



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2015/0523/F	Target Date:
Proposal: Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI	Location: Approximately 80m South East of 60 Desertmartin Road, Moneymore
Applicant Name and Address: Mr Robert Carmichael C/o.agent	Agent name and Address: TC Town Planning Town & Country Planning Consultants 84 Ashgrove Park Magherafelt BT45 6DN
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area: <p>The site is located approximately 3 km north of the village of Moneymore in the open countryside as defined by the Magherafelt Area Plan 2015. The site is adjacent to and connected with an existing farm complex and associated outdoor activity centre, known as 'The Jungle'. The proposed site is located on the eastern side of the Desertmartin Road (A29), a protected route. The site is accessed directly from the Desertmartin Road. A hardstanding has been created on the site and is being used as a car park. To the north of this is a footpath leading to a tunnel under the road providing access to the facility. This tunnel was designed for the use of moving cattle around the farm. There is a small stream located to the north of the car park.</p> <p>Views of the site are achievable when travelling along the A29 in both directions, however the existing roadside vegetation softens the landscape to some extent. The surrounding area is characterised by a mixture of single dwellings and farm complexes. An existing lime quarry is located approximately 600 metres to the east of the site. The surrounding land generally slopes upwards from the main road in a westerly direction, with land to the east of the road flatter.</p>	

Description of Proposal

The proposal is for 'Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI'. The proposed car park is laid out differently to what is currently in place, with a more formal layout proposed. The proposal includes 9 coach parking spaces, 4 disabled access spaces and 40 standard spaces.

Deferred Consideration:

This application was presented before the Planning Committee with a recommendation to refuse on 6 June 2017 where it was agreed by members to have a site meeting so that they could look at the situation for themselves on the ground. The site meeting took place on 15 June 2017.

Following the site meeting we have received a number of reports from the agent in support of the planning application. These have been considered both by myself and by DfI Roads. The applicant wants to be able to use the underpass that links the car park to The Jungle as a permanent means of pedestrian access and has suggested taking control of the underpass from DfI Roads. This underpass was built for the purposes of moving livestock and it has been argued by the applicant that humans also need to use the underpass when moving livestock. This proposition has been put to DfI Roads and in their latest response dated 9 February 2018 they have stated the following:

"DfI roads has given this matter some thought and have concluded that it would be inappropriate to release this structure into private ownership. The structure is an integral part of the A29, Desertmartin Road, which is part of the strategic road network in Northern Ireland. The A29 carries approximately 5671 vehicles per day and it is important that the Department maintains control over all aspects of the road infrastructure to ensure continuity and remove the risk of disruption to traffic progression and road safety should any part of the network require maintenance. It must also be recognised that the SPPS gives weight to the regional importance of the strategic road network and the protection to be afforded to it therefore DfI Roads opinion remains unchanged in that this planning application should be refused and the refusal reasons...be presented to the planning committee for their consideration".

In November 2017 the agent submitted an additional supporting statement together with additional information from other consultants. A Traffic and Parking Review makes the following conclusions:

- This new access provides considerable improvements for all road users compared with the existing situation;
- On balance safety has been enhanced for all road users (safety for pedestrians internally within the site, for motorists being able to safely enter the car park, safety for parking vehicles as visitors do not need to park on the A29 at the busiest times);
- PPS 3 and DCAN 15 are not rule books, and their standards are not set in stone. Failure to apply the standards does not automatically lead to danger;
- There are considerable improvements as a result of the new segregated car park for both patrons and traffic movement which is a material consideration.

The agent states there is an exceptional circumstance to be considered in this case, namely their assertion the existing access onto the protected route will be closed up and relocating an established and acceptable access to the other side of the road. However the existing approved access will not be permanently closed up. There is still a requirement for at least agricultural vehicles to access this site. No details have been provided of goods vehicles using the unauthorised access and car park on the P1 form and it is assumed that goods and other vehicles will access the site through the existing access for the purposes of deliveries etc. The agent also states that access will be required at the approved access point for persons with impaired mobility.

In my opinion it is false and misleading to say that one access will be closed up (save for disability access) and another opened up onto the protected route for the reasons I have outlined.

The agent has submitted a Bill of Quantities that has been prepared for the provision of a right hand turning lane into the unauthorised car park which comes with a total quoted cost of £424,000. A Bill of Quantities has also been submitted for a left bypass lane which comes with a total quoted cost of £198,000. The applicant has previously stated in an office meeting the cost of providing both these would not be economically viable for the business.

The Enforcement team served a notice on the landowner to permanently cease the use of the land as an unauthorised car park and the removal of other ancillary works to service the unauthorised car park and it also sought the reinstatement of the land to its previous condition. The notice was appealed by Robert Carmichael who is the applicant for this planning application. The agent has made a number of assumptions from the Commissioner's report that infer the Commissioner is not convinced the application can be refused. The agent refers to the "*level of experience and library of knowledge*" possessed by the presiding Commissioner. However it is my duty to assess all the information available on this planning application and make my own recommendation to the Planning Committee who will then make a decision based on all relevant Development Plans, Planning Policies and material considerations and to give due weight before making a decision on the application.

I feel the following are the relevant points to consider in this application:

- Contrary to the assertion the applicant is "*willing to forgo*" the established access for the sake of the current application and access off the protected route into the car park, the applicant is in actual fact seeking to retain the use of the existing access (as detailed above). Should the application be approved this will result in the creation of an additional access onto the protected route;
- SW Consultancy has supplied a "Trips Generated" report and states The Jungle office opens Mon-Sat. However this is misleading as the website clearly states the activities operate 7 days per week. The application is for 44 car spaces and 9 bus spaces but the P1 form details an additional 20 cars using the unauthorised car park. The agent in a submission received with the application stated there were 36,000 visitors to The Jungle in 2014 but in an office meeting with the applicant Mr Carmichael confirmed there were 58,000 visitors in 2016 (I have not been able to verify the quoted numbers). The "Trips Generated" report submitted as part of a report by SW Consultancy is based on the outdated figure of 2014. The agent asserts the traffic reports prove there is no need for a right hand turn lane but there is a need for the retention of the existing car park. However this is based on outdated visitor figures with the report completed in October 2017. The volume of traffic is not the only consideration when assessing if a right hand turn lane is required off a priority road.
- DfI Roads consider it would be inappropriate to release the underpass into private ownership (as detailed above). This would then result in visitors to The Jungle having to cross a road that is a protected route. In the information submitted Hoy Dorman provided details of a traffic survey that was carried out in Jun 2016. The average speed was measure at 57.23 mph and the 85th percentile speed was measured as 64.6 mph. This would prejudice the safety and convenience of road users as they would have to cross and re-cross the protected route thus increasing accident potential.
- The agent has stated that policy must be applied objectively and not simply be a tick box exercise and to approve the application does not set aside policy but addresses the overall spirit by providing betterment. However DfI Roads are not prepared to release the underpass into private ownership. The Design Manual for Roads and Bridges requires the minimum height for a pedestrian underpass to be 2.3m but the underpass here is 1.8m.

Whilst the agent has put forward an argument as to why planning permission should be granted, I have considered all the available information and given that DfI Roads consider it inappropriate to

release the underpass into private ownership there are serious safety concerns with the car park located on the opposite side of the road and I therefore recommend a refusal of the application.

Reasons for Refusal:

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2 and AMP3, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
2. The proposal is contrary to Planning Policy Statement 21 Annex 1, consequential amendment to Policy AMP 3 of PPS3 Access, Movement and Parking, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of pedestrians attracted to the site since it proposed to utilise a cattle underpass, which is maintained by TNI, to move pedestrians under the protected route. The structure was not designed to transport people and does not meet the minimum design standards, for pedestrians, as set out in The Design Manual for Roads and Bridges.
4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would encourage pedestrians to cross and re-cross the protected route thus increasing accident potential.

Signature(s):

Date





Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2016/0299/O	Target Date:
Proposal: Site for proposed infill dwelling and detached double garage	Location: Between 21 Brackaghlistlea Road and 15 Gortahurk Road Draperstown
Applicant Name and Address: G Mallon 11 Brackaghlistlea Road Draperstown BT45 7JZ	Agent name and Address: Paul Moran Architect 18B Drumsamney Road Desertmartin Magherafelt BT45 5LA
Summary of Issues: The proposal is not acceptable as an infill dwelling and therefore the application was recommended to Committee for Refusal in June 2016. During the deferred office meeting the potential for a dwelling on the farm holding was discussed and therefore the application is to be reconsidered under Policy CTY 1 following the provision of additional information.	
Summary of Consultee Responses:	
Characteristics of the Site and Area: The proposal site is located within a very large flat agricultural field at a cross roads between Gortahurk Road and Brackaghlistlea Road, Draperstown. The site is bounded on the southern side by a post and wire fence, on the eastern side by a post and wire fence and thin scrub, on the northern side by a post and wire fence and thin scrub/hedging and on the western side by a post and wire fence and hedging. Agricultural land is immediately adjacent on the northern eastern and southern sides. Located immediately adjacent on the western boundary are two detached single storey bungalows (Nos 21 _ 23 Brackaghlistlea Road) and a farm shed. When travelling along the Gortahurk road from a northerly direction towards the proposal site there are two detached single storey dwellings and associated farm buildings however these dwellings are accessed via a long hedge bounded lane and do not have a common frontage onto the Gortahurk Road.	

Description of Proposal

The proposal was submitted as an infill site for a dwelling and a detached garage. However, as the site is not considered to be an infill site it has been reconsidered as a site of a farm holding.

Deferred Consideration:

Deferred Consideration:

This application was presented before the Planning Committee in June 2016 with a recommendation to refuse based on the following reasons:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and therefore would not visually integrate into the surrounding landscape.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted create a ribbon of development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

The application was deferred for an office meeting with the Planning Manager. The meeting took place on 23rd June 2016 and was attended by the applicants' son, the agent, Ms S Curtin (planning consultant) and Councillor McGuigan. At that meeting the following was discussed:-

- The policy requirements for a site to satisfy the criteria of CTY 8 in respect of an infill site.
- Further information on the lands owned by the family in the area and where there may be infill opportunities in the area, the site is not considered to be one of these.
- The history of the field in which the site is located. The applicant's son and the planning consultant stated that while there is no DARD number the site has been grazed and kept for silage.
- The applicant's son advised how his mother came into possession of the field, which was due to his grandfather's ill-health, and that it had been kept in good agricultural condition and referred to photos as evidence of this.
- There was further discussion as to what evidence would be available of the level of farming activity had taken place on this field. The applicant's son was advised to provide all available evidence as to who was farming the land and the intention of the applicant's son to continue farming the land into the future.
- No commitment was given as it was advised this depended very much on what additional information could be provided.

During the deferred office meeting, the applicants' son and the planning consultant advised that the farm business does not have an ID number, so therefore the onus falls on the applicant to satisfactorily demonstrate that the business is active and has been established for at least six years. The applicant has provided a number of photocopied statements and invoices though none have a direct reference to work being done to the fields in an agricultural manner. We have been provided with an historic DARD client ID and farm numbers but since these are not current business ID numbers and no P1c form has been submitted I did not consult DAERA on a formal basis. However, a telephone conversation with DAERA has revealed the following:-

- the farm consists of field 1 and field 3;
- no claims have been made to DAERA since prior to 2005;

- field 3 has been claimed by a neighbouring farmer in connection with his farm business during 2015 and 2016. Field 1 has not been claimed by anyone.

Consequently, in my opinion these invoices do not demonstrate any farming activity by the applicant which would indicate that the farm business is active. They would all appear, at best, to be for services provided with no mention of what the actual land has been used for. DAERA has confirmed that field 3 is being utilised by a neighbouring farmer and this demonstrates the applicant is keeping the land in good agricultural condition.

Following a planning history check of the farm lands included on the farm maps provided, I am satisfied that criteria (b) has been met as no development opportunities have been disposed off this holding since 25th November 2008.

With regards to criteria (c), a new dwelling on the proposed site would be visually linked and sited to cluster with the applicant's father's dwelling and outbuilding which is attached to the dwelling. The PAC has considered similar cases in the past where a dwelling and a garage have been accepted as a group of buildings on the farm and thus the dwelling and outbuilding in this case can be considered as a group of buildings on the farm. While the proposal would be accessed via a new entrance, this is acceptable as there is no existing lane.

The applicant's father, Patrick O'Neill, has signed a letter stating that he will be signing the land over to his grandson, Mark Mallon who is the applicant's son and attended the deferred office meeting.

Having considered Policy CTY 13 a new dwelling at this location will not be immediately integrated into the landscape should planning permission be granted. The land is slightly undulating in nature and quite exposed. The mostly traditional settlement pattern is small single storey dwellings, save for the exception of a two storey dwelling. Given the open nature of the land and the fact there are no fields available elsewhere to the applicant it is my opinion that a small, single storey dwelling could be approved subject to a number of landscaping conditions, which although will take time to mature the landscaping will aid the future integration of a new dwelling at this exposed location.

An approval of this application is recommended subject to the conditions listed below.

Conditions:

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

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

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

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

3. The curtilage of the proposed dwelling shall be as indicated in yellow on the approved plan date stamped 3 March 2016.

Reason: To ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

4. The proposed dwelling shall have a ridge height of less than 5.7 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21.

5. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been approved by the Council and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

6. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

Signature(s):

Date





Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2017/0673/O	Target Date:
Proposal: Proposed new dwelling and garage	Location: 5m South of 38 Craigmore Road, Maghera
Applicant Name and Address: Patrick Mc Williams 50 Five Mile Straight Draperstown Magherafelt	Agent name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SG
Summary of Issues: Principle of a new dwelling	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: <p>The site is located approximately 0.5 mile north west of Maghera in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is located just south of No 38 Craigmore Road, a large equestrian centre, known as the Fort Centre. The proposed site is cut portion of a large agricultural field, identified as field No 11 on the submitted farm map. The site is bound by mature vegetation along the northern, eastern and western boundaries of the site, the remaining boundaries are undefined. A new access is proposed along the northern boundary of the site.</p> <p>The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.</p>	
Description of Proposal <p>The application seeks outline planning permission for a detached dwelling and garage on the farm</p>	

Deferred Consideration:

The application was first presented before the Planning Committee in October 2017 with a recommendation to refuse based on the following 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 nor has it been demonstrated that health and safety reasons exist to justify an alternative site or verifiable plans exist to expand the farm business at the existing group of buildings located at No 50 Five Mile Straight.

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

The application was deferred by members for an office meeting with the Planning Manager which took place on 12 October 2017 and, as suggested by the Planning Manager the agent submitted additional information as to how the application relates to the farm business. In his submission the agent has made the following points:

- The applicant intends to retire from farming and pass the farm onto his son who will continue to live at the main holding.
- Land around the main farm complex was discounted because of the inability to obtain a mortgage; the close proximity of storage tanks, grain silos and slurry pits; logistics of livestock handling; and the general dangers with children not familiar with farm surroundings or activities.

In addition it was stated by the agent that alternative sites around this part of the holding were discounted as they failed to give adequate integration due to the open and exposed area of mountainside surrounding the farm.

The agent lists what he considers are the advantages of the chosen site which include a good degree of tree cover; no views from public vantage points; no change to the rural character; no impact on surrounding neighbours; an ability to manage this part of the farm in adverse weather; the ability to properly plan for the eventual split of the farm to his children and the site is considered suitable for mortgage purposes.

In considering the application against planning policy I would comment as follows:

- DAERA have confirmed the farm business is currently active and has been established for at least 6 years;
- No dwellings or development opportunities have been found to be sold off from the farm holding within 10 years of the date of the application;
- The proposed dwelling is proposed to be sited away from the group of farm buildings on the Five Mile Straight and there isn't a group of buildings at the proposed site on Craigmore Road. Rather the applicant is proposing to site a new dwelling next to a third party building, namely the Fort Riding Centre. There is a group of buildings on the farm at the applicant's address on the Five Mile Straight and at this location it is my opinion there are a number of alternative sites that would allow a new dwelling to be visually linked with a group of buildings on the farm that could also satisfy the criteria of CTY 13 and 14, rather than relying on a third party building on an out farm with which to group a new dwelling. It is also my opinion there are alternative options that will not result in a new dwelling being immediately close to the storage tanks, silo pits etc.

Contradictory evidence has been submitted as to who the proposed dwelling is for, with a son mentioned both in the initial supporting statement and by the agent at the office meeting. The supporting statement submitted after the office meeting states the proposed dwelling is for the applicant's daughter. There are no verifiable plans for the expansion of the farm business at the existing building group.

I do not consider the proposal satisfies criteria (c) of CTY 10 and I would recommend a refusal of this planning application for the reasons listed below.

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 nor has it been demonstrated that health and safety reasons exist to justify an alternative site or verifiable plans exist to expand the farm business at the existing group of buildings located at No 50 Five Mile Straight.

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

Signature(s):

Date

