, the A29 protected route.

The 3 scenarios outlined above are material to this consideration and consequently, it is my opinion that the advertisement does prejudice public safety.

Neighbour Notification Checked	N/a
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Summary of Recommendation:

It is my opinion that the proposal is contrary to policy AD1 of PPS17 in that it would, if approved, adversely impact upon the visual amenity of the locality and will prejudice public safety.

Reasons for Refusal:

1. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign does not respect amenity, when assessed in the context of the general characteristics of the locality.

2. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that it would, if permitted, prejudice the safety and convenience of road users since the erection of this proposal in close proximity to a road junction, would distract the attention of motorists from road traffic signals, thereby creating a traffic hazard.

3. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign would be visually intrusive and distract the attention of road users thereby prejudicing the safety and convenience of traffic on this Protected Traffic Route.

Signature(s) N. Hasson

Date: 23/02/17

ANNEX	
Date Valid	23rd November 2016
Date First Advertised	n/a
Date Last Advertised	
Details of Neighbour Notification (all addresses) N/a	
Date of Last Neighbour Notification	n/a
Date of EIA Determination	n/a
ES Requested	No
Planning History Ref ID: LA09/2016/1654/A Proposal: The sign will consist of a flat screen fixed to gable wall with brackets. It shall display moving images and static images for advertising Address: 53 Main Street, Maghera (Walsh's Hotel) Sign to be displayed on the Coleraine Rd side of the building, Decision: Decision Date: Ref ID: H/1987/0547 Proposal: GARAGE EXTENSION TO BAKERY Address: 21 COLERAINE ROAD MAGHERA Decision: Decision Date: Ref ID: H/1985/0139 Proposal: CHANGE OF USE FROM HEALTH STUDIO TO GAMES ROOM Address: 41 MAIN STREET, MAGHERA Decision: Decision Date: Ref ID: H/1998/0518 Proposal: NEW SOLICITORS OFFICE Address: 43-49 MAIN STREET MAGHERA	

Decision:
Decision Date:

Ref ID: H/1997/0585
Proposal: SOLICITORS OFFICE
Address: 43-49 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/2001/0865/F
Proposal: Office And Kitchen Extension to Walsh's Hotel.
Address: 53 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA
Decision:
Decision Date: 14.12.2001

Ref ID: H/2003/0513/F
Proposal: Demolition of 2no. retail units and 1no. dwelling to be replaced with 3no. retail units.
Address: 17 - 19 Coleraine Road, Maghera.
Decision:
Decision Date: 20.02.2004

Ref ID: H/1984/0150
Proposal: CHANGE OF USE OF VACANT SHOP TO HOT FOOD TAKE-AWAY
Address: COLERAINE ROAD, MAGHERA
Decision:
Decision Date:

Ref ID: H/1997/0128
Proposal: CHANGE OF USE FROM OUTLET FOR PRE-SCHOOL SUPPLIES TO AMUSEMENT ARCADE
Address: 17 COLERAINE ROAD MAGHERA
Decision:
Decision Date:

Ref ID: H/1999/0271
Proposal: HOTEL
Address: 53 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1998/0496
Proposal: EXTENSION AND REINSTATEMENT OF HOTEL WITH ADDITION OF 3 NO.RETAIL SHOPS AND 4 NO.APARTMENTS

Address: 53 MAIN STREET/JUNCTION OF COLERAINE ROAD MAGHERA

Decision:

Decision Date:

Ref ID: H/2002/0710/F

Proposal: Extension to Restaurant

Address: 51 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA

Decision:

Decision Date: 14.11.2002

Ref ID: H/2000/0640/F

Proposal: Re - Instatement of existing hotel

Address: 53 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA

Decision:

Decision Date: 27.11.2000

Ref ID: H/1997/6034

Proposal: EXTENSION TO HOTEL WALSH'S HOTEL 55 MAIN STREET MAGHERA

Address: WALSH'S HOTEL

Decision:

Decision Date:

Ref ID: H/1981/0377

Proposal: ALTERATIONS AND ADDITIONS TO HOTEL

Address: WALSH'S HOTEL, 53 MAIN STREET, MAGHERA

Decision:

Decision Date:

Ref ID: H/1974/0124

Proposal: SITE OF EXTENSION

Address: WALSH'S HOTEL, MAIN STREET, MAGHERA

Decision:

Decision Date:

Ref ID: H/1992/6066

Proposal: (a)RESTRUCTURING + EXTENSION OF HOTEL (b)CONSTRUCTION OF THREE SHOP UNITS 53 MAIN ST MAGHERA

Address: 53 MAIN ST

Decision:

Decision Date:

Ref ID: H/1987/0250

Proposal: SHOP UNITS AND FUNCTION ROOM EXTENSION

Address: WALSHES HOTEL 53 MAIN STREET MAGHERA

Decision:
Decision Date:

Ref ID: H/2001/0540/F

Proposal: Change of use from basement to extension of public bar
Address: 53 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA
Decision:
Decision Date: 14.11.2001

Ref ID: H/1987/0157

Proposal: NEW SHOP FRONT WINDOWS
Address: 51 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1973/0123

Proposal: SITE OF FUNCTION ROOM
Address: MAIN STREET, MAGHERA
Decision:
Decision Date:

Ref ID: H/1999/0016

Proposal: REPLACEMENT SHOP AND 2 NO OFFICES
Address: 51 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/2001/0010/F

Proposal: Change Of Use From Ground Floor Retail Unit To Facilitate Extension To
Public Bar At Walshs Hotel, Maghera
Address: 51 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA
Decision:
Decision Date: 16.03.2001

Ref ID: H/2001/0623/F

Proposal: Change of use from first floor office to facilitate extension to
conference/meeting room
Address: 51 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA
Decision:
Decision Date: 11.10.2001

Ref ID: H/2006/0898/A

Proposal: Screen for projecting images on to.
Address: Walsh's Hotel, 53 Main Street, Maghera

Decision:
Decision Date: 23.05.2008

Ref ID: H/1987/0294
Proposal: MEAT PACKING & STORAGE FIRST FLOOR EXTENSION TO SHOP
Address: 43/49 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1987/0523
Proposal: EXTENSION TO SAUSAGE FACTORY
Address: 43-49 MAIN STREET MAGHERA
Decision:
Decision Date:

Summary of Consultee Responses

Transport NI have concerns that the LED sign creates a traffic hazard which causes a distraction to drivers and may lead to shunting type collisions on the approach to the junction. TNI also have concerns regarding the protected route and the description stating that the LED sign will display moving images. TNI have therefore recommended refusal.

Drawing Numbers and Title

Drawing No. 05
Type: Proposed Sign Elevations
Status: Submitted

Drawing No. 03
Type: Proposed Sign Elevations
Status: Submitted

Drawing No. 02
Type: Existing Sign Elevations
Status: Submitted

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

Drawing No. 04
Type: Proposed Sign Elevations
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
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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: LA09/2017/0897/F	Target Date: <add date>
Proposal: Part use of existing farm shed to provide internal dry storage of plastic bags and plastic wrapping covers in association with the applicants established horticultural business (Evergreen Peat)	Location: 100m North West of 213 Washingbay Road Coalisland
Applicant Name and Address: Jim Mc Cuskey Evergreen Peat 10A Ferry Road Coalisland	Agent name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge
Summary of Issues: lack of evidence that the farm business itself is active and established and therefore that this proposal is to be run in conjunction with the business.	
Summary of Consultee Responses: Environmental Health – there are a number of sensitive receptors in close proximity, no objections if storage only and hours of delivery and use conditioned Roads – revisions were sought for access, no objections if the access is provided	
Characteristics of the Site and Area: The site contains a large shed and concrete yard, the shed is agricultural / commercial in appearance and occupies much of the site as identified. At the time of my site visit a number of lorry trailers and forklift trucks were parked within the hardstanding area. The field slopes down towards the east corner, the shed and yard are on the highest part of it	

the field. A low earth embankment has been crated along the north side of the hardcored yard and the remainder of the field to the north and east is in grass. The surrounding area is characterised with development of single house along the road frontages with some farm groupings and horticultural poly tunnels to the NE. DMAC Engineering is located approx. 200mts to the west of the site and there is a nucleus of development at the end of the Washingbay Road approx. 500metres to the east where there is a school and mattress factory as well as housing.

Description of Proposal

Part use of existing farm shed to provide internal dry storage of plastic bags and plastic wrapping covers in association with the applicants established horticultural business (Evergreen Peat).

Members are advised this description has been amended, it was initially described as for dry storage of peat.

Deferred Consideration:

Members are advised this application was before them in March 2018 and April 2019 with a recommendation to refuse planning permission, the application was most recently deferred as the Draft Plan Strategy had been published and the consultation period was on-going. Since then the Draft Plan Strategy has been objected to and draft policies GP1 –General Principles Planning Policy, ECON2 – Economic Development in the Countryside and TRAN4 – Access onto Protected Routes and Other Route Ways are material considerations, however these may not be afforded determining weight in the consideration of this application and the retained policies are those which must be considered.

Members are advised an application, LA09/2019/0489/F was submitted for the retention of the use of the yard area to allow the parking of lorries and this application is also being brought forward on this list for determination.

Previous consideration has been had to the circumstances around the business, the need to store the wrapping materials in a separate location to minimise wastage due to accidents at the existing site and the restricted area which the business operates from at Ferry Road.

Further objections have been received in relation to the development, the majority of the points have been rehearsed in the previous reports. The objector has highlighted a successful challenge by Jim Allister to a decision on a planning application by Causeway Coast & Glens Council. While there were no further details provided of that case, there was a decision for a hotel and leisure resort that was quashed as it was considered there was procedural unfairness, breach of the Planning Committee's Protocol, error of law in respect of Policy CMP3 and breach of the Environmental Impact Assessment Regulations. The objector has indicated if planning permission is granted they will have no hesitation to appoint a barrister and challenge the decision. Members are aware that is the only method that is open to the objector to challenge any decision as there is no 3rd party right of appeal in the Northern Ireland Planning Regime.

Objections have been received about a number of different uses and operators using this site, I visited the site on the afternoon of xxxxx having spoken to the agent that morning. I

observed one side of the interior of the building was fitted out with racks and the wrapping materials were now stored on these. Mr McCuskey advised there was furniture being stored in part of the other side as a favour and a tractor was being repaired in the middle of the building. Given the short notice I am content the building is not being used for any other purpose than that proposed, some adhoc storage and farm machinery related purposes.

As previously advised, Members must only take into account the proposal before them which is for use of part of this building to store plastic bags and plastic wrapping material for Evergreen Peat. Other matters that have been raised are material considerations, as they have been brought to the Councils attention. In view of these other concerns, I do not consider it would be appropriate to exercise an exception to policy in this instance and I would advise the Members to be mindful that I do not consider there is any policy which supports this off site expansion of an established economic development.

In light of the above, the previous reports that were before the Planning Committee and without any other information to the contrary, I recommend that this application is refused.

Reasons for Refusal:

1. The proposal is contrary to the SPPS and Policy CTY11 of PPS21 in that it has not been demonstrated that the proposal is to be run in conjunction with any agricultural operations on the farm and that the farm business is currently active.
2. The proposal is contrary to the SPPS, Policy CTY1 and PED2 of PPS4 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

Signature(s):

Date



Comhairle Ceantair
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Applicant Name and Address: Jim Mc Cuskey Evergreen Peat 10A Ferry Road Coalisland	Agent name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge
Summary of Issues: lack of evidence that the farm business itself is active and established and therefore that this proposal is to be run in conjunction with the business.	
Summary of Consultee Responses: Environmental Health – there are a number of sensitive receptors in close proximity, no objections if storage only and hours of delivery and use conditioned Roads – revisions were sought for access, no objections if the access is provided	
Characteristics of the Site and Area: The site contains a large shed and concrete yard, the shed is agricultural / commercial in appearance and occupies much of the site as identified. At the time of my site visit a number of lorry trailers and forklift trucks were parked within the hardstanding area. The field slopes down towards the east corner, the shed and yard are on the highest part of it the field. A low earth embankment has been crated along the north side of the hardcored yard and the remainder of the field to the north and east is in grass.	

The surrounding area is characterised with development of single house along the road frontages with some farm groupings and horticultural poly tunnels to the NE. DMAC Engineering is located approx. 200mts to the west of the site and there is a nucleus of development at the end of the Washingbay Road approx. 500metres to the east where there is a school and mattress factory as well as housing.

Description of Proposal

Part use of existing farm shed to provide internal dry storage of plastic bags and plastic wrapping covers in association with the applicants established horticultural business (Evergreen Peat). Members are advised this description has been amended, it was initially described as for dry storage of peat.

Deferred Consideration:

Members are advised this application was before them in March 2018 with a recommendation to refuse planning permission, the application was deferred to allow an office meeting with the Planning Manager. At the office meeting the agent advised the proposal was not for the storage of peat but for the storage of wrapping material and bags in association with Evergreen Peat, which operates from an established premises off Ferry Road. The existing business has grown significantly and provides for so many different markets that it is not possible to keep all the wrapping materials on the existing site and keep the operations effective. They require a separate storage area to allow speedy identification of what wrapping is need and to store bulk orders of the wrapping materials. The materials are expensive and in the cramped environment on the existing site they are getting damaged which is resulting in undue wastage. This building is approx. 2kms from the existing plant and operations and allows them to quickly retrieve and change wrapping materials.

I visited the site and noted approx.. ½ of the building was used for the storage of wrapping materials. The packaging was laid in such a manner as to be easily counted and retrieved. I also visted the existing plant and noted that it is very cramped with finished products baled and stacked on the site, stockpiles of raw material around the yard and production lines for mixing, processing, bagging and stacking the finished products contained within an existing building on the site. The main production facility is located approx. 2kms south east of the application site. Mr McCuskey advised that his product is in high demand for production in Holland and across the EU. Mr McCuskey explained, at the time of my visit last March, they were getting ready for Easter and this was traditionally a busy time for the company. He explained he had recently signed a deal with United Arab Emirates for the supply of his product and this will result in production being increased.

Members should note that the application was previously considered against Farm Diversification policy CTY11 in PPS21, however having visited the production facility and the site, I consider Evergreen Peat carries out an industrial process. An industrial process is defined in the Planning (Use Classes) Order (NI) 2015 as 'a process for or incidental to any of the following purposes: (a) the making of any article or part of any article (including an aircraft, ship or vessel, or a film, video or sound recording); (b) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing, packing, canning or adapting for sale of any article; (c) the breaking up or demolition of any article (where this is not a process related to the use in Article 3(4)(o)); or (d) the getting, dressing or treatment of

minerals; in the course of any trade or business other than agriculture and other than a use carried out in or adjacent to a mine or quarry. In my opinion the mixing and blending of the peat and other materials on the site falls within this definition and as such this application should be considered against Planning Policy Statement 4 – Planning and Economic Development.

PED2 sets out a number of circumstances where Economic Development may be acceptable in the countryside. PED3 allows development in certain circumstances where it is to facilitate the expansion of an established economic development use in the countryside. In this case, members may wish to take account of the location of the existing business close to the shore of Lough Neagh, where it has been indicated there is limited opportunity to expand as they do not own the adjacent land and there are a number of restrictive environmental designations. In my view PED3 is directed at an expansion of an existing business site either on site or extending it into neighbouring land. The policy does not support 'off –site' expansion, as is being proposed here for storage of plastic wrapping materials and plastic bags. Members have made exceptions to the policies in PPS4 in a small number of cases, however these were based on the site specifics of those cases.

I would like members to be aware of following;

- the business is involved in peat processing and the applicant has advised they are expanding at a significant rate
- the Planning Department has asked for evidence of the planning permissions that allow the commercial extraction of peat and no evidence has been presented to demonstrate this
- the Planning Department have invited applications to regularise the commercial extraction, to date no applications have been submitted by the applicant for consideration
- there are a number of complaints relating to the use of this site for parking lorries and trailers and the enforcement team is aware of this site.

The Council could attach conditions to any planning permission that would control the use on the site as it is difficult to see how the use of part of the building would cause any loss of amenity to the neighbours, impact on the character of the area or have any other adverse impacts as set out in PED9. However, members are advised of the real concerns raised by objections in relation to the proposal;

- the shed has never been used for any agricultural purpose
- increase traffic / noise/ need for a generator as there is no electric on site
- that this would lead to an expansion of evergreen peat at this location resulting in loose peat storage externally resulting in harm to the objectors poly tunnels. Potential for future sheds as a result of expansion needs here
- this is really a relocation / expansion of evergreen peat which should comply with different planning policy PED3 of PPS4.
- That the applicant does not partake in any farming activities.
- That peat processed by the company is not produced on the farm but originates from elsewhere in Ireland.
- Dust from another peat operator resulted in problems for houses in Granville
- At the time of writing (5 Feb 2018) 14 forty foot trailers are parked in addition to other plant and machinery
- The shed has a large industrial roller shutter more akin to commercial use

- Future property values at risk / environmental health issues
- The re-location of the shed has resulted in an eyesore.
- That a previous application for a commercial unit M/2005/2006/F was refused in an adjacent field.

Members must only take into account the proposal before them which is for use of part of this building to store plastic bags and plastic wrapping material for Evergreen Peat. Other matters that have been raised are material considerations, as they have been brought to the Councils attention. In view of these other concerns, I do not consider it would be appropriate to exercise an exception to policy in this instance and I would advise the Members to be mindful that I do not consider there is any policy which supports this off site expansion of an established economic development.

The Draft Plan Strategy was published on 22 February 2018 and is currently undergoing an initial 8 week consultation period. Draft Policies GP1 –General Principles Planning Policy, ECON2 – Economic Development in the Countryside and TRAN4 – Access onto Protected Routes and Other Route Ways are relaxant to the consideration of this application and I do not consider these present any significant change to the extant policies for the consideration of this application. Members are advised the policies are material considerations, however due to their recent publication and draft status, they may not be given any determining weight in the consideration of this application.

In light of the above and without any other information to the contrary, I recommend that this application is refused.

Reasons for Refusal:

1. The proposal is contrary to the SPPS and Policy CTY11 of PPS21 in that it has not been demonstrated that the proposal is to be run in conjunction with any agricultural operations on the farm and that the farm business is currently active.
2. The proposal is contrary to the SPPS, Policy CTY1 and PED2 of PPS4 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/0897/F	Target Date:
Proposal: Part use of existing farm shed to provide internal dry storage of peat in association with the applicants established horticultural business (Evergreen Peat)	Location: 100m North West of 213 Washingbay Road Coalisland
Referral Route: Refusal recommended contrary to Policy CTY1 and CTY11	
Recommendation: Refusal.	
Applicant Name and Address: Jim McCuskey Evergreen Peat 10A Ferry Road Coalisland	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toome bridge
Signature(s): M.Bowman	

Case Officer Report

Site Location Plan

Lorry trailers parked at time of site visit.



**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	2
Number of Support Petitions and signatures	No Petitions Received

Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues – lack of evidence that the farm business itself is active and established and therefore that this proposal is to be run in conjunction with the business.	
Characteristics of the Site and Area – a large semi-agricultural / commercial in appearance shed occupies much of the site and at the time of my site visit a number of lorry trailers were parked within the hardstanding area. I note some variations between the shed as built and approved plans in relation to the door opening and pedestrian door. Area of grassland provides a fair degree of separation from the site to the rear of established residential properties, one of which, No 215 Washingbay Road, had objected. Access lane is place and is stoned down to the site.	
Description of Proposal Part use of existing farm shed to provide internal dry storage of peat in association with the applicants established horticultural business (Evergreen Peat)	
Planning Assessment of Policy and Other Material Considerations SPPS CAP PPS21 This is a rural location as defined by the Cookstown Area Plan. The SPPS, in relation to development in the countryside, aims to maintain and enhance the attractiveness of it as a place to invest, live and work and which requires a sustainable approach to new development. Specifically in relation to Farm Diversification it states that provision should be made for such proposals where the farm is currently active and established for a minimum of 6 years and the proposal is to be run in conjunction with the agricultural operations of the farm. Proposals must involve the re-use or adaption of existing buildings with new buildings only being accepted in exceptional circumstances. The thrust of the above policy direction is reinforced in Policy CTY11 of PPS21 which requires the following: Policy CTY 11 – Farm Diversification Planning 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. The following criteria will apply: (a) the farm or forestry business is currently active and established; By way of background to this case the site history is relevant. Planning permission was granted on the 19 th June 2013 for a Mr Joe McCuskey for a proposed farm building. At that time it appears that all agricultural lands owned by the applicant were leased and that there was no established farm business ID in existence. Examining the farm maps submitted then reveals only an 'applicant reference' and 3 fields. Despite an initial recommendation to refuse the application the Department later changed its opinion and allowed the shed.	

An application was determined by Mid-Ulster Council (LA09/2016/1428/F) to slightly re-locate the shed and amend its access.

The shed has since been constructed in general accordance with its approved plans however significant doubt remains as to whether an agricultural use has ever existed in it. An Enforcement investigation found no evidence of agricultural use and sought the removal of the unauthorised parking of lorry trailers from the adjoining area of hardstanding. I understand the case was closed following the removal of the trailers which I note had returned back onto the site at the time of my site visit of 11th Jan 2018 (see photos). At the time of my visit I was unable to enter the shed.

Having asked the agent to provide a case to support this application the following main points were made in relation to Policy CTY11.

- That the application is to support Evergreen Peat which has outgrown its nearby site
- The shed will be part used to store plastic rolls used to wrap the pallets and bags with all storage taking place internally on racks
- CMI argue that the working of peat is classed as a farming activity
- No single farm payment is being taken by the applicant and so there are no current farm maps
- That there are no EHO objections and the building is already used for storage of the applicant's farm machinery.
- The proposal is essential for the smooth running of the business

My remaining underlying concern that this proposal is to complement Evergreen Peat as opposed to any clear farm activity or farm business. It is worth repeating that the Policy requirement in this regard is that such diversification proposals are **run in conjunction with the agricultural operations on the farm** (my emphasis). The agent is silent on how the applicant runs any 'agricultural' operations beyond the Peat Business which I am not aware is itself produced from the farm lands owned and how the farm business is currently active. DEARA confirmed in 2016 that Mr Joe McCuskey (applicant for the original 2012 permission) had still not been granted a flock number, this is in spite of an understanding that he would apply for such a number if the shed was approved by the Department as the case made at that time was for future livestock. The applicant is now listed as Mr Jim McCuskey.

It is not unreasonable to try to ascertain why the applicant could apply to extend the existing business location in accordance with Policy PED3 PPS4. Whilst the agent states that no other lands are owned by the applicant around Evergreen Peat this is not perhaps insurmountable.

(b) in terms of character and scale it is appropriate to its location;

the application proposes to use an existing approved shed. Consideration should be given to the need for trailer parking and its adverse visual impact on rural amenity. Any third party concerns in relation to outdoor stock piles of peat could be dealt with by a planning condition should approval be forthcoming.

(c) it will not have an adverse impact on the natural or built heritage; and

No such impacts are anticipated.

(d) it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

EHO have no objections to the application as presented. The Council could condition against any outdoor storage of any plant or materials.

Policy CTY11 continues to state that proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings. Exceptionally, 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 re-use or 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. I am satisfied that this aspect of the policy test is met given the intended use of the existing building.

Summary of local objections.

Objections have been received from the occupants of No 215 Washingbay Road raising the following concerns:

- the shed has never been used for any agricultural purpose
- that even partial storage of peat is out of keeping with the rural / residential locality
- increase traffic / noise/ need for a generator as there is no electric on site
- that this would lead to an expansion of evergreen peat at this location resulting in loose peat storage externally resulting in harm to the objectors poly tunnels. Potential for future sheds as a result of expansion needs here
- this is really a relocation / expansion of evergreen peat which should comply with different planning policy PED3 of PPS4.
- That the applicant does not partake in any farming activities.
- That peat processed by the company is not produced on the farm but originates from elsewhere in Ireland.
- Dust from another peat operator resulted in problems for houses in Granville
- At the time of writing (5 Feb 2018) 14 forty foot trailers are parked in addition to other plant and machinery
- The shed has a large industrial roller shutter more akin to commercial use
- Future property values at risk / environmental health issues
- The re-location of the shed has resulted in an eyesore.
- That a previous application for a commercial unit M/2005/2006/F was refused in an adjacent field.

Many of the above are valid concerns. The Council would of course have the ability to condition any storage as being internal and any future expansion of the site would have to comply with planning policy in place at that time. I share concerns relating to the level of agricultural use, that the proposal is more an expansion of Evergreen Peat than directly farm related, that the presence of large numbers of trailers are visually intrusive and themselves may provide noise nuisance based on deliveries to and from the site.

Neighbour Notification Checked

Yes

Summary of Recommendation: refusal contrary to PPS21 Policy CTY11.

Reasons for Refusal:

1. The proposal is contrary to the SPPS and Policy CTY11 of PPS21 in that it has not been demonstrated that the proposal is to be run in conjunction with any agricultural operations on the farm and that the farm business is currently active.

Signature(s) M.Bowman

Date: 20th Feb 2018.

ANNEX	
Date Valid	3rd July 2017
Date First Advertised	20th July 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 211A Washingbay Road, Aughamullan, Coalisland, Tyrone, BT71 5EG, The Owner/Occupier, 212 Washingbay Road, Aughamullan, Coalisland, Tyrone, BT71 5EG, The Owner/Occupier, 215 Washingbay Road Aughamullan Coalisland Brian Donnelly 215 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 5EG Brian Donnelly 215, Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 5EG The Owner/Occupier, 217 Washingbay Road Aughamullan Coalisland	
Date of Last Neighbour Notification	24th January 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/0897/F Proposal: Part use of existing farm shed to provide internal dry storage of peat in association with the applicants established horticultural business (Evergreen Peat) Address: 100m North West of 213 Washingbay Road, Coalisland, Decision: Decision Date: Ref ID: LA09/2016/1428/F Proposal: Relocation of laneway to service a farm shed approved under M/2012/0590/F with the shed relocated within the approved curtilage 35 m west of the approved location due to ground levels and amended site design. Address: 85m SE of 211A Washingbay Road, Coalisland, Decision: PG Decision Date: 14.02.2017 Ref ID: LA09/2016/1624/O	

Proposal: Site for Dwelling and Garage on a Farm
Address: Land to rear of 215-217 Washingbay Road, Coalisland, Dungannon (access taken via existing farm access between No's 215 and 217),
Decision:
Decision Date:

Ref ID: M/2014/0471/F
Proposal: Site for 2 no dwellings (Infilling gap site)
Address: Site between 211a and 215 Washingbay Road Aughamullan,
Decision: PG
Decision Date: 30.09.2015

Ref ID: M/2011/0310/O
Proposal: Site for 2 no. dwellings (Infilling gap site)
Address: Site between 211a and 215 Washingbay Road, Aughamullan,
Decision:
Decision Date: 24.10.2011

Ref ID: M/2011/0453/F
Proposal: New double garage
Address: 211a Washingbay Road, Coalisland, BT71 5EG,
Decision:
Decision Date: 18.08.2011

Ref ID: M/1996/0708
Proposal: Site for Dwelling
Address: NO. 211A WASHINGBAY ROAD COALISLAND
Decision:
Decision Date:

Ref ID: M/2007/0095/F
Proposal: 15KW wind turbine with 18m Mast
Address: 211A Washingbay Road, Coalisland
Decision:
Decision Date: 24.05.2007

Ref ID: M/2005/2006/F
Proposal: General purpose shed for 4 No vehicles (commercial), caravan, lawn mower two cars and other domestic items including bicycles, quads, ladders.
Address: Rear of 211A Washingbay Road, Aughamullan, Coalisland
Decision:
Decision Date: 14.09.2006

Ref ID: M/1987/0495

Proposal: RETIREMENT BUNGALOW
Address: ADJOINING 211 WASHINGBAY ROAD, AUGHAMULLAN, COALISLAND
Decision:
Decision Date:

Ref ID: M/1988/0242
Proposal: RETIREMENT DWELLING
Address: ADJOINING 211 WASHINGBAY ROAD, AUGHAMULLAN, COALISLAND
Decision:
Decision Date:

Ref ID: M/1997/0496
Proposal: Proposed dwelling
Address: 211A WASHINGBAY ROAD COALISLAND
Decision:
Decision Date:

Ref ID: M/2007/1522/O
Proposal: New single detached dwelling
Address: Land 250m South of 214 Washingbay Road, Coalisland
Decision:
Decision Date: 19.04.2011

Ref ID: M/1992/0684
Proposal: Site for Dwelling
Address: APPROX 60M EAST OF NO 211 WASHINGBAY ROAD COALISLAND
Decision:
Decision Date:

Ref ID: M/1987/0417
Proposal: BUNGALOW AND GARAGE
Address: WASHINGBAY ROAD, AUGHAMULLAN, COALISLAND
Decision:
Decision Date:

Ref ID: M/1987/0016
Proposal: BUNGALOW
Address: WASHINGBAY ROAD, AUGHAMULLAN, COALISLAND
Decision:
Decision Date:

Ref ID: M/2012/0590/F
Proposal: Proposed farm building 150m south east of 211a Washingbay Road,
Aughamullan, Coalisland, BT71 4QE

Address: 150m south east of 211a Washingbay Road, Aughamullan, Coalisland, Decision: PG Decision Date: 24.06.2013
Summary of Consultee Responses
Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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Status: Submitted

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Status: Submitted

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Status: Submitted

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Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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

Drawing No. 04
Type: Proposed Plans
Status: Submitted

Drawing No. 02
Type: Site Layout or Block Plan

Status: Submitted
Drawing No. 03 Type: Proposed Plans Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2018/1282/O	Target Date:
Proposal: Dwelling and garage under CTY10	Location: 110m NE of 4 Tamnymullan Lane Maghera
Applicant Name and Address: Mr Robert Sufferin 15 Tamnymullan Lane Maghera	Agent name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SG
Summary of Issues: The main issue related to a new access on to a protected route and further examples were given at committee, which have been investigated and reported on the case officer report below.	
Summary of Consultee Responses: DFI Roads are recommending refusal in that the proposal is contrary to Policy AMP 3 of Planning Policy Statement 3, Access, Movement and Parking in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.	
Characteristics of the Site and Area: The application site is a 0.15 hectare parcel of agricultural land located 110m NE of Tamneymullan Lane, Maghera. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site occupies a roadside position and takes in part of a larger agricultural field. The SW corner of the site is heavily vegetated and the Southern boundary is defined by a band of semi mature trees. The roadside	

boundary with the Moneysharven Road is void of any mature vegetation but is defined by a thick grass verge and footway. The remaining boundaries are undefined on the ground. The Moneysharven Road (A29) is a designated Protected Route.

This area is generally rural in character although it is not far outside the settlement limits of Maghera. It has a low dispersed settlement pattern, with the predominant form of development being single dwellings and agricultural buildings. There is a substantial build-up of development along Tamneymullan Lane. There is also a Listed Building located up the Lane (HB08/01/020)

Description of Proposal

This is an outline application for a farm dwelling and garage. There are no other planning histories on or adjacent to this site to be considered in this assessment.

Deferred Consideration:

The application was first presented as a refusal to Planning Committee in December 2018 and subsequently deferred for an office meeting which was held on 13th Dec 2018. The reasons for refusal are as below;

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

the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm

health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm

2.The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3, Access, Movement and Parking in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

This application was then presented as a refusal to Committee in Jan 2020 and following agreement was deferred to further consider other examples of dwellings on to Protected Routes. The following planning applications were investigated;

- LA09/2016/0230/0 (Opposite 129 Moneysharvan Road, Maghera) was refused on 10th May 2016. Refusal reason 5 related to creation of a new vehicular access on to a protected route.
- LA09/2019/0751/F (Lands Adjacent to 94 Moneysharvan Road, Swatragh) was approved using an existing laneway access on 25th September 2019.
- LA09/2016/0237/O (220m North East of 4 Tamnymullan Road, Maghera) was approved on 13th June 2016. It failed to consider the protected route policy and TNI did not bring

this to our attention in their response which offered no objection. There was a subsequent application submitted on the site, LA09/2016/1345/F, and it is made clear in this case officer report that the protected route policy was now being considered and that TNI objected. However, following discussion, it was decided that since this full application was submitted within 3 years of the approval LA09/2016/0237/O, the time in which a reserved matters could be submitted, an approval would be honoured on the site and so permission was granted on 15th May 2017.

This information and the relevant case officer reports, location plans and the refusal notice for LA09/2016/0230/0 has been circulated to committee members for their information.

These decisions do not justify the creation of a new access on the protected route. Regardless of all of the above DFI Roads are clear that PPS3, AMP3 is a relevant policy consideration in this planning application and their previous response still applies.

The proposal will involve the creation of a new access onto a protected route which is unacceptable and fails to comply with policy AMP3 of PPS3. The policy directs applicants to utilise existing accesses. Whilst there is an existing agricultural opening into site off the main road (A29), PPS3 states that a field gate cannot be regarded as an access, so this cannot be viewed or used as an existing access onto a protected route.

The recommendation to refuse the application has not changed and the refusal reasons remain as previously.

Refusal Reasons

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

the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm

health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm

2. The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3, Access, Movement and Parking in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s):

Date



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2018/1282/O	Target Date:
Proposal: Dwelling and garage under CTY10	Location: 110m NE of 4 Tamnymullan Lane Maghera
Applicant Name and Address: Mr Robert Sufferin 15 Tamnymullan Lane Maghera	Agent name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SG
Summary of Issues: Following a deferral a refusal is recommended due to issues with CTY10 and PPS3.	
Summary of Consultee Responses: DFI Roads have recommended refusal due to a new access onto a protected route	
Characteristics of the Site and Area: The application site is a 0.15 hectare parcel of agricultural land located 110m NE of Tamneymullan Lane, Maghera. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site occupies a roadside position and takes in part of a larger agricultural field. The SW corner of the site is heavily vegetated and the Southern boundary is defined by a band of semi mature trees. The roadside boundary with the Moneysharven Road is void of any mature vegetation but is defined by a thick grass verge and footway. The remaining boundaries are undefined on the ground. The Moneysharven Road (A29) is a designated Protected Route. This area is generally rural in character although it is not far outside the settlement limits of Maghera. It has a low dispersed settlement pattern, with the predominant form of development being single dwellings and agricultural buildings. There is a substantial build-	

up of development along Tamneymullan Lane. There is also a Listed Building located up the Lane (HB08/01/020)

Description of Proposal

This is an outline application for a farm dwelling and garage. There are no other planning histories on or adjacent to this site to be considered in this assessment.

Deferred Consideration:

The application was presented as a refusal to Planning Committee in December 2018 and subsequently deferred for an office meeting which was held on 13th Dec 2018. The reasons for refusal are as below;

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

the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm

health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm

2.The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3, Access, Movement and Parking in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

In order to visually link to the existing farm buildings the possibility of an alternative site was discussed. Field 14 of the applicants farm holding was suggested, however the agent advised there was an issues with a nearby listed building (No.15 Tamneymullan Lane). HED were consulted on the field in question for comments and they, having considered the impact of a dwelling on the site, would be sufficiently removed in situation and scale of development from the listed building as to have no impact.

However when the applicant was advised of this, there was another issue raised which they stated would prevent them from building on this site (field 14). The applicant does not own land on either side of the laneway or the laneway itself, and the existing dwelling owners along the laneway have confirmed there is no possibility of obtaining easements or ownership of them. Land Registry documents of the owners of the laneway have been submitted, along with letters from them confirming they will not provide easements to facilitate a new house for Mr Sufferin.

In addition to this, a letter from Watt Surveying has been submitted to support the view that the site (field 14) would not be suitable for mortgage lending purposes. However the letter states that 'this will not be suitable for residential lending unless a significant change

in policy is made from a number of lenders', although it does not state ALL lenders, indicating not ALL would refuse this.

However, this is a financial argument only and would not be sufficient in overcoming the issues noted relating to CTY10.

In any instance, if the alternative suggested site is not acceptable to the applicant, the current site still faces the same issues as previously, in that there is no visual linkage or clustering between the site and the farm buildings at No.15. Due to distance between them and the level of strong vegetation, the farm buildings cannot be seen along with the site.

In relation to reason 2, and following the office meeting the agent has forwarded a number of approved application references to consult DFI Roads with in relation to Protected Routes.

DFI were re-consulted with this and replied on 28/10/19.

Three of the ref's given are not relevant as they are not onto Protected routes under PPS3 AMP3 and DCAN15.

Three ref's given are related to access onto protected routes and should have been subject to PPS3 AMP3. However DFI Roads have stated for reasons unknown they did not advise MUDC of the relevance of the protected routes policy. However, any previous poor decisions should not be allowed to set a precedent which would allow unfettered access to the Protected Route network.

Another three ref's given were outside the Mid Ulster area.

Regardless of all of the above DFI Roads are clear that PPS3, AMP3 is a relevant policy consideration in this planning application and their previous response still applies.

The proposal will involve the creation of a new access onto a protected route which is unacceptable and fails to comply with policy AMP3 of PPS3. The policy directs applicants to utilise existing accesses. Whilst there is an existing agricultural opening into site off the main road (A29), PPS3 states in the footnote, that a field gate cannot be regarded as a vehicular access, so this cannot be viewed or used as an existing access onto a protected route.

Refusal is recommended, in that the proposal involves the creation of a new access to a protected route, and elements of CTY10 cannot be met, as detailed in the reasons below.

Reasons for Refusal:

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

the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm, or that;

health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm

2. The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3, Access, Movement and Parking in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s):

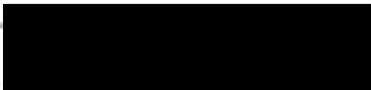
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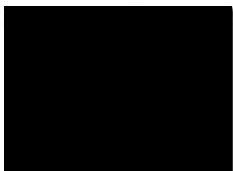


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Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 th Dec 2018	Item Number:
Application ID: LA09/2018/1282/O	Target Date: 15 th Jan 2019
Proposal: Dwelling and garage under CTY10	Location: 110m NE of 4 Tamnymullan Lane Maghera
Referral Route: Refusal Recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Robert Sufferin 15 Tamnymullan Lane Maghera	Agent Name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SG
Executive Summary: Proposal fails to comply with policy CTY 10 of PPS 21 in terms of visual linkage/clustering with buildings on the farm. Adequate health and safety reasons have not been provided for an alternative site away from the farm buildings. The proposal also involves the creation of a new access onto a protected route which is unacceptable and fails to comply with policy AMP 3 of PPS 3.	
Signature(s):  20-11-18	



20/11/18

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

There have been no objections to this proposal from any third party.

- DFI Roads have been consulted and have recommended refusal under policy AMP 3 of PPS 3
- DAERA have no objections
- Environmental Health response is currently outstanding.

Characteristics of the Site and Area

The application site is a 0.15 hectare parcel of agricultural land located 110m NE of Tamneymullan Lane, Maghera. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site occupies a roadside position and takes in part of a larger agricultural field. The SW corner of the site is heavily vegetated and the Southern boundary is defined by a band of semi mature trees. The roadside boundary with the Moneysharven Road is void of any mature vegetation but is defined by a thick grass verge and footway. The remaining boundaries are undefined on the ground. The Moneysharven Road (A29) is a designated Protected Route.

This area is generally rural in character although it is not far outside the settlement limits of Maghera. It has a low dispersed settlement pattern, with the predominant form of development being single dwellings and agricultural buildings. There is a substantial build-up of development along Tamneymullan Lane. There is also a Listed Building located up the Lane (HB08/01/020)

Description of Proposal

This is an outline application for a farm dwelling and garage. There are no other planning histories on or adjacent to this site to be considered in this assessment.

Planning Assessment of Policy and Other Material Considerations

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

- Magherafelt Area Plan 2015
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access, Movement and Parking
- PPS21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The site lies outside any settlement limit defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations. As such, existing rural planning policy should be applied (ie) PPS 21

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS gives provision for development in the countryside subject to a number policy provisions, including policy for dwellings on Farms. It does not present any change in policy direction therefore existing rural policy applies (ie) CTY 10 of PPS 21

PPS 3 – Access, Movement and Parking

This proposal involves the creation of a direct access onto the A29, which is a Protected Route. Policy AMP 3 of PPS 3 will only permit direct access onto a Protected Route in certain circumstances. In respect of Farm Dwellings, the policy states that access should be obtained from an adjacent minor road. Where this can't be achieved that the proposal must make use of an existing vehicular access onto the Protected Route. In this instance there is no adjacent minor road to utilise. Tamneymullan Lane is a private lane and could be utilised, however the applicant has stated on his P1C Form that there is no possibility of him obtaining any sort of permission to

use this lane. Whilst there is an existing agricultural opening into the site coming directly off the A29, PPS 3 specifically states that a field gate cannot be regarded as an access, so using this is ruled out. There are no other existing accesses onto the Protected Route that can be used. It is therefore evident that this proposal fails to comply with Policy AMP 3 of PPS 3.

PPS21 – Sustainable Development in the Countryside

Policy CTY 10 – Dwellings on Farms

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

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

DAERA have been consulted and have confirmed that the Business ID has been in existence for the required 6 year period. They have also confirmed that this business has submitted claims in the last 6 years. On the basis of all of this response I am satisfied that the farm business can be considered currently active and established for the purposes of CTY 10.

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

I have carried out a planning history search of the applicants holding and I am satisfied there are no planning approvals that could be considered as development opportunities to be sold/transferred off.

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

The address of the farm business is 15 Tamneymullan Lane, which is approx. 250m to the NW of the application site. There is no visual linkage or clustering between the site and the buildings at number 15. The applicant has stated on his P1C form that the application site is the only land on the holding that has a road frontage and that there is no possibility of getting a right of way along Tamneymullan Lane, which is used to access number 15. Exceptionally CTY 10 does permit farm dwellings elsewhere on the holding where it is demonstrated that there are health and safety reasons to site elsewhere or where there are verifiable plans to expand the farm business at the existing building group. The applicant has stated that this application site is the only location where a safe access can be provided. I would disagree with this on the basis that a new access here will come directly out onto a Protected Route – the A29, which is an extremely fast road. PPS 3 in this instance does not permit a new access on to a protected route and directs applicants to utilise existing accesses.

Policy CTY 13 – Integration and Design

The application site occupies a roadside plot of land. It rises gently in a northern direction. There is some vegetation surrounding the site which would provide a certain degree of enclosure. An appropriately scaled (5.5m ridge) and sited dwelling on this site would not appear overly prominent in the local landscape. All existing vegetation would have to be conditioned to be retained. New landscaping would not be relied upon primarily as a means of integration. As this is an outline application design is not be considered in detail. As discussed under CTY 10, a dwelling on this site fails to cluster or visually link with buildings on the farm.

Policy CTY 14 – Rural Character

For the reasons noted above I am of the view that a dwelling on this site would not be unduly prominent. A dwelling on this site would not result in a suburban style build-up of development or a ribbon of development in this particular area and would therefore not negatively impact on rural character.

Neighbour Notification Checked**Yes****Summary of Recommendation:**

Refusal is recommended

Refusal Reasons

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

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

2. The proposal is contrary to Policy AMP 3 of Planning Policy Statement 3, Access, Movement and Parking in that it would, if permitted, result in the creation of a new vehicular access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s) *Kah M. Hines*

Date: 21-11-18

ANNEX	
Date Valid	2nd October 2018
Date First Advertised	18th October 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 10 Tamneymullan Lane Maghera Londonderry The Owner/Occupier, 11 Tamneymullan Lane Maghera Londonderry The Owner/Occupier, 4 Tamneymullan Lane Maghera Londonderry The Owner/Occupier, 6 Tamneymullan Lane Maghera Londonderry The Owner/Occupier, 7 Tamneymullan Lane Maghera Londonderry	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1282/O Proposal: Dwelling and garage under CTY10 Address: 110m NE of 4 Tamnymullan Lane Maghera, Decision: Decision Date:	
Summary of Consultee Responses <ul style="list-style-type: none"> • DFI Roads have been consulted and have recommended refusal under policy AMP 3 of PPS 3 • DAERA have no objections • Environmental Health response is currently outstanding. 	

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:



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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: LA09/2019/0357/F	Target Date: <add date>
Proposal: Retention of 20 x 8ft container to house vending machines (Revised hours of operation and amended appearance)	Location: Site at 42 Main Road Moygashel Dungannon
Applicant Name and Address: Mr Bryan Turkington 14 Wellbrook Avenue Dungannon	Agent name and Address: Teague and Sally Ltd 3A Killycolp Road Cookstown BT80 9AD
Summary of Issues: The use of the building, noise and disturbance from the use open 24 hours	
Summary of Consultee Responses: EHO – premises should not be open outside the hours 0900hrs to 2300hrs. DFI Roads – Council to be aware some development over adopted footway, need to detail parking	
Characteristics of the Site and Area: The site is located within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is a mix of residential, convenience shops and hot food outlets. To the west and south of the site are semi-detached and detached dwellings. Adjacent and south of the site is a group of established trees and to the southeast is a day-care facility. To the north of the site are two hot food outlets. The application site comprises a metal container, which directly abuts a car parking area at the site. The site is on a flat land and has a roadside frontage onto the Main Road in Moygashel. The metal container is situated on a long rectangular plot, which is currently vacant and there was previously buildings at the field but have since been demolished. There is metal fencing along the roadside boundary of the plot with unauthorised signage located on the fencing.	

Description of Proposal

This is a full application for the retention of a metal container to house vending machines. The container is 6m in length and 2.4m in width. The proposal has a floorspace of 14m². There is a door and window with lockable shutters on the front elevation. It is proposed to clad the container with grey metal flashing and wooden panelling to the front and sides.

Deferred Consideration:

This application was deferred at the Planning Committee in September 2019 for an office meeting and this took place with the Head of Development Management on 12 September 2019. At that meeting restrictions on the hours of operations, amendments to the appearance of the container and a temporary planning permission were discussed. Following the meeting the applicant has indicated they wish the following to be considered:

- 1- the appearance of the container to be altered by attaching grey metal cladding and wooden panelling to the front and sides of the container and painting the door and shutters (for the windows) dark grey
- 2- the hours of operation to be restricted to between 7am and 11pm daily and
- 3- temporary permission for a 5 year period

This development is located in Moygashel which is within the settlement limits of Dungannon. The SPPS advocates a town centre first approach for retail developments, however, given the small scale nature of this development, 14sqm in area, I do not consider it would have any significant impact on the retail provision in the town centre. As such I consider this scale of retail use to be appropriate for Moygashel and it is generally compatible with the surrounding land uses. The proposed cladding to the building is not, in my opinion out of place with the Gordy's and Apple Jacks which are located close by, as such I consider the cladding would enhance the appearance of the property, in accordance with DES2 of The Planning Strategy for Rural Northern Ireland. I consider that if this development is approved it is appropriate to condition the cladding is carried out within 4 weeks of the date of the decision.

The vending machines are not supervised as there are no personnel in the container, residents have concerns about this. The applicant has advised they have remote supervision by monitored 24 CCTV, I do not consider this provides the same deterrent as someone being there and there may very well be incidents of antisocial behaviour. Members are advised that further objections have been received from local residents about noise and other disturbance due to this facility operating on a 24 hour basis. Objections have been submitted claiming this is causing health issues due to the disruption to their sleep. I have received a number of videos of patrons using the facility, these have not been shared due to data protection issues, however I can advise members the videos show patrons using the machines when it is dark, though I am unable to put any times or dates on these. The videos do illustrate there are people talking, car doors opening and closing and noise from the operations of the machines. I can appreciate how this could result in annoyance especially if this is late at night. Other objections have been supplemented with fitbit analysis of sleep patterns, to demonstrate that sleep patterns are being disrupted. FitBit devices allow the wearer to record and analyse pulse rates, activity and sleep patterns. Members are advised this information is helpful in explaining what potential problems there may be arising from the currently unauthorised and unregulated facility, however some caution must be advised, as it is not apparent that this is the sole issue causing these disrupted sleep patterns.

The applicant has offered to operate the facility only between the hours of 7am and 11pm and has asked for permission to be limited to a temporary period of 5 years. The applicant has advised it is his intention to apply for planning permission on a permanent basis, but has to wait for the sewage capacity in Dungannon Treatment Works to become available. Due to the temporary appearance of the building I consider it is reasonable and necessary to limit the time it remains on the site as temporary buildings have a tendency for their appearance to deteriorate quickly. A time limited permission will allow the Council to reassess the appearance of the building periodically to ensure it does not become an eyesore. I consider 5 years is too long a period and my recommendation is that 3 years would be a more appropriate time, given that it has already been in situ for over a year.

The applicant has advised the premises are used by the blue light services during the night as there are no other premises available to serve them. The applicant has also advised the night time is the busiest time for the business to operate, however is willing to reduce the hours of operation to 7am until 11pm every day. EHO have advised the hours should be limited to 0900hrs to 2300hrs each day. Due to the unmanned nature of the business, I do not consider 11pm is an appropriate time to allow the premises to operate. It is apparent there are residential properties close by that are affected by the business operating at unsocial hours. I consider it would be appropriate to limit the hours to 7am to 10pm Monday to Saturday and 9am to 10pm on Sundays to minimise the disruption to the residents living close by.

Members are advised the applicant has proposed hours of operation and a time limit that are at odds with my recommendation. As the applicant has offered these hours of operation I consider this would still result in unacceptable disruption to the neighbouring residential properties. The Committee could agree with my recommended hours, however the applicant has not proposed these. Members must consider the application that has been proposed and this includes the hours of operation and the time period for the permission. Due to the very real and ongoing concerns raised by residents in relation to the impacts from noise and other general disturbance from patrons using the facility, I recommend the application is refused.

Reasons for Refusal:

1. The development and its hours of operations has a negative effect on the amenity of neighbouring properties due to noise and general nuisance at unsociable hours and as such is contrary to Planning Policy DES2 of 'A Planning Strategy for Rural Northern Ireland'.

Signature(s):

Date



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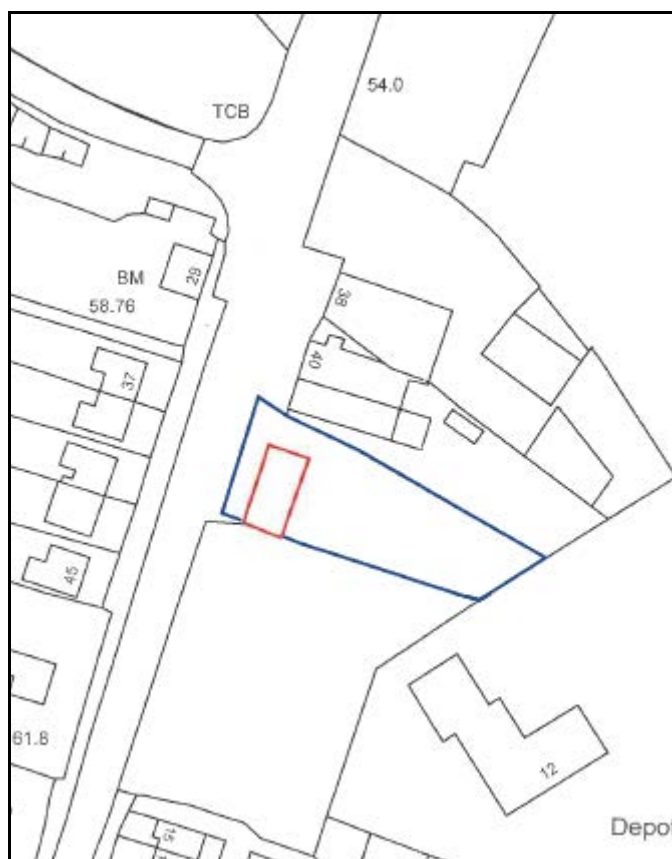
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BT45 6EN

Development Management Officer Report Committee Application

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

Representations:

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

Characteristics of the Site and Area

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

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

Description of Proposal

This is a full application for a metal container to house vending machines. The container is 6m in length and 2.4m in width. The proposal has a floorspace of 14m². There is a door and window with lockable shutters on the front elevation. The container has external finishes of green-sheeted metal.

Planning Assessment of Policy and Other Material Considerations

Planning History

Ref ID: LA09/2017/0895/PAD

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

Address: Main Street, Moygashel, Dungannon,

Enforcement Action

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

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

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

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

Consultees

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

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

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

Representations

3 letters were received objecting to this proposal.

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

The main issues in both letters are as follows –

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

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

A letter was received by email on 7th August 2019.

The main issue in this letter are as follows –

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

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

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

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

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

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

Dungannon and South Tyrone Area Plan 2010

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

Policy DES 2 of Planning Strategy for Rural Northern Ireland

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

Land Use

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



Figure 1 Costcutters shop in the immediate area

Amenity

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

Design

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



Figure 2 – Metal container and surrounding area

PPS 3 Access, Movement and Parking

DFI Roads were consulted with this application. They raised concerns that proposed car parking and servicing arrangements would need to be shown on Drawing No. 2 date stamped received 19th March 2019. Parking is however a matter to be determined by Mid Ulster Council. There are car parking spaces to the front of the site. Under “Parking Standards” the proposal is food retail so would need 1 space per 14m² and I am content the proposal can meet this criteria.

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

Neighbour Notification Checked Yes

Summary of Recommendation:

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

Reasons for Refusal:

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

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

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application - Addendum

Summary	
Committee Meeting Date: December 2019	Item Number:
Application ID: LA09/2019/1169/O	Target Date:
Proposal: Erection of infill dwelling & garage	Location: Lands between 33a & 33b Grange Road Moy
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Mr Andrew Smith 15 Grange Road Moy BT71 7EJ	Agent Name and Address: 2 Plan NI 47 Lough Fea Cookstown BT80 9QL
Executive Summary: Application considered at Committee 5 th November 2019, late objection received 5 th November 2019 was not taken into account. Objection now being considered.	
Signature(s):	

Case Officer Report - Addendum

Planning Assessment of Objection from Fergus and Karen Bain.

This report is an addendum to the report presented to the Planning Committee on 5th November 2019.

Members are advised this application was recommended as an approval for a dwelling on the basis that it met the exception for infill development as set out in CTY8 of Planning Policy Statement 21. The Committee agreed with the recommendation to approve the development, however following the meeting it came to the attention of the Planning Manager that an objection had been lodged on the day of the Planning Committee and this had not been taken into account in the determination of the application. The Planning Manager is of the opinion that as the objection was received before the Committee made its decision, any decision taken was not in the knowledge of the full facts of the case and therefore the application has been brought back to the Committee for its decision.

The letter of objection raises the following concerns:

- adverse impact on the character of this stretch of Grange Road by extending the ribbon development
- do not consider the site fully adheres to the infill exception in CTY8
- a dwelling on the site will not integrate in accordance with Policy CTY14
- the site was refused planning permission before

The application site was previously refused and recommended for refusal:

M/2002/0743/O – Erection of dwelling – withdrawn 10.10.2002(recommended for refusal as contrary to greenbelt, loss of rural character, lack of integration)

M/1995/0154 – Erection of dwelling - refused 12.12.1995 due to lack of integration and loss of rural character.

The planning policy has changed since those previous applications were considered and this application is now considered against the current policies in PPS21. If it meets with policies in PPS21 then the previous decisions do not have any determining weight in this decision.

The objectors acknowledge that the site is set within a loose row of development and shares a common frontage with a number of developments along Grange Road. They do not consider this is a continuous or substantial row of development as the proposed development is only set within a continuous row of 2 no dwellings and that there are other gaps along the frontage. Members will be aware the definition of a substantial and built up frontage in policy CTY8 includes a line of 3 or more buildings along a road frontage. This has formed the basis of previous decisions taken by the Planning Committee, as well as Planning Appeals Decisions. While the objection refers to the number of dwellings in the frontage, it fails to take account of the number of buildings,

which is what the policy asks us to consider. The objector has accepted the proposed development is between 2 dwellings and these have a common frontage. They have not taken into account the detached outbuilding that is set to the side of their own dwelling which, in the consideration of the policy results in the required 3 buildings, with the proposed development site between these. See below where the existing buildings are identified in blue and the application site is in red.



The site is well screened from views on approach from the east and the west by the existing vegetation and buildings around it, it will be visible for a short distance along the road frontage immediately in front of the site and on approach on the minor road from the north. That said, it has been considered the proposal meets with CTY8 and any design and siting of a dwelling will be fully assessed at the Reserved Matters stage to ensure that it fits in with the character of the area.

Members are advised this application is an exception to CTY8 of PPS21 as it is an infill site and it is therefore recommended as an approval.	
Neighbour Notification Checked	Yes
Summary of Recommendation:	
It is recommend to approve this development.	
<p>Conditions:</p> <p>1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-</p> <p>i. the expiration of 5 years from the date of this permission; or</p> <p>ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</p> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called ""the reserved matters""), shall be obtained from the Council, in writing, before any development is commenced.</p> <p>Reason. To enable the Council to consider in detail the proposed development of the site.</p> <p>3. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 70 m in both directions 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.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>4. 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 to the rear of the of the visibility splays and along the new boundaries of the curtilage identified in orange on drawing No 01 bearing the stamp dated 05 SEP 2019. The scheme shall detail species</p>	

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.

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or any other statutory authority.
4. The applicant is advised that under Article 11 of the Roads Order (NI) 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

Notwithstanding the terms and conditions of the Planning Authority's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the TransportNI Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway
- The developer should note that this planning approval does not give consent to discharge water into a Transportni drainage system.

Signature(s)

Date:



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: LA09/2019/1169/O	Target Date: <add date>
Proposal: Erection of infill dwelling & garage	Location: Lands between 33a & 33b Grange Road Moy
Applicant Name and Address: Mr Andrew Smith 15 Grange Road Moy BT71 7EJ	Agent name and Address: 2 Plan NI 47 Lough Fea Cookstown BT80 9QL
Summary of Issues: The proposal is for an infill dwelling under the exception in Policy CTY8 of PPS21 and has been the subject of objections.	
Summary of Consultee Responses: NI Water – water main available, no foul sewer available DFI Roads – sight lines of 2.4m x 70.0m required and achievable to provide access	
Characteristics of the Site and Area: The site is located in the rural countryside and is 1.87km from the settlement limit of Moy as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is predominantly rural with sprawling agricultural fields, single detached dwellings and farm complexes. The site is located along the Grange road in a row of detached dwellings. Within the immediate area of the site, there are a number of detached dwellings along Grange Road and along Seyloran Lane, which is at a junction with the site. The application site is a square shaped plot with a roadside frontage along the public road. There are several detached dwellings on either side of the public road. The site has a relatively flat topography. It is situated between No. 33A and No. 33B Grange Road. There is mature hedgerow along the roadside boundary and the eastern/western	

boundaries are defined by a row of mature trees and hedgerows. The rear boundary is undefined as the site is a portion of a larger agricultural field. The site is accessed via an existing field gate along Grange Road.

Description of Proposal

The proposal is for a detached dwelling and garage with access off the Grange Road.

Deferred Consideration:

Members will be aware this application was before the committee in November and December with a recommendation to approve. At the December Committee it was agreed to defer the application for a member's site visit. The site visit took place on 18th December 2019 where members were able to see the site and the surrounding characteristics.

It was noted the area has a number of buildings and dwellings around and in the vicinity of the site and it has lost its rural character. The policy was explained and it was noted:

- access to the site would require the removal of part of the hedge along the road frontage,
- there is a large detached dwelling to the west, with a long driveway and pillars and gates at the roadside, (red roofed dwelling)
- the site, is an agricultural field which fronts onto Grange Road and
- a 2 storey dwelling with a detached garage to the side of it is located to the east (Appendix A)

It was further noted the detached dwelling on the opposite side of Majors Lane has a vehicular access with gates and pillars at the end of a long lane, off Grange Road and it has a field to the front of it.

Cllr Cuddy expressed concern that the proposal was changing the character of the area and that Mr Smith already has a number of sites passed nearby. Members are advised there are a number of sites approved for Smith in the surrounding areas and these are attached in Appendix B. Whilst this information is helpful to illustrate the pressure from development in the area, members should consider the site on its own merits and if it meets the exception for an infill dwelling in Policy CTY8 of PPS21.

At the December Meeting the objector referred to planning appeal Ref LA06/2016/0158/O which is for an infill dwelling at Ballycreely Road, Comber. Attached at Appendix C is a map of that appeal site. I do not consider the sites are the same or the issues raised the same. The Commissioner, in her decision, referred to frontages whereas with this application there is no dispute that the 3 buildings, which CTY8 requires on either side of an infill site, are on the same frontage and immediately adjacent to the proposed site.

As previously set out in the 2 preceding reports, the site is between 3 buildings, 2 to the east (dwelling and detached garage) and 1 to the west: the buildings and the application site have a common frontage site onto Grange Road and, in my view a detached dwelling and garage on this site respects the character of the development in the area.

It is recommended this application is approved with conditions.

Conditions:

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

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

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

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

3. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 70 m in both directions shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

4. 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 to the rear of the of the visibility splays and along the new boundaries of the curtilage identified in orange on drawing No 01 bearing the stamp dated 05 SEP 2019. 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.

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or any other statutory authority.
4. The applicant is advised that under Article 11 of the Roads Order (NI) 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

Notwithstanding the terms and conditions of the Planning Authority's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the TransportNI Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway

- The developer should note that this planning approval does not give consent to discharge water into a Transportni drainage system.

Signature(s):

Date

APPENDIX A



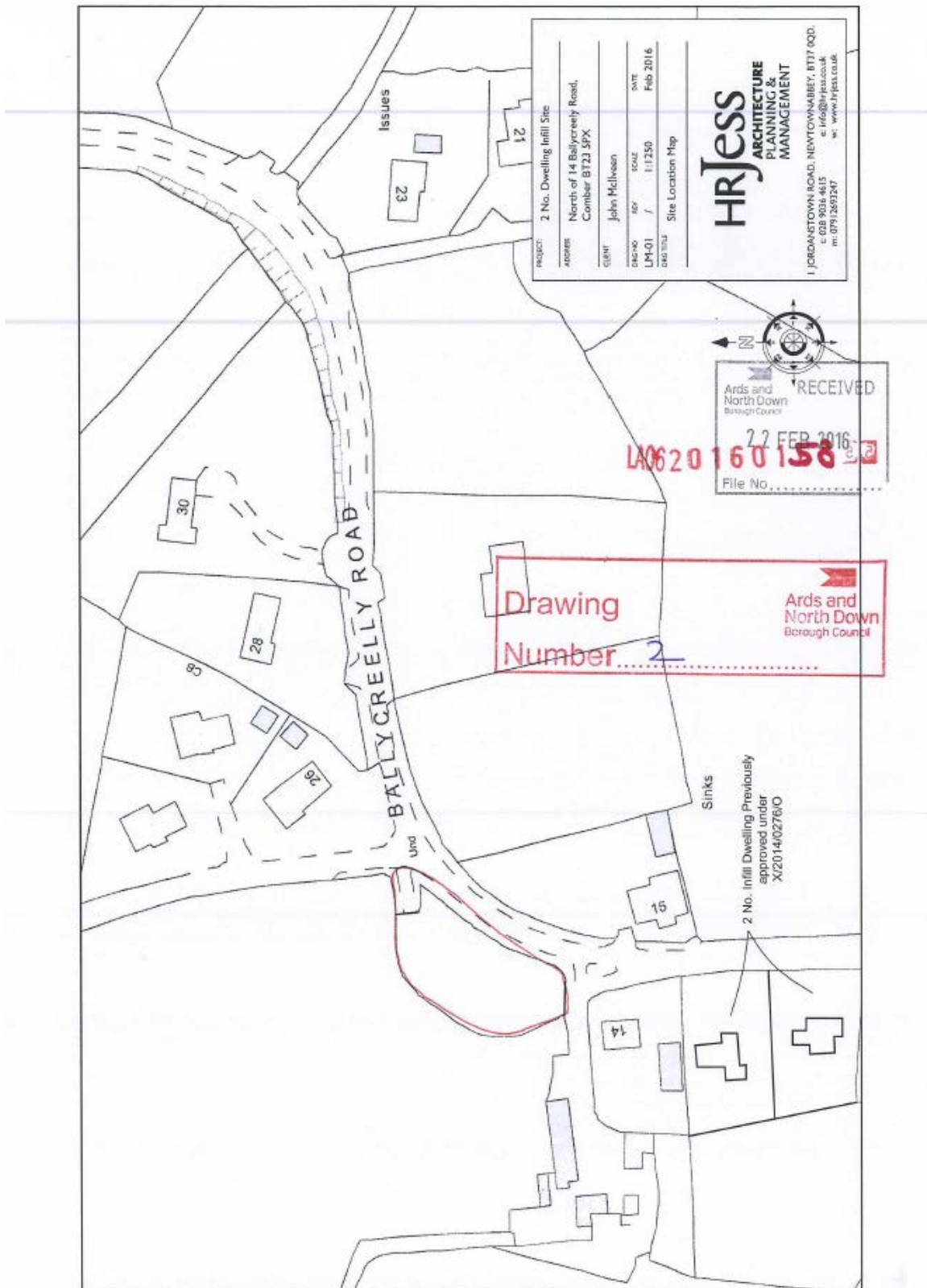
APPENDIX B – Smith Sites

- 1- LA09/2019/0264/O - Mr Sam Smith - Proposed erection of infill dwelling and garage OPP 06.06.2019
- 2- LA09/2019/0263/O – Mr Sam Smith - Proposed erection of infill dwelling and garage OPP 06.06.2019
M/1982/0130 – Erection of dwelling house – Refused 24.06.1982
- 3- M/1995/0153 – McCarter McGaw (G Smith owner of land) refused for dwelling
M/1996/0554 – Mr G Smith – site for dwelling OPP 31.01.1997
M/1996/0553 – Mr G Smith – site for dwelling OPP 31.01.1997
M/1998/0405 – Mr Fergus Bain – 2 storey dwelling FPP 21.01.1999
- 4- M/2009/0490/F – Mr Sam Smith - Palladian villa and detached garage FPP 22.10.2009
- 5- LA09/2018/0794/F – Mr Cahal Carville - Proposed dwelling and detached garage. – FPP 19.09.2018
LA09/2017/1454/LDP – Mr Sam Smith - Erection of dwelling in accordance with
M/2008/1040/F Certificate Granted 13.03.2018
M/2008/1040/F – Mr Sam Smith - Site for dwelling house, with garage and gym FPP 09.07.2009
M/2005/1047/O – Mr Sam Smith – site for dwelling OPP 22.08.2005
- 6- M/2006/0599/O – Lauren Developments (S Smith owner of land) OPP 25.05.2007



Smith Sites, Grange, Moy

APPENDIX C – Appeal site referred to by objector Appeal Ref 2016/A0160





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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: 05/11/2019	Item Number:
Application ID: LA09/2019/1169/O	Target Date:
Proposal: Erection of infill dwelling & garage	Location: Lands between 33a & 33b Grange Road Moy
Referral Route: Objection received from a third party.	
Recommendation:	Approve
Applicant Name and Address: Mr Andrew Smith 15 Grange Road Moy BT71 7EJ	Agent Name and Address: 2 Plan NI 47 Lough Fea Cookstown BT80 9QL
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	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

Characteristics of the Site and Area

The site is located in the rural countryside and is 1.87km from the settlement limit of Moy as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is predominantly rural with sprawling agricultural fields, single detached dwellings and farm complexes. The site is located along the Grange road in a row of detached dwellings. Within the immediate area of the site, there are a number of detached dwellings along Grange Road and along Seyloran Lane, which is at a junction with the site.

The application site is a square shaped plot with a roadside frontage along the public road. There are several detached dwellings on either side of the public road. The site has

a relatively flat topography. It is situated between No. 33A and No. 33B Grange Road. There is mature hedgerow along the roadside boundary and the eastern/western boundaries are defined by a row of mature trees and hedgerows. The rear boundary is undefined as the site is a portion of a larger agricultural field. The site is accessed via an existing field gate along Grange Road.

Description of Proposal

This is an outline application for a proposed dwelling and garage on an infill site.

Planning Assessment of Policy and Other Material Considerations

Planning History

M/2002/0743/O – Dwelling – Opposite 34 Grange Road, Moy – Withdrawn

This application is on the same site as this planning application but was withdrawn after being recommended for approval.

Consultees

NI Water were consulted and responded with no objections.

DFI Roads were consulted and responded with no objections subject to a 1:500 scale plan being submitted.

Planning Policy Consideration

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

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

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

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that 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’.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 8 – Ribbon Development

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. As this is an application for a dwelling on an infill site CTY8 – Ribbon Development is the relevant policy, which will apply.

The application site has a roadside frontage along a public road. There is a dwelling 260m east of the site at No. 35, a dwelling abutting the eastern boundary at No. 33B and a dwelling abutting the western boundary at No. 33A. There are also dwellings at No. 33 and No. 31. No. 31, No 33A and No. 35 are all set back from the public road with sweeping driveways to the dwellings. However, I am satisfied the dwellings have frontages with the public road as the gardens of the properties abut the road so I consider this is still the frontage of the dwellings. On balance, I am content the proposal situated on a small gap site is within a substantial and continuously built up frontage, which includes a line of 3 or more buildings along a road frontage.

There are varying plot frontages along this public road with 62m at No. 24, 56m at No. 33, and 50m at No. 33A, 67m at No. 33B and 273m at No. 35. The application site has a frontage of 72m. I am satisfied the proposed site has a plot frontage which respects the existing development pattern in terms of plot size. The proposal is the same size plot as No. 33B east of the site.

In terms of size and scale of the proposed dwelling, this is an outline application so the design of the dwelling will be considered at the Reserved Matters Stage. Along the Grange road, there are a number of large two storey dwellings so I am content that either a single/two storey dwellings would integrate into the landscape.

A number of the dwellings such as No. 31, No. 33a and No. 35 are sited further back in the plot with large gardens fronting the road. No. 33B which is adjacent to the site has a dwelling frontage onto the road. No. 34 is directly opposite the application site so members may want to set a siting condition to move the dwelling further back from the public road to protect the amenity of No. 34.

Overall I am content the proposed site is an infill site and meets the criteria in CTY 8 in PPS 21.

CTY 13 – Integration and Design of Buildings in the Countryside

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

The application site is along an existing roadside frontage and is on land with an undulating topography. There are no long distance views of the site in both directions along the public road as there are mature trees and hedgerows along the eastern and western boundaries, as shown in figures 1 and 2. There is also mature trees along the roadside boundaries of No. 31 and No. 33A which particularly blocks any direct views in a

westerly direction. On balance, I consider the proposal will not be a prominent feature in the landscape.



Figure1 – View from western direction



Figure 2 – View from eastern direction

There are established trees along the east and west boundaries which will integrate the site in long distance views. There is a mature hedgerow along the roadside boundary and some of this will be removed for visibility splays. As shown on Drawing No. 01 date stamped 05 SEP 2019 additional planting is proposed to replace any removed which will further aid integration. As the proposal consists of a portion of an existing larger field, a new hedge is proposed along the southern boundary, which will aid integration in views from Majors Lane. I am content new planting will not be primarily relied on for the

purposes of integration.

A double garage will sit behind the dwelling and I am content this will integrate into the overall scheme. A new access is proposed which will travel through the middle of the site. It is preferable that the access runs along the boundary but as the access travels a short distance, I am content the new access is acceptable. Also, No. 31 and No. 33A have long sweeping driveways running through the middle of the site so the new access is acceptable in comparison with the surrounding landscape.

The design of the proposed dwelling will be considered at the Reserved Matters Stage. I consider a one or two storey dwelling would integrate well at this site.

I am content the proposal will blend with the existing trees along the east and west boundaries. There are no other buildings at this site but as there are other dwellings along this stretch of public road, I am content the proposal will blend with the other development in the surrounding area.

The case of dwelling on a farm is not applicable in this case.

I am content that the proposal is capable of complying with CTY 13.

CTY 14 – Rural Character

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As mentioned, the site benefits from existing vegetation on three boundaries and further landscaping is proposed on the remaining boundaries, which will further aid integration. The proposed dwelling is sited to cluster with existing dwellings along the road. I am content that this dwelling will not be a prominent feature in the landscape.

As there are already dwellings along this public road and they are sited within a roadside frontage I am satisfied that the development will not result in a suburban style build-up of development. I am of the opinion that the proposal is able to respect the traditional pattern of development as the site can accommodate either a one or two-storey dwelling, which would be in scale and form with other dwellings in the area. The site will be located between 2 other dwellings so I am content the proposal will not add to a ribbon of development.

The creation of a new access at this site will not damage the rural character as there is proposed hedging to mitigate the impact of a new entrance onto a public road.

Planning Policy Statement 3 – Access, Movement and Parking

DFI Roads were consulted as there is a new access from the Grange Road. There is a field gate but according to PPS 3, this is not considered an existing access. DFI Roads requested visibility splays of 2.4m x 70m in both directions and this should be submitted on a 1:500 scale plan at Reserved Matters Stage.

Representations

An objection was submitted from the owner/occupier at 34 Grange Road, Moy. Their dwelling is across the public road from the application site. The following issues have been raised :

1. The proposal is not in the spirit of the gap site i.e. small site in an existing row of no more than six. There will be eleven houses on the same side of Grange Road. This is ribbon development and detrimental to the rural area.
2. The proposal will alter the character of the area and lead to a loss of amenity. Currently the land is used for agricultural purposes and provides relief to the existing housing build-up.
3. The proposed dwelling will be closer to the public road than No. 33B and together with its elevated position will make it a prominent feature in the landscape.
4. The proposed dwelling overlooks the front garden at No.34 and will lead to a loss of privacy.

In regards to point 1, CTY 8 states that to be an infill site there must be three buildings with a roadside frontage and there is no mention of 'no more than six approvals in a row'. As stated earlier in the assessment I am satisfied the proposal meets the criteria in CTY 8.

In regards to point 2, I do not consider the proposal will alter the character of the rural area. The proposal has met the principle of CTY 8 and will not lead to ribbon development. In addition, the immediate area is already built-up with a number of detached dwellings along Grange Road and particularly at the junction with Seyloran Lane and Dreemore Road.

In regards to point 3, the proposed site is 13m from the public road and No. 33B is 16m. I consider the proposed dwelling is not much nearer to the public road than No. 33B. The topography of the application site has a slight undulating topography as shown in figure 3 below but I do not consider a dwelling on this site would be a prominent feature in the landscape.



Figure 3 shows the undulating topography of the site, which is one of the factors the objector feels the proposed dwelling may be a prominent feature in the landscape.

In regards to point 4, this issue was discussed in the assessment of CTY8. If approved the position of the dwelling is a material consideration, which can set as a siting planning condition in the decision notice. This would protect the amenity of No. 34 if the dwelling set further back from the public road. As shown in Drawing No 01 date stamped 05 SEP 2019 the proposed dwelling is 17m from the boundary fence of No.34 and additional planting is proposed on the roadside boundary. I consider the separation distance and the planting on the roadside boundary will protect the amenity of No. 34.

Neighbour Notification Checked Yes

Summary of Recommendation

The proposal is recommended for approval as it complies with CTY 8, CTY 13 and CTY 14 in PPS 21.

Conditions

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

i. the expiration of 5 years from the date of this permission; or

ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason. Time Limit

2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from 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. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 70 m in both directions shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

4. 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 to the rear of the of the visibility splays and along the new boundaries of the curtilage identified in orange on drawing No 01 bearing the stamp dated 05 SEP 2019. 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.

Informatives

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

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

This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or any other statutory authority.

The applicant is advised that under Article 11 of the Roads Order (NI) 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

Notwithstanding the terms and conditions of the Planning Authority's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the TransportNI Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road

- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway
- The developer should note that this planning approval does not give consent to discharge water into a Transportni drainage system.

Signature(s)

Date: