



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

### Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2017/0126/F	<b>Target Date:</b>
<b>Proposal:</b> Housing Development to include reduction of dwelling units to 37no units and alterations to house types from previous lapsed permission ref H/2008/0216/F	<b>Location:</b> Site at Magherafelt Road Draperstown at junction with Drumard Road
<b>Applicant Name and Address:</b> Rea Developments 57 Drum Road Cookstown BT80 8QS	<b>Agent name and Address:</b> Teague and Sally 3A Killycolp Road Cookstown BT80 9AD
<b>Recommendation:</b> Approval	

**Characteristics of the Site and Area:**

The site is located at the junction of Drumard Road and Magherafelt Road, Draperstown. The northern boundary is currently defined by a grass verge, post and wire fencing and sparse hedging. The Western boundary is defined by sparse trees and hedging, beyond the West of this boundary there is a large single storey building which is an industrial unit. The Southern boundary is defined by sparse trees and hedging. The Southern boundary which is adjacent to No 3 is defined by a conifer hedge. The southern half of the eastern boundary is defined by trees and hedging, whereas the Northern half of this boundary is defined by a post and wire fence. Due to the post and wire fencing along the eastern and northern boundaries the site is very open to the road when approaching the site in both directions along Magherafelt Road. The land within the site rises gently towards No 3 Drumard Road (a 2 storey dwelling), and also falls gradually from the North East corner towards the centre of the site.

**Description of Proposal**

Housing Development to include reduction of dwelling units to 37 units and alterations to house types from previous lapsed permission ref H/2008/0216/F

**Deferred Consideration:**

The application was due to be presented to Planning Committee as an Approval, on 2<sup>nd</sup> October 2018, but prior to the meeting the applicant requested it to be deferred to submit additional information so it was agreed to be deferred for this reason. This information was submitted (including a design concept statement) and the application was presented as an Approval to committee on 07.01.2019. At this meeting it was agreed it be deferred for an office meeting for each, the applicant and objector. Both these meetings took place on 16th Jan 2019.

At the applicants deferred meeting, the applicant advised they would submit amended plans to help address some of the objectors concerns. At the objectors meeting they presented an additional objection letter from BMK Steel and a letter of the objection to the Noise Impact Assessment. The objector also presented annual report 2017/18 from Work Space to support the argument that industrial space is required in this area. Although this is a material consideration it is not significant enough to merit the decision made by the PAC in relation to land being suitable to be zoned for housing.

BMK object to the site being approved for housing but are not opposed to appropriate commercial development. They are concerned the occupants of the proposed dwellings will suffer loss of amenity due to noise, odour, and dust from the industrial estate and there will be complaints against business, such as themselves.

Sperrin Switchgear, located to the west of the site, also object to this type of development as it is not appropriate or compatible with the Industrial estate and may result in complaints against their business and restrict their future operations.

The agent forwarded amended plans on 31<sup>st</sup> Jan 2019 and following re-neighbour notification, an objection was received on MBA Planning on 28<sup>th</sup> Feb 2019.

They note there is now a buffer between the proposed houses and the Industrial estate, however there are dwellings now proposed in SE corner of the site, and they are

concerned as they will be closer to Sperrin Galvanisers site, and so the concern of future occupants having amenity concerns still remains. They also contest the amended noise impact assessment in that it does not meet policy requirements.

The new plans show an amended configuration, with units moved further from the objector's site. There has been no increase in numbers. It has allowed for a larger landscape belt buffer zone with 2m high acoustic barrier along the entire western boundary with woodland screened area and provided open space. This is adequate in providing screening and separation distance for existing properties.

In terms of relevant policy PPS7, QD1 & QD2, the amended plans continue to meet the criteria for ensuring a Quality Residential Development. The surrounding area and neighbours have been taken into account and the design and layout respects the characteristics of the area.

On 27<sup>th</sup> Feb 2019 the agent sent in an amended Noise Impact Assessment and Env health were re-consulted, and the objector has also made comment on this report which EH were made aware of. They replied on 15<sup>th</sup> April 201, considering the amended noise report and the objector correspondence. They state that F. R. Mark have now assessed transport noise against ProPG: Planning and Noise \_ Professional Practice Guidance on Planning & Noise whilst tonality and impulsivity of noise from Sperrin Galvanisers has been considered within the report.

It is accepted that tables 3 and 4 of the report should indicate "significant adverse impact" due to the rating level being well in excess of +10 dB above background (+17 dB daytime and +22 dB night-time). However, F. R. Mark have addressed this within their assessment and recommended mitigation measures to protect the development from industrial/commercial noise.

Whilst it is accepted that the duration of noise monitoring does not reflect that required within BS 4142: 2014 and ProPG guidance; it should be noted that noise measurements were made prior to the issue of these updated documents. This should have been addressed within the uncertainty section of the BS 4142 assessment but it is our opinion (based on comparisons with the Envest Noise Impact Assessment for LA09/2017/1222/F) that the noise levels are unlikely to have changed significantly and the recommended mitigation measures should be suffice to protect the development from both nearby industrial/commercial noise and road traffic noise.

They advise a number of conditions be attached to any planning approval and advise that should the recommended conditions not be attached as requested, that we would wish to register an objection to the proposed development. However Planning would be in agreement with the conditions so there is no conflict.

DFI Roads were re-consulted on amended plans and responded with no objections and Private Streets conditions will be added.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22<sup>nd</sup> Feb 2019. Policy GP1 – General Principles Planning Policy, and Policy HOU1 and HOU2 are applicable to this application.

This proposal is compliant with the Draft Plan Strategy, however no significant weight can be given to this document as it is only at early public consultation stage. The proposal remains compliant with current planning policy.

### **Conditions**

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

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

2. Upon completion of the Right Turning Lane works on the Magherafelt Road, a stage 3 Safety Audit shall be carried out and completed to the approval of DFI Roads Authority in accordance with the Design Manual for Roads and Bridges, Standard GG119.

Reason: In the interest of road safety.

3. Pedestrian guardrail to be erected before occupation of dwellings. Location of guardrail to be at site frontage with connection to housing scheme in accordance with drawing 21.

Reason: In the interest of pedestrian safety.

4. A 5m high acoustic barrier (as specified within the F. R. Mark Noise Impact Assessment dated stamped 27<sup>th</sup> February 2019) shall be erected along the site's western boundary as presented on Drawing 11/2 dated 31<sup>st</sup> January 2019.

5. A 2m high acoustic barrier shall be erected to the rear garden boundaries of each dwelling. The barrier shall be constructed of either masonry, timber panelling (close lapped with no gaps) and shall have a minimum self-weight of 25Kg/m<sup>2</sup>

6. Glazing capable of providing a sound reduction of at least 28 dB R<sub>Tra</sub> with respect to the transmission of noise shall be provided to all habitable rooms facing onto the Magherafelt Road within dwellings No's 8, 9, 10, 11, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 & 37 as presented in submitted drawing number 11/2 dated 31<sup>st</sup> January 2019.

7. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 28dB R<sub>Tra</sub> when in the open position, shall be provided to all habitable rooms on the facades facing onto the Magherafelt Road within dwellings No's 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 as presented in submitted drawing number 11/2 dated 31<sup>st</sup> January 2019. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the



requirements contained within, "The Building Control Technical Booklet K – Ventilation 1998."

8. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 34 dB  $R_{Tra}$  when in the open position, shall be provided to all bedrooms on the facades facing onto the Magherafelt Road within dwellings No's 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 as presented in submitted drawing number 11/2 dated 31<sup>st</sup> January 2019. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, "The Building Control Technical Booklet K – Ventilation 1998."
9. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 34 dB  $R_{Tra}$  when in the open position, shall be provided to all bedrooms on the facades on the western boundary within dwellings No's 8, 9, 10, 11, 22, 23, 24, 25 as presented in submitted drawing number 'A02'. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, "The Building Control Technical Booklet K – Ventilation 1998."
10. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 28 dB  $R_{Tra}$  when in the open position, shall be provided to all habitable rooms on the facades along the western boundary within dwellings No's 18, 19, 20, 21, 22, 23, 24, 25 & 26 as presented in submitted drawing number 11/2 dated 31<sup>st</sup> January 2019. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, "The Building Control Technical Booklet K – Ventilation 1998."

**Reasons for 4-10: To protect residential amenity from noise due to road and industrial noise.**

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

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

12. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge

of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

**THE PRIVATE STREETS (NORTHERN IRELAND) ORDER 1980 AS AMENDED BY THE PRIVATE STREETS (AMENDMENT) (NORTHERN IRELAND) ORDER 1992.**

13. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 21 bearing the date stamp 27<sup>th</sup> Feb 2019.

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

14. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 19/1 bearing the date stamp 25 June 2018 The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

15. The visibility splays of 2.4 metres by 70 metres at the junction of the proposed access road with the Drumard Road, shall be provided in accordance with Drawing No 21 bearing the date stamp 27 February 2019, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

16. The development hereby permitted shall not be occupied until the street lighting infill scheme has been completed by the developer from the site to the existing street lighting network at Slievegallion Park in accordance with details to be submitted to and approved by DfI Roads. (This does not alleviate the developer of other street lighting requirements under the Private Streets Order).

Reason: To ensure the provision of a satisfactory street lighting system in the interest of road safety and the convenience of traffic and pedestrians

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

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

### **Informatives**

#### **1. THE PRIVATE STREETS (NORTHERN IRELAND) ORDER 1980 AND THE PRIVATE STREETS (AMENDMENT) (NORTHERN IRELAND) ORDER 1992.**

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the DfI Roads to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

The developer, future purchasers and their successors in title should note that DfI Roads will not adopt any 'street' as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992 until such time an Article 161 agreement between the developer and NI Water for the construction of foul and storm sewers including any attenuation holding tanks and discharge pipes has been fully implemented and works upon completion approved by NI Water Service.

Separate approval must be received from DfI Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

Under the terms of the Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from DfI Roads Street Lighting Consultancy, Marlborough House, Central Way, Craigavon, BT64 1AD. The Applicant is advised to contact DfI Roads Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the DfI Roads for which separate permissions and arrangements are required.

2. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
3. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Article 71 - 83 inclusive of the Roads (NI) Order 1993 to be in possession of the DRD's consent before any work is commenced which involves making openings to any fence or hedge bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.
4. Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges. In exceptional circumstances Departures from Standard maybe necessary and shall be supported by a full technical, safety, environmental and economic justification. All details shall be submitted to DfI Roads Network Services through the relevant Division.
5. It is the responsibility of the developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing roadside drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.
6. Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of Rivers Agency.
7. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.
8. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
9. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such

discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

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

11. Measures, including acoustic glazing, passive and mechanical ventilation to reduce internal noise levels, have been provided to all habitable rooms/bedrooms on facades of properties facing the Magherafelt Road and also the western boundary. It is anticipated that these measures will have to be used and maintained to provide a suitable internal acoustic environment.

12. The developer and future residents should be made aware that they may be periodically suffer a 'Loss of amenity' due to fugitive dust emissions, noise and odour.

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

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

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

All services within the development should be laid underground.

None of the development hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans. None of the developments shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Department. Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

14. 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.

15. This permission authorises only private domestic use of the proposed garages and does not confer approval on the carrying out of trade or business there from.

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

**Signature(s):**

**Date**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0126/F	<b>Target Date:</b>
<b>Proposal:</b>  Housing Development to include reduction of dwelling units to 37no units and alterations to house types from previous lapsed permission ref H/2008/0216/F	<b>Location:</b> Site at Magherafelt Road Draperstown at junction with Drumard Road
<b>Referral Route:</b> Objections received	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> Rea Developments 57 Drum Road Cookstown BT80 8QS	<b>Agent Name and Address:</b> Teague and Sally 3A Killycolp Road Cookstown BT80 9AD
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	



Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Content

**Representations:**

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

**Summary of Issues**

Approval recommended

**Characteristics of the Site and Area**

The site is located at the junction of Drumard Road and Magherafelt Road, Draperstown. The northern boundary is currently defined by a grass verge, post and wire fencing and sparse hedging. The Western boundary is defined by sparse trees and hedging, beyond the West of this boundary there is a large single storey building which is an industrial unit. The Southern boundary is defined by sparse trees and hedging. The Southern boundary which is adjacent to No 3 is defined by a conifer hedge. The southern half of the eastern boundary is defined by trees and hedging, whereas the Northern half of this boundary is defined by a post and wire fence. Due to the post and wire fencing along the eastern and northern boundaries the site is very open to the road when approaching the site in both directions along Magherafelt Road. The land within the site rises gently towards No 3 Drumard Road (a 2 storey dwelling), and also falls gradually from the North East corner towards the centre of the site.

**Description of Proposal**

Housing Development to include reduction of dwelling units to 37 units and alterations to house types from previous lapsed permission ref H/2008/0216/F

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

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan

Creating Places

Planning Policy Statement 3 - Access, Movement and Parking



In response to the objectors points it should be noted again that Environmental Health and IPRI have been consulted and responded with no reasons for refusal but rather stated that although the occupants of the proposed development may periodically suffer a loss of amenity due to noise, odour and the deposition of dust with the addition of conditions relating to specialised ventilation and sound proofing measures these issues could be controlled. In addition Environmental Health stated 'the applicant should be aware that recent case law has found that in the event of a complaint being made concerning alleged noise nuisance, only noise which is due to a material change in process and is in excess of that produced at the time planning permission was granted (should such be the case in this instance) can be considered in any investigation A condition advising any future inhabitants should also be advised of the potential for nuisance from nearby existing industry.

In response to Ms Kellys' points I feel the separation distance between the proposed housing and the objectors boundary is acceptable and then rear fences have been shown along the boundary in the form of 2.0m high close boarded and lapped timber acoustic fence with no gaps and a mass of at least 25kg/m2 along with planting, all of which would further provide extra screening and noise reduction.

It is a material consideration that a housing development was previously approved on site in 2010, circumstances nor planning policy have changed since this previous approval and the site is question is zoned for housing within the Magherafelt Area Plan 2015.

According to policy planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment.

It is my consideration that the proposed housing development is in keeping with the character and topography of the locality with all possible measures proposed to aid both neighbouring development and future residents. The proposal site does not have any impact on any neighbouring archaeological or built heritage features.

Ample provision has been given for both public and private open space and landscaped areas within the development proposal. An easy level of movement to and from the proposal site will be able to be achieved.

Parking levels are acceptable and have been confirmed with DfI. Although it has been recognised that at times there may be a loss of amenity for future residents from the neighbouring industrial land use the conditions presented by IPRI and Environmental Health address this potential in an acceptable manner.

The unit designs are of an acceptable design and mixed in style.

Having considered all of the above I feel this proposal should be recommended for approval.

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The application was deferred on behalf of the applicant at the Committee Meeting of 2 October 2018, in order that further information be submitted to be considered by the Council.

On the 6 November 2018 the agent submitted a Design Concept Statement, amended location plan, amended P1 and amended P2a form. Neighbours were re-notified on 9 November 2018.

PPS7, Policy QD2 states there is a requirement for the submission of a Design Concept Statement for all residential development. The document submitted on 23 October 2018 demonstrates how the proposed scheme takes account of the main features of the site and its context. It shows how the 37 dwellings have been designed sympathetically in terms of its layout and respects site and surrounding areas characteristics. The development meets the criteria shown in Policy QD1 therefore contributing to a quality residential development.

### Regulation of environmental impacts

The relevant enforcing authority for the Sperrin Galvanisers operation with regard Pollution Prevention and Control Regulations (NI) 2013 (i.e. controls over emissions of odour, dust and noise) is the Northern Ireland Environment Agency – Industrial Pollution and Radiochemical Inspectorate (IPRI). Detailed expertise with regard to impacts on amenity from ferrous metal production and the acceptability of control measures incident upon the proposed development lies with IPRI as the regulator.

IPRI were re-consulted to comment specifically on the submitted objection letters and the most recent EHO response to ensure that all potential environmental impacts, which may have a detrimental effect on amenity have been adequately evaluated where necessary. On 6 December 2018 IPRI replied, that if permission was granted, domestic dwellings would be periodically likely to suffer a loss of amenity due to noise, air emissions such as dust and odour and other impacts associated with the industrial activities of the adjacent Industrial Estate. After a telephone conversation with the case officer from IPRI on 11/12/18, I was advised that since the move to Councils, IPRI are unable to give any specific recommendations on the outcome of the proposal and can only state their advice, as on their consultation responses. They did state they considered all objections in their response and would recommend an informative 'that future occupants of this development may periodically suffer a loss of amenity due to noise, odour, and deposition of dust due to the presence of the adjacent industrial estate and its associated activity'. However, they did not object in April 2009 to the original application decided at that time by the DOE.

In relation to objector comments regarding the amount of mitigation required to ensure the proposal is acceptable by Environmental Health, conditions will be provided to ensure this is carried out.

The objector also raises the issue that the application site has increased since the original submission, and now they are concerned it has gone above the 2 hectares threshold and should be treated as a major development. The red line had been amended for access purposes and the agent has now submitted an amended location plan 01Rev 2 dated 6 November 2018 reducing the red line to include the public road only where physical construction works are required. Other areas of the public road required but not involving any construction, eg. for visibility, are identified in blue.

They have also attached a revised P1 form that confirms the revised site area of 1.9 hectares, and confirms that notice has been served on DfI Roads.

Taking into account all relevant policy in PPS7, consultation responses, objector concerns and the history on the site, an approval is recommended with the conditions stated.

### Neighbour Notification Checked

Yes

### Summary of Recommendation:

Approval recommended



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

8. Glazing capable of providing a sound reduction of at least 28dB R Tra with respect to the transmission of noise shall be provided to all habitable rooms and glazing capable of providing a sound reduction of at least 23 dB R Tra with respect to the transmission of noise shall be provided to all bedrooms facing onto the Magherafelt Road within dwellings No's 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 as presented in submitted drawing number 03/3 dated 28th March 2018.

Reason: In the interest of amenity

9. Glazing capable of providing a sound reduction of at least 28 dB R Tra with respect to the transmission of noise shall be provided to all habitable rooms and glazing capable of providing a sound reduction of at least 23 dB R Tra with respect to the transmission of noise shall be provided to all bedrooms on the western boundary of the site within dwellings No's 18, 19, 20, 21, 22, 23, 24, 25 as presented in submitted drawing number 03/3 dated 28th March 2017.

Reason: In the interest of amenity.

10. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 28dB R Tra when in the open position, shall be provided to all habitable rooms on the facades facing onto the Magherafelt Road within dwellings No's 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 as presented in submitted drawing number 03/3 dated 28th March 2018. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within. 'The Building Control Technical Booklet K - Ventilation 1998'.

Reason In the interest of amenity.

11. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 34 dB R Tra when in the open position, shall be provided to all bedrooms on the facades facing onto the Magherafelt Road within dwellings No's 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 as presented in drawing number 03/3. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, ' The Building Control Technical Booklet K - Ventilation 1998'.

Reason: In the interest of amenity.

12. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 34 dB R Tra when in the open position, shall be provided to all bedrooms on the facades on the western boundary within dwellings No's 118, 19, 20, 21, 22, 23, 24, 25 as presented in submitted drawing number 03/3. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, 'The Building Control Technical Booklet K - Ventilation 1998'.

Reason In the interest of amenity

13. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 28dB R Tra when in the open position, shall be provided



Separate approval must be received from DfI Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

Under the terms of the Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from DfI Roads Street Lighting Consultancy, Marlborough House, Central Way, Craigavon, BT64 1AD. The Applicant is advised to contact DfI Roads Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the DfI Roads for which separate permissions and arrangements are required.

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

3. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Article 71 - 83 inclusive of the Roads (NI) Order 1993 to be in possession of the DRD's consent before any work is commenced which involves making openings to any fence or hedge bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.

4. Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges. In exceptional circumstances Departures from Standard may be necessary and shall be supported by a full technical, safety, environmental and economic justification. All details shall be submitted to DfI Roads Network Services through the relevant Division.

5. It is the responsibility of the developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing roadside drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.

6. Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of Rivers Agency.

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

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

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

15.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.

16.This permission authorises only private domestic use of the proposed garage/premises and does not confer approval on the carrying out of trade or business there from.

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

**Signature(s)**

**Date:**

Ref ID: H/2000/0261/Q  
Proposal: Proposed Housing Development  
Address: Magherafelt Road, Draperstown  
Decision:  
Decision Date:

Ref ID: H/1995/0105  
Proposal: SERVICE ROAD TO INDUSTRIAL ESTATE  
Address: MAGHERAFELT ROAD DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1993/0134  
Proposal: SITE OF INDUSTRIAL DEVELOPMENT  
Address: MAGHERAFELT ROAD DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1992/0623  
Proposal: SITE OF INDUSTRIAL DEVELOPMENT  
Address: MAGHERAFELT RD DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1995/0009  
Proposal: WORKSHOP AND OFFICES  
Address: MAGHERAFELT ROAD DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1977/0285  
Proposal: LIVESTOCK SALES YARD AND ANCILLARY BUILDINGS  
Address: GORTNASKEY, DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1992/6086  
Proposal: INDUSTRIAL SITE MAGHERAFELT RD DRAPERSTOWN  
Address: MAGHERAFELT RD  
Decision:  
Decision Date:

Ref ID: H/2000/0778/F  
Proposal: Proposed Store

Ref ID: H/1990/0213  
Proposal: PROPOSED RESIDENTIAL HOME FOR THE ELDERLY  
Address: MAGHERAFELT ROAD/DRUMARD ROAD DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/2002/0778/O  
Proposal: Site for Housing Development  
Address: Magherafelt Road/Drumard Road junction, Draperstown  
Decision:  
Decision Date: 24.11.2003

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Status: Submitted

Drawing No. 13

Type: Site Layout or Block Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:





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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2017/1196/A	<b>Target Date:</b>
<b>Proposal:</b> Business signage; including signage on South & West Elevations and free standing sign in front of building	<b>Location:</b> 15-17 Church Street Magherafelt
<b>Applicant Name and Address:</b> Danny Mulholland Mid Ulster Back Care and Physiotherapy 15-17 Church Street Magherafelt	<b>Agent name and Address:</b> McGurk Architects 33 King Street Magherafelt BT45 6AR
<b>Summary of Consultee Responses:</b>  HED still object to the amended plans submitted.	
<b>Recommendation:</b> Refusal	
<b>Characteristics of the Site and Area:</b>  The site is located within the development limits of Magherafelt as defined by the Magherafelt Area Plan 2015. The site is located at 15 - 17 Church Street Magherafelt and contains a large two storey building. The building is located at the end of terrace row with dual frontage onto both Church Street and King Street.  The area is characterised by a mix of uses including retail, office and residential uses.	

**Description of Proposal**

The site (existing building) is within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for retention of business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance. The telephone kiosk adjacent is Grade B2 listed.

**Deferred Consideration:**

This proposal was presented as a refusal to Planning Committee in Feb 2019 and was subsequently deferred for an office meeting with the Area Planning manager, Dr.Boomer which was held on 14<sup>th</sup> Feb 2019. The reasons for refusal were as follows;

1.The proposal is contrary to Policy AD1 of Planning Policy Statement 17, Control of Outdoor Advertisements, in that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018, does not respect amenity, when assessed in the context of the general characteristics of the locality.

2.The proposal is contrary to Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the Planning Act (Northern Ireland) 2011 and that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018 would adversely affects the setting of a listed building.

Following the office meeting, the agent was asked to submit amended plans in an attempt to address the concerns of HED.

There is no issue with the signs to go on the walls of the building.

The free standing sign has been reduced from 3 legs to two, and instead of two boards it would be metal signal board which is double sided. The agent advised they could not reduce the board to one leg because of the structural stability and durability of the sign would be greatly reduced.

HED have re-considered the impact of the amended proposal on the building and on the basis of the information provided HED advises their views remain unchanged. The sign is inappropriate in scale and detrimental to the setting and style of the listed building. In the context of the street scene HED;HB further consider that it has a negative impact on the setting of the adjacent telephone kiosk (HB08/15/017) which has a grade B2 listing.

Mid Ulster Council would have the same concerns in relation to the free standing sign as HED and support the refusal on the same grounds. If MUDC were to go against the recommendation of HED, the application must then be deferred to The Department of Environment to be dealt with by them, in line with The Planning Act (NI) 2011.

The proposal remains contrary to policy AD1 of PPS17 in that it would, if approved, adversely impact upon the visual and residential amenity of the locality. The proposal is also contrary to policy BH11 of PPS6 in that it would, if approved, adversely affect the setting of a listed building and listed telephone kiosk.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22<sup>nd</sup> Feb 2019. Policy GP1 – General Principles Planning Policy, and policy HE11 – Adverts on a listed building or structure, are applicable to this application.

This proposal is therefore in conflict with the Draft Plan Strategy, however no significant weight can be given to this document as it is only at early public consultation stage. The proposal remains to be in conflict with current planning policy.

### **Refusal Reasons**

1. The proposal is contrary to Policy AD1 of Planning Policy Statement 17, Control of Outdoor Advertisements, in that the freestanding as identified on drawing No 03 Rev 02, which was received on 29<sup>th</sup> March 2019, does not respect amenity, when assessed in the context of the general characteristics of the locality.

2. The proposal is contrary to Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the Planning Act (Northern Ireland) 2011 and that the freestanding as identified on drawing No 03 Rev 2, which was received on 29<sup>th</sup> March 2019 would adversely affects the setting of a listed building and listed telephone kiosk.

**Signature(s):**

**Date**



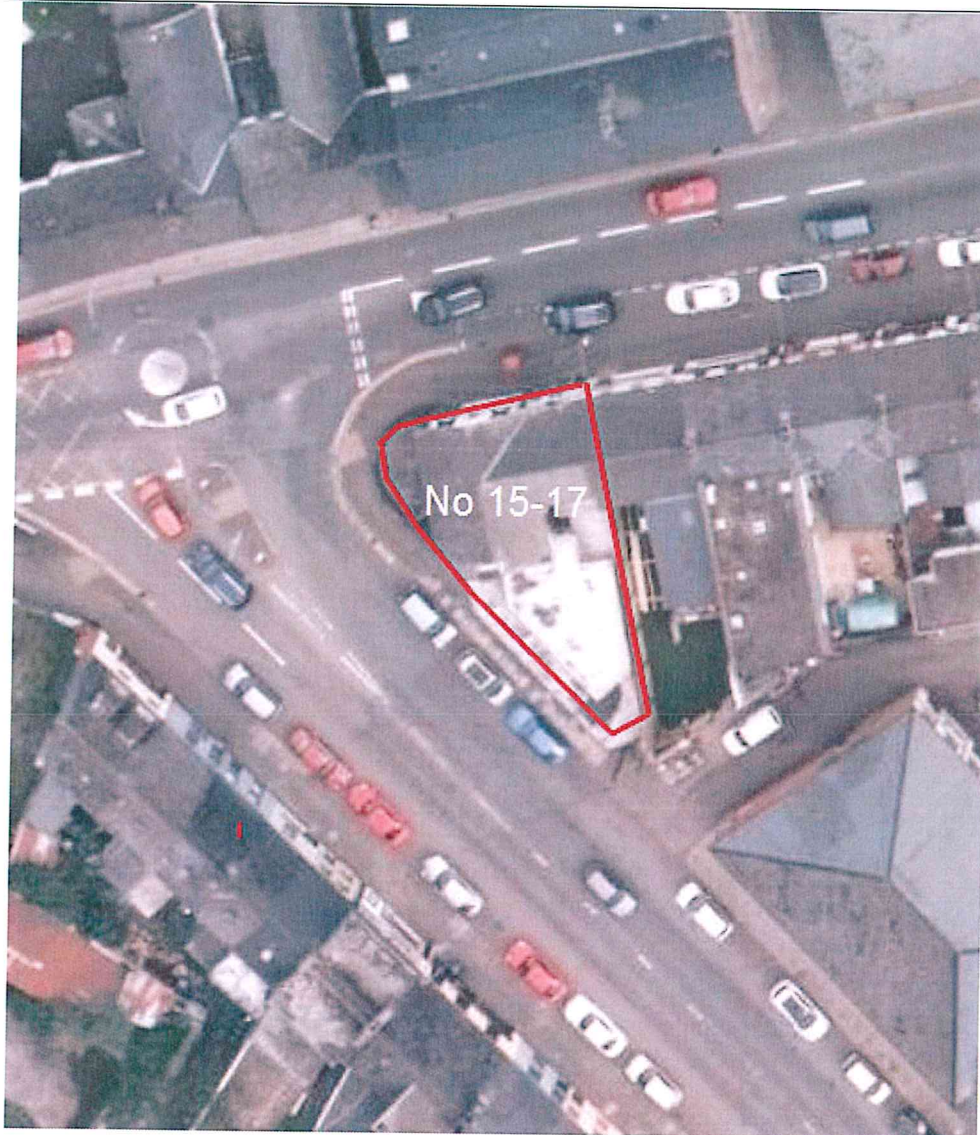
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1196/A	<b>Target Date:</b>
<b>Proposal:</b> Business signage; including signage on South & West Elevations and free standing sign in front of building	<b>Location:</b> 15-17 Church Street Magherafelt
<b>Referral Route:</b> Contrary to AD 1 of PPS 17 and BH11 of PPS 6.	
<b>Recommendation:</b>	<b>Refuse</b>
<b>Applicant Name and Address:</b> Danny Mulholland Mid Ulster Back Care and Physiotherapy 15-17 Church Street Magherafelt	<b>Agent Name and Address:</b> McGurk Architects 33 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Historic Environment Division (HED)	Substantive Response Received
Non Statutory	Historic Environment Division (HED)	Substantive Response Received
Non Statutory	Historic Environment Division (HED)	

### Representations:

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



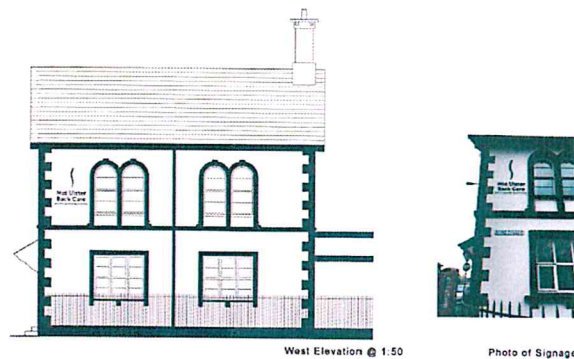
Number of Petitions of Objection and signatures	No Petitions Received
<b>Summary of Issues:</b> None	
<b>Characteristics of the Site and Area</b> The site is located within the development limits of Magherafelt as defined by the Magherafelt Area Plan 2015. The site is located at 15 - 17 Church Street Magherafelt and contains a large two storey building. The building is located at the end of terrace row with dual frontage onto both Church Street and King Street. The area is characterised by a mix of uses including retail, office and residential uses.	
<b>Description of Proposal</b> The site (existing building) is within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for retention of business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance.	
<b>Planning Assessment of Policy and Other Material Considerations</b>  <b>Relevant Planning History</b> LA09/2016/0725/F - Proposed alterations to provide new residential apartment above existing commercial units at 15 - 17 Church Street Magherafelt. Approved 24th May 17. LA09/2017/0087/CA – An enforcement case for unauthorised signage is ongoing. Further action will depend on the outcome of subject planning application LA0/2017/1196/A and LA09/2018/1521/LBC.  <b>Representations:</b> No neighbours notified under an advertisement application No letter of representation have been received  <b>Development Plan, Legislation and Key Policy Consideration</b> The site (existing building) is within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance.  <b>Magherafelt Town Centre: Design Guide</b> – Section 7 deals with signage and advertisement, paragraph 7.1 state that signage and advertisements within the Town Centre the proportion of a sign must relate to the elevation on which it is placed. If a sign is too large it can disrupt the appearance of a building and also of the street scene in general while if too small it can be insignificant and ineffective.  <b>Legislation:</b> Section 130 of The Planning Act (Northern Ireland) 2011 refers to The Planning (Control of Outdoor Advertisements) Regulations (Northern Ireland) 2015 and Section 80 of the Planning Act (Northern Ireland) 2011 refers to The Planning (Listed Building) Regulations (Northern Ireland) 2015  <b>Planning Policy:</b> The primary policy context is provided by Policy AD 1 of Planning Policy Statement 17: Control of Outdoor Advertisement (PPS 17). Policy AD 1 of PPS 17 states that consent	

will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality and it does not prejudice public safety. Policy BH9 of Planning Policy Statement 6 Planning Archaeology and the Built Heritage states that consent for advertisement or signs on a listed building where they are design and located to respect the architectural form and detailing of the building and Policy BH11 of Planning Policy Statement 6 Planning Archaeology and the Built Heritage states that development proposals will normally only be considered appropriate where all the following criteria are met:

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;
- (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and
- (c) the nature of the use proposed respects the character of the setting of the building.

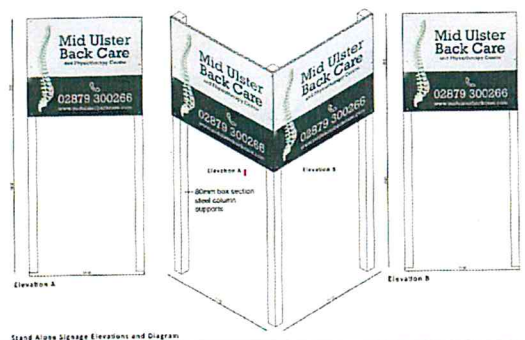
### Amenity and Impact on a Listed Building

**SIGN 1:** Is a small signage text with the wording 'Mid Ulster Back Care and Physiotherapy Centre' in small black lettering located on the first floor west elevation:-



It is my opinion that the small signage text on the west elevation respects the amenity of the local area and has been carefully designed and located to respect the architectural form and detailing of the building. Historic Buildings advise that they are also content with the small signage text.

**SIGN 2:** Is a freestanding sign located in a corner plot at the front of the premises sited between ornate cast iron railing and two ground floor windows. The sign is 1500mm above ground level and mounted on three 80mm box section steel poles supporting two 1110mm x 950 signs:-



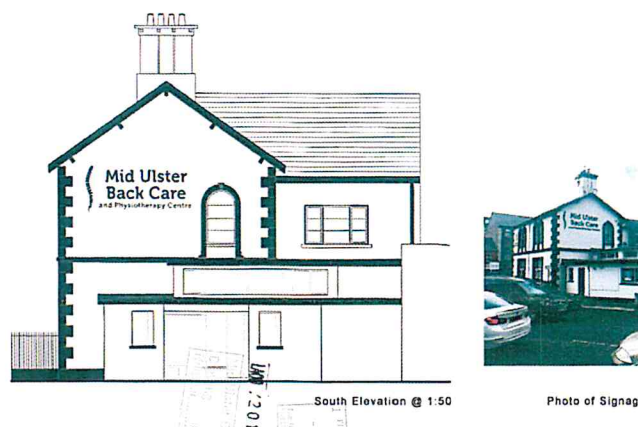


Historic Buildings advise that the large free standing at 2450mm high is a dominant feature and detracts from and obscures the listed building street frontage. The Council also supports Historic Buildings viewpoint and whilst their consultation response did not request that the sign be removed, given that the sign has already been erected the only way to move forward is for the sign to be removed from the proposal. The applicant was contacted on 1st November 2018 and advised to remove the free standing from the proposal. The applicant responded on the 5th November arguing that the historic architectural detailing of this building are at a very basic level and that the sign will not have an impact on important historic features which can still be viewed while moving around this corner of the property. It is acknowledged that the sign is not attached to the building, however the close proximity is such that a substantial element of the façade is masked. It is my opinion that the advertisement is contrary to policy AD1 of PPS 17 as it does not respect amenity, when assessed in the context of the general characteristics of the locality and as a result, the freestanding sign is contrary to BH 11 of PPS 6 in that it adversely affects the setting of a listed building.

However, as an alternative the Council will consider an appropriate hanging sign on the front facade similar to the image below. This type of traditional sign would help to complement the historic importance of the building and the area.



**SIGN 3:** Is a large signage text with the wording 'Mid Ulster Back Care and Physiotherapy Centre' in small black lettering located on south (gable) elevation:-



Historic Buildings has requested that the large signage text on the south elevation should be reduced in scale and size. However, the Council does not share Historic



Buildings viewpoint because the signage text on the gable façade replaced previous signage text albeit the lettering is slightly larger than the previous sign. In addition, the signage text is located on a less prominent elevation and as a result can only be viewed when travelling in a north-westerly direction along King Street towards the town centre. Therefore, it is my opinion that the large signage text on the west elevation respects the amenity of the local area and has been designed and located to respect the architectural form and detailing of the building.

### Deemed Consent

The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 Schedule 3 Regulation 5 – Part 1 – Classes of Advertisement which may be displayed with deemed consent.

Class 5 - Advertisements (other than illuminated advertisements) on business premises is pertinent to **SIGN 1 & SIGN 3**, however both signs are not permitted by Class 5 for the following reasons:

1. the 'spinal cord symbol' on the wall is more than 0.3m in height - condition (c).
2. the sign is higher than the bottom of the first floor window on the wall on which the advertisement is displayed - condition (d).

Class 6 - An advertisement on a forecourt of business premises is pertinent to **SIGN 2**, however the sign is not permitted by Class 6 for the following reason:

1. the 'spinal cord symbol' on the wall is more than 0.3m in height - condition (c).

### Public Safety

Transport NI have responded with no objections to the proposal subject to a number of informatives, mainly in relation to the illuminated part of the proposed signage and therefore public safety is not considered an issue.

<b>Neighbour Notification Checked</b>	<b>N/A</b>
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**Summary of Recommendation:** The proposal is contrary to policy AD1 of PPS17 in that it would, if approved, adversely impact upon the visual and residential amenity of the locality. The proposal is also contrary to policy BH 11 of PPS 6 in that it would, if approved, adversely affect the setting of a listed building.

### Reasons for Refusal:

#### Refusal Reasons

1. The proposal is contrary to Policy AD1 of Planning Policy Statement 17, Control of Outdoor Advertisements, in that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018, does not respect amenity, when assessed in the context of the general characteristics of the locality.

2. The proposal is contrary to Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the

Planning Act (Northern Ireland) 2011 and that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018 would adversely affects the setting of a listed building.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	6th September 2017
<b>Date First Advertised</b>	
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/1196/A Proposal: Buisness signage on South and West elevations, banner on railings and free standing sign in front of building Address: 15-17 Church Street, Magherafelt, Decision: Decision Date:  Ref ID: H/2007/1100/F Proposal: Mixed use development incorporating ground floor retail units at nos 17 to 21, first floor office accommodation at nos 17 to 21 and apartment to rear of 17 to 21 Address: 17-21 Church Street, Magherafelt Decision: Decision Date: 26.02.2009  Ref ID: H/1993/0099 Proposal: CHANGE OF USE TO ART GALLERY AND PICTURE FRAMING(LBC) Address: 15-17 CHURCH STREET MAGHERAFELT Decision: Decision Date:  Ref ID: H/1993/0098 Proposal: CHANGE OF USE TO ART GALLERY AND PICTURE FRAMING WORKSHOP Address: 15-17 CHURCH STREET MAGHERAFELT Decision: Decision Date:  Ref ID: H/2007/0920/LB	

Proposal: Mixed used development incorporating ground floor retail units at 17-21, first floor office accommodation and apartment to rear of 17-21

Address: 17-21 Church Street, Magherafelt

Decision:

Decision Date: 26.02.2009

Ref ID: LA09/2016/0725/F

Proposal: Proposed alterations to provide new residential apartment above existing commercial units at 15 - 17 Church Street Magherafelt

Address: 15 - 17 Church Street Magherafelt,

Decision: PG

Decision Date: 30.05.2017

Ref ID: LA09/2016/0723/LBC

Proposal: New doorway to 15 Church Street to provide access to new apartment above No's 15 and 17. Amendment to existing stair to provide access to apartment. Removal of existing wall in No 17 and breaking through to create internal toilet area for the existing commercial unit

Address: 15-17 Church Street, Magherafelt,

Decision: CG

Decision Date: 24.05.2017

Ref ID: LA09/2015/0996/LBC

Proposal: Internal fit out of 19 with demolition and replacement of rear return for structural reasons

Address: 19-21 Church Street, Magherafelt, BT45 6AP,

Decision: CG

Decision Date: 03.06.2016

Ref ID: LA09/2015/0880/F

Proposal: Proposed new lounge and waiting area with external dining garden, associated toilets and serving area.

Address: 19-23 Church Street, Magherafelt, BT45 6AP,

Decision: PG

Decision Date: 03.06.2016

## Summary of Consultee Responses



**Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Proposed Elevations

Status: Submitted

Drawing No. 03 Rev 1

Type: Sign Details

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/0425/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed relocation of dwelling from that on the previous approval H/2008/0322/F	<b>Location:</b> 45m South of 7a Crocknamohil Road Draperstown
<b>Applicant Name and Address:</b> D and A Developments 8 Grange Road Magherafelt	<b>Agent name and Address:</b> Lissan Design 45 Letteran Road Moneymore BT45 7UB
<b>Recommendation:</b> Approval	
<b>Characteristics of the Site and Area:</b>  <p>The proposal site is located within part of a large agricultural field on the roadside of Crocknamohill Road. The roadside half of the site is at the same level as the roadside while the rear portion drops considerably in levels. A previous approval for a dwelling and garage was approved under H/2008/0322/F which had the dwelling sited in the rear portion however this revised proposal has the dwelling sited in the roadside portion of the field.</p> <p>The site is bounded on all sides by a post and wire fence and mature hedging and vegetation. Due to the surrounding topography and vegetation there are no long distant critical views of the site. Immediately adjacent to the proposal site on the western side is a long established metal works firm while directly opposite the proposal site are several detached single storey dwellings. The development pattern is that of roadside single storey properties.</p>	

## **Description of Proposal**

Full application for - relocation of dwelling previously approved under H/2008/0322/F.

## **Deferred Consideration:**

The application was presented as a refusal to Planning Committee in March 2019 for the following reason;

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.

At Committee it was deferred for an office meeting which was held on 14th March 2019 with the agents and Area Manager, Dr.Boomer.

An argument for CTY2a was put forward and the site is to be re-assessed under this policy criteria.

History on the site shows there was a previous approval under H/2008/0322/F, granted on 17.09.2008. It had been determined that insufficient evidence existed to demonstrate that development had commenced on site and that there was no material start made in line with the approval. Although determining weight cannot be given to this, it is a material consideration that an approved dwelling would have been built if the pre-commencement conditions had been met.

The site was visited on 4th April 2019. In terms of CTY2a, the agent argued in relation to the cluster to take into account K-Scroll Business premises and an existing horse training facility.

Planning permission will only be granted for a dwelling at an existing cluster of development provided all the following criteria are met;

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

The site does lie outside of a farm and there are more than 4 buildings, of which at least 3 are dwellings.

**The cluster appears as a visual entity in the local landscape;**

The cluster can be seen as a visual entity.

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

There is no obvious focal point as described above, nor is the site located at a crossroads. The agent indicated K'Scroll, this is however a commercial business premises and therefore cannot be counted as part of the cluster. The Horse training school was

mentioned as a potential focal point. When at the site two horses were being ridden in the area identified, however it is far removed in terms of visual linkage with the site.

However the large industrial shed adjacent to the side could be viewed as a focal point, which is well known in the locale, and would visually link to a dwelling on the site. There is a 'sense of identity' at and surrounding the site.

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

There are no issues in relation to lack of integration and the proposed re-siting in general terms would be acceptable. The site is bounded on two sides with development in the cluster.

**Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and**

The site would not significantly alter the existing character of the area or visually intrude into the open countryside. There are a number of various types of developments in the locale and this site would not cause an issue in these terms.

**Development would not adversely impact on residential amenity.**

An objection was received in relation to loss of a view and loss of privacy. The right to a view is not a planning consideration.

In terms of loss of privacy there would be no significant impact, as the dwelling would be sited on the opposite side of the road.

It would be unlikely there would be any adverse impact on residential amenity.

A dwelling on the site would not have any significant visual impact on the existing character of the area, and there would be no detrimental impact on the locale due to its scale, size or siting. Design and finishes are acceptable.

On balance, taking into account the previous history, that it is within the spirit of CTY2a, and that there will be no significant alteration to the character of the area, approval is recommended.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22<sup>nd</sup> Feb 2019. Policy GP1 – General Principles Planning Policy, Policy CT1- General Policy and Policy CT2 Dwellings in the Countryside are applicable to this application.

This proposal is therefore in conflict with the Draft Plan Strategy, however no significant weight can be given to this document as it is only at early public consultation stage. The proposal remains to be in conflict with current planning policy.



**Conditions:**

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

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

2. The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be in place, in accordance with Drawing No. 02 bearing the date stamp 22nd March 2018, prior to the commencement of any other works or other development hereby permitted.

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

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

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

4. The existing natural screenings of the site and those proposed, as shown on approved drawing ref: 02 date stamped received 27<sup>th</sup> March 2018 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

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

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



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	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0425/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed relocation of dwelling from that on the previous approval H/2008/0322/F	<b>Location:</b> 45m South of 7a Crocknamohil Road Draperstown
<b>Referral Route:</b> Proposal contrary to CTY1 of PPS21. One objection received.	
<b>Recommendation:</b> <b>Refusal</b>	
<b>Applicant Name and Address:</b> D and A Developments 8 Grange Road Magherafelt	<b>Agent Name and Address:</b> Lissan Design 45 Letteran Road Moneymore BT45 7UB
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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



**Summary of Issues**

One objection received from owner/occupier of 7a Crocknamohill Road, Draperstown.

**Characteristics of the Site and Area**

The proposal site is located within part of a large agricultural field on the roadside of Crocknamohill Road. The roadside half of the site is at the same level as the roadside while the rear portion drops considerably in levels. A previous approval for a dwelling and garage was approved under H/2008/0322/F which had the dwelling sited in the rear portion however this revised proposal has the dwelling sited in the roadside portion of the field.

The site is bounded on all sides by a post and wire fence and mature hedging and vegetation. Due to the surrounding topography and vegetation there are no long distant critical views of the site. Immediately adjacent to the proposal site on the western side is a long established metal works firm while directly opposite the proposal site are several detached single storey dwellings. The development pattern is that of roadside single storey properties.

**Description of Proposal**

Full application for - relocation of dwelling previously approved under H/2008/0322/F

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

I have assessed this proposal under the following:

**SPSS**

Magherafelt Area Plan 2015

Planning Policy Statement 21 - Sustainable development in the countryside

Site History - H/2008/0322/F - approval granted for dwelling and garage, granted 17.09.2008

Consultees: - Environmental Health were asked to comment and responded on 02.05.2018 with no objections.

NI Water were asked to comment and responded on 20.04.2018 with no objections subject to advice.

Transportni were asked to comment and responded on 09.05.2018 with no objections subject to conditions and advice.

HED were asked to comment as the proposal site is within close proximity to an archaeological site and monument LDY: 041:015, they responded on 20.04.2018 with no objections to the proposal.

Neighbours: Owners/Occupiers of Nos. 5, 7, 7a, 7b, 9 \_ 9a Crocknamohill Road were notified of the proposal on 18.04.2018. One objection has been received from the owner/occupier of No. 7a Crocknamohill Road, Joanne Kelly. This objection was received on 15.05.2018 and the main points raised where:

- potential loss of view from the objectors residence
- potential overshadowing
- potential loss of privacy

- potential loss of character.

Having consideration of the objectors points it should be noted that the right to a view is not a planning consideration. Although it is my consideration that the proposed dwelling is for a modest single storey property and with it being sited on the opposite side of the road approx. 40metres from No 7a it is unlikely that there would an unacceptable level of overshadowing, loss of privacy or character caused.

This proposal is for the relocation of a dwelling previously approved under H/2008/0322/F. This was granted 17.09.2008. No evidence was submitted with the application to demonstrate that development had commenced for this previous approval thus I requested from the agent for this supporting information to be submitted by 1st October 2018. Additional information was submitted stating that Magherafelt District Council Building Control department had carried out a site inspection on 17.09.2013 and that excavations had commenced in firm sandy gravel. This was confirmed by Gerry McCann of the Building control department. However no supporting evidence has been submitted to indicate that pre-commencement conditions had been adhered to prior to the expiry of this previous approval, thus the excavations were carried out unlawfully and are not accepted as evidence that development has commenced on site.

This proposal is for the relocation of this previous approval pulling the siting of the dwelling to a roadside location rather than set in the back of the field as the development pattern within this locality is for roadside single storey properties this revised siting would be in keeping with the development pattern. In addition the prevailing house type is that of a single storey property which this proposal is in keeping with. A full and detailed landscaping plan has been included.

Upon consideration it appears that the previous approval has expired prior to any lawful development having taken place and as such a refusal should be recommended.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refusal recommended

#### Refusal Reasons:

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

#### Signature(s)

Date:



ANNEX	
<b>Date Valid</b>	26th March 2018
<b>Date First Advertised</b>	12th April 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Crocknamohil Road Desertmartin Londonderry The Owner/Occupier, 5 Crocknamohil Road Desertmartin Londonderry The Owner/Occupier, 7 Crocknamohil Road Desertmartin Londonderry The Owner/Occupier, 7a Crocknamohil Road Desertmartin The Owner/Occupier, 7b Crocknamohil Road Desertmartin The Owner/Occupier, 9 Crocknamohil Road Draperstown Londonderry The Owner/Occupier, 9a Crocknamohil Road Draperstown Joanne Kelly Email Address	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0425/F Proposal: Proposed relocation of dwelling from that on the previous approval H/2008/0322/F Address: 45m South of 7a Crocknamohil Road, Draperstown, Decision: Decision Date:  Ref ID: H/2009/0612/F Proposal: Proposed extension to existing workshop for storage purposes including the provision for carparking Address: Adjacent to no.10 Crocknamohill Road, Draperstown Decision: Decision Date: 05.03.2010	

Ref ID: H/1982/0357

Proposal: Alterations and additions to bungalow

Address: 10 Crocknamohill Road, Draperstown

Decision:

Decision Date:

Ref ID: H/1993/0408

Proposal: workshop/store

Address: beside 10 Crocknamohill Road, Draperstown

Decision:

Decision Date:

Ref ID: H/1998/0103

Proposal: site of dwelling

Address: opposite 7B Crocknamohill Road Desertmartin Magherafelt

Decision:

Decision Date:

Ref ID: H/2004/0475/O

Proposal: Site of 1 no Dwelling and garage

Address: 90m South of 7A Crocknamohill Road, Draperstown

Decision:

Decision Date: 27.04.2005

Ref ID: H/2008/0322/F

Proposal: Proposed 1½ storey dwelling (Ridge height 7.0 mts) & domestic garage

Address: 90m South of No. 7a Crocknamohill Road, Draperstown

Decision:

Decision Date: 19.09.2008

Ref ID: H/1998/0472

Proposal: site of dwelling

Address: opposite 7B Crocknamohill Road Desertmartin Magherafelt

Decision:

Decision Date:

Ref ID: H/2007/0576/F

Proposal: The removal of Condition 5 from outline planning permission Ref: H/2004/0475/O (the depth of underbuilding between finish floor level and existing ground level shall not exceed 0.45m at any point).

Address: 90m South of 7A Crocknamohill Road, Draperstown

Decision:

Decision Date: 22.11.2007

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

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

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

Drawing No. 04  
Type: Proposed Elevations  
Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/0746/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> One dwelling house and domestic garage	<b>Location:</b> 50m North East of 49 Fivemile Straight Carnamoney Draperstown
<b>Applicant Name and Address:</b> Mr Connor McPeake 31a Spring Road Ballinderry Cookstown BT80 0BD	<b>Agent name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 2 miles northwest of Moneyneany in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is located on the Five Mile Straight between two dwellings, Nos 47a and 53b and consist of a cut out portion of a linear agricultural field. The site rises gradually from the road for approximately 140m, levels out for a short distance and falls away to the rear. The northeast boundary consists of existing mature hedgerow approximately 2-4m high and trees, the northwest and southwest boundaries are defined by post and wire fence and the southeast boundary is undefined.	
<b>Description of Proposal</b>  The application seeks outline planning permission for a proposed infill dwelling and garage.	

**Deferred Consideration:**

This application was presented as a refusal to Planning Committee in September 2018 and deferred for an office meeting held on 18th September 2018 with the Area Planning manager.

The application had been presented as a refusal for the following reasons;

- 1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent an infill opportunity and would, if permitted, result in the creation of ribbon development along this stretch of the Fivemile Straight.
- 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, be unduly prominent in the landscape and would result in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode the rural character of the countryside.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed two dwelling would be a prominent feature in the landscape, lacks long established natural boundaries, is unable to provide a suitable degree of enclosure, relies primarily on the use of new landscaping for integration, fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.
- 5.The proposed development would, if permitted, prejudice the safety and convenience of road users since it has not been demonstrated that the applicant can provide the necessary land within the application site to provide the north western visibility splay.

At the office meeting, it was agreed the agent would submit a farm case and a site visit would be carried out, and the proposal then re-considered.

A P1C form, farm map and receipts/supporting info were submitted on 14 Dec 2018, the applicant advised they have just applied for a farm Business ID (received 27March 2019-ref 66 42 12). The land is currently leased out to a neighbouring farmer (who has his own business number but has recently got approval for a dwelling using this). The land is

maintained in good agricultural condition and hedges trimmed regularly. Supporting information has been submitted to show that ploughing and re-seeding is done every 5 years, sowing fertiliser is done annually and slurry is added annually, and that this work has been carried out in excess of 6 years.

The owner of the land, and the name of the active farmer is Mary T Rafferty of 49 Fivemile Straight, her future son in law Conor McPeake is the applicant, who now have a young family and want to move close to family. No 47a and 51 are brothers of Mary Rafferty. Their father farmed the land until he died and Mary's husband, herself nor her brothers have not been involved in the farming of the land. Since 1983 when Marys moved there she has rented the farm land out in concacre.

Although there is no Bus ID, no has been applied showing the intention of farming in the future and after discussion with the Planning Manager it would appear to fall within the spirit of CTY10 policy, in terms of criteria (a) of the active and established farming criteria. In relation to part (B) no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application.

Criteria (c) goes on the state the new dwelling should be visually linked or sited to cluster with an established group of buildings on the farm and access should be obtained from an existing laneway. An existing laneway is now being used shown by the amended plans.

There are no buildings indicated on the farm land`, however the applicants mother law and her 2 brothers live in dwellings to the west, with associated farm buildings. From a site visit was carried out on 15th October 2018. It would be visually linked with these from the site and if sited on the southern part of the site would cluster with existing development as per CTY10, although it would be on elevated land so a height restriction would be necessary. A low storey dwelling with a siting condition on this part of the site would not erode the existing rural character along this part of the road.

Dwellings No.53, 53a and 53b, which are low storey dwellings at the roadside, are unrelated to the applicant or owner of the farm holding.

There is a strong hedge boundary along the east, with a post and wire fence to the west. Along the roadside is post and wire fence. New planting would be required to the undefined boundaries to enclose the site and provide the needed integration. A detailed landscaping plan should be requested at RM stage to ensure integration for a dwelling with a low ridge height.

In terms of the Roads service issue, an amended plan showing the red line increased to include the existing laneway was submitted and DFI have replied with a condition and no objection.

Condition siting, ridge height of 6.5m, landscaping plan and DFI Rds condition.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy and CT1 & CT2 are applicable to this application. This proposal is in keeping with both of these policies. As such, the development is in conformity with the Draft Plan Strategy even though it holds no determining weight as it is only at early consultation stage.

### **Conditions**

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

4. The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level

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

5. The proposed dwelling shall be sited in the area hatched red on the approved plan 01/01 date stamped 14 December 2018

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

6. A detailed landscaping plan should be submitted at reserved matters stage to show all proposed and retained trees and hedgerows to ensure all undefined boundaries are planting out.

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



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

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

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

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**



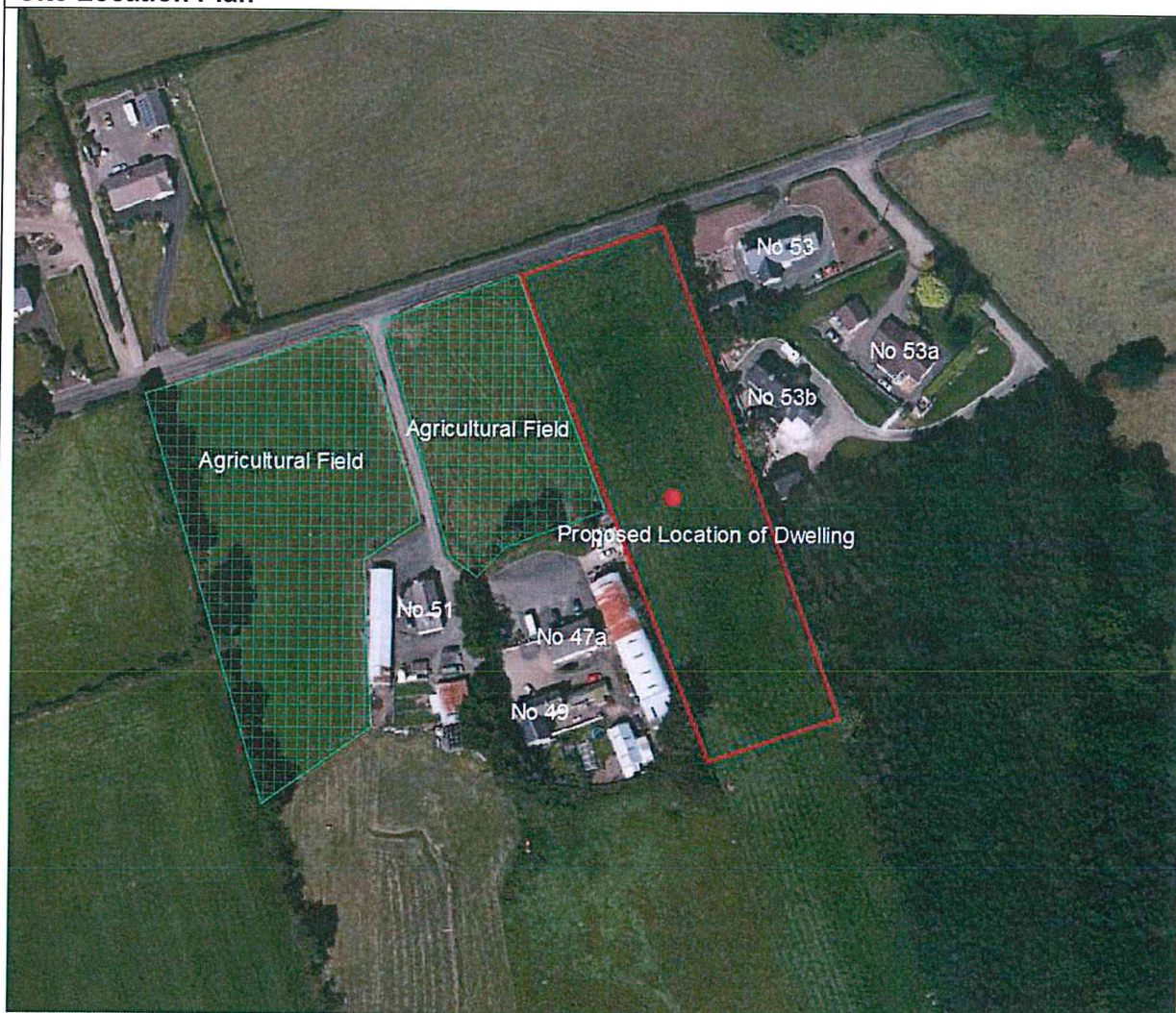
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0746/O	<b>Target Date:</b>
<b>Proposal:</b> Infill site for one dwelling house and domestic garage	<b>Location:</b> 50m North East of 49 Fivemile Straight Carnamoney Draperstown
<b>Referral Route:</b> Contrary to CTY 1, 8, 13 &14 of PPS 21 and Contrary to AMP 2 of PPS 3	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Connor McPeake 31a Spring Road Ballinderry Cookstown BT80 0BD	<b>Agent Name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

**Summary of Issues** No Issues



**Characteristics of the Site and Area**

The site is located approximately 2 miles northwest of Moneyneany in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is located on the Five Mile Straight between two dwellings, Nos 47a and 53b and consist of a cut out portion of a linear agricultural field. The site rises gradually from the road for approximately 140m, levels out for a short distance and falls away to the rear. The northeast boundary consists of existing mature hedgerow approximately 2-4m high and trees, the northwest and southwest boundaries are defined by post and wire fence and the southeast boundary is undefined.

**Description of Proposal**

The application seeks outline planning permission for a proposed infill dwelling and garage.

**Planning Assessment of Policy and Other Material Considerations****Relevant Site History:**

No relevant history

**Representations:**

6 neighbour's notification letters were sent to Nos 47a, 49, 51, 53, 53a & 53b Five Mile Straight Draperstown

No letters of representation have been received.

**Development Plan and Key Policy Consideration:**

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

Magherafelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out the guiding principle in determining planning applications is that sustainable development should be permitted, having regards to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Infill/Ribbon Development, provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage.

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

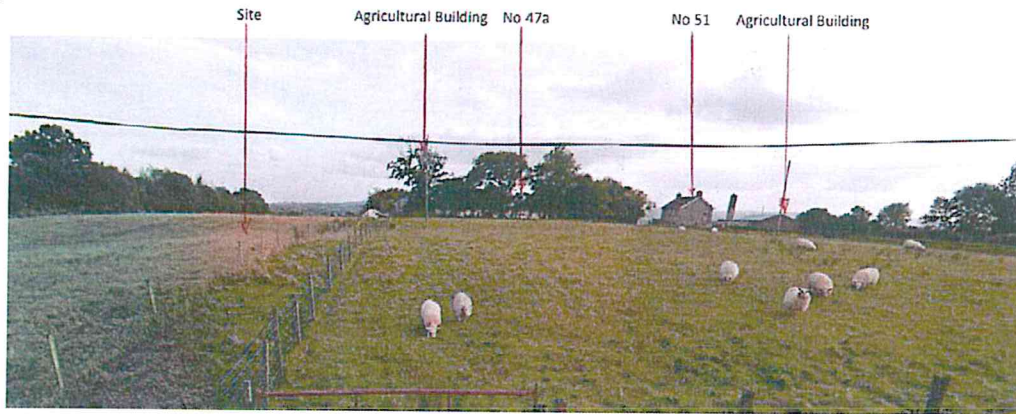
PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. CTY 1 states that there are a range of types of development which in principle are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses. Policy CTY 8 requires four specific elements to be met:

- The gap site must be within an otherwise substantial and continuously built up frontage and includes a line of 3 or more buildings along a road frontage without accompanying development to the rear;
- The gap site must be small;



- The existing development pattern along the frontage must be respected;
- And other planning and environmental requirements must be met.

The site is a cut out portion of a linear agricultural field which has a 45m frontage onto Fivemile Straight. To the northeast of the site there are 3 residential properties, Nos 53, 53a and 53b. The dwelling and garage at No 53 both have a frontage onto the road. Whilst the dwellings at Nos 53a and 53b are located behind No 53 and therefore do not have road frontage. To the southwest of the site there are 3 residential properties, Nos 47a, 49 and 51 and a number of agricultural buildings which are set back approximately 150m from Fivemile Straight and are separated from the road by agricultural land. As a result, the properties at Nos 47a, 49 and 51 do not have a road frontage and therefore do not form part of a substantial and continuously built up frontage.



Ribbon development can occur even where development does not have frontage to a road. Paragraph 5.33 of PPS 21 states that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they are visually linked. During the summer months the dwelling and agricultural building located at No 47a would be heavily screened by mature vegetation and trees along the northwest (front) boundary, however during the winter months as the trees and hedgerow lose their foliage both buildings would be visible. As a result, the site would be visually linked with the two dwellings at No 47a & 51 and two agricultural buildings and would add to a ribbon of development along this stretch of Fivemile Straight. The proposal is contrary to Policy CTY8.

### Integration

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape. The indicative block plan shows the new dwelling set back 85m from the road and sited between two existing dwellings. The dwelling will be located on an elevated site and due to there being no boundary definition along the front and rear boundaries of the proposed curtilage a single storey dwelling would be a prominent feature in the landscape and read as skyline development. The site would be unable to provide a suitable degree of enclosure and would be heavily reliant on new planting to achieve integration. The proposal is contrary to criteria (a), (b), (c) and (f) of Policy CTY 13.

### Impact on Character and Appearance of the Area

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It also states that a new building will be unacceptable where it results in a suburban style build-up of development when viewed with existing development and approved buildings and where it creates or adds to a ribbon of development. I have already determined that the proposal would add to a ribbon of development which is a suburban style of development. This would therefore cause detrimental change to, and further erode the rural character of the area. The proposal is contrary to criteria (b) and (d) of Policy CTY 14.



**Other Matter**

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

**Other Material Consideration.**

DFI Roads have confirmed that visibility splays of 2.4m x 110m are required in both direction and that the northeast (critical direction) visibility splay will require 1 BT pole set back and approximately 31m of hedge removed which appears to be outside of the applicant's control. Furthermore, the southeast visibility splay will require 2 BT poles set back and approximately 17m of hedge faced which also appears to be outside of the applicant's control. As the principle of an infill site has not been established under CTY8 the amendments required by DFI Roads have not been requested. Therefore, the applicant has failed to demonstrate that he has control of all the land necessary to provide safe access onto the public road and the proposal is contrary to AMP 2 part (a) of PPS 3 Access, Movement and Parking.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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**Summary of Recommendation: Refuse - Contrary to CTY 1, 8, 13 & 14 of PPS 21 and Contrary to AMP 2 of PPS 3.**

**Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent an infill opportunity and would, if permitted, result in would add to a ribbon of development along this stretch of the Fivemile Straight.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed two dwelling would be a prominent feature in the landscape, lacks long established natural boundaries, is unable to provide a suitable degree of enclosure, relies primarily on the use of new landscaping for integration, fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and would result in a suburban style build-up of development when viewed with existing buildings and would not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode the rural character of the countryside.
5. The proposed development would, if permitted, prejudice the safety and convenience of road users since it has not been demonstrated that the applicant can provide the necessary land within the application site to provide visibility splays of 2.4m x 110m

**Signature(s)****Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	29th May 2018
<b>Date First Advertised</b>	14th June 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 47a Five Mile Straight Draperstown The Owner/Occupier, 51 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 52 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 53 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 53a Five Mile Straight Draperstown The Owner/Occupier, 53b Five Mile Straight Draperstown	
<b>Date of Last Neighbour Notification</b>	19th June 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0746/O Proposal: Infill site for one dwelling house and domestic garage Address: 50m North East of 49 Fivemile Straight, Carnamoney, Draperstown, Decision: Decision Date:  Ref ID: H/2003/0120/F Proposal: Extension To Dwelling Address: 49 Fivemile Straight, Draperstown. Decision: Decision Date: 10.04.2003  Ref ID: H/1979/0474 Proposal: SITE OF 4 BUNGALOW'S Address: FIVE MILE STRAIGHT, CARNAMONEY, DRAPERSTOWN, MAGHERAFELT Decision: Decision Date:  Ref ID: H/1992/0283 Proposal: ALTS + ADDS TO BUNGALOW Address: NEW BUNGALOW FIVE MILE STRAIGHT DRAPERSTOWN	

Decision:  
Decision Date:

Ref ID: H/1979/0654  
Proposal: SITE OF BUNGALOW  
Address: FIVE MILE STRAIGHT, CARNMONEY, DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/2011/0490/RM  
Proposal:  
New one and a half storey farm dwelling and garage  
Address: 24m West of 53A Fivemile Straight, Draperstown,  
Decision:  
Decision Date: 24.11.2011

Ref ID: H/1986/0128  
Proposal: SITE OF DWELLING  
Address: ADJACENT TO 53 FIVE MILE STRAIGHT, CARNMONEY, DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1985/0477  
Proposal: SITE OF HOUSE AND GARAGE  
Address: ADJACENT TO 53 FIVEMILE STRAIGHT, CARNAMONEY, DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/2008/0111/F  
Proposal: Replacement of existing two storey dwelling to proposed single storey dwelling  
Address: 53 Five Mile Straight, Draperstown  
Decision:  
Decision Date: 19.08.2008

Ref ID: H/1984/0243  
Proposal: SITE OF BUNGALOW  
Address: FIVE MILE STRAIGHT, CARNAMONEY, DRAPERSTOWN  
Decision:  
Decision Date:

#### Summary of Consultee Responses

#### Drawing Numbers and Title

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

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



**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/1093/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and domestic garage/store	<b>Location:</b> Approx 70m East/S.East of 7 Gortinure Road Tamnymullan Maghera
<b>Applicant Name and Address:</b> Mr Michael Mc Eldowney 1 Hawthorn Drive Tamnymullan Maghera	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Recommendation:</b> Refusal	
<b>Characteristics of the Site and Area:</b>  The site is located approx. 2.5 miles north of Maghera in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 70m South East of 7 Gortinure Road, Maghera. The proposed site is a cut out portion of a large agricultural roadside field which slopes in a south easterly direction. The south-western, north-western and north-eastern boundaries are defined by mature vegetation, the remaining south-eastern boundary is undefined. A builder's yard abuts the site along the north-western albeit with a laneway located in between and on the opposite side of the road there is a single storey dwelling, No 6a.	



### **Description of Proposal**

Proposed dwelling and domestic garage/store

### **Deferred Consideration:**

The application was presented as a refusal to Committee in January 2019 under CTY13 & CTY14, and subsequently deferred for an office meeting which was held on 17th Jan 2019.

Amended plan showing levels and planting scheme was submitted. As well as a number of examples of dwellings in the surrounding area in an attempt to support the design of the proposal. Following a site visit of the most comparable of the properties submitted, it was still felt the hipped roof design and the size and scale of the proposed dwelling was out of keeping with the rural character of this area. The agent was made aware of this opinion and asked to make design amends, however none were submitted only more examples of dwellings roof designs in the locale.



### **PROPOSED FRONT ELEVATION**

The hipped roof dwelling on Moneysharvin Road (Example A) is a long established dwelling which would not have been assessed under current design policy, Example K sits in extensive gardens with a treed area between it and the main road limiting its visual impact. House example L is in a built up area and its design is more suitable due to its location, which is less rural feeling than the current site. These dwellings were those listed that were the closest to the site, however they are approx 1.5 miles from it so again are not a direct comparison, such as the adjacent dwelling, which is 2 storey but a more traditional rural design.

The amended planting plan appears generous in showing the existing mature trees along the roadside boundary, as it appears a lot more open at the actual site. However there are existing mature trees along where the proposed access will be located and with their retention and the proposed planting alongside either laneway boundary, there will be a limited visual impact of this suburban style driveway. Also it should be noted the adjacent dwelling, which is 2 storey and sits further back from the road, has a relatively suburban driveway from the road to the house.

The levels provided still do not justify a dwelling of this scale and design on the proposed siting as it will remain prominent and out of keeping.





A further meeting was held with the agent to discuss the possibility of an amended scheme, to address the scale and massing issue. The Area Manager has indicated to the case officer what he was willing to accept on the site, however the agent was unwilling to make any more changes and wishes the application to be decided as it currently stands, at planning Committee, on the basis of its siting and character of the surrounding area.

Refusal is recommended based on CTY13 and CTY14 of PPS21 in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape and is likely to result in undue prominence.



The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22<sup>nd</sup> Feb 2019. Policy GP1 - General Principles Planning Policy, Policy CT1- General Policy and Policy CT2 - Dwellings in the Countryside are applicable to this application. This proposal is therefore in conflict with the Draft Plan Strategy, however no significant weight can be given to this document as it is only at early public consultation stage. The proposal remains to be in conflict with current planning policy of PPS 21.

**Refusal Reasons**

1. The proposal is contrary to Policies CTY13 & CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape and is likely to result in undue prominence.

**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

*Adrian*  
*17/12/18*

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1093/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and domestic garage/store	<b>Location:</b> Approx 70m East/S.East of 7 Gortinure Road Tamnymullan Maghera
<b>Referral Route:</b> Contrary to CTY 13 of PPS 21	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Mr Michael Mc Eldowney 1 Hawthorn Drive Tamnymullan Maghera	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### Representations:

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



**Summary of Issues**

The proposed house and access design is inappropriate for the proposal site and cannot achieve visual integration.

**Characteristics of the Site and Area**

The site is located approx. 2.5 miles north of Maghera in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 70m South East of 7 Gortinure Road, Maghera. The proposed site is a cut out portion of a large agricultural roadside field which slopes in a south easterly direction. The south-western, north-western and north-eastern boundaries are defined by mature vegetation, the remaining south-eastern boundary is undefined. A builder's yard abuts the site along the north-western albeit with a laneway located in between and on the opposite side of the road there is a single storey dwelling, No 6a.

**Description of Proposal**

Proposed dwelling and domestic garage/store

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

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 21 - Sustainable development in the countryside

Site History - LA09/2017/0624/O - Approval for dwelling and garage under policy CTY 2a, granted 15.11.2017. Under this approval there were several specific conditions stipulated. One of which stated:

' The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level and a low angle of roof pitch not exceeding 40 degrees.'

Consultees: - DfI were asked to comment and responded on 31.10.2018 seeking additional information and amended plans to be submitted.

Environmental Health were asked to comment and responded on 23.10.2018 with no objections subject to advice.

NI Water were asked to comment and responded on 03.10.2018 with no objections

Neighbours: - Owners/Occupiers of Nos. 3, 4, 4a, 6 & 7 Gortinure Road were notified of the proposal on 25.09.2018, no representations have been received to date.

In line with legislation the proposal was advertised on 30.08.2018, no objections have been received to date.

The principal of development on the site has already been established under approval LA09/2017/0624/O which was granted on 15.11.2017, however this current proposal has a larger red line indicated than that approved at outline stage. In addition this proposal does not adhere to all of the conditions stipulated under the outline approval.



This current proposal proposes a large detached hipped roof dwelling with a ridge height of just under 9metres in height and a detached double garage. The access is proposed to exit the site from the south eastern corner and shows a sweeping suburban style drive.

The outline conditions were given in order for a dwelling at this location to be visually integrated into the surrounding landscape and be of an appropriate design. It was considered at outline stage due to the surrounding landscape and existing development that a single storey property with a ridge height of no more than 5.5metres in height would be most appropriate, an observation which I would still agree with. This current proposal does not adhere to the conditions of the outline and the proposal does not achieve this visual integration.

The design of the building is inappropriate for the site and its locality in that the form, scale and massing are not suitable for the particular site and location and would make it dominant in the local landscape. In addition the proposed sweeping driveway would create a suburban emphasis and access arrangement and as such is not considered acceptable.

Following initial discussions with senior planners a complete redesign was sought on 21<sup>st</sup> November 2018. The agent was advised that the submitted house design was not considered acceptable at this location and considered thought should be given to the scale, materials, form and proposed ridge height. Amendments were received on 03.12.2018 whereby the finishes of the dwelling were changed from red brick to smooth render, the ridge height reduced by 1metre and the chimneys relocated. Despite these changes upon consideration the proposal is still unacceptable and does not go far enough to satisfy the requirements of policy.

Having considered all of the points above I feel the proposal does not meet the requirements of policy PPS21 CTY 13 and as such a recommendation to refuse should be given.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refusal recommended

#### Reasons for Refusal:

1. The proposal is contrary to Policy CTY13 & CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape and is likely to result in undue prominence.
2. The proposal is contrary to Policy CTY 13 & CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed access arrangements are suburban in form and design and as a result will be obtrusive and will damage rural character.

#### Signature(s)

Date:

ANNEX	
<b>Date Valid</b>	14th August 2018
<b>Date First Advertised</b>	30th August 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 3 ,Gortinure Road,Maghera,Londonderry,BT46 5RB, The Owner/Occupier, 4 Gortinure Road Maghera Londonderry The Owner/Occupier, 4a Gortinure Road Maghera The Owner/Occupier, 6 Gortinure Road Maghera Londonderry The Owner/Occupier, 7 Gortinure Road Maghera Londonderry	
<b>Date of Last Neighbour Notification</b>	25th September 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes
<b>Planning History</b>  Ref ID: LA09/2018/1093/F Proposal: Proposed dwelling and domestic garage/store Address: Approx 70m East/S.East of 7 Gortinure Road, Tamnymullan, Maghera, Decision: Decision Date:  Ref ID: H/2005/0356/O Proposal: Site of dwelling Address: 50m North of No. 7 Gortinure Rd, Maghera (site 2) Decision: Decision Date:  Ref ID: H/2005/0357/O Proposal: Site of Dwelling Address: North of & Adjacent 7 Gortinure Road, Maghera (Site 1) Decision: Decision Date:	

Ref ID: H/1979/0105  
 Proposal: SITE OF BUNGALOW  
 Address: MONEYSHARVIN, MAGHERA  
 Decision:  
 Decision Date:

Ref ID: LA09/2017/0624/O  
 Proposal: Dwelling and garage under policy CTY2a  
 Address: 70m South East of 7 Gortinure Road, Maghera,  
 Decision: PG  
 Decision Date: 16.11.2017

### Summary of Consultee Responses

### Drawing Numbers and Title

Drawing No. 02  
 Type: Garage Plans  
 Status: Submitted

Drawing No. 03  
 Type: Site Layout or Block Plan  
 Status: Submitted

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

Drawing No.  
 Type:  
 Status: Submitted

Drawing No. 04  
 Type: Proposed Plans  
 Status: Submitted

### Notification to Department (if relevant)

Date of Notification to Department:  
 Response of Department:





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/1263/RM	<b>Target Date:</b>
<b>Proposal:</b> New Dwelling house	<b>Location:</b> 20m's South of 40 Derrygonigan Road Cookstown BT80 8SU.
<b>Applicant Name and Address:</b> Finbar Crawford 40 Derrygonigan Road Cookstown BT80 8SU	<b>Agent name and Address:</b> Eamonn Moore Architects 18 Westbury Gardens Cookstown BT80 8WE
<b>Summary of Issues:</b>  Two objections were received in relation to the original proposal, amended plans came addressing the issues raised following the deferred meeting, and neighbours were re-notified. Neighbour notification expired on 12.04.2019 and the objector has not made any further objections.	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 2.6km east of Cookstown along the Derrygonigan road within the open countryside as defined by the Cookstown Area Plan 2010. The site is stated to be 20m south of 40 Derrygonigan Road, Cookstown, which the site appears to be the front portion of an agricultural field. The site does rise from the roadside towards the rear of the site with a line of mature hedging along the northern and southern boundaries, the western boundary remains undefined as stated this is a portion of a larger agricultural field. The eastern boundary, which is on along the roadside, has some hedging however there is an opening into the field. Directly north of the site is a single storey detached dwelling (no.40) with a garage to the rear, to the south east of the site sits another single storey detached dwelling (no.38) with an additional two single storey detached dwellings further south of no. 38 all along the roadside. The immediate locality is characterised by residential development, however the wider surrounding area is characterised by agricultural land uses predominantly.	



**Relevant planning history**

LA09/2017/0707/O – New Dwelling House – Permission Granted - 02nd May 2018

**Description of Proposal**

This is a Reserves Matters application for a new a dwelling house, the site is identified as 20m's South of 40 Derrygonigan Road, Cookstown. The proposed dwelling has a frontage of 16.6m with 5.7m ridge height from ground level and a gable depth of 8.5m with a total depth of 17.2m. The proposed wall finish is to be light grey dashed render with natural basalt locally sourced stone to the front porch with the roof to be non-profiled tiles blue/black.

**Deferred Consideration:**

The application was presented as a refusal to Planning Committee in March 2019 and deferred for an office meeting with Area Manager and both the applicant and objector. This meeting was held on 14 March 2019. Following discussion it was agreed the agent would forward amended plans to attempt to overcome the objector's issues. Amended plans were received on 22 March and neighbours were re-notified.

The proposed dwelling has moved further north, taking it away from the existing dwelling to the south.

The turning head at the front of the dwelling is reduced and stopped at front porch to allow for sufficient vehicular turning space.

Proposed hedge has moved further from the neighbour's property. It has been specified as semi-mature cherry laurel as requested by the third party, it is a more evergreen species but still native. This hedge will minimise overshadowing for the neighbour. Proposed dwelling floor level has been reduced by a further 200mm as agreed by all parties at the deferred meeting.

Bearing in mind, before these changes were made, the proposal had been recommended for approval, following these amends which have addressed a number of the objector concerns, an approval is again recommended with conditions as previous.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22<sup>nd</sup> Feb 2019. Policy GP1 – General Principles Planning Policy, Policy CT1- General Policy and Policy CT2 Dwellings in the Countryside are applicable to this application.

This proposal is therefore in compliance with the Draft Plan Strategy, however no significant weight can be given to this document as it is only at early public consultation stage. The proposal remains in compliance with current planning policy.

## Conditions

1. The development to which this approval relates must be begun by whichever is the later of the following dates:-

- i. The expiration of a period of 5 years from the grant of outline planning permission; or
- ii. The expiration of a period of 2 years from the date hereof.

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

2. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/4 date stamped 22 March 2019 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

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

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

4. The existing natural screenings of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

5. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

6. The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be in place in accordance with Drawing No. 02/4 dated stamp 22 March 2019, prior to the commencement of any other works or other development hereby permitted.

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

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

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

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

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

9. Notwithstanding the provisions of the Planning (General Development) Order (NI) 2015, the window on the southern side elevation shall be obscured glass and no additional window openings, extensions or additions be added to the southern gable.

Reason: In the interests of neighbouring amenity.

### **Informatives**

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

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

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

4. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

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.

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

**Signature(s):**

**Date**



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1263/RM	<b>Target Date:</b>
<b>Proposal:</b> New Dwelling house	<b>Location:</b> 20m's South of 40 Derrygonigan Road Cookstown BT80 8SU.
<b>Referral Route:</b>  To Committee - Approval - Two Objections	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Finbar Crawford 40 Derrygonigan Road Cookstown BT80 8SU	<b>Agent Name and Address:</b> Eamonn Moore Architects 18 Westbury Gardens Cookstown BT80 8WE
<b>Executive Summary: Approval</b>	
<b>Signature(s):</b> Peter Henry	

For committee decision



18/2/19

Condition  
Notwithstanding the provisions of the Planning  
(General Permitted Development) Order 2015, the window  
in the southern side elevation shall be obscured glass  
and no additional window openings, extensions or  
additions be added to the southern facade.  
Reason in the interests of neighbouring  
amenity.

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Two objections were received, summary of the objections:

- Incorrect development description – outline only attained approval for a new dwelling however the reserved matters application has come in for a dwelling and garage and due to such should not be regarded as a reserved matters application.



- Incorrect visibility splays indicated on plans – the RS1 form noted that a visibility splay of 60 metres is required to the north of the access however only 45 metres has been shown and this does not comply with condition 8 of the outline.
- Provision and maintenance of visibility splays – third party lands are required on either side of the access to provide and maintain the splays. The applicant does not have the control nor the agreement to do so or will it be able to attain these. Therefore the site cannot legally commence without the provision and long term maintenance of the splays.
- Non-compliance with ridge height restriction – the outline permission required the ridge height to be no less than 5.7m above the lowest part of the existing ground level, as submitted the dwelling sits 5.7m from the finished floor level contrary to the condition. Excavation will be required to bring the position of the dwelling down the level of the lowest level of the site with the ridge height to be no more than 5.4m to allow for underbuild.
- Ownership – the certificate in which was signed notes the land to be in actual possession of the applicant, rather after a check it is in ownership of the applicant's father and the declaration is incorrect.
- Overlooking of adjoining private amenity space – notes that the proposed dwelling is located over a metre from the adjacent dwelling. Given that the proposed dwelling is only located 11-12 metres from the rear of this dwelling, the windows on the front elevation of the proposed dwelling at a higher level will result in direct overlooking of the neighbouring dwelling. Notes that from the approved site layout of the outline that there will be no windows along the gable wall, showing the concerns for the potential of overlooking. Although planting has been proposed along the eastern boundary of the site, this will take considerable time to establish and thus direct overlooking will occur in the meantime, in addition no type of plants have been provided which could mean that the landscaping would have little or no effect in the winter months when it sheds its foliage.
- Sewage Disposal – it is noted that the sewage disposal system is located to the front of the dwelling in close proximity to the neighbouring dwelling and the public road, and partially under the proposed driveway. Concerns raised that the location of this percolation area in close proximity to and at a higher level than the adjoining existing dwelling and public road which could result in a public health issue. Final note that laying percolation drains under driveways is not acceptable given the weight of vehicles repeatedly passing over them may result in their failure.

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

The site is located approximately 2.6km east of Cookstown along the Derrygonigan road within the open countryside as defined by the Cookstown Area Plan 2010. The site is stated to be 20m south of 40 Derrygonigan Road, Cookstown, which the site appears to be the front portion of an agricultural field. The site does rise from the roadside towards the rear of the site with a line of mature hedging along the northern and southern boundaries, the western boundary remains undefined as stated this is a portion of a larger agricultural field. The eastern boundary, which is on along the roadside, has some hedging however there is an opening into the field. Directly north of the site is a single storey detached dwelling (no.40) with a garage to the rear, to the south east of the site sits another single storey detached dwelling (no.38) with an additional two single storey detached dwellings further south of no. 38 all along the roadside. The immediate locality



is characterised by residential development, however the wider surrounding area is characterised by agricultural land uses predominantly.

#### Relevant planning history

LA09/2017/0707/O – New Dwelling House – Permission Granted - 02nd May 2018

#### Representations

There were five notification letters were sent out however two objections were received.

### Description of Proposal

This is a Reserves Matters application for a new a dwelling house, the site is identified as 20m's South of 40 Derrygonigan Road, Cookstown. The proposed dwelling has a frontage of 16.6m with 5.7m ridge height from ground level and a gable depth of 8.5m with a total depth of 17.2m. The proposed wall finish is to be light grey dashed render with natural basalt locally sourced stone to the front porch with the roof to be non-profiled tiles blue/black.

### Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 – Gap/Infill sites

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

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

The SPPS introduced in September 2015 is a material planning consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS retains PPS21: Sustainable Development in the Countryside and the proposal is for a dwelling and garage

Policy CTY 1 of PPS 21 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a new dwelling and the principle of development under CTY 8 has already been established through the approval of LA09/2017/0707/O. All that remains is for the proposal to be considered under Planning Policies CTY 13 and 14 which require that the building can be visually integrated into the surrounding landscape and it is of an appropriate design, and it does not cause detrimental change to, or further erode the rural character of an area. The outline approval LA09/2017/0707/O set out a number of conditions for the reserved matters to comply with. After the objection was received and application subsequently amended I note that the application has complied with all the outline conditions.



Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As noted there has been a general acceptance that the proposed application has able to comply on balance with the outline conditions, despite the issues over the ridge height from which I am content the dwelling will not be a prominent feature. In terms of the design, I note that it is quite a simple single storey dwelling and I am content this is acceptable in this rural context. Due to the landform and existing and proposed landscaping it has been agreed on balance that the dwelling would be able to successfully integrate into the landscape. From this I am content on balance that this application complies under CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content on balance that the proposed dwelling will not appear as prominent in the landscape nor would it result in a suburban style build-up of development within the context of other buildings. The proposed development will respect the traditional pattern of settlement exhibited in the area and it will not create or add to a ribbon of development. On a whole I am content that the proposed development complies with CTY 14.

Other policy and material considerations:

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and initially responded requesting amendments, however in their final response they have confirmed the access arrangements are acceptable subject to conditions and Informatives.

With response to the comments raised in the objections, to start, in terms of the development description this has been subsequently amended to reflect that of the outline permission along with any drawings. In terms of the incorrect visibility splays shown, again the application was subsequently amended and DFI Roads confirmed that this is now acceptable in line with the outline. With regards to the provision and future maintenance of the splays I note that any agreements etc. is a civil matter between the applicant and relevant landowners and not for planning control, however the agent noted that the visibility splays have been kept within the existing verge. In terms of the breach of condition over ridge height, I note that this application was amended and it has now been accepted that the application is now acceptable in terms of height. I note that the application certificate has also been amended to reflect ownership in the applicant's father's name. With regards to the comments made over overlooking of the adjoining private amenity space it was agreed during the group discussions that whilst the dwelling may sit higher than the existing neighbouring dwelling but there is an existing boundary of hedging along with the proposed landscaping will reduce any concerns of overlooking. In addition with the introduction of opaque/frosted glass on the gable wall again reduces these concerns further whilst ensuring light into the proposed dwelling. On balance I am content that the proposed dwelling will not adversely impact upon residential amenity of the neighbouring dwelling. Finally in terms of sewage disposal the agent noted that this layout is very common and that a Consent to Discharge application will be applied for with NI Water Management Unit. I am content that this resolves this issue.

From all of this I recommend approval.	
<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>	
Approval.	
<p>Conditions:</p> <p>1. The development to which this approval relates must be begun by whichever is the later of the following dates:-</p> <p>i. The expiration of a period of 5 years from the grant of outline planning permission; or</p> <p>ii. The expiration of a period of 2 years from the date hereof.</p> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>2. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/3 date stamped 07th December 2018 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.</p> <p>Reason: To ensure the development integrates into the countryside</p> <p>3. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted at the same place, unless the Council gives its written consent to any variation.</p> <p>Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.</p> <p>4. The existing natural screenings of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.</p> <p>Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.</p> <p>5. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.</p> <p>Reason: To ensure the continuity of amenity afforded by existing trees.</p>	



6. The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be in place in accordance with Drawing No. 02/3 dated stamp 07th December 2018, prior to the commencement of any other works or other development hereby permitted.

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

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

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

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

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

9. Notwithstanding the provisions of the Planning (General Development) Order (NI) 2015, the window on the southern side elevation shall be obscured glass and no additional window openings, extensions or additions be added to the southern gable.

Reason: In the interests of neighbouring amenity.

#### Informatives

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

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

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

4. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

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.

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

Signature(s)



Date: 18/2/19.



<b>ANNEX</b>	
<b>Date Valid</b>	28th September 2018
<b>Date First Advertised</b>	11th October 2018
<b>Date Last Advertised</b>	10th January 2019
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Killybearn Road Cookstown Londonderry The Owner/Occupier, 11a Killybearn Road Cookstown The Owner/Occupier, 34 Derrygonigan Road Cookstown Londonderry The Owner/Occupier, 36 Derrygonigan Road Cookstown Londonderry The Owner/Occupier, 38 Derrygonigan Road Cookstown Londonderry Toirleach Gourley Moveagh House, 35 Moveagh Road, Cookstown, BT80 9HE T A Gourley Moveagh House, 35 Moveagh Road, Cookstown, BT80 9HE	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/1263/RM Proposal: New Dwelling houses and garage. Address: 20m's South of 40 Derrygonigan Road, Cookstown, BT80 8SU., Decision: Decision Date:  Ref ID: LA09/2017/0707/O Proposal: New Dwelling house Address: 20m South of 40 Derrygonigan Road, Cookstown, Decision: PG Decision Date: 09.05.2018  Ref ID: I/2003/0500/O Proposal: Site for dwelling (Amended Site)	

(RE-ADVERTISEMENT)

Address: Between 38 & 40 Derrygonigan Road, Cookstown

Decision:

Decision Date: 07.05.2004

Ref ID: I/1995/0024

Proposal: Extension to dwelling

Address: 40 DERRYGONIGAN ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2000/0356/O

Proposal: Site for dwelling

Address: Rear of 36 Derrygonigan Road, Cookstown

Decision:

Decision Date: 29.03.2001

Ref ID: I/1994/0201

Proposal: Replacement Dwelling

Address: 38 DERRYGONIGAN ROAD KILLYBEARN COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2004/0376/LDP

Proposal: Proposed agricultural shed

Address: 11 Killybearn Road, Cookstown

Decision:

Decision Date:

Ref ID: I/2004/0272/F

Proposal: Proposed replacement dwelling and domestic garage

Address: 11 Killybearn Road, Cookstown

Decision:

Decision Date: 22.06.2004

Ref ID: I/1988/0461

Proposal: Improvements to Dwelling

Address: 40 DERRYGONIGAN ROAD KILLYBEARN COOKSTOWN

Decision:

Decision Date:

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Approved
Drawing No. 02/3 Type: Site Layout or Block Plan Status: Approved
Drawing No. 03/1 Type: Proposed Floor Plans Status: Approved
Drawing No. 04/1 Type: Proposed Elevations Status: Approved
Drawing No. 05/1 Type: Proposed Elevations Status: Approved
<b>Notification to Department (if relevant)</b>
Date of Notification to Department: Response of Department:

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/1367/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of garage with part change of use to living accommodation	<b>Location:</b> 10m North of 30 Loughdoo Road Pomeroy. Tyrone BT80 9JG
<b>Applicant Name and Address:</b> Karl Heron 11 The Dales Cookstown	<b>Agent name and Address:</b> APS Architects LLP Unit 4 Mid Ulster Business Pk Cookstown BT80 9LU
<b>Characteristics of the Site and Area:</b>  <p>The site is located approximately 1km North West of the development limits of Gortacladdy and is situated within the open countryside as per the Cookstown Area Plan 2010. The site is identified as No.30a Loughdoo Road, however it is noted that after discussions with Building Control there is no address of No. 30a. Rather the site appears to be the garage associated with No. 30 however the red line has not included No. 30. Within the red line sits a detached garage and small yard to the front. The site is accessed via an existing access directly off the Loughdoo road. The immediate and surrounding area is defined by predominately agricultural land uses with a scattering of residential dwellings.</p> <p>Relevant planning history LA09/2016/0162/CA - Unauthorised change of use within a domestic garage as shown edged in red on the attached map to a separate unit of accommodation; without the grant of planning permission so required.</p> <p>Representations- one objection was received.</p>	
<b>Recommendation:</b> Refusal	
<b>Description of Proposal</b>  <p>This is a full application for the retention of garage with part change of use to living accommodation. The site was initially identified as 30A Loughdoo Road, Pomeroy but was</p>	



later amended to 10m north of 30 Loughdoo Road, Pomeroy as there was no evidence of 30a.

**Deferred Consideration:**

This application is for Retention of garage with part change of use to living accommodation at 10m North of 30 Loughdoo Road Pomeroy.

The proposal was considered under PPS21. CTY1 states the criteria that allows for a dwelling in the countryside, and going through each of these, none are met in order to allow for this proposal. As it is not in compliance with any of these criteria and there is no reason why the garage should be considered a separate unit of why it should be converted into a dwelling, a refusal must therefore be recommended.

The application was presented as a refusal and subsequently deferred at March 2019 Planning Committee in order to clarify ownership details.

The agent confirmed with a Solicitors letter dated 20th March 2019, the site is currently registered in the 3 names - Karol Heron, Nichola Heron and Loretta McGowan. At the time of writing this report this remained the current status.

A P2 issue was raised with the agent and an amended Certificate was received, stating notice was served on Nichola Heron on 01-04-2019 and Loretta McGowan on 29-01-2019. The 21 days have now passed and no correspondence has been received in relation to same. This clarifies the issue raised at Committee.

The recommendation remains unchanged and the refusal reason is the same;

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. Or why the garage should be considered as a separate planning unit from the dwelling to which it is ancillary or why it should be converted to a separate dwelling.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22<sup>nd</sup> Feb 2019. Policy GP1 – General Principles Planning Policy, Policy CT1- General Policy and Policy CT2 Dwellings in the Countryside are applicable to this application.

This proposal is therefore in conflict with the Draft Plan Strategy, however no significant weight can be given to this document as it is only at early public consultation stage. The proposal remains to be in conflict with current planning policy.

**Reason for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. Or why the garage should be considered as a separate planning unit from the dwelling to which it is ancillary or why it should be converted to a separate dwelling.

**Signature(s):**

**Date**

## Development Management Officer Report Committee Application

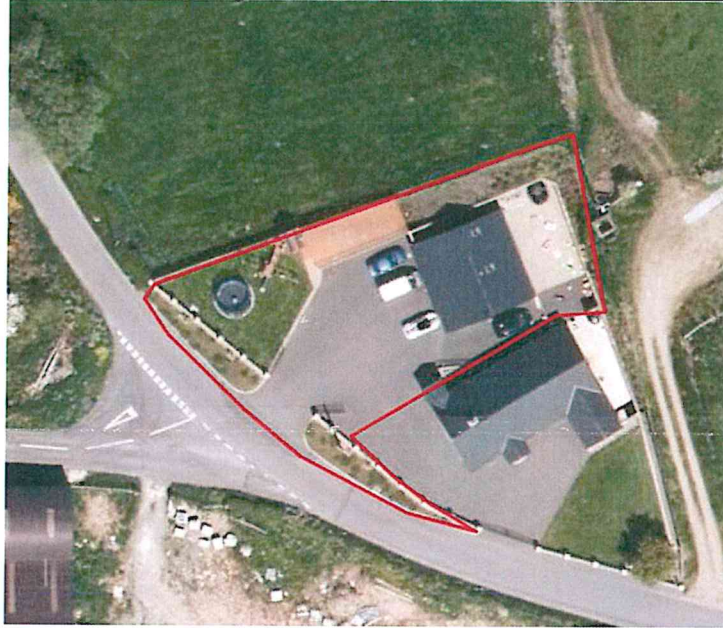
Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1367/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of garage with part change of use to living accommodation (amended location)	<b>Location:</b> 10m North of 30 Loughdoo Road Pomeroy. Tyrone BT80 9JG
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Karl Heron 11 The Dales Cookstown	<b>Agent Name and Address:</b> APS Architects LLP Unit 4 Mid Ulster Business Pk Cookstown BT80 9LU
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

*For committee decision*



## Case Officer Report

### Site Location Plan



### Consultations:

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

### 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

Does not meet any cases for residential development stated in CTY 1 of PPS 21 and one objection received. Summary of the objection is as follows;

- Raised issue that landownership certificate is incorrect.
- Stated that the proposal and the proposed plans do not match, stated that the plans indicate subdivision at 30 Loughdoo Road, the extent of the folio for 30 Loughdoo Road takes in the dwelling, associated garage (in part cited as 30a Loughdoo Road) and gardens. Stated that there is no address known as 30a Loughdoo Road, went on to say that if the intention was to retain the residential accommodation within the garage the



entire site of 30 Loughdoo Road would have been included. Instead there is a clear demarcation in the redline drawing of what is intended to be the curtilage of '30a.'

- Stated that CTY 1 of PPS 21 does not provide for this application, there is no policy for the approval of this application as presented.
- Concluded that the red line drawing of the site will be used by the applicant as the premise to subdivide the site. In that the objector's residential amenity has already been significantly impacted upon by a third party residing in our garage. The red line comes right up to the building line of No. 30 and if used to demarcate a separate residence will permit the erection of fences etc. and will cut us off from our access. The red line will also leave them no means of access to their right of way which leads to their farmlands.

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

The site is located approximately 1km North West of the development limits of Gortacladdy and is situated within the open countryside as per the Cookstown Area Plan 2010. The site is identified as No.30a Loughdoo Road, however it is noted that after discussions with Building Control there is no address of No. 30a. Rather the site appears to be the garage associated with No. 30 however the red line has not included No. 30. Within the red line sits a detached garage and small yard to the front. The site is accessed via an existing access directly off the Loughdoo road. The immediate and surrounding area is defined by predominately agricultural land uses with a scattering of residential dwellings.

#### **Relevant planning history**

LA09/2016/0162/CA - Unauthorised change of use within a domestic garage as shown edged in red on the attached map to a separate unit of accommodation; without the grant of planning permission so required.

#### **Representations**

One neighbour notification was sent out however one objection was received.

### **Description of Proposal**

This is a full application for the retention of garage with part change of use to living accommodation. The site was initially identified as 30A Loughdoo Road, Pomeroy but was later amended to 10m north of 30 Loughdoo Road, Pomeroy as there was no evidence of 30a.

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

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

#### **Cookstown Area Plan 2010**

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

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

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;



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

To note that there was enforcement action taken on this site in which an enforcement notice was served however it was not appealed therefore it is considered that the use is not deemed as lawful. It is noted that there was no supporting statement to refer to which policy it is believed this application complies under however there were a number of supporting documents all referring to the address of No. 30a. However as stated that after discussions with Building Control there is no official address of 30a and after group discussions there is nothing in the supporting documents to argue that this has been used for an excess of five years. From this, as the application falls within the open countryside the development is controlled under PPS 21 for the provision of a separate residential unit.

This application is to be considered broadly under all policies of PPS 21. CTY 1 of PPS 21 states that planning permission will be granted for an individual dwelling under a number of cases; taking each policy separately are as below:

CTY 2 – the application is not located within the a Dispersed Rural Community

CTY 2a – Site not considered as cluster, does not appear as a visual entity, there is not four or more buildings, no focal point and it is not bounded on two sides.

CTY 3 – Cannot be considered as a replacement as the building is a garage not a dwelling.

CTY 4 – Policy does not give provision for a garage to be converted.

CTY 5 – this is single residential unity and not social or affordable housing

CTY 6 – No personal or domestic circumstances have been submitted

CTY 7 – No information that the dwelling is for a non-agricultural business enterprise

CTY 8 – There is no line of continuous and built up frontage plus the gap between buildings could accommodate more than two dwellings.

CTY 9 – Application is not for a residential caravan or mobile home

CTY 10 – No Farm case has been submitted, when asked the agent confirmed on the phone that they were not farmers.

From the above it is clear that the site has not complied with any relevant criteria under which CTY 1 allows for a dwelling and therefore I must recommend refusal.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is noted that as the building is existing and no design changes have been proposed that and the design has been accepted a garage only and not a single residential unit.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As mentioned previously the building is seen as existing garage only and that due to no external changes however the use has been deemed as unacceptable.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and confirmed that they had no objection to the proposal subject to conditions and informatives.

A consultation was also sent to Environmental Health who confirmed they had no objection in principle to the proposal subject to conditions.

To answer the queries raised by the objector, with regards to the ownership issues and the extent of the folio of 30 Loughdoo Road, after a land registry check it confirmed it was part owned by the applicant and his wife along with another person, therefore the certificate was subsequently amended. As confirmed with Building Control there is no address as 30a Loughdoo Road which has already been acknowledged and the address was subsequently amended. The above report has concluded that the application does not comply under CTY 1 of PPS 21. With regards the garage being used as a residential currently this is being dealt with by the Council's enforcement team. Any issues over right of ways raised is a civil matter and planning control has no powers over this.

As the application has failed to demonstrate its compliance with any of the relevant policies under PPS 21 as stated under CTY 1 therefore I must recommend refusal.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. Or why the garage should be considered as a separate planning unit from the dwelling to which it is ancillary or why it should be converted to a separate dwelling.

**Signature(s)**



**Date:** 12/2/19.



ANNEX	
<b>Date Valid</b>	15th October 2018
<b>Date First Advertised</b>	1st November 2018
<b>Date Last Advertised</b>	14th February 2019
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 30 Loughdoo Road Pomeroy Tyrone Lorretta McGowan Email	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/1122/F Proposal: Retention of dwelling and garage to include alterations from previously approved, (I/2012/0155/F). Address: 50m South of 30 Loughdoo Road, Pomeroy, Tyrone, BT80 9JG., Decision: Decision Date:  Ref ID: LA09/2018/1367/F Proposal: Retention of garage with part change of use to living accommodation Address: 30A Loughdoo Road, Pomeroy, Decision: Decision Date:  Ref ID: I/1973/0043 Proposal: ERECTION OF FARMHOUSE Address: NO 30, LOUGH DOO ROAD, COOKSTOWN Decision: Decision Date:  Ref ID: I/1992/0418 Proposal: Extension to dwelling Address: 30 LOUGHDOO ROAD KILLEENAN COOKSTOWN	



Decision:  
Decision Date:

**Summary of Consultee Responses**

**Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
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Drawing No.  
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Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 01

Type: Site Location Plan  
Status: Submitted

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

Drawing No. 03  
Type: Garage Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/1521/LBC	<b>Target Date:</b>
<b>Proposal:</b> Business signage; including signage on South & West Elevations and free standing sign in front of building	<b>Location:</b> 15-17 Church Street Magherafelt
<b>Applicant Name and Address:</b> Danny Mulholland Mid Ulster Back Care and Physiotherapy 15-17 Church Street Magherafelt	<b>Agent name and Address:</b> McGurk Architects 33 King Street Magherafelt BT45 6AR
<b>Summary of Consultee Responses:</b>  HED still object to the amended plans submitted.	
<b>Recommendation:</b> Refusal	
<b>Characteristics of the Site and Area:</b>  <p>The site is located within the development limits of Magherafelt as defined by the Magherafelt Area Plan 2015. The site is located at 15 - 17 Church Street Magherafelt and contains a large two storey building. The building is located at the end of terrace row with dual frontage onto both Church Street and King Street.</p> <p>The area is characterised by a mix of uses including retail, office and residential uses. Linked to application LA09/2017/1196/A.</p>	



**Description of Proposal**

The site (existing building) is within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for retention of business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance. The telephone kiosk adjacent is Grade B2 listed.

**Deferred Consideration:**

This proposal was presented as a refusal to Planning Committee in Feb 2019 and was subsequently deferred for an office meeting with the Area Planning manager, Dr.Boomer which was held on 14<sup>th</sup> Feb 2019. The reasons for refusal were as follows;

1.The proposal is contrary to Policy AD1 of Planning Policy Statement 17, Control of Outdoor Advertisements, in that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018, does not respect amenity, when assessed in the context of the general characteristics of the locality.

2.The proposal is contrary to Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the Planning Act (Northern Ireland) 2011 and that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018 would adversely affects the setting of a listed building.

Following the office meeting, the agent was asked to submit amended plans in an attempt to address the concerns of HED.

There is no issue with the signs to go on the walls of the building.

The free standing sign has been reduced from 3 legs to two, and instead of two boards it would be metal signal board which is double sided. The agent advised they could not reduce the board to one leg because of the structural stability and durability of the sign would be greatly reduced.

HED have re-considered the impact of the amended proposal on the building and on the basis of the information provided HED advises their views remain unchanged. The sign is inappropriate in scale and detrimental to the setting and style of the listed building. In the context of the street scene HED;HB further consider that it has a negative impact on the setting of the adjacent telephone kiosk (HB08/15/017) which has a grade B2 listing.

Mid Ulster Council would have the same concerns in relation to the free standing sign as HED and support the refusal on the same grounds. If MUDC were to go against the recommendation of HED, the application must then be deferred to The Department of Environment to be dealt with by them, in line with The Planning Act (NI) 2011.

The proposal remains contrary to policy AD1 of PPS17 in that it would, if approved, adversely impact upon the visual and residential amenity of the locality. The proposal is also contrary to policy BH11 of PPS6 in that it would, if approved, adversely affect the setting of a listed building and listed telephone kiosk.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22<sup>nd</sup> Feb 2019. Policy GP1 – General Principles Planning Policy, and policy HE11 – Adverts on a listed building or structure, are applicable to this application.

This proposal is therefore in conflict with the Draft Plan Strategy, however no significant weight can be given to this document as it is only at early public consultation stage. The proposal remains to be in conflict with current planning policy.

**Refusal Reasons**

1.The proposal is contrary to Policy AD1 of Planning Policy Statement 17, Control of Outdoor Advertisements, in that the freestanding as identified on drawing No 03 Rev 02, which was received on 29<sup>th</sup> March 2019, does not respect amenity, when assessed in the context of the general characteristics of the locality.

2. The proposal is contrary to Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the Planning Act (Northern Ireland) 2011 and that the freestanding as identified on drawing No 03 Rev 2, which was received on 29th March 2019 would adversely affects the setting of a listed building and listed telephone kiosk .

**Signature(s):**

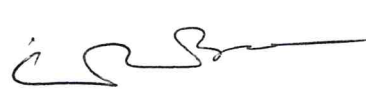
**Date**



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

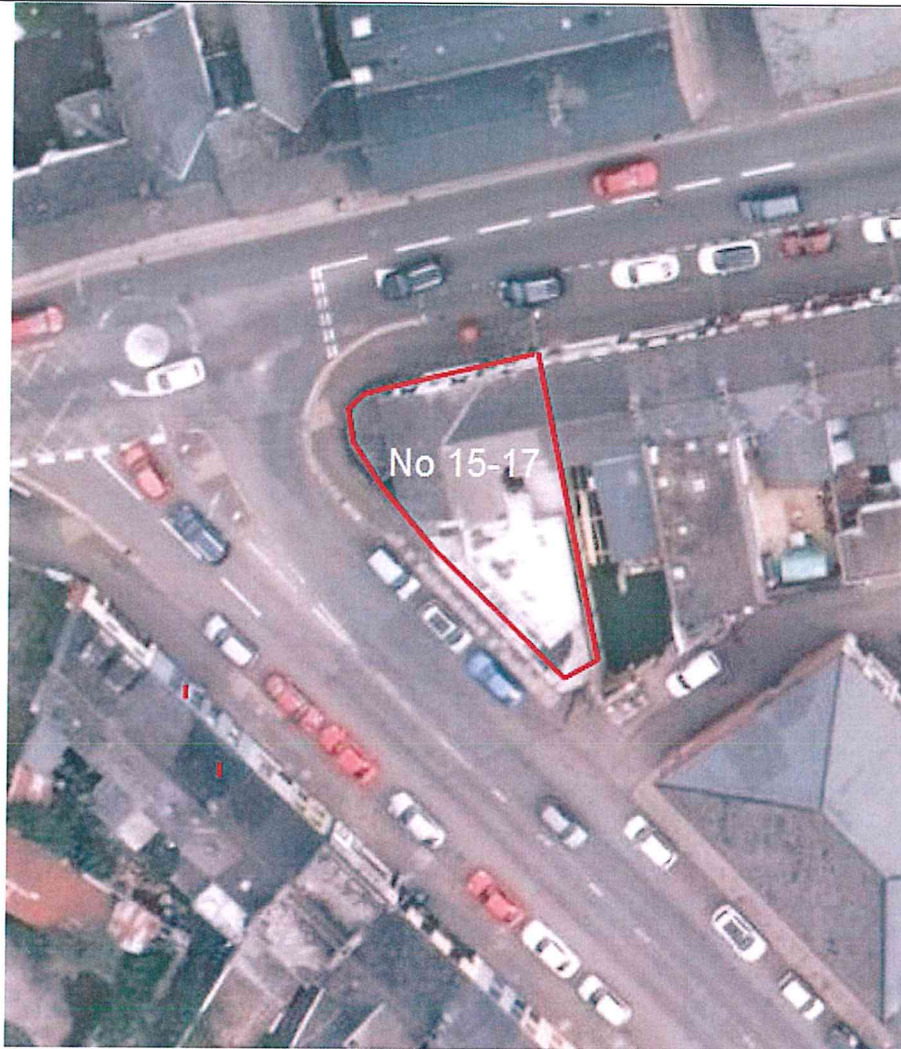
**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1521/LBC	<b>Target Date:</b>
<b>Proposal:</b> Business signage; including signage on South & West Elevations and free standing sign in front of building	<b>Location:</b> 15-17 Church Street Magherafelt
<b>Referral Route:</b> Contrary to AD 1 of PPS 17 and BH11 of PPS 6.	
<b>Recommendation:</b>	<b>Refuse</b>
<b>Applicant Name and Address:</b> Mid Ulster Back Care & Physiotherapy 15-17 Church Street Magherafelt BT45 6AP	<b>Agent Name and Address:</b> McGurk Architects 33 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

For committee decision  
  
24/11/19

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
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#### Representations:

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

**Summary of Issues:** None

#### Characteristics of the Site and Area

The site is located within the development limits of Magherafelt as defined by the Magherafelt Area Plan 2015. The site is located at 15 - 17 Church Street Magherafelt and contains a large two storey building. The building is located at the end of terrace row with dual frontage onto both Church Street and King Street.

The area is characterised by a mix of uses including retail, office and residential uses.



**Description of Proposal**

The site (existing building) is within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for retention of business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance

**Planning Assessment of Policy and Other Material Considerations****Relevant Planning History**

LA09/2016/0725/F - Proposed alterations to provide new residential apartment above existing commercial units at 15 - 17 Church Street Magherafelt. Approved 24th May 17.  
 LA09/2017/0087/CA – An enforcement case for unauthorised signage is ongoing.  
 Further action will depend on the outcome of subject planning application  
 LA0/2017/1196/A and LA09/2018/1521/LBC.

**Representations:**

No neighbours notified under an Advertisement Consent application  
 No letter of representation have been received

**Development Plan, Legislation and Key Policy Consideration**

The site (existing building) is within the Town Centre designations of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance.

**Magherafelt Town Centre: Design Guide** – Section 7 deals with signage and advertisement, paragraph 7.1 state that signage and advertisements within the Town Centre the proportion of a sign must relate to the elevation on which it is placed. If a sign is too large it can disrupt the appearance of a building and also of the street scene in general while if too small it can be insignificant and ineffective.

**Legislation:**

Section 130 of The Planning Act (Northern Ireland) 2011 refers to The Planning (Control of Outdoor Advertisements) Regulations (Northern Ireland) 2015 and Section 80 of the Planning Act (Northern Ireland) 2011 refers to The Planning (Listed Building) Regulations (Northern Ireland) 2015

**Planning Policy:**

The primary policy context is provided by Policy AD 1 of Planning Policy Statement 17: Control of Outdoor Advertisement (PPS 17). Policy AD 1 of PPS 17 states that consent will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality and it does not prejudice public safety. Policy BH9 of Planning Policy Statement 6 Planning Archaeology and the Built Heritage states that consent for advertisement or signs on a listed building where they are design and located to respect the architectural form and detailing of the building and Policy BH11 of Planning Policy Statement 6 Planning Archaeology and the Built Heritage states that development proposals will normally only be considered appropriate where all the following criteria are met:

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;
- (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and
- (c) the nature of the use proposed respects the character of the setting of the building.

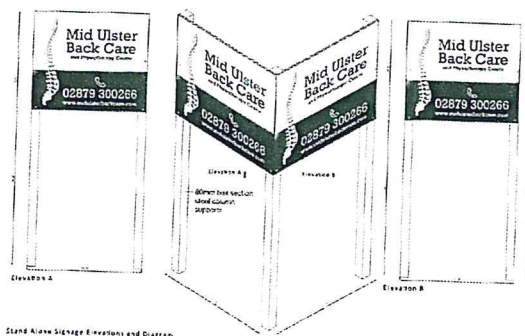
### Amenity and Impact on a Listed Building

**SIGN 1:** Is a small signage text with the wording 'Mid Ulster Back Care and Physiotherapy Centre' in small black lettering located on the first floor west elevation:-



It is my opinion that the small signage text on the west elevation respects the amenity of the local area and has been carefully designed and located to respect the architectural form and detailing of the building. Historic Buildings advise that they are also content with the small signage text.

**SIGN 2:** Is a freestanding sign located in a corner plot at the front of the premises sited between ornate cast iron railing and two ground floor windows. The sign is 1500mm above ground level and mounted on three 80mm box section steel poles supporting two 1110mm x 950 signs:-

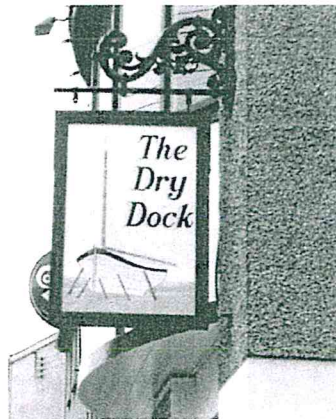


Historic Buildings advise that the large free standing at 2450mm high is a dominant feature and detracts from and obscures the listed building street frontage. The Council also supports Historic Buildings viewpoint and whilst their consultation response did not request that the sign be removed, given that the sign has already been erected the only way to move forward is for the sign to be removed from the proposal. The applicant was contacted on 1st November 2018 and advised to remove the free standing from the proposal. The applicant responded on the 5th November arguing that the historic

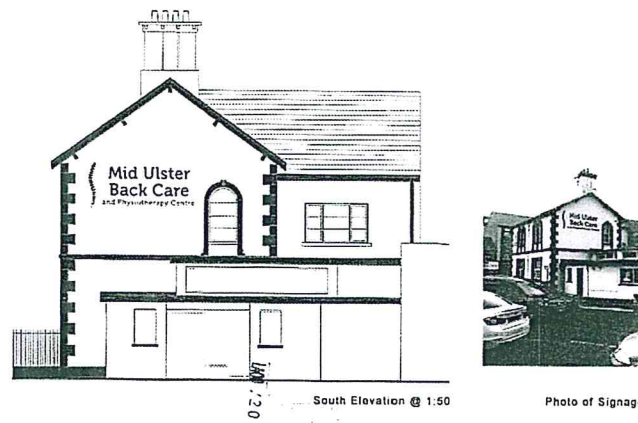


architectural detailing of this building are at a very basic level and that the sign will not have an impact on important historic features which can still be viewed while moving around this corner of the property. It is acknowledged that the sign is not attached to the building, however the close proximity is such that a substantial element of the façade is masked. It is my opinion that the advertisement is contrary to policy AD1 of PPS 17 as it does not respect amenity, when assessed in the context of the general characteristics of the locality and as a result, the freestanding sign is contrary to BH 11 of PPS 6 in that it adversely affects the setting of a listed building.

However, as an alternative the Council will consider an appropriate hanging sign on the front facade similar to the image below. This type of traditional sign would help to complement the historic importance of the building and the area.



**SIGN 3:** Is a large signage text with the wording 'Mid Ulster Back Care and Physiotherapy Centre' in small black lettering located on south (gable) elevation:-



Historic Buildings has requested that the large signage text on the south elevation should be reduced in scale and size. However, the Council does not share Historic Buildings viewpoint because the signage text on the gable façade replaced previous signage text albeit the lettering is slightly larger than the previous sign. In addition, the signage text is located on a less prominent elevation and as a result can only be viewed when travelling in a north-westerly direction along King Street towards the town centre. Therefore, it is my opinion that the large signage text on the west elevation respects the amenity of the local area and has been designed and located to respect the architectural form and detailing of the building.

**Deemed Consent**

The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 Schedule 3 Regulation 5 – Part 1 – Classes of Advertisement which may be displayed with deemed consent.

Class 5 - Advertisements (other than illuminated advertisements) on business premises is pertinent to **SIGN 1** & **SIGN 3**, however both signs are not permitted by Class 5 for the following reasons:

1. the 'spinal cord symbol' on the wall is more than 0.3m in height - condition (c).
2. the sign is higher than the bottom of the first floor window on the wall on which the advertisement is displayed - condition (d).

Class 6 - An advertisement on a forecourt of business premises is pertinent to **SIGN 2**, however the sign is not permitted by Class 6 for the following reason:

1. the 'spinal cord symbol' on the wall is more than 0.3m in height - condition (c).

**Public Safety**

Transport NI have responded with no objections to the proposal subject to a number of informatives, mainly in relation to the illuminated part of the proposed signage and therefore public safety is not considered an issue.

**Neighbour Notification Checked**      **N/A**

**Summary of Recommendation:** The proposal is contrary to policy AD1 of PPS17 in that it would, if approved, adversely impact upon the visual and residential amenity of the locality. The proposal is also contrary to policy BH 11 of PPS 6 in that it would, if approved, adversely affect the setting of a listed building.

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

1. The proposal is contrary to Policy AD1 of Planning Policy Statement 17, Control of Outdoor Advertisements, in that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018, does not respect amenity, when assessed in the context of the general characteristics of the locality.

2. The proposal is contrary to Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the Planning Act (Northern Ireland) 2011 and that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018 would adversely affects the setting of a listed building.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	14th November 2018
<b>Date First Advertised</b>	29th November 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/1521/LBC Proposal: Business signage; including signage on South & West Elevations and free standing sign in front of building Address: 15-17 Church Street, Magherafelt, Decision: Decision Date:  Ref ID: LA09/2017/1196/A Proposal: Business signage; including signage on South & West Elevations and free standing sign in front of building Address: 15-17 Church Street, Magherafelt, Decision: CG Decision Date:  Ref ID: H/2007/1100/F Proposal: Mixed use development incorporating ground floor retail units at nos 17 to 21, first floor office accommodation at nos 17 to 21 and apartment to rear of 17 to 21 Address: 17-21 Church Street, Magherafelt Decision: Decision Date: 26.02.2009  Ref ID: H/1993/0099 Proposal: CHANGE OF USE TO ART GALLERY AND PICTURE FRAMING(LBC) Address: 15-17 CHURCH STREET MAGHERAFELT Decision: Decision Date:  Ref ID: H/1993/0098 Proposal: CHANGE OF USE TO ART GALLERY AND PICTURE FRAMING	

**WORKSHOP**

Address: 15-17 CHURCH STREET MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2007/0920/LB

Proposal: Mixed used development incorporating ground floor retail units at 17-21, first floor office accommodation and apartment to rear of 17-21

Address: 17-21 Church Street, Magherafelt

Decision:

Decision Date: 26.02.2009

Ref ID: LA09/2015/0996/LBC

Proposal: Internal fit out of 19 with demolition and replacement of rear return for structural reasons

Address: 19-21 Church Street, Magherafelt, BT45 6AP,

Decision: CG

Decision Date: 03.06.2016

Ref ID: LA09/2016/0725/F

Proposal: Proposed alterations to provide new residential apartment above existing commercial units at 15 - 17 Church Street Magherafelt

Address: 15 - 17 Church Street Magherafelt,

Decision: PG

Decision Date: 30.05.2017

Ref ID: LA09/2016/0723/LBC

Proposal: New doorway to 15 Church Street to provide access to new apartment above No's 15 and 17. Amendment to existing stair to provide access to apartment. Removal of existing wall in No 17 and breaking through to create internal toilet area for the existing commercial unit

Address: 15-17 Church Street, Magherafelt,

Decision: CG

Decision Date: 24.05.2017

**Summary of Consultee Responses****Drawing Numbers and Title**

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

Drawing No. 02  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 03 Rev 1  
Type: Proposed Elevations  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2018/1578/O	<b>Target Date:</b>
<b>Proposal:</b> Site for a dwelling and garage based on Policy CTY3 (replacement of a redundant non-residential buildings with a single dwelling)	<b>Location:</b> 25m East of No 28 Drumkee Road Dungannon
<b>Applicant Name and Address:</b> Ms Claire Heron 28 Drumkee Road Dungannon BT71 6JA	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> Proposal does not represent a replacement / conversion opportunity and is therefore contrary to PPS21.  <b>Refusal is recommended</b>	
<b>Summary of Consultee Responses:</b> No objections	
<b>Characteristics of the Site and Area:</b>  <p>The red line of the site includes a square area of garden space to the East of number 28 Drumkee road, Dungannon. The site includes two poly tunnels (one covered and one not covered) and a glass greenhouse. The site is bounded by mature trees and hedgerow to the north south and east with the west boundary along the gable of the dwelling undefined on the ground.</p> <p>The site lies within the open countryside outside all other areas of control as depicted by the Dungannon Area Plan 2010. It lies a short distance to the North West of the settlement limits of Tamnamore and the M1 Motorway.</p> <p>The area is predominantly rural in make up and in my view retains a pleasing rural feel and character only on occasions being defined by scattered road side dwellings and farm complexes.</p>	



### **Description of Proposal**

The proposal seeks outline planning permission for a site for a dwelling and garage based on Policy CTY3 (replacement of a redundant non-residential buildings with a single dwelling)

### **Deferred Consideration:**

Members may recall that this case was deferred for a site visit at the Planning Committee held in March 2019.

I attended the site with Cllr Mark Glasgow on the 28<sup>th</sup> March 2019 at 10.00.

It was observed that the proposal intends to replace a polytunnel type structure with a permanent dwelling house. In examining Policy CTY3 of PPS21 at the site meeting I reminded Cllr Glasgow of the Policy requirements in this regard, namely:

‘Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to ‘dwellings’ will include buildings previously used as dwellings’.

Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy.

Favourable consideration will however be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality.

It is my view that the fundamental issue with this case is that the structure to be replaced, whilst perhaps redundant, is such a building of ‘temporary construction’ more akin to an ancillary garden structure and should be ruled out as being of replacement merit in the same way that sheds and stores are above.

In terms of looking at Policy CTY4 of PPS21 (Conversion) I do not regard the structure as being capable of being converted and in any case the SPPS has introduced a policy requirement that any building to be converted in the open countryside should be able to be considered as ‘locally important’. This structure falls well short of any such definition in my opinion.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22<sup>nd</sup> Feb 2019. Policy GP1 - General Principles Planning Policy, Policy CT1- General Policy and Policy CT2 - Dwellings in the Countryside, part (c) and (d)- Replacement Dwelling, are applicable to this application. The proposal as submitted also remains contrary to the LDP. In any case the LDP holds no determining weight as it is only at early consultation stage.

Having viewed the site I share the original case officer’s opinion on the proposal and have reached the same recommendation to refuse permission.

**Reasons for Refusal:**

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

2.The proposal is contrary to Policies CTY3 and CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the structure is considered to be of temporary construction and it has not been shown that the replacement would result in any significant environmental benefits, nor is the structure regarded as being locally important or being able to be converted to a dwelling.

**Signature(s): M.Bowman****Date 17<sup>th</sup> May 2019**



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	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1578/O	<b>Target Date:</b>
<b>Proposal:</b> Site for a dwelling and garage based on Policy CTY3 (replacement of a redundant non-residential buildings with a single dwelling)	<b>Location:</b> 25m East of No 28 Drumkee Road Dungannon
<b>Referral Route: objection received</b>	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Ms Claire Heron 28 Drumkee Road Dungannon BT71 6JA	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### 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
<p><b>Summary of Issues</b></p> <p>One representation received from the owner of number 26 Drumkee road whom was concerned that they were not neighbour notified of the application. In response we detailed our statutory neighbour notification procedures and invited further objection if necessary. No further objections were forthcoming.</p>	
<p><b>Characteristics of the Site and Area</b></p> <p>The red line of the site includes a square area of garden space to the East of number 28 Drumkee road, Dungannon. The site includes two poly tunnels (one covered and one not covered) and a glass greenhouse. The site is bounded by mature trees and hedgerow to the north south and east with the west boundary along the gable of the dwelling undefined on the ground.</p> <p>The site lies within the open countryside outside all other areas of control as depicted by the Dungannon Area Plan 2010. It lies a short distance to the North West of the settlement limits of Tamnamore and the M1 Motorway. The area is predominantly rural in make up with moderate development pressure in the immediate vicinity, more so towards the west of the application site where there is a fair scattering of dwellings and farm holdings along the roadside.</p>	
<p><b>Description of Proposal</b></p> <p>The proposal seeks outline planning permission for a site for a dwelling and garage based on Policy CTY3 (replacement of a redundant non-residential buildings with a single dwelling)</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>PPS 1 General Principles  PPS 3 Access, Movement and Parking  PPS 21- Sustainable Development in the Countryside  Building on tradition: A sustainable design guide for the Northern Ireland countryside  Dungannon Area Plan 2010</p> <p>History  There are no relevant previous planning applications on the site.</p> <p>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.</p>	

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

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

The proposal seeks planning permission for a replacement of a redundant non-residential buildings with a single dwelling and given the rural location of application site the nature of the proposal the application shall be assessed under Planning Policy Statement 21- Sustainable Development in the Countryside and in particular with the following;

- Policy CTY1- Development in the Countryside;
- Policy CTY3- Replacement Dwellings;
- Policy CTY13- Integration and Design of Buildings in the Countryside; and
- Policy CTY14 - Rural Character.

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built up frontage. In this instance the application is for a replacement dwelling and therefore must be considered against Policy CTY3 of PPS21.

The applicant is applying for the replacement of a redundant non-residential buildings with a single dwelling and therefore Policy CTY 3 of PPS21 is relevant. Policy CTY 3 states that 'favourable consideration will be given to the replacement of a redundant non-residential buildings with a single dwelling, where the redevelopment proposed would bring significant environmental benefits'. The policy also states that buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however, be eligible for this policy.

It is clear from site inspection that the two 'buildings' to be replaced are of a temporary construction. The larger structure bares the frame of a poly tunnel, however, it has no covering and is open to the elements bar a small netted area around the base. The second structure is a smaller poly tunnel which in this case has covered sides and an open area to the front. In this case these temporary buildings will be ineligible for replacement under this policy.

In addition the buildings are set back from the roadside, are relatively low in height with a max height of the non-covered frame less than 4 metres and it has not been demonstrated that replacement with a dwelling would bring any let alone significant environmental benefits.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that in this case a small dwelling could possibly blend in successfully with its immediate and wider surroundings as the site is relatively low lying and there is decent boundary vegetation.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs may be suitable for absorbing a very small dwelling.

Transportni and Environmental health were consulted and have replied stating no objections.

The application was advertised on 13th December 2018 and Neighbour Notifications were issued on 11th December 2018 however no representations were received in respect to this application.

Refusal recommended.

**Neighbour Notification Checked      Yes**

#### Refusal Reasons

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building has been designed of a temporary construction and it has not been shown that the replacement would result in any significant environmental benefits.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	30th November 2018
<b>Date First Advertised</b>	13th December 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Robert Brown 26 Drumkee Road, Dungannon, Tyrone, Northern Ireland, BT71 6JA The Owner/Occupier, 26 Drumkee Road,Dungannon,Tyrone,BT71 6JA The Owner/Occupier, 28 Drumkee Road,Dungannon,Tyrone,BT71 6JA	
<b>Date of Last Neighbour Notification</b>	11th December 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1558/O Proposal: Dwelling and Garage on a Farm Address: Land Approx. 50 NW of 32 Drumkee Road, Dungannon, Decision: Decision Date:  Ref ID: LA09/2018/1578/O Proposal: Site for a dwelling and garage based on Policy CTY3 (replacement of a redundant non-residential buildings with a single dwelling) Address: 25m East of No 28 Drumkee Road, Dungannon, Decision: Decision Date:  Ref ID: M/1981/0012 Proposal: DWELLING AND GARAGE Address: DRUMKEE ROAD, DUNGANNON Decision: Decision Date:  Ref ID: M/1981/001201 Proposal: BUNGALOW Address: DRUMKEE ROAD, DUNGANNON Decision: Decision Date:	



Ref ID: M/2007/0552/F

Proposal: 1 no. free range hen house and feed bin (amended siting)

Address: 32 Drumkee Road, Dungannon

Decision:

Decision Date: 18.12.2007

Ref ID: M/2010/0561/F

Proposal: Proposed Extension to Rear of Free Range Poultry Shed with extension to Egg Store and an Additional Feed Bin to Front

Address: 32 Drumkee Road, Dungannon

Decision:

Decision Date: 20.09.2010

Ref ID: M/2012/0412/O

Proposal: Proposed dwelling and garage on a farm

Address: Land approx 50m NW of 32 Drumkee Road, Dungannon,

Decision: PG

Decision Date: 05.10.2012

Ref ID: M/2006/0811/O

Proposal: Proposed dwelling house and garage

Address: 80m West of 32 Drumkee Road, Dungannon

Decision:

Decision Date: 21.03.2007

Ref ID: M/2004/0047/O

Proposal: 1 No.Dwelling House (Renewal of previously approved application no:- M/2001/0056/O)

Address: Adjacent to 26 Drumkee Road, Killyman, Dungannon.

Decision:

Decision Date: 03.03.2004

Ref ID: M/2011/0198/F

Proposal: Additional electrical plant and equipment installation, control room inside the existing sub-station site. Overhead electrical transmission lines detailed in Form P1.

Address: Tamnamore Grid Substation Drumkee Road Dungannon and townlands of Drumkee, Drumnaspil, Cavan, Coash, Lederg and Keenaghan,

Decision:

Decision Date: 08.12.2011

Ref ID: LA09/2015/0910/O

Proposal: Proposed Dwelling on a farm

Address: Land approx. 50m NW of 32 Drumkee Road, Dungannon, (Renewal of planning permission),

Decision: PG

Decision Date: 26.01.2016

**Summary of Consultee Responses**

Transportni and Environmental health were consulted and have replied stating no objections.

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2019/0128/F	<b>Target Date:</b> 14 May 2019
<b>Proposal:</b> Proposed replacement dwelling and domestic garage	<b>Location:</b> Adjacent to and N.W. of 51 Ballynahaye Road Ballygawley Dungannon
<b>Applicant Name and Address:</b> Mr Cathal O'Neill 51 Ballynahaye Road Ballygawley Dungannon	<b>Agent name and Address:</b> Mc Keown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Summary of Issues:</b> The design of the dwelling was not considered appropriate for the rural area, an amended design has been provide that is now appropriate	
<b>Summary of Consultee Responses:</b> DFI Roads – request a layby to be provided, have not raised any concerns about the safety of the access Environment Health – no objection in principle NI Water – no foul sewer available, public water supply available	
<b>Characteristics of the Site and Area:</b> The site is located approx. 4.49km north west of the settlement limit of Agfhinduff/Cabragh and is defined to be in the open countryside as per the Dungannon and South Tyrone Area Plan 2010 (DSTAP). The surrounding context appears rural, characterised predominantly by sprawling agricultural fields, farm complexes and dispersed single dwellings.  Adjacent to the application site sits a single storey dwelling and a vernacular dwelling to be replaced. An existing shared laneway off the Ballynahaye Road runs adjacent to the site. The site is bounded on the eastern boundary by post and wire fence and the north boundary has mature trees. To the southern boundary and along the roadside is hedging.	

**Description of Proposal**

This is a full application for a proposed replacement dwelling and domestic garage. The proposed dwelling is located to the front of the dwelling to be replaced, it has a hipped roof with a ridge height 8m above the finished floor level. The gable depth is 8.5m and there is a return. The dwelling dark roof tiles and smooth plaster walls with plaster bands to the ground floor. The dwelling has a Georgian appearance with a flat roofed porch over an arched entrance door. The garage is a finished similar to the house with a hipped roof and is for 2 cars.

**Deferred Consideration:**

Members are advised this application was presented with a recommendation to refuse at the Planning Committee in April 2019 (see attached report for policy considerations) where it was deferred following a request from the agent to discuss the design. A meeting was held with Dr Boomer and following that meeting a revised design was submitted. The revisions provided are:

- the ridge height being reduced by 0.5m to give the roof less of a top heavy appearance
- gable depth reduced by 2 metres which gives the appearance of less massive dwelling
- 2 storey rear return with single storey return

The revised design is now, in my opinion, more in keeping with rural house design in the area.

Roads engineers have asked for an amendment to the access detail, to provide a layby at the road entrance. This has been provided and as they have not raised any other issue with the access I consider a condition requiring the provision of the access prior to the commencement of any other development is appropriate.

I consider this application can be approved

**Conditions:**

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

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

2. Upon occupation of the new dwelling, the dwelling to be replaced, coloured green on the approved plan 01 Rev 3 date stamped 22 MAY 2019, shall no longer be used or adapted for purposes of human habitation and may only be used for the purposes specified in this permission or any other purpose incidental to the enjoyment of the approved dwelling house.

REASON: To ensure that the proposed development does not result in the creation of an additional dwelling in the countryside.

3. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4mx 60.0m in both directions shall be provided in



accordance with the details as shown on drawing No 01 Rev 3 date stamped 22 MAY 2019. 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. All hard and soft landscape works as detailed on drawing no 01 Rev 3 bearing the stamp dated 22-MAY-2019 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

REASON: In the interests of visual amenity of the countryside.

5. The existing natural screenings of the site, as indicated in yellow and annotated 'Existing Tree Planting To Be Retained' on approved drawing no 01 Rev 3, date stamped received 22 MAY 2019 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**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	
<b>Committee Meeting Date:</b> 02/04/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0128/F	<b>Target Date:</b> 14/05/2019
<b>Proposal:</b> Proposed replacement dwelling and domestic garage	<b>Location:</b> Adjacent to and N.W. of 51 Ballynahaye Road Ballygawley Dungannon
<b>Referral Route:</b>  The proposal is contrary to CTY 3, CTY 13 & CTY 14 of Planning Policy Statement 21 and NH 5 of Planning Policy Statement 2	
<b>Recommendation:</b> Refusal	
<b>Applicant Name and Address:</b> Mr Cathal O'Neill 51 Ballynahaye Road Ballygawley Dungannon	<b>Agent Name and Address:</b> Mc Keown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### Representations:

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

#### Summary of Issues

The application relates to a replacement dwelling with new access in the countryside. It is considered the application does not meet the policy tests for the replacement of a dwelling, integration and design of buildings in the countryside and rural character. No representations have been received and DfI Roads were consulted and responded with no objections subject to conditions. All prevailing policy and material considerations have been considered below.

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

The site is located approximately 4.49km north west of the settlement limit of Aghaginduff/Cabragh and is defined to be within the open countryside as per the Dungannon and South Tyrone Area Plan 2010 (DSTAP). The surrounding context appears rural, characterized predominantly by sprawling agricultural fields, farm complexes and dispersed single dwellings.

Adjacent to the application site sits a single storey dwelling and a vernacular dwelling to be replaced. An existing shared laneway off the Ballynahaye Road runs adjacent to the site. The site is bounded on the eastern boundary by post and wire fence and the northern boundary has mature trees. To the southern boundary and along the roadside frontage is hedging.

### **Description of Proposal**

This is a full application for a proposed replacement dwelling and domestic garage. The proposed dwelling will have a ridge height of 9m and a frontage of 14m. The dwelling will be smooth render painted walls and blue/black slates.

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

#### **Planning History**

M/2008/0718/F – Proposed retention of extension to dwelling – 51 Ballynahaye Road – Permission Granted 23/08/2008

M/2008/0078/F – Proposed domestic dwelling – 200m north of 51 Ballynahaye Road – Permission Granted 18/03/2008

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

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

The plan offers no specific policy relevant to this application.

#### **Mid Ulster Local Development Plan 2013 – Draft Plan Strategy**



The Mid Ulster Local Development Plan 2030 – Draft Strategy has now been published during the processing of this application and it is considered as a material consideration. Under the Draft Strategy the proposed application would be considered under policies GP1 – General Principles Planning Policy and CT1 – General Policy and CT2 – Dwellings in the Countryside. In terms of CT2 the application is to be considered under a replacement dwelling. In that I am of the opinion that the proposed dwelling to be replaced has all the essential characteristics of a dwelling and all the external walls are substantially intact. The proposal would not meet CT1 – General Policy as it is not an appropriate design in terms of height, size, scale, massing, architectural detail and finishes. No significant weight can be given as the Draft Plan Strategy is at early public consultation stage.

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

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 replacement 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**

#### **CTY 3 – Replacement Dwellings**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Buildings designed and used for agricultural purposes, such as sheds or stores will not be eligible for replacement under this category. However favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. Upon review of the submitted plans and what was witnessed during the site visit I consider that the building to be replaced is a dwelling and complies this part of the policy. On the basis of Annex 2 in PPS21, the building to be replaced can be described as being vernacular.

The proposed dwelling is to be located in the agricultural field immediately west of the existing curtilage and I am content that the proposal is located here as the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling. The dwelling proposed is a two storey and it will be replacing a single storey dwelling. I am not content that the overall size of the new dwelling should allow it to integrate into the surrounding landscape and will have a visual impact significantly greater than the existing building. I

consider that the design of the proposed dwelling is not appropriate to the rural setting as it has a hipped roof which does not meet the Building on Tradition Rural Design Guide. Water will be piped to an existing drain and NI Water had no objections. The proposed new access will not prejudice road safety or significantly inconvenience the flow of traffic.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

The proposed dwelling is greater in scale and will have a much greater impact than the existing dwelling. Failing to meet the integration tests because of its bulk in size, massing and external finishing and its siting. While there is existing vegetation to help blend the dwelling in, it will result in a loss of trees. I see no reason why a sensitive design and better sited dwelling could not achieve integration if positioned to retain the planting area and the massing is reduced and the form is simplified in line with a modern interpretation of a vernacular dwelling.

The proposed design is not acceptable as it has a hipped roof and this does not meet the Building on Tradition Rural Design Guide. The scale and massing of the dwelling is also unacceptable and will not integrate with what the surrounding dwellings at the site. There are other large 2 storey dwellings along the Ballynahaye Road but these do not have hipped roofs. From this I am not content that the application is able to comply with CTY 13.

### **CTY 14 – Rural Character**

There are minimal long term critical views of the site from the Ballynahaye Road but there is a lack of natural boundaries to provide integration. The design of the dwelling has a hipped roof and is of a large scale in form and massing which I consider is not sympathetic to the site and surrounding area. Overall I consider the dwelling will be prominent in the landscape. It will not create or add to build up or ribbon development or result in a suburban style build-up of development. The proposed dwelling does not respect the traditional pattern of development in the area as it has a hipped roof. Ancillary features will not damage rural character. From this I am not content that the application is able to comply with CTY 14.

### **NH 5 – Habitats, Species or Features of Natural Heritage Importance in PPS 2 – Natural Heritage**

NH 5 states that 'Other' natural heritage features worthy of importance are most likely to include trees and woodland which do not fall under the priority habitat or long established woodland categories but are in themselves important for local biodiversity. I consider that the removal of established trees to the rear of the application site would not comply with NH5.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves direct access onto the Ballynahaye Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from a new access subject to provision of splays of 2.4m x 60m in both directions. This can be dealt with by planning condition. They also advising the provision of a lay-by to allow one vehicle to wait of the carriageway which will involve the removal of the front hedging for the visibility splays.

I have no flooding, ecological or residential amenity concerns.

**Neighbour Notification Checked** Yes

**Summary of Recommendation:**

As the applicant has shown no willingness to re-examine the design and siting I have no alternative to recommend for refusal for the reasons outline below.

**Reasons for Refusal:**

The proposal is contrary to CTY 3 of Planning Policy Statement 21 in that the overall size of the new dwelling does not allow it to integrate into the surrounding landscape and will have a visual impact significantly greater than the existing building. The design of the replacement dwelling is not appropriate to the rural setting.

The proposal is contrary to CTY 13 of Planning Policy Statement 21 in that the new building will be a prominent feature in the landscape, the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. Also it relies primarily on the use of new landscaping for integration and the design of the building is inappropriate for the site and locality.

The proposal is contrary to CTY 14 of Planning Policy Statement 21 in that the new building will be a prominent feature in the landscape and does not respect the traditional pattern of settlement exhibited in that area.

The proposal is contrary to NH 5 of Planning Policy Statement 2 in that it will lead to an unnecessary loss of trees and vegetation to the detriment of the rural character.

**Signature(s)**

**Date:**