



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/1008/F	Target Date: <add date>
Proposal: Retention of dwelling in substitution of replacement dwelling previously approved under M/2012/0006/F	Location: 7 Tobermesson Road Dungannon Co Tyrone.
Applicant Name and Address: Conor Curran 1 Lisgobbin Road Dungannon BT71 7PT	Agent name and Address: J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Summary of Issues: Planning permission was granted for a replacement dwelling which was not commenced in time and that dwelling is not in the ownership of the applicant. The applicant did obtain planning permission for a replacement dwelling to the east of this site (M/2012/0006/F), that dwelling was demolished and foundations put in place within the time commencement period of the permission. It does not appear as if the access was put in place, objectors claim this means the permission lapsed and cannot be used as justification for this dwelling. The applicant has an active and established farm but the proposed site is not beside any buildings on the farm.	
Summary of Consultee Responses: DFI Roads – access with sight lines of 2.4m x 60.0m required to be provided. DEARA – active and established farm	
Characteristics of the Site and Area: The site contains a large two storey dwelling and the red line includes a gravel lane and a small irregular shaped plot of land which includes a small rear garden and a larger space to the front. The site is relatively open and can be viewed clearly in both directions along the Tobermesson	

road, however, the topography of the land and the large amount of tall trees to the rear act as a back drop.

The new dwelling is located approx. 300 metres to the east of a group of industrial buildings owned by the applicant and the site of the a former dwelling that was approved for replacement in 2012. That dwelling has been removed and the area it was located on is a stone yard.

Description of Proposal

The proposal seeks planning permission for Retention of dwelling in substitution of replacement dwelling previously approved under M/2012/0006/F.

Deferred Consideration:

This application was before the committee members in February 2020 and February 2021 where it was deferred for a meeting with the Planning Manager. At the meeting it was indicated the applicant bought the site in the understanding that it had permission and this was lawfully commenced, it was explained this is not the case and additional information to justify a dwelling was requested.

Since the meeting additional farming maps and information were provided to show the applicants mother Ms Bronagh Curran has an active and established farm. A check of the farm maps does not appear to indicate any planning permission has been granted for a dwelling under Policy CTY10 on the lands. Planning permission, on personal and domestic circumstances was granted LA09/2017/0188/F on lands identified on the holding but this is not in the applicants name. Other permissions have been granted M/2003/0564/O, and M/2007/0149/RM, O/2006/0303/O and O/2011/0466/RM which were approved under the previous policy and these do not appear to have been transferred or sold off. There was a replacement dwelling approved M/2012/0006/F which is to the east of the application site and beside a group of industrial buildings. There is approved storage area for gas tanks at these buildings and as such I consider there is a legitimate Health & Safety concern with siting beside those buildings. There are a number of other building's on the farm and no information has been provided to demonstrate why this dwelling could not be sited beside them.. In terms of overall integration, I consider the dwelling does fit into the landscape and is not unduly prominent or obtrusive, it utilises the backdrop of the trees and land form which rises significantly to the rear and has good vegetation cover. It is open to views from immediately in front and on approach from the east but this is seen with a good backdrop of trees and new landscaping has been provided along the front of the site. (Photos 1,2 & 3 below)



Photo 1 – dwelling from west



Photo 2 – dwelling from road in front



Photo 3 – dwelling from east, foundations of the previously approved house in the foreground.

I consider the dwelling is acceptable in terms of its integration, it is on an active and established farm and no sites have been sold off or permission granted under Policy CTY10 in the previous 10 years. In light of these other buildings being available to site and no justification for not siting there, the members could refuse planning permission on the basis that it has not been demonstrated the dwelling is sited to cluster with a group of building on the farm.

The applicant has provided additional information in respect of a replacement dwelling that was approved under application M/2012/0006/F. The permission was granted on 11 December 2012 for an off site replacement dwelling with a new access to the public road with a condition that stated the development must be begun within 5 years of the permission. The Interpretation Act (NI) 1954 sets out what is meant by Time for enactments. Where in an enactment a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period. In an enactment reference, without qualification, to a year shall be construed as a reference to a period of twelve months. Taking this into account I am content the foundations had been provided before the permission expired and this could be considered to be works in the course of the erection of the building and constitutes commencement of development in accordance with Section 63 of the Planning Act (NI) 2011. That said, there was a pre-commencement condition that required the access to be provided before the works commenced. Members will be aware the Council cannot issue a Certificate of Lawful Development in such circumstances as the legislation is clear, however members can take into account material factors in the determination of a planning application in setting aside policy. The boundary to this site is and has been a post and wire fence along the edge of the road. The removal of the fence and setting it back to provide the sight lines was not an onerous. I visited the site on 9 March 2023, the day before the heavy snow and noted the foundations had been exposed. I noted the foundations were scraped back to the concrete and that the foundations of the entire dwelling appeared to have been had been poured. (See photos 4, 5, 6 & 7)



Photo 4 – foundations exposed 09.03.2023



Photo 5 – foundations exposed 09.03.2023



Photo 6 – foundations exposed 09.03.2023



Photo 7 – foundations exposed 09.03.2023

Given the works that have been carried out, I am of the view that it was the intention to commence this development and some leniency could be afforded the applicant in this case as the removal of the fence would have been a minor operation to carry out.

The previous approval was for a replacement dwelling and that dwelling has now been removed. The approved dwelling that had the foundations commenced is a road frontage plot side site with no natural boundaries to it. In my view this dwelling will have no greater visual impact given its set back and the rising ground to the rear as well as the vegetation around it. This is also generally in accordance with the objectors recent off-site approval, LA09/2021/1328/O, where they have been allowed to move from an enclosed site on higher ground to a more exposed site closer to the road. The design of the house is of a style that is appropriate to the rural area and has been indicated it is located away from an area that is approved for storage of gas tanks, which I consider is an amenity benefit for the occupants. While not strictly in accordance with Policy CTY3, I consider this is within the spirit of the policy and will not result in an additional dwelling in the countryside. I consider it appropriate to remove the foundations and condition that no dwelling shall be constructed on that site in accordance with that permission.

The objector has indicated the applicant does not have any right of way on the lane or control over the sight lines for the access. DFI Roads have requested the sight lines of 2.4m x 60.0m here in accordance with the permission granted under M/2006/1472/RM. I note the objectors recently approved site has been granted sight lines of 2.4m x 45.0m and that Roads have accepted sight lines of 2.0m x 60.0m. DFI Roads, in that application have indicated, in their assessment, the 85th percentile speed of traffic on the priority road is 25MPH. The proposed access for the objectors site is within 50 meters of the access for this dwelling, it is on a straight part of rural single vehicle width road and no significant hills. Given the DFI Roads assessment of the road speeds of 25MPH, DCAN15 allows sight lines to be reduced to 2.0m x 33.0m where the access has less than 60VPD using it,

the priority road has less than 3000VPD using it and danger is unlikely to be caused. DFI Roads have accepted the reduced x distance, from 2.4m to 2.0m. for the neighbouring site and have obviously accepted danger is unlikely to be caused. I accordance with DFI's survey and my inspection, I am of the view sight lines of 2.0m x 33.0m are in situ where the access meets the public road and these are acceptable as the road speed is low and DFI Roads have advised there is unlikely to be danger.



View of the access from the east



View from the access looking east

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

Since the most recent report in February 2021, there have been additional objections received about the proposal.

22 March 2021

The owner of the original house had objected stating they wished to apply to replace the house. The objector has recently been granted planning permission for an off site replacement dwelling, LA09/2021/1328/O.

21 June 2021

In respect of the applicants farming case, the objector has concerns about the dwelling not being located beside existing buildings on the farm, the forms are not correctly completed, land ownership forms have not been correctly completed, no other lands identified by the applicant as being in their control, DfI Roads comments about access and no details about the septic tank outfall.

As set out above the farming case has been considered and it has not been accepted as the dwelling is not beside an existing group of buildings on the farm. The access appears to be in place and reduced standards of 2.0m x 33.0m appear to be the appropriate standard given DfI Roads considerations in LA029/2021/1328/O. A Consent to Discharge is administered by NIEA as a separate regulatory authority. If there is an issue with the

septic tank this is a matter for them to deal with. The adjoining land owners are aware of this application and have made comments on it. The laneway is in place and has been there and any right of way over that is a private matter between the individuals. As it stands there appears to be access to the house and the reduced sight lines appear to be in place. Amended plans have been provided showing lands that are in control of the applicant to the east of the site.

18 January 2023

The previous permission that is being proposed to substitute was not lawfully commenced as the access was not put in place and the house has been demolished therefore cannot be considered as lawful start. The dwelling has a greater visual impact than the dwelling that was replaced. The applicant does not own the lane for access and has no other means of access. There are no details about the septic tank. The drawing do not reflect the additional building on the site.

The matters about ownership, access and the septic tank are dealt with above. The Council cannot issue a lawful development certificate for the house approved by M/2012/0006/F. The Council may take into account the works done and the intent of the applicant as material factors in their consideration as set out above. Provided they have made a reasonable decision based on the facts they may approve development contrary to policy. This application does not include the other building referred to on the site and if permission is granted then it will not include that building.

This proposal does not fully comply with a case for a dwelling on a farm and there is no lawful development certificate issued in respect of the replacement dwelling. The dwelling that it is proposed is adequately integrated on the site and there is a safe access in place for it. It would be harsh to refuse this application based on the fact the post and wire fence was not set back along the roadside, given the entire foundation was poured. On the basis of the works that were carried out to secure the permission, I recommend this application is approved and condition attached to ensure the foundations are removed and that no house is built in accordance with permission reference M/2012/0006/F

Conditions/Reasons for Refusal:

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

Reason: This is a retrospective application.

2. Within 6 weeks of the date of this permission the foundations for the dwelling approved under M/2012/0006/F within the area in green on drawing 1B received 01 DEC 2022 shall be permanently removed from and the lands reinstated as an agricultural field. The dwelling approved by planning permission M/2012/0006/F shall not be constructed.

Reason: This permission is in substitution for that approved under M/2012/0006/F and is not for an additional dwelling in the countryside.

3. The area within the existing 2.0m x 33.0m visibility splays and any forward sight line shall be permanently clear of any obstructions higher than 250mm above the levels of the adjoining carriageway.

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

4. All existing landscaping contained within the site identified in red on drawing 1B received 1 DEC 2022 shall be permanently retained.

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

Signature(s):

Date



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BT45 6EN

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/1008/F	Target Date: <add date>
Proposal: Retention of dwelling under construction	Location: 7 Tobermesson Road Dungannon Co Tyrone.
Applicant Name and Address: Conor Curran 1 Lisgobbin Road Dungannon BT71 7PT	Agent name and Address: J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Summary of Issues: Planning permission was granted for a replacement dwelling, the applicant does not own the dwelling to be replaced, the original planning permission was not commenced in time and the previous permission lapsed.	
Summary of Consultee Responses: DFI Roads – access with sight lines of 2.4m x 60.0m required to be provided	
Characteristics of the Site and Area: The site contains a large two storey dwelling and the red line includes a gravel lane and a small irregular shaped plot of land which includes a small rear garden and a larger space to the front. The site is relatively open and can be viewed clearly in both directions along the Tobermesson road, however, the topography of the land and the large amount of tall trees to the rear act as a back drop. The site lies within the open countryside outside all other areas of constraint. It is a short distance to the north of the settlement limits of Benburb in a predominantly rural area. There are a scattering of single dwellings and farm holdings located along the roadside.	

Description of Proposal

The proposal seeks planning permission for the retention of the dwelling.

Deferred Consideration:

This application was before the committee members on 4th February 2020 with a recommendation to refuse. The application was deferred to allow planning officials to write to the objector and the applicant and seek clarification in relation to the development that was approved on the site and establish if development had lawfully commenced on the site in accordance with approved plans. Both parties were written to on 11 June 2020 and asked to provide additional information that would be helpful to the consideration of this application.

Members will recall that outline planning permission (OPP) ref M/2003/0300/O was granted for a site for a replacement dwelling and detached garage, the existing dwelling was located off a long laneway and on higher ground to the south of the application site. The OPP was granted on 18 June 2003 and a condition was attached that required the demolition of the existing dwelling within 6 weeks of the date of occupation of the new dwelling. Approval of Reserved Matters (RM), ref M/2006/1472/RM, for Site for replacement dwelling was subsequently granted on 14 February 2007. The OPP and RM permission for the dwelling had to be begun before 14 February 2009, being the later of the dates of 5 years from OPP or 2 years from grant of RM. Finally an application for full planning permission, ref M/2007/0607/F, for 'Proposed change of house type from previously approved application no M/2006/1472' was approved on 11th September 2007. Planning Permission M/2007/0607/F had only one condition attached to it that stated 'As required by Article 34 of the Planning (Northern Ireland) Order 1991, the development hereby permitted shall be begun before the expiration of 2 years from the approval of reserved matters ie before the 14th February 2009.

Members are advised that Article 34 of the Planning (NI) Order 1991 allowed the Department to grant permission with a condition requiring development to be begun within 5 years of the date it was granted or to specify any other period of time, either longer or shorter. It is clear that any development on the site had to be commenced before 14 February 2009.

The dwelling that was to be replaced under the M/2003/0300/O is still intact and would still constitute a replacement dwelling, under the current policy. The original owner of this site, Mr J Madden, has advised he retains ownership of the existing dwelling and that he commenced development of the M/2007/0607/F approval. He states he submitted a building control application on 27 May 2009, which was approved by Building Control on 7th September 2009, F/2009/0275. Mr Madden advised he did not commence any works on the site until after the building control approval, which is dated 7 months after the planning permissions stated that development should have commenced.

Building Control have advised they inspected foundations for F/2009/0275 on 2 June 2009 and 3 June 2009 and there was concrete in the foundations on 26 October 2009. It would appear from this information that works were started in or around 2 June 2009, 4 months after the planning permission had expired. Any works for the construction of the foundations were therefore not unauthorised by any planning permission as the time for commencement had passed.

Mr Curran has not provided any further information in response to the letter dated 11 June to provide information about the previous permissions or to show if he has other lands that could be considered.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at **10am on the 25th March** and was to run for 8 weeks. Due to issues being faced with COVID19, this period was extended and closed at **5pm on 24th September 2020**. The representations received are now subject to a period of counter representation. In light of this the draft plan cannot currently be given any determining weight.

From the information that has been obtained, it would appear planning permission lapsed before the development was started and as such there is no legal fall back position. No other information has been presented to allow consideration against any other planning policies for dwellings in the countryside and as such I recommend this application is refused.

Conditions/Reasons for Refusal:

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



Cornhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1008/F	Target Date:
Proposal: Retention of dwelling under construction .	Location: 7 Tobermesson Road Dungannon Co Tyrone.
Referral Route: Contrary to policy	
Recommendation:	Refusal
Applicant Name and Address: Conor Curran 1 Lisgobbin Road Dungannon BT71 7PT	Agent Name and Address: J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

Representations:

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

Summary of Issues

One objection has been received, the concerns raised include;
the dwelling was approved as a replacement, however, the applicant does not own the replacement dwelling and therefore cannot demolish this building.
no right of way or means of access to the land.

Characteristics of the Site and Area

The site contains a large two storey dwelling under construction at number 7 Tobermesson Road, Dungannon. The red line includes a gravel lane and a small irregular shaped plot of land which includes a small rear garden and a larger space to the front. At time of site visit the main body of the building was constructed including the roof, and there was on going stonework finish to the front elevation. The site is relatively open and can be viewed clearly in both directions along the Tobermesson road, however, the topography of the land and the large amount of tall trees to the rear act as a back drop.

The site lies within the open countryside outside all other areas of constraint. It is a short distance to the north of the settlement limits of Benburb in a predominantly rural area. There are a scattering of single dwellings and farm holdings located along the roadside.

Description of Proposal

The proposal seeks planning permission for the retention of a dwelling under construction.

Planning Assessment of Policy and Other Material Considerations

Relevant Planning/Enforcement History

M/2003/0300/O - Site for replacement dwelling & detached garage - PERMISSION GRANTED - 18.06.2003

M/2006/1472/RM - Site for replacement dwelling - PERMISSION GRANTED - 15.02.2007

M/2007/0607/F - Proposed change of house type from previously approved no. M/2006/1472 - PERMISSION GRANTED - 17.09.2007

LA09/2019/0083/CA - Development allegedly not in accordance with Planning Approval M/2007/0607/F.

The applicant was required to submit a planning application to deal with the following breaches of planning-

- Development allegedly not in accordance with Planning Approval M/2007/0607/F

This application has been submitted to deal with the above breach. He has also applied to regularise the dwelling as it was not built in accordance with the most recent planning approval (M/2007/0607/F).

The previous approval was for a small dwelling with a 6 metre ridge height and a 170m² footprint. This application seeks retention of a much larger dwelling with a 9.5 metre ridge height and a sandstone front elevation.



Our ortho mapping would indicate that the construction of the dwelling at this location began some time between 2007 and 2010.

Key facts

The three previous permissions were granted for a different applicant.

The current applicant purchased the portion of the site 40 metres from the roadside, a small area which covers the footprint of the dwelling and the curtilage only. This does not include the dwelling to be replaced to the rear which is still in the previous owners ownership.

The approval M/2006/1472/RM was for off site replacement and included the condition 'The existing building coloured yellow on the approved 1: 2500 scale site location plan, bearing the Planning Service date stamp received 03-MAR-2003, is to be demolished within 6 weeks of the occupation of the new dwelling and all rubble and foundations removed from the site.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.'

The applicant does not own the old dwelling and cant gain permission to demolish the old building therefore cannot comply with the above condition.

The dwelling at time of last site visit was nearing completion however, the applicant cannot occupy the dwelling for more than 6 weeks without breaching planning.

The most recent approval for a change of house type does not however, repeat the conditions but merely the time condition only.

The dwelling to be replaced is approx. 240 metres from the roadside and the approved siting is only 40 metres from the roadside.



The principle of a dwelling at this location was on the basis of the removal of the existing dwelling.

There is no exception in terms of the policy considerations of PPS 21 CTY 3 to allow both dwellings to remain.

The following policies
will be considered in this assessment:

SPPS - Strategic Planning Policy Statement for Northern Ireland
 Dungannon Area Plan 2010
 Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
 PPS 21 - Sustainable development in the countryside

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The Dungannon Area Plan 2010 (CAP) operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The CAP offers no specific policy or guidance in respect of this application. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

Key Planning issues;
 Planning Policy Statement 21
 Policy CTY 1 - Development in the Countryside
 Policy CTY 3 - Replacement Dwellings
 Policy CTY 13 - Integration and Design
 Policy CTY 14 - Rural character

Objections / comment received from 3rd Parties;
 One objection has been received, the concerns raised include;
 the dwelling was approved as a replacement, however, the applicant does not own the replacement dwelling and therefore cannot demolish this building.
 no right of way or means of access to the land.

In this case the principle of a dwelling has been approved through the previous replacement case. I would have some design concerns with the proposed dwelling as built due to its size and massing, however, given the buildings in the surrounding area these concerns would not be overly significant. The applicant cannot comply with the pre commencement condition and therefore the dwelling cannot be occupied, the retention of the dwelling can also not be approved as this would involve the demolishing of a dwelling not within the applicants control and the owner has made clear that they do not intend to.

There is no other policy to approve the retention of the dwelling under the provisions of PPS 21. The council will also not be in a position to convert the existing dwelling as it will be contrary to policy in any case.

In addition the council would not be in a position to permit the old dwelling itself to be replaced again, which was queried by the owner in his objection letter.

Recommendation Refusal.

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 CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the applicant is unable to demolish the original replacement dwelling resulting in the creation of two dwellings in this rural location.

Signature(s)**Date:**

ANNEX	
Date Valid	25th July 2019
Date First Advertised	8th August 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) Bernard Hughes 34, Artasooly Road, Dungannon, Armagh, Northern Ireland, BT71 7LP J Madden 63, Artasooly Road, Dungannon, Armagh, Northern Ireland, BT71 7LP	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2019/1008/F Proposal: Retention of dwelling under construction . Address: 7 Tobermesson Road, Dungannon, Co Tyrone. Decision: Decision Date: Ref ID: M/2007/0607/F Proposal: Proposed change of house type from previously approved application no. M/2006/1472 Address: 400m North west of 15 Tobermesson Road, Benburb Decision: Decision Date: 17.09.2007 Ref ID: M/2002/1071/F Proposal: Proposed replacement dwelling and domestic garage Address: 400 Metres West of 15 Tobermesson Road, Benburb Decision: Decision Date: 03.11.2003 Ref ID: M/2003/0300/O Proposal: Site for replacement dwelling & detached garage Address: 400 metres North West of 15 Tobermesson Road, Benburb Decision: Decision Date: 18.06.2003 Ref ID: M/2006/1472/RM	

Proposal: Site for replacement dwelling
Address: 400m Northwest of 15 Tobermesson Road, Benburb, Co.Tyrone
Decision:
Decision Date: 15.02.2007

Ref ID: M/2002/1029/F
Proposal: Proposed dwelling and domestic garage
Address: 400 Metres south west of junction of Derryfubble/Tobermesson Road,
Dungannon
Decision:
Decision Date: 21.10.2002

Drawing Numbers and Title

Drawing No. 03
Type: Proposed Plans
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2020/1107/F	Target Date: 6 November 2020
Proposal: Change of use to proposed car sales yard	Location: Approx 25M N. W. Of 60A Ballyronan Roadmagherafelt
Applicant Name and Address: Mr Joe Bateson 60A Ballyronan Road Magherafelt	Agent name and Address: Cmi Planners Ltd 38B Airfield Road Toomebridge BT41 3SG
Summary of Issues: All material considerations have been addressed within the determination below	
Summary of Consultee Responses: 	
Characteristics of the Site and Area The application site is located approximately 25metres North West of 60A Ballyronan Road, Magherafelt and is located within the designated settlement limits as defined in the Magherafelt Area Plan, 2015.. The site is currently a vacant plot of land at the opening of an existing business Park, adjacent to residential dwellings. The proposed new access utilises an existing access which is in-situ. The surrounding area is predominantly residential and the existing Ronan Valley Business Park	
Description of Proposal This is a full application for a change of use to proposed car sales yard	

Deferred Consideration:

This application was presented before the Members in December 2021 with a recommendation to refuse whereupon Members agreed to defer the application for an office meeting with the Service Director. Following the office meeting I have carried out a visit to the site and amended plans have been received for the proposal.

The application was recommended for a refusal based on road safety concerns and residential amenity. DfI Roads were consulted following the submission of amended plans, and they are now content with the proposed access arrangements to the application site.

The application was also recommended as a refusal based on concerns of a potential adverse impact on the residential amenity of the surrounding dwellings by way of visual intrusion, noise and general disturbance. Environmental Health, in January 2021, stated the dwellings at Sycamore Drive could experience noise disturbance on occasion from cars and patrons resorting to and from the premises. They recommended the use of an acoustic fence or barrier along the site's boundary adjacent to the residential dwellings. The amended drawing received 6 January 2022 shows an acoustic fence to be erected as per the recommendation from EHO.

The site is located within the settlement limits of Magherafelt. To the immediate north is a small residential development of 5 No 3 storey dwellings with parking acting as a buffer between the dwellings and the proposed site. To the immediate east is Ronan Valley Business Park with the closest units occupied by a private gym and a tyre repair depot. To the south is the access road into the Business Park with a single residential dwelling on the other side of the access road. To the immediate west of the site sits the Ballyronan Road on the opposite side of which is Ronan Drive, a private residential development.

There are a wide variety of uses in the immediate vicinity of the site. EHO have determined that should an appropriate acoustic barrier be erected this will mitigate against any potential adverse noise from the proposal. To the north west of the site, on the opposite side of the Ballyronan Road, is a car sales business that has been restricted in its operational hours to protect the residential amenity of those dwellings in the immediate vicinity of that site. I do not consider there is a visual impact from the residents of Sycamore Drive, given the current outlook they have from their dwellings. Floodlighting is not proposed as part of this application and there appears to be existing floodlights along the access road into Ronan Valley Business Park.

Given the wide variety of land uses, the current visual aspects from the surrounding residential dwellings I do not consider this proposal for a car sales yard and no associated buildings will have a negative visual impact for the residents of the immediate area. All necessary neighbours have been notified of the planning application and we have not received any objections. I recommend an approval of the application subject to the conditions below.

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

Condition 1

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

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

Condition 2

The development hereby permitted shall not commence until details of the acoustic fence/barrier along the boundary with Sycamore Drive have submitted to and approved in writing by the Council.

Reason: To ensure the protection of the residents of Sycamore Drive.

Condition 3

The use hereby permitted shall not be open to customers and no deliveries shall take place to or from the site, outside the following times:

08:00 hours to 18:00 hours Monday to Friday

08:00 hours to 13:00 hours Saturday and no time on a Sunday.

Reason: To safeguard the living conditions of residents in adjoining and nearby properties.

Condition 4

No other development hereby permitted shall be commenced until the proposed vehicular access has been constructed in accordance with Drawing No 02 REV B bearing the date stamp 06 January 2022. No part of that access shall be located within 30 metres distance measured from the Ballyronan Road edge.

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

Condition 5

No other development hereby permitted shall be commenced until the existing access indicated on Drawing No 02 REV B bearing the date stamp 06 January 2022 has been permanently closed.

Reason: In the interests of road safety and the convenience of road users.

Signature(s):Karen Doyle

Date: 21 March 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1107/F	Target Date:
Proposal: Change of use to proposed car sales yard	Location: Approx 25m N. W. of 60A Ballyronan Road Magherafelt
Referral Route: Refusal- Committee	
Recommendation:	REFUSE
Applicant Name and Address: Mr Joe Bateson 60A Ballyronan Road Magherafelt	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

All material considerations have been addressed within the determination below

Characteristics of the Site and Area

The application site is located approximately 25metres North West of 60A Ballyronan Road, Magherafelt and is located within the designated settlement limits as defined in the Magherafelt Area Plan, 2015.. The site is currently a vacant plot of land at the opening of an existing business Park, adjacent to residential dwellings. The proposed new access utilises an existing access which is in-situ.

The surrounding area is predominantly residential and the existing Ronan Valley Business Park



Description of Proposal

This is a full application for a change of use to proposed car sales yard

Planning Assessment of Policy and Other Material Considerations

Planning Assessment of Policy and Other Material Considerations

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

- 1.Strategic Planning Policy Statement (SPPS)
- 2.Magherafelt Area Plan 2015
- 4.Planning Policy Statement 3 - Access, Movement and Parking
- 5.DCAN 15 Vehicular Access Standards

Planning History

Reference	Location	Proposal/Complaint	Status	Date
H/1993/0086	ADJ TO 56 BALLYRONAN ROAD MA	SITE OF DWELLING & GARAGE	PERMISSION GRANTED	
H/1994/0521	ADJ TO 56 BALLYRONAN ROAD MA	SITE OF DWELLING AND GARAGE	PERMISSION GRANTED	
H/2001/0525/Q	Adjacent To 58 Ballyronan Road, Magh	Site Of Housing Development.	PRE APPLICATION ENQUIRY - API	
H/2005/0148/O	North of 58 Ballyronan Road, Maghera	5 No. Town houses with Integral Garages	PERMISSION GRANTED	11.11.2005
H/2008/0064/RM	North of 58 Ballyronan Road, Maghera	5No. Townhouses with integral garages	PERMISSION GRANTED	24.03.2009
H/2001/0169/O	Adjacent To 58 Ballyronan Road, Magh	Site Of Dwelling And Garage	PERMISSION GRANTED	19.04.2001
LA09/2020/0009/CA	Ronan Valley Business Park, Unit 2,, 58	Unauthorised Advertisements	ENFORCEMENT CASE CLOSED	18.02.2020
LA09/2020/0038/CA	Lands Approximately 25m South Of 3 S	Alleged unauthorised parking area and unauthorised ac	ENFORCEMENT CASE CLOSED	11.11.2020
LA09/2020/0010/CA	Setanta Construction, Ronan Valley Bu	Alleged unauthorised change of use from industrial to st	ENFORCEMENT CASE CLOSED	04.05.2020
LA09/2020/0042/CA	Entrance To Ronan Valley Business P	Alleged unauthorised advertisements	ENFORCEMENT CASE CLOSED	27.05.2020
LA09/2020/1107/F	Approx 25m N. W. of 60A Ballyronan R	Change of use to proposed car sales yard	VALID APPLICATION RECEIVED	
LA09/2020/0052/A	Ronan Valley Business Park, 58 - 60 B	1 no 900mm high, metal free standing business park na	PERMISSION GRANTED	21.02.2020
H/1994/0538	58-60 BALLYRONAN ROAD MAGHEF	MIX BATCHING PLANT FOR PRODUCTION OF CONI	PERMISSION GRANTED	

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

Assessment

The Strategic Planning Policy Statement (SPPS) for Northern Ireland-Planning for Sustainable Development, is a material consideration. The SPPS sets out that planning authorities should be retained under transitional arrangements. The SPPS sets out that planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Until a Plan Strategy for the whole of the Council area has been adopted planning applications will be assessed against existing policy.

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

This proposal for a change of use from a vacant plot of land to a car sales yard. The proposal does not add to or extend the curtilage of the existing site and this restricts the overall impact of the proposal. There is no increase in the site area and it is compatible with surrounding land use. The proposal is in close proximity to residential dwellings and could have potential to impact on the residential amenity of the occupiers.

Environmental Health were consulted on the application and responded to say that the site lies in close proximity to residential dwellings at 1-5 Sycamore Drive, Magherafelt. These dwellings could experience noise disturbance on occasion from cars and patrons resorting to and from the premises. It is noted that no floodlights are to be erected. To mitigate against noise disturbance, Environmental Health recommend that an acoustic fence/barrier be erected along the site's boundary adjacent to the residential dwellings. The barrier shall be constructed of either masonry, timber panelling (close lapped with no gaps) or of earth and shall have a minimum self weight of 25Kg/m2.

Access

Transport Ni were consulted on this application and responded stating that the access for this car sales yard as proposed is located within the existing junction layout for the Ronan Valley Business Park. To provide an acceptable access the agent should relocate the access point to a minimum of 30 metres in from the Ballyronan Road on the driveway to the Ronan Valley Business Complex. After discussion with the agent and applicant, they said this was unachievable as the applicant did not have a right of way and could not obtain one from the landowner. DFI Roads, recommend a refusal for this application for the following reasons:

1) The proposal is contrary to planning policy statement 3, access, movement and parking, policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.

2) The Proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy Amp 2, in that it would, if permitted prejudice the safety and convenience

of road users since it would lead to vehicles parked on the highway at or near a road junction thus interfering with the free flow of traffic on the main road and the visibility of traffic entering or leaving the minor road.

Conclusion

In conclusion I consider the proposal to be unacceptable as it is contrary to PPS 3, Policy AMP2 and recommend permission is refused.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse

Reasons for Refusal:

- 1) The proposal is contrary to planning policy statement 3, access, movement and parking, policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
- 2) The Proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy Amp 2, in that it would, if permitted prejudice the safety and convenience of road users since it would lead to vehicles parked on the highway at or near a road junction thus interfering with the free flow of traffic on the main road and the visibility of traffic entering or leaving the minor road.
- 3) The proposal would adversely impact on residential amenity of surrounding dwellings by way of visual intrusion, noise and general nuisance.

Signature(s)

Date:

ANNEX	
Date Valid	11th September 2020
Date First Advertised	29th September 2020
Date Last Advertised	14th September 2021
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 1 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 10 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 2 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 2 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 3 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 3 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 4 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 4 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 5 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 5 Sycamore Drive Magherafelt Londonderry The Owner/Occupier, 52 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 54 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 56 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 56a Ballyronan Road Magherafelt The Owner/Occupier, 6 Ronan Drive Magherafelt Londonderry The Owner/Occupier, 60 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 60A, Ballyronan Road, Magherafelt, BT45 6EW The Owner/Occupier, 61 Ballyronan Road Magherafelt Londonderry The Owner/Occupier, 62 Ballyronan Road Magherafelt Londonderry	

The Owner/Occupier,
 62a Ballyronan Road Magherafelt
 The Owner/Occupier,
 63 Ballyronan Road Magherafelt Londonderry
 The Owner/Occupier,
 64 Ballyronan Road Magherafelt Londonderry
 The Owner/Occupier,
 66 Ballyronan Road, Magherafelt, Londonderry, BT45
 The Owner/Occupier,
 68 Ballyronan Road, Magherafelt, BT45 6EW
 The Owner/Occupier,
 7 Ronan Drive Magherafelt Londonderry
 The Owner/Occupier,
 70 Ballyronan Road Magherafelt Londonderry
 The Owner/Occupier,
 8 Ronan Drive Magherafelt Londonderry
 The Owner/Occupier,
 Concrete Works 58 Ballyronan Road Magherafelt
 The Owner/Occupier,
 Unit A1 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A2 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A3 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A4 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A5 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit A6 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit B Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit C1 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit C2 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit D Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit E1 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit E2 Ronan Valley Business Park Magherafelt
 The Owner/Occupier,
 Unit E3 Ronan Valley Business Park Magherafelt

Date of Last Neighbour Notification	
Date of EIA Determination	

ES Requested	Yes /No
<p>Planning History</p> <p>Ref ID: H/1993/0086 Proposal: SITE OF DWELLING & GARAGE Address: ADJ TO 56 BALLYRONAN ROAD MAGHERAFELT Decision: Decision Date:</p> <p>Ref ID: H/1994/0521 Proposal: SITE OF DWELLING AND GARAGE Address: ADJ TO 56 BALLYRONAN ROAD MAGHERAFELT Decision: Decision Date:</p> <p>Ref ID: H/2001/0525/Q Proposal: Site Of Housing Development. Address: Adjacent To 58 Ballyronan Road, Magherafelt. Decision: Decision Date:</p> <p>Ref ID: H/2005/0148/O Proposal: 5 No. Town houses with Integral Garages Address: North of 58 Ballyronan Road, Magherafelt Decision: Decision Date: 11.11.2005</p> <p>Ref ID: H/2008/0064/RM Proposal: 5No. Townhouses with integral garages Address: North of 58 Ballyronan Road, Magherafelt Decision: Decision Date: 24.03.2009</p> <p>Ref ID: H/2001/0169/O Proposal: Site Of Dwelling And Garage Address: Adjacent To 58 Ballyronan Road, Magherafelt Decision: Decision Date: 19.04.2001</p> <p>Ref ID: LA09/2020/1107/F Proposal: Change of use to proposed car sales yard Address: Approx 25m N. W. of 60A Ballyronan RoadMagherafelt, Decision: Decision Date:</p>	

Ref ID: LA09/2020/0052/A

Proposal: 1 no 900mm high, metal free standing business park name sign and 1 no 3.55m high free standing totem sign

Address: Ronan Valley Business Park, 58 - 60 Ballyronan Road, Magherafelt,

Decision: CG

Decision Date: 21.02.2020

Ref ID: H/1994/0538

Proposal: MIX BATCHING PLANT FOR PRODUCTION OF CONCRETE BLOCKS

Address: 58-60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0154

Proposal: CHANGE OF USE/CONVERSION OF EXISTING OFFICE/STORE TO OFFICE ACCOMODATION

Address: 58/60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0366

Proposal: BUILDING FOR THE MANUFACTURE OF PRECAST CONCRETE FLOORING

Address: 58 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1995/0204

Proposal: EXTENSION TO OFFICES

Address: 58-60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1990/0159

Proposal: TWO STOREY OFFICE BUILDING

Address: BALLYRONAN ROAD, MAGHERAFELT.

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.
Type:
Status: Submitted

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Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No. 01
Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2020/1590/F	Target Date: 5 February 2021
Proposal: Proposed erection of farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway & alterations to public road access	Location: 50METRES South East Of 21 Tandragee Road Pomeroy Dungannon
Applicant Name and Address: Mr Kyle Smyth 21 Tandragee Road Pomeroy Dungannon BT70 3DS	Agent name and Address: Uel Henry 42 Knockanroe Road Stewartstown BT71 5LX
Summary of Issues: Summary of Issues including Representations Two representations have been received in respect of this proposed development and relate to the following issues:- - Increase in traffic on the shared laneway; DfI Roads considered the proposed access and did not raise any issues regarding the increase in traffic on what is a private laneway. DfI further advised that they have no objection to the use of the proposed access, subject to the suggested conditions; - Maintenance and widening of the lane; The upkeep of and/or the widening of the private laneway is a civil matter between those parties concerned and is not a planning matter.	
Summary of Consultee Responses: Environmental Health advised that they could not support the proposed development due to the potential impact on of odour, noise and pests on third party dwellings located around 30m from the building. DAERA advised that the farm business has not been active withn the past 6 years.	

Rivers, Roads, SES and HED have no objections.

Characteristics of the Site and Area

The site is located in a rural area approximately 1.5Km south east of Pomeroy. The site is at a sharp bend in the Tandragee Road and is opposite Pomeroy Forest. The land is gently undulating and is characterised by dwellings and associated buildings sited along the roadside and set back from the road.

There is a small single storey building on the site which is used as shelter for donkeys in addition to a wood pellet burner. The building has four pedestrian doors in the northern elevation in addition to a single roller shutter door in the north western gable. The building has a mono-pitch roof with a small canopy overhanging the pedestrian doors. There are a number of small holding pens outside the front of the building which open into the adjoining field. At the time of inspection there were three donkeys grazing in the field.

Description of Proposal

Proposed erection of farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway & alterations to public road access. The proposed shed measures 18.173m x 9.364m with a ridge height rising from 4.3m at the western gable of the shed and with falling ground levels, the ridge measures 6.8m at the eastern gable. The shed provides three donkey stables, an animal feed store, a drop-off area, a plant room and a farm office of the lower ground floor level, with one large area of storage on the upper floor level for machinery, fodder and wood chips. The shed has two pedestrian doors and a larger roller shutter door on the northern elevation at lower ground floor level with three windows over at the upper floor level. There is a single pedestrian door and one roller shutter type door on the western gable of the upper floor, with access directly from the applicants driveway. The external finishes area render to match the existing dwelling house and slate grey metal roofing.

Deferred Consideration:

The application was presented before the Planning Committee with a recommendation to refuse in October 2021. Members agreed to defer the application for an office meeting with the Service Director and this took place on 14 October 2021. It was agreed at the office meeting for the Senior Planner to carry out a site inspection to assess the visual impact of the proposed development.

With regards to the principle of development the applicant confirmed at the office meeting the replacement building is to serve both the land which he farms, the donkeys which are housed in the existing building and a biomass boiler to burn those woodchippings generated by his company which is a tree surgery and landscaping company. DAERA have confirmed the applicant does have a Category 1 Business ID which was allocated in 2005, though the applicant does not claim Single Farm Payments. From my site inspection it is apparent the applicant does keep the land in good agricultural condition and there were donkeys housed in the existing building.

In an email to MUDC on 15 October the agent has confirmed the main business of the applicant is known as RM Greenkeepers and he has an abundant amount of woodchip from the business. The applicant has installed a woodchip boiler and the current building arrangement does not allow for an efficient use of the boiler nor for efficient storage and handling of the woodchips for the boiler.

Previous drawings show a western ridge height of 4.3m and an eastern ridge height of 6.8m. The overall length of the building is c.18m with a depth of 9.5m. Amended drawings have been received which now show the western ridge now stands at 4.8m and the eastern ridge height stands at 6.2m and this allows for a more visually acceptable pitch.

Given this is a replacement building and will be viewed in the context of the nearby dwellings I do not consider there to be a significantly greater visual impact of the replacement building and an approval is recommended.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

Signature(s):Karen Doyle

Date: 14 March 2023



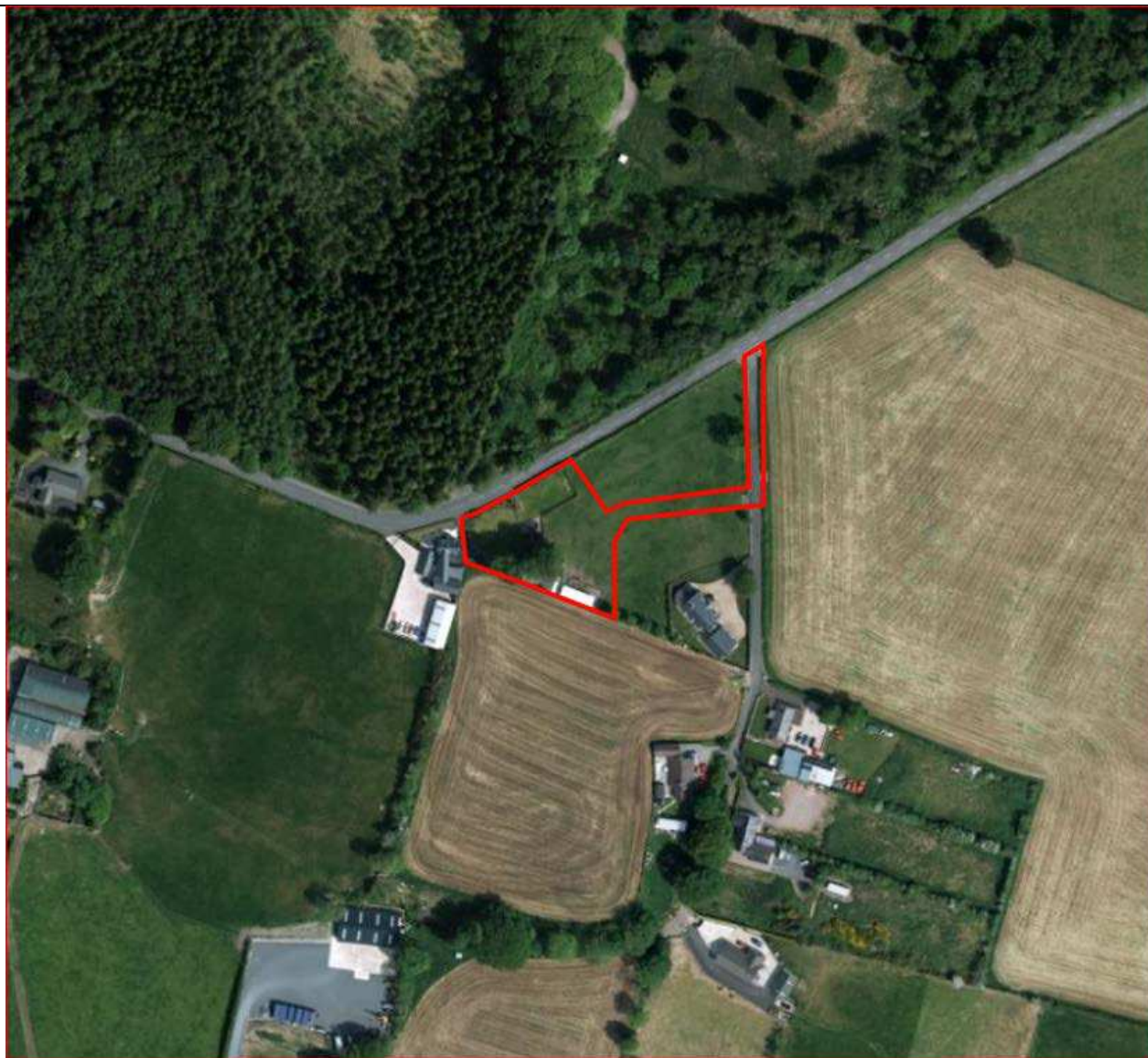
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1590/F	Target Date:
Proposal: Proposed erection of farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway & alterations to public road access	Location: 50metres South east of 21 Tandragee Road Pomeroy Dungannon
Referral Route: This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Mr Kyle Smyth 21 Tandragee Road Pomeroy Dungannon BT70 3DS	Agent Name and Address: UEL HENRY 42 Knockanroe Road Stewartstown BT71 5LX
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Statutory	Historic Environment Division (HED)	Content
Statutory	Rivers Agency	Advice
Statutory	DFI Roads - Enniskillen Office	
Non Statutory	DAERA - Omagh	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	
Summary of Issues including Representations		
<p>Two representations have been received in respect of this proposed development and relate to the following issues:-</p> <ul style="list-style-type: none">- Increase in traffic on the shared laneway; <p>Dfi Roads considered the proposed access and did not raise any issues regarding the increase in traffic on what is a private laneway. Dfi further advised that they have no objection to the use of the proposed access, subject to the suggested conditions;</p> <ul style="list-style-type: none">- Maintenance and widening of the lane; <p>The upkeep of and/or the widening of the private laneway is a civil matter between those parties concerned and is not a planning matter.</p>		
Characteristics of the Site and Area		
<p>The site is located in a rural area approximately 1.5Km south east of Pomeroy. The site is at a sharp bend in the Tandragee Road and is opposite Pomeroy Forest. The land is gently undulating and is characterised by dwellings and associated buildings sited along the roadside and set back from the road.</p> <p>There is a small single storey building on the site which is used as shelter for donkeys in addition to a wood pellet burner. The building has four pedestrian doors in the northern elevation in addition to a single roller shutter door in the north western gable. The building has a mono-pitch roof with a small canopy overhanging the pedestrian doors. There are a number of small holding pens outside the front of the building which open into the adjoining field. At the time of inspection there were three donkeys grazing in the field.</p>		
Description of Proposal		
<p>Proposed erection of farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway & alterations to public road access.</p> <p>The proposed shed measures 18.173m x 9.364m with a ridge height rising from 4.3m at the western gable of the shed and with falling ground levels, the ridge measures 6.8m at the eastern gable. The shed provides three donkey stables, an animal feed store, a drop-off area, a plant room and a farm office of the lower ground floor level, with one large area of storage on the upper floor level for machinery, fodder and wood chips.</p>		

The shed has two pedestrian doors and a larger roller shutter door on the northern elevation at lower ground floor level with three windows over at the upper floor level. There is a single pedestrian door and one roller shutter type door on the western gable of the upper floor, with access directly from the applicants driveway.

The external finishes area render to match the existing dwelling house and slate grey metal roofing.

Planning Assessment of Policy and Other Material Considerations

Relevant planning history

Reference	Location	Proposal/Complaint	Status	Date
/1996/0463	50M SOUTH OF NO. 37 TANDRAGEE ROAD	Domestic Garage	PERMISSION GRANTED	
/1995/0285	50M SOUTH OF 37 TANDRAGEE ROAD	Dwelling	PERMISSION GRANTED	
/1996/4042	50M SOUTH OF 37 TANDRAGEE ROAD	Domestic Garage	APPLICATION REQUIRED	
/2006/1071/F	37 Tandragee Road, Pomeroy, Dungannon	Proposed extension & improvements to dwelling	PERMISSION GRANTED	20.12.2006
/2013/0317/D	Lands between 29 and 33 Tandragee Road	Site for dwelling under policy CTY 8 PPS 21	PERMISSION GRANTED	16.04.2014
/2003/0304/RM	80 Metres East of 21 Tandragee Road	Erection of dwelling and garage	APPLICATION WITHDRAWN	21.11.2003
/2003/1027/F	Approx 80m East of 21 Tandragee Road	New Dwelling	PERMISSION GRANTED	11.02.2004
/1994/0129	130M EAST OF 21 TANDRAGEE ROAD	Dwelling	PERMISSION GRANTED	
/2002/0663/D	80 Metres East of 21 Tandragee Road	New Dwelling	PERMISSION GRANTED	30.12.2002
/2007/0497/F	21 Tandragee Road, Pomeroy	Proposed alterations with one and a half storey extension	PERMISSION GRANTED	23.06.2008
/1980/0198	THE GATE LODGE, POMEROY, DUNAGANNON	EXTENSION TO DWELLING HOUSE	PERMISSION GRANTED	
LA09/2020/1590/F	50metres South east of 21 Tandragee Road	Proposed erection of farm building to incorporate stable	VALID APPLICATION RECEIVED	
/2000/0049CA	Tandragee Road Pomeroy	Operational Devt	ENFORCEMENT CASE CLOSED	24.03.2009
/2003/0044CA	80m East of 21 Tandragee Road, Pomeroy	Operational Devt	ENFORCEMENT CASE CLOSED	

Development Plan and key policy considerations

The site lies outside any defined settlement limits and is open countryside as identified in the Cookstown Area Plan 2010. No other constraints have been identified.

PPS 21 Policy CTY 12 Agricultural and Forestry Development states the planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies certain criteria.

It must therefore be considered if the farm business is both active and established. DAERA have advised that the farm business ID number was allocated on 2nd March 2005 and therefore it is accepted that it has been established for more than 6 years. It is stated on the P1C form that the farm business owner, Ronnie Smyth, has let out the outlying farm several years ago as it was proving too difficult to supervise stock. Mr Smyth's son took over the running of the land which mainly involved grazing donkeys and other small animals. Mr Smyth's grandson now wishes to farm the land by keeping sheep on the outlying farm but needs a shed for lambing purposes which needs to be in Pomeroy. The outlying field is approximately 4.5Km north west of Pomeroy and 6Km from the proposed site. The applicant also has several items of farm machinery which would be stored in the proposed shed.

No other supporting information has been provided in respect of how the applicant's farm business is active or what stock they hold at present. The applicant has therefore failed to demonstrate how the farm business is active.

The proposal must also meet all the following criteria;

- It is necessary for the businesses efficient use;

The only reason given for the need for the proposed building is that the farm owner's grandson wishes to keep sheep. No evidence has been provide to demonstrate that he has any stock at present.

Notwithstanding that point, it is noted that the proposed building only shows accommodation for donkeys and no area is indicated for sheep. The existing building already provides accommodation for donkeys so I remain unconvinced that the proposed building is in any way necessary. The P1C also states that the outlying farm was let out and from the accompanying farm map provided, it would appear that another farm business is currently farming that land. The applicant has failed to satisfactorily demonstrate that the proposed development is necessary.

- it is appropriate in terms of character and scale;

At present there is a small low lying shed sited on the same footprint as the propose building. That building is a low single storey building which is inconspicuous in the landscape. The proposed building is a much larger two storey building which will have a much greater visual impact on the surrounding landscape. In my opinion, the scale of the proposed building is inappropriate for the site in question.

- it visually integrates;

At present there is a complete lack of natural vegetation around the existing building. Given the proposed building is much larger in terms of both the footprint and the height, it will suffer from a definite lack of integration;

- there will be no adverse impact on natural or built heritage;

the proposed development will not have an adverse impact on either natural or built heritage;

- there will be no detrimental impact on residential amenity;

The proposed building, which is being sought for housing sheep, will be approximately 36m from the nearest third party dwelling. Environmental Health were consulted regarding the potential impact on third party residential amenity and have advised that

'Agricultural buildings have the potential to cause loss of amenity due to odour, noise and pests. The minimum recommended separation distance between agricultural buildings and residential amenity is 75m. It is noted that the separation distance between this proposed development and existing nearby sensitive receptors is less than 30m. Therefore, due to the potential impact of odour, noise and pests, Environmental Health cannot support this application.'

CTY 13 – Integration and design of buildings in the countryside requires all buildings in the countryside to achieve an acceptable degree of integration into the surrounding landscape. As the proposed building would be sited on an open site which is clearly visible from the public road and without any sense of enclosure, the scale and massing of the building would result in it being unable to achieve an acceptable degree of integration. Although additional trees are to be planted, these will take some time to mature to such a height that they will provide a sufficient degree of integration for the proposed building. Until such times as the proposed planting would mature, the building would therefore suffer from a lack of integration. The proposal is therefore contrary to this policy.

CTY 14 – Rural Character allows for a building in the countryside provided it does not cause a change to or further erode the rural character of the area. Although there is a small building existing on the site, due to its size and low set position in the landscape, the gap between the dwellings to either side at No's 21 and 25 appears as a visual break in the landscape. If the proposed building were approved, then due to its scale and massing, it would erode this visual break and would appear as a ribbon of development as the buildings would be visually linked. Therefore, the proposed building is considered to be detrimental to rural character as it would result in a build-up of development.

Recommendations

In my opinion the applicant has failed to satisfactorily demonstrate;

How the existing farm business is active;

Why a new building is necessary for the efficient use of the farm business;

Why the existing building cannot be utilised for the proposed use;
 How the scale of the building is appropriate for its location;
 How the building will integrate into the surrounding landscape;
 How the building will not result in a detrimental impact on residential amenity.

Therefore planning approval should be refused for the reasons listed below:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse for the reasons stated below:-

Refusal Reasons

1. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 the applicant has failed to satisfactorily demonstrate how the existing agricultural holding is currently active;
 it is not necessary for the efficient use of the active and established agricultural holding;
 it is not appropriate to this location due to the unacceptable character and scale of the development;
 the development, if permitted, would not visually integrate into the local landscape without the provision of additional landscaping;
 the development, if permitted, would result in a detrimental impact on the amenity of residential dwellings outside the holding by reason of noise, smell and pests.

The proposal is also contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
 the proposed building relies primarily on the use of new landscaping for integration;
 the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings;
 the building would, if permitted create or add to a ribbon of development;
 and would therefore result in a detrimental change to further erode the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	11th December 2020
Date First Advertised	22nd December 2020
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 25 Tanderagee Road,Pomeroy,Tyrone,BT70 3DS</p> <p>The Owner/Occupier, 27 Tanderagee Road, Pomeroy, Dungannon, BT70 3DS</p> <p>The Owner/Occupier, 29 Tanderagee Road,Pomeroy,Tyrone,BT70 3DS</p> <p>The Owner/Occupier, 33 Tanderagee Road,Pomeroy,Tyrone,BT70 3DS</p> <p>The Owner/Occupier, 37 Tanderagee Road,Pomeroy,Tyrone,BT70 3DS</p> <p>The Owner/Occupier, 39 Tanderagee Road,Pomeroy,Tyrone,BT70 3DS</p> <p>The Owner/Occupier, 41 Tanderagee Road,Pomeroy,Tyrone,BT70 3DS</p> <p>The Owner/Occupier, 43 Tanderagee Road,Pomeroy,Tyrone,BT70 3DS</p> <p>Kathleen McGeary 43, Tanderagee Road, Pomeroy, Tyrone, Northern Ireland, BT70 3DS</p> <p>Anonymous</p>	
Date of Last Neighbour Notification	14.01.2021
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: I/1996/0463 Proposal: Domestic Garage Address: 50M SOUTH OF NO. 37 TANDERAGEE ROAD, POMEROY, DUNGANNON Decision: Decision Date:</p> <p>Ref ID: I/1995/0285 Proposal: Dwelling Address: 50M SOUTH OF 37 TANDERAGEE ROAD POMEROY Decision:</p>	

Decision Date:

Ref ID: I/1996/4042

Proposal: Domestic Garage

Address: 50M SOUTH OF 37 TANDERAGEE ROAD POMEROY

Decision:

Decision Date:

Ref ID: I/2006/1071/F

Proposal: Proposed extension & improvements to dwelling

Address: 37 Tandragee Road, Pomeroy, Dungannon

Decision:

Decision Date: 20.12.2006

Ref ID: I/2013/0317/O

Proposal: Site for dwelling under policy CTY 8 PPS 21

Address: Lands between 29 and 33 Tandragee Road, Pomeroy,

Decision: PG

Decision Date: 16.04.2014

Ref ID: I/2003/0304/RM

Proposal: Erection of dwelling and garage

Address: 80 Metres East of 21 Tanderagee Road, Pomeroy

Decision:

Decision Date: 21.11.2003

Ref ID: I/2003/1027/F

Proposal: New Dwelling

(RE-ADVERTISEMENT)

Address: Approx 80m East of 21 Tanderagee Road Pomeroy

Decision:

Decision Date: 11.02.2004

Ref ID: I/1994/0129

Proposal: Dwelling

Address: 130M EAST OF 21 TANDERAGEE ROAD POMEROY

Decision:

Decision Date:

Ref ID: I/2002/0663/O

Proposal: New Dwelling

Address: 80 Metres East of 21 Tanderagee Road, Pomeroy

Decision:

Decision Date: 30.12.2002

Ref ID: I/2007/0497/F

Proposal: Proposed alterations with one and a half storey extension to side of dwelling

Address: 21 Tandragee Road, Pomeroy

Decision:

Decision Date: 23.06.2008

Ref ID: I/1980/0198

Proposal: EXTENSION TO DWELLING HOUSE

Address: THE GATE LODGE, POMEROY, DUNGANNON

Decision:

Decision Date:

Ref ID: LA09/2020/1590/F

Proposal: Proposed erection of farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway & alterations to public road access

Address: 50metres South east of 21 Tandragee Road, Pomeroy, Dungannon,

Decision:

Decision Date:

Summary of Consultee Responses

Environmental Health advised that they could not support the proposed development due to the potential impact on of odour, noise and pests on third party dwellings located around 30m from the building.

DAERA advised that the farm business has not been active withi`n the past 6 years.

Rivers, Roads, SES and HED have no objections.

Drawing Numbers and Title

Drawing No. 03

Type: Farm Boundary Map

Status: Submitted

Drawing No. 04

Type: Farm Boundary Map

Status: Submitted

Drawing No. 02

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Deferred Consideration Report

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

Description of Proposal

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

Deferred Consideration:

This application was presented before the Members in May 2021 with a recommendation to refuse, and it was agreed by Members to defer the application for an office meeting with the Service Director. The deferred office meeting took place on 18 November 2021. The application was then presented before the Planning Committee in February 2023 with a recommendation to refuse where it was agreed to allow the applicant 30 days to submit additional information for consideration by the Council.

The agent submitted a P1c form and we consulted with DAERA who have confirmed the applicant is an active farmer and has been established for at least 6 years.

Policy CTY 10 requires an application for a farm dwelling to meet three criteria. I consider the application meets criteria (a) and (b). However, the application is not sited near any buildings on the farm which are located a short distance away. The applicant wishes to sell the farm and relocate away from the farm which he intends to either sell or pass on to a family member, and as such wants to be away from the buildings on the farm. There is no provision for a retirement dwelling in PPS 21 and a new dwelling on the farm must be sited to visually link or cluster with a group of buildings on the farm. Exceptionally an application may be considered if there are verifiable plans to expand the farm or there are demonstrable health and safety reasons. I have not been provided with any information to justify a siting away from the group of buildings, other than the applicant wishes to retire from farming.

I do not consider the application meets Policy CTY 10 of PPS 21 and a refusal is being recommended.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked, or sited to cluster with an established group of buildings on the farm. There are no health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm nor are there verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

Reason 3

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

Signature(s):Karen Doyle

Date: 14 March 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

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

Description of Proposal

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

Deferred Consideration:

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

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

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

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

Reason 2

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

Signature(s):Karen Doyle

Date: 20 January 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

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

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Summary of Issues

Two objections have been received

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

Characteristics of the Site and Area

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

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

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

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

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

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

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

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

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

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

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a

small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided it respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

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

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

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

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

PPS 3- Access, Movement and Parking:

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

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

Other Material Considerations

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

been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.	
Neighbour Notification Checked	Yes/No
Summary of Recommendation:	
Refusal	
Reasons for Refusal	
<p>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.</p> <p>The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted would add to a ribbon of development resulting in a suburban style build-up and, as such would cause a detrimental change to the rural character of the countryside.</p>	
Signature(s)	
Date:	

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

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

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

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

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

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

Summary of Consultee Responses

Drawing Numbers and Title

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

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

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:

Deferred Consideration Report

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

Deferred Consideration:

This application was presented before the Planning Committee with a recommendation to refuse in February 2022. Members agreed to defer the application for a meeting with the Service Director following which I carried out an inspection of the site. The application was presented before the Members at the Planning Committee in February 2023 with a recommendation to refuse whereupon Members agreed to defer the application for a site visit which has taken place.

The application was recommended for refusal, in summary, due the proposed building not being site to visually link or cluster with a group of buildings on the farm, the proposed building will add to a ribbon of development and a new building will not be able to visually integrate into the local landscape.

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

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

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

Referring to CTY 13 it is my opinion the site is an open site, which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. Although this is a flat site and sits below the level of the road, it is an open and exposed site that cannot provide any level of integration into the local landscape. The proposed dwelling will rely primarily on the use of new landscaping for integration which is contrary to CTY 13.

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

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

I have considered the relevant policies and it is my opinion that planning permission should be refused for this application based on the reasons cited below under CTY 8, 10, 13 and 14 of PPS 21.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

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

Reason 3

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

Reason 4

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

Reason 5

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Creagh Hill Road.

Signature(s):Karen Doyle

Date: 14 March 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

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

Deferred Consideration:

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

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

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

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

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

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

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

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

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

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

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

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

Reason 2

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

Reason 3

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

Reason 4

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

Reason 5

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Creagh Hill Road.

Signature(s):Karen Doyle

Date: 23 January 2023



Development Management Officer Report Committee Application

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

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

To Committee - Refusal

Characteristics of the Site and Area

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

Representations

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

Relevant Planning History

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

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

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

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

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 - General Principles

PPS 3 - Access, Movement and Parking

PPS 21 - Sustainable Development in the Countryside

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

CTY 1 - Development in the Countryside

CTY 10 - Dwellings on the Farm

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PPS 3 - Access, Movement and Parking;

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

A consultation was sent to Rivers Agency, who in their response confirmed that the Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 coastal flood plain. However confirmed that an undesignated culverted watercourse affects the site, the exact positioning is unknown and should be verified on site. Under 6.33 of the policy there is a general presumption against the erection of buildings or other structures over the line of a culverted watercourse in order to facilitate replacement, maintenance or other necessary operations. A suitable maintenance strip of minimum 5m must also be in place. DfI Rivers would recommend that the working strip is shown on a site layout drawing and be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Access to and from the maintenance strip should be available at all times. In addition by way of a planning informative, prospective purchasers whose property backs onto this watercourse should be made aware of their obligations to maintain the watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

Rivers Agency went on to confirm that the development is located partially within a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment is not required by the policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development

and any impacts beyond the site. If the proposal is to discharge into a watercourse then an application should be made to the local DfI Rivers office for consent to discharge storm water under Schedule 6 of the Drainage (NI) Order 1973. Finally confirmed that FLD 4 and 5 do not apply.

I have no ecological or residential amenity concerns.

I recommend refusal given the failure under CTY 1 of PPS 21.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along the Creagh Hill Road.

3.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that other dwelling(s)/development opportunities have not been sold off from the farm holding within 10 years of the date of the application. Nor does the proposed new building visually linked or sited to cluster with an established group of buildings on the farm.

4.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

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

Signature(s)

Date:

ANNEX	
Date Valid	10th May 2021
Date First Advertised	25th May 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 23 Creagh Hill, Toomebridge, Toome, Londonderry, BT41 3SR The Owner/Occupier, 24 Creagh Hill Toomebridge Toome The Owner/Occupier, 25 Creagh Hill Toomebridge Toome The Owner/Occupier, 26 Creagh Hill Toomebridge Toome The Owner/Occupier, 90 Deerpark Road Toomebridge Toome	
Date of Last Neighbour Notification	25th May 2021
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/0719/F Proposal: Proposed farm dwelling and garage Address: Approx 25m East of 25 Creagh Hill Road, Toomebridge, Decision: Decision Date: Ref ID: H/2004/0889/O Proposal: Site of Dwelling and Garage. Address: 80m North of 25 Creagh Hill Road, Toomebridge. Decision: Decision Date: 24.10.2005 Ref ID: H/1983/0235 Proposal: HOUSE AND DETACHED STORE Address: CREAGH HILL, TOOMEBRIDGE Decision: Decision Date:	

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

Drawing No. 04
Type: Proposed Plans
Status: Submitted

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

Drawing No. 05
Type: Proposed Plans
Status: Submitted

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

Drawing No. 03
Type: Proposed Plans
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1182/F	Target Date: <add date>
Proposal: Retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm. (amended description)	Location: Approx 70m N.E. of 70 Drumgrannon Road Dungannon
Applicant Name and Address: George Troughton 76 Drumgrannon Road Broughadowey Dungannon	Agent name and Address: 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Summary of Issues: The building was constructed and used as a shop and caused intensification of use of a sub standard access to a public road. The applicant has amended the proposal; to retain the building for ancillary uses associated with the farm.	
Summary of Consultee Responses: DFI Roads – refusal recommended, substandard access onto a protected route DFI Rivers – Drainage Assessment required if the proposal exceeds 1000sqm NI Water – recommend to approve EHO – no comment to make DAERA – farm business is currently active and established for over 6 years	
Characteristics of the Site and Area: This application is on Grange Farm and is located 70m NE of No 70 Drumgrannon Road, approx. 1 kilometre north west of the village of The Moy. Access is from an existing private lane off the A29 Protected Route. It is in the rural area outside of any defined settlement limits.	

The application site is set back over 300metres from the public road on lands that are rising to the west, with existing agricultural sheds and chicken houses behind them to the west.

Description of Proposal

This application is for retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm. (amended description) building has dark metal walls and roof with an overhang to the front, it measures 9.2m wide, 16m long and 4m in height. The associated works, as on the site and on the submitted drawings appear to be a car parking area, turning area and new lane off the existing to provide access to the development and other buildings at the rear.

Deferred Consideration:

This application was last before the Committee in February 2023 where it was deferred to allow further clarity on the proposal under consideration and the relevant considerations.

Members are asked to note the following:

- an Enforcement Notice has been issued in relation to 'The alleged unauthorised use of the land and building for retail purposes without the grant of planning permission so required', this has been appealed to the Planning Appeals Commission and is not in effect. The Notice requires them to permanently cease the unauthorised use of the land and building for retail purposes.
- the application has changed from the original submission, the proposal currently before the committee is for 'retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm '
- the use of lands and any buildings for the purposes of agriculture is not considered to be development (Planning Act (NI) 2011)
- the erection of buildings reasonably necessary for agriculture are permitted development in certain circumstances (Planning (General Permitted Development) Order (NI) 2015)
- some uses may be incidental to the primary use on a site, ie offices for administrative purposes. Provided these are incidental to the primary use then no planning permission is required for the incidental use (Planning (Use Classes) Order (NI) 2015)
- there is information to show that some retailing activity has historically occurred from this farm
- the conditions proposed ensure only goods produced on the farm are sold from the building, this is incidental to the overall farm business, it will not operate as a general supermarket and is unlikely to result in the intensification of the use of the existing access.
- DFI Roads are concerned about the access onto the road as it is not of a suitable standard due to the restricted visibility splays and potential for collisions as well as restricted width which results in vehicles queueing on the public road

An additional letter of objection has been received which states there is no registered right of way for any business and no easement for the appropriate sightlines for the access. It is clear there is a lane that provides access to the farm and other houses and this has been there for some time. The objector also utilises the access onto the road here and it is in their interests that any sight lines are provided and kept clear. The ownership of the lane and any right of way is material to the consideration of this proposal however it is a private matter between the individuals. Any approval of this application is unlikely to result in

the intensification of the use of the access and as such improvements to the access, while undoubtedly necessary, cannot be insisted upon.

In my opinion, given the previous uses on the site and the revised proposal, this application does meet with CTY12 and with the suggested conditions attached the use of the access will be reduced as the premises will no longer operate as a general convenience store.

Conditions:

1. Within 2 weeks of the date of this decision the building shall be altered internally in accordance with the details shown on drawing No 01 Rev 1 received 8 DEC 2022.
Reason: To prevent an unauthorised retailing use occurring on the site.
2. Only the area identified in blue on the proposed ground floor plan 1/50 shown on drawing No 01 Rev 1 received 8 DEC 2022 shall be used for the display of any goods and produce.
Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.
3. The goods and produce sold from this building shall only be those produced and packaged on Grange Farm and shall not include any produce that has been prepared, altered or packaged outside the farm as indicated in yellow on the farm boundary map date stamp received 16 AUG 2021 or outside the lands identified by the blue line on the location map shown on drawing no 01 Rev 1 received 8 DEC 2022.
Reason: To ensure retail remains ancillary to the primary agricultural activity on the site

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1182/F	Target Date: <add date>
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The application site is set back over 300metres from the public road on lands that are rising to the west, with existing agricultural sheds and chicken houses behind them to the west.

Description of Proposal

This application is for retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm. (amended description) building has dark metal walls and roof with an overhang to the front, it measures 9.2m wide, 16m long and 4m in height. The associated works, as on the site and on the submitted drawings appear to be a car parking area, turning area and new lane off the existing to provide access to the development and other buildings at the rear.

Deferred Consideration:

Members will be aware of this application which was before the Committee on 7 December 2021 and 6th September 2022 where it was deferred to allow the applicants to revisit the scheme and consider the use on the site. Members will also be aware an enforcement notice has been issued in respect of the unauthorised retailing operations from the site, this notice comes into effect on 1 February 2023 unless there is an appeal lodged against it.

Originally this proposal was for the retention of the buildings as a farm and factory shop, with a footprint of 104sqm (external) and gross internal floorspace of 93sqm. Amended details have been submitted, it is now proposed to retain the building for ancillary office, store and sale of good produced on the farm. The proposal now shows area for the display of farm produce produced on the farm as approx. 57sqm, storage use is 9sqm, office use is 11sqm and the counter area is 12sqm.

Following the submission of the revised details 1 further letter of objection was received which highlights the very real issues that are experienced by road users and those accessing this laneway. The objection sets out that lives have been lost at these bends and that accidents have occurred here. Members should be very much aware of these concerns in making any decision about this proposal and whether or not there is intensification of the use of the access from the current proposal and to what extent the Council has control over this.

In taking account of this Members are advised Section 23 of the Planning Act (NI) 2011 sets out the meaning of development and Section 24 states that planning permission is required for the carrying out of any development of land.

Section 23 (3) states '*The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—*

....

(d) the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building occupied together with land so used;

...'

Section 24 (3) states '*Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is its normal use.*

The Planning Act sets out that using land and buildings for agricultural purposes does not require planning permission as it is not considered to be development. Where new

buildings are proposed these are granted planning permission if they meet the limitations in a development order. Members will be more familiar with this as the Planning (General Permitted Development) Order (NI) 2015, as amend (GPDO). The provision of this building could be assessed against the criteria in Part 7 of the Schedule to the GPDO it permits *'the carrying out on agricultural land comprised in an agricultural unit of—*
(a) works for the erection, extension or alteration of a building; or
(b) any excavation or engineering operation;
reasonably necessary for the purposes of agriculture within that unit.'

I do not consider the exclusion contained in Article 3(5) of the GPDO would prevent this building as the building itself does not require the alteration to an access to the public road or impact on an existing access and the legislation cannot, in my opinion, require this to be done.

There is a mechanism for the assessment of the development against the legislation through submission of a Certificate of Lawful Use or Development (CLUD). A CLUD is limited in what can be considered and in this case here may be issues with the retail element of the scheme. The retail element is proposed as only for goods produced on the farm, which could, in my opinion be an ancillary use to the overall farming activities here. It is useful to take account of Article 3 (3) of the Planning (Use Classes) Order (NI) 2015 (UCO) which states *' A use which is included in and ordinarily incidental to any use in a Class specified in the Schedule is not excluded from the use to which it is incidental merely because it is specified in the Schedule as a separate use.'* While there is no reference to agricultural activity in the UCO it is helpful to establish that some development may be ancillary to the primary use and as such does not require an express and separate consent.

Members have been asked to assess this proposal and I consider the relevant planning policy, for this proposal is contained in Policy CTY12 of PPS21. It sets out 5 criteria that all development must meet and an 3 additional criteria where it relates to new buildings. In this case, it was clear from the previous reports that visually the building is not offensive, it is small in scale, respects the character of the existing buildings and clusters with the much larger agricultural buildings to the rear of it. (see below)



The building is not readily visible from public vantage points in the local area and it is well screened from the main road by the existing vegetation to the east. The building is not located beside or close to any recognised natural or built heritage features and the closest residential property, No 70 to the south, is associated with the farm. As such I do not

consider the proposal will adversely affect residential amenity or natural or built heritage features.

There is a requirement to consider if the proposal is necessary for the efficient use of the holding. In consideration of this members may take account of the following~:

- **location**, this building is at the entrance to the Grange Farm complex of buildings and is sited immediately beside them. It is not unusual to have the office unit at the entrance to the complex where anyone visiting the facility is aware of where to report to as the first point of contact and for the facility to monitor visitors from a bio security perspective
- **other buildings on the site**, at the members site visit the applicants showed members around the other buildings and it was clear these are used for a variety of purposes associated with the existing business here. There are large poultry units where chickens are kept, animal houses where beef cattle are kept, large cold storage facilities, dry storage areas, a production line for preparing vegetables as well as an area for finishing off butchery. At the visit these buildings all appeared to be used to capacity.

In light of the above, I conclude that members could reasonably consider the proposed building does meet with the requirements of CTY12. That said it is important, in the light of the objections and the sub standard access to this complex, that any retail element of the proposal remains ancillary to the overall agricultural use on the site. It has been shown, as referred to in the previous reports, there was some level of retail activity on the site before the new building was erected. By limiting the area for retailing and the produce that can be sold, I consider this will ensure the level of activity will be in line with what was already established on the site and what could be deemed as ancillary to the primary use on the site. The application has been amended and has indicated that only goods produced on the farm may be sold from here. I consider it is necessary to attach a condition to set out clearly what that means.

I propose the members consider the following conditions to be attached to any permission: 'Only the area identified in blue on the proposed ground floor plan 1/50 shown on drawing No 01 Rev 1 received 8 DEC 2022 shall be used for the display of any goods and produce.

Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.

The goods and produce sold from this building shall only be those produced and packaged on Grange Farm and shall not include any produce that has been prepared, altered or packaged outside the farm as indicated in yellow on the farm boundary map date stamp received 16 AUG 2021 or identified within the blue line on the location map shown on drawing no 01 Rev 1 received 8 DEC 2022.

Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.

In my opinion, given the previous uses on the site and the revised proposal, this application does meet with CTY12 and with the suggested conditions attached the use of the access will be reduced as the premises will no longer operate as a general convenience store.

Conditions:

1. Within 2 weeks of the date of this decision the building shall be altered internally in accordance with the details shown on drawing No 01 Rev 1 received 8 DEC 2022.
Reason: To prevent an unauthorised retailing use occurring on the site.
2. Only the area identified in blue on the proposed ground floor plan 1/50 shown on drawing No 01 Rev 1 received 8 DEC 2022 shall be used for the display of any goods and produce.
Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.
3. The goods and produce sold from this building shall only be those produced and packaged on Grange Farm and shall not include any produce that has been prepared, altered or packaged outside the farm as indicated in yellow on the farm boundary map date stamp received 16 AUG 2021 or outside the lands identified by the blue line on the location map shown on drawing no 01 Rev 1 received 8 DEC 2022.
Reason: To ensure retail remains ancillary to the primary agricultural activity on the site

Signature(s):**Date**



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1182/F	Target Date: <add date>
Proposal: Retention of farm and factory shop and associated works.	Location: Approx 70m N.E. of 70 Drumgrannon Road Dungannon
Applicant Name and Address: George Troughton 76 Drumgrannon Road Broughadowey Dungannon	Agent name and Address: 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Summary of Issues: The acceptability of and the level of retail activity on this site in the countryside The intensification of use of a substandard access onto a protected route Objection received in relation to the dangerous access	
Summary of Consultee Responses: DFI Roads – refusal recommended, substandard access onto a protected route DFI Rivers – Drainage Assessment required if the proposal exceeds 1000sqm NI Water – recommend to approve EHO – no comment to make DAERA – farm business is currently active and established for over 6 years	
Characteristics of the Site and Area: This application is on Grange Farm and is located 70m NE of No 70 Drumgrannon Road, approx. 1 kilometre north west of the village of The Moy. Access is from an existing private lane off the A29 Protected Route. It is in the rural area outside of any defined settlement limits. The application site is set back over 300metres from the public road on lands that are rising to the west, with existing agricultural sheds and chicken houses behind them to the west.	

Description of Proposal

This application is for the retention of a building for retail purposes and associated works. The building has dark metal walls and roof with an overhang to the front, it measures 9.2m wide, 16m long and 4m in height. The associated works, as on the site and on the submitted drawings appear to be a car parking area, turning area and new lane off the existing to provide access to the development and other buildings at the rear.

Deferred Consideration:

This application was before the Planning Committee on 7 December 2021 where, following discussions and presentations on behalf of the objectors and the applicant, it was deferred for meetings with the Planning Manager, the applicant, the objectors and a member's site visit.

At the deferral meeting with the objector, it was identified that is no issue with the appearance or location of the building, the issue of concern relates to the use and access that is being used. The objectors reiterated concerns in relation to the unsafe access, how they frequently have to wait on the main road for the access to their property to clear and they have been involved in accidents while waiting on the road. They advised they had counted 189 vehicles using the access on 11 December, the day after the planning committee. Additionally they advised a new neighbour has been involved in 37 incidents since moving in.

At the deferral meeting with the applicants it was accepted there is no issues with the appearance or location of the building, concerns relate to the use of the building and the access that is being used. The applicants accept this site is accessed off a protected route and while it may meet the consequential amendment to AMP3 in PPS21 because the access is off an existing lane, the access must be improved in accordance with AMP2 of PPS3. All accept this access is not up to the required standard, it is located on bad corners which limits sight lines, the access is not wide enough to allow 2 vehicles to pass and results in vehicles having to queue on the public road. The concept of the farm shop, what produce can be sold and the activity that is associated with it was further discussed as well as the historic uses on the site. Additional information about a farm shop decision in Lisburn and Castlereagh Area was submitted for consideration.

Members attended a site visit on 14 January 2022 to see the access, the buildings and the wider facility here. Officers from DFI Roads were also in attendance and highlighted the issues with the existing access and what that is required to meet the necessary standard:

- Widen the access to allow 2 way traffic and widen the bell mouth at the junction to allow for larger vehicles entering the lane
- Improve the sight lines to 4.5m x 124m to the northwest and provide a 124m forward sight line from this direction, this requires additional lands, including the garden and parking areas of properties on the opposite side of the road
- Improve the sight lines to 4.5m x 147m to the southeast and 147m forward sight line, this would require additional 3rd party lands to provide this.

Following the meetings additional information was provided for consideration, this included:

Email on 17 January 2022

- Auto tracking details showing vehicles using the access
- Cash sales information entitled JAN 2017 to DEC 2019 beginning 16/04/2018 and ending 30/12/2019 approx 1362 transactions totalling £152,498.56

- Details of EHO visits to the site 22 May 2008 (potato peeling area, warehouse), 18/11/09 wholesale business 11 DEC 2009 (water sample), 29 January 2020 (water sample)
- Invoice samples from old shop in yard (x4) 07/08/2019
- Food Business Establishment Approve – granted 14/03/11, dated 27/7/11 for coldstore activities. Beef, pork, lamb, duck, chicken, turkey and fish bought in from suppliers and supplied onto customers
- Invoices for cattle killing from Lakeview Farm Meats (x3) 25/06/2020, 30/07/2020, 08/10/2020
- Transport Assessment Form 105.1sqm floor space farm shop, 8 car parking spaces, recognises speed limit on road unsuitable for forward sight lines, traffic generated by proposal is cars, existing traffic primarily HGV
- P1C form for farm business
- Covering letter from agent advising the applicant will accept conditions restricting the hours of use of the shop and types of goods sold, accept the proposal is in a new building and has set out health and safety reasons, parking and servicing issues, protection of food prep areas, bio security and compliance with other statutory agencies as reason why cannot operate shop from existing buildings therefore have relocated to new building
- Letter from MRA setting out there are road safety issues with the bends here, a collision history is not associated with the access, small increase in traffic using the site questioning the previous expansion of the farm being permitted, questioning the road speeds being used to calculate the sight lines, accepting the applicant cannot improve the access to the required standard but that DFI Roads can reduce the speed limit, offering to provide additional signage along the road to identify the dangers

Email on 19 January 2022 sets out the proposal is for relocation of the farm shop that has been in place for a number of decades, setting out precedent cases for farm shops and identifying the types of goods that could be sold from them as from local area (parish and Lisburn & Castlereagh Council). Attachments provided include :

- Sage printout from 31/03/2016 – 30/04/2018 showing 2579 transactions in that period (105 weeks, this equates to approx. 5 transactions per day if Sundays are not included)
- 7 random cash sales, (06/04/2016, 15/09/2016, 02/12/2016, 31/03/2017, 27/06/2017, 20/10/2017, 26/02/2018)
- Written ledgers - May 97 (76 transactions), Oct 2000 (76 transactions) Feb 04 (61 transactions)
- Images of where sales were carried out in existing building

This additional information has been advertised, neighbours notified, DFI Roads and DAERA have commented on the information.

Members will be aware this proposal is to retain a new building for retailing in the countryside, it is based on the proposal being for a farm shop and the applicant has advised there has been a retail element ongoing here for some time. The Strategic Planning Policy Statement for Northern Ireland sets out that retail in the countryside should be resisted and that farm shops may be a general exception to that policy (para 6.279). It further indicates these should be within existing buildings and not have any adverse impact on the vitality and viability of an existing centre. The SPPS and CTY11 of

PPS21 allow farm diversification proposal which may, in exceptional circumstances involve new buildings, but usually it should be within existing buildings on the holding. The applicant has advised this is a farm diversification proposal and has provided a farm business ID that DAERA have confirmed is currently active and has been established in excess of 6 years. They have provided information they wish to be considered to show there is an established use here. Members are advised the most appropriate way to do this is by the submission of a Certificate of Lawful Use or Development, however in this case it is unlikely to succeed as the area that was used for sales is no longer used for sales, the applicants have advised the use has been transferred to the new building. None of the information that has been provided would indicate there was anything other than infrequent sales and it was mainly wholesale from the site. The names on the ledgers would suggest local businesses came to the site to buy directly from here, there is nothing to suggest this was frequently used by the general public. On the basis of the information that has been provided I do not consider there has been an established retail use carried on from the site. The information that has been presented shows there was incidental sales from the premises, ancillary to the main farm business on the site. This may not have necessarily required planning permission. That said, while there may not have been an established retail use, there is an allowance for a farm shop under farm diversification policies. It is clear the shop is run in conjunction with the farm and other established uses on the site. From the site visit it was apparent there is produce sold here which is from the farm business however it is also acting as a mini market and general convenience goods retailing, which sits outside what could reasonably be classed as farm produce. The applicants have been afforded the opportunity to reduce the range of goods within the shop, to the range that was previously offered from the farm and this has not been done. It is possible that planning permission could be granted with restrictive conditions to permit the shop to operate as a farm shop, however, given the current and on-going scale of retailing this is unlikely to cease or reduce the use. The SPPS and Farm Diversification policies do suggest a new building may be permitted, the applicant has put forward their reasons for this, which would tend to be in accordance with the exceptions set out in CTY11. The building is sited to cluster with the other building so the farm and it is accepted there is no issue with its appearance, however this proposal for the retention of this shop is exceeding what would be reasonably taken to be a farm shop and as such there is no policy support for it and it should be refused.

Further to the current activities being unacceptable, this proposal is resulting in the intensification of the use of a substandard access onto a protected route and DFI Roads have advised the access requires the following improvements:

- access to be widened to accommodate 2 way traffic
- 4.5m x 124m sightline to northwest
- 124m forward sightline from the northwest
- tangential sightline to northwest
- 4.5m x 147m sightline to southeast
- 147m forward sightline from northeast

To provide these improvements will require 3rd party lands on both sides of the road. Members are aware that Policy AMP2 of PPS3 requires access improvements where the access use is being intensified. Intensification of the use of an access is set out in DCAN 15 as a more than 5% increase in the use of the access. This lane provides access to 3 dwellings as well as Grange Farm and other farm buildings and lands. In the consideration of the application for the expansion of Grange Farm for the provision of 3 additional poultry units (LA09/2015/0176/F), an Environmental Statement was submitted which indicated the

expansion of the farm would generate an additional 2.1 movements per day. The existing use from Grange Farm is indicated at 2.1 movements per day and the 3 dwellings would equate to approx. 10 movements per dwelling per day and so the total use of the access, before the shop as constructed was approx. 35 vehicle movements per day. The objector has indicated they counted 189 vehicles using the access in one day. There is no other information to refute this and taking account of the historic information provided in the previous application this equates to over 500% increase in the use of the access. It is clear this proposal has resulted in the intensification of the use of a substandard access. The applicants have indicated they are unable to improve the access to the required standard. DFI Roads have advised they are still opposed to the proposal as the access is dangerous.

I consider there is the potential to accept a farm shop here, however this shop is excessive to what is reasonable for a farm shop and the access requires improvement. As such I recommend this application is refused due to scale of the operations and the road safety concerns around the use of this substandard access onto this protected route.

Reasons for Refusal:

1. The Shop is acting as mini supermarket rather than for goods primarily produced on this farm shop and is therefore in conflict with the Strategic Planning Policy Statement for Northern Ireland: Town Centres and Retailing and PPS21; Sustainable Development in the Countryside Policy CTY1 in that insufficient justification for the development has been provided and CTY11 in that it has not been demonstrated this is run in conjunction with the farm business.
2. The proposal is contrary to Policy AMP2 of Planning Policy Statement 3 – Access, Movement and Parking, in that the proposal has resulted in the intensification of the use of a substandard access to the public road which cannot be brought up to the necessary visibility standards and as a result increases the danger to users of the access and the users of the adjacent protected route.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1182/F	Target Date:
Proposal: Retention of farm and factory shop and associated works	Location: Approx 70m N.E. of 70 Drumgrannon Road Dungannon
Referral Route: There are a number of objections to this proposal which is contrary to Policy CTY 1 and CTY 11 in PPS 21, along with AMP 2 in PPS 3.	
Recommendation: Refusal	
Applicant Name and Address: George Troughton 76 Drumgrannon Road Broughadowey Dungannon	Agent Name and Address: 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Refuse
Statutory	Rivers Agency	Advice
Statutory	NI Water - Strategic Applications	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

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

Summary of Issues

Contrary to PPS 21 and PPS 3.

Characteristics of the Site and Area

This application site known as Grange Farm is located approximately 70 metres N.E. of No 70 Drumgrannon Road and is 1 kilometre to the North East of the Moy village. It gains access off the A29 Protected Route, which is the longest North – South route in the North of Ireland, starting in Portrush and culminating at the Border just outside of Silverbridge. The site is located in the rural countryside and is undefined in the Dungannon and South Tyrone Area Plan (DSTAP). The surrounding area is rural, characterised by farm holdings located off laneways with some individual dwellings and business located along the roadside also.

The site is set back over 300 metres and to the west of the main road, on land which is elevated at a higher level than the road. It is accessed via a private laneway which serves a number of dwellings. This is tarmaced and as it nears the farm grouping, a new section veers off to the north which appears to have been constructed recently. This new laneway leads to a tarmaced parking area to the south where the building subject of this application is located in the south western corner of the site.

There is also designated parking spaces which are set out at an angle to the laneway which defines the northern boundary of the site by a post and wire fence. The western boundary of the site is defined by a retaining wall, beyond which sits an agricultural building at a higher level. This building sits parallel to and just outside of the application site with a large colourful mural adorning a large expanse of its outer wall.



The shop building sits with the southern gable siding onto the original laneway which continues in a westerly direction. It sits at a level above the laneway with steps allowing pedestrian access from this end. It has an overhanging roof which provides a sheltered area to the front of the shop which also creates external floorspace for the displaying of a variety of larger bulky items such as firewood, big bags of potatoes, flowers.

The building has a ridge height of 3.6 metres from the 0.35 metre raised platform it sits on and a footprint of 105 sq. metres

Entrance to the shop is located on the eastern elevation via double glazed doors, where two small windows are positioned either side of. A side door is on the northern elevation which faces the car park, however this does not appear to be for access to the public.

The roof and walls of the shop are a grey coated steel cladding. Internally the retail floorspace occupies the entire footprint of the building. The finishes of plywood walls and exposed metal frames create an industrial interior design appearance.

Planning History

LA09/2021/0021/CA - Alleged unauthorised building, farm factory shop and advertisement – ongoing.

A warning Letter was issued in May 2021 seeking the cessation of the unauthorised retail use, demolition/removal of the building and removal of associated advertisements.

LA09/2015/0176/F - Proposed 3 no additional broiler poultry sheds with 6 no feed bins, a biomass boiler shed with fuel bin and a storage shed (to contain in total 111,000 broilers - increasing total site capacity to 258,500 broilers) – Approval 08.02.2016

M/2006/1151/F - 1no Steel Framed Poultry Shed - Approval 13.06.2006

M/2004/1950/F - 2 No steel framed poultry sheds - Approval 07.05.2005

M/2004/0410/F - 2 no steel framed poultry sheds - Approval 19.07.2004

Description of Proposal

Retention of farm and factory shop and associated works on land approximately 70 metres North East of No 70 Drumgrannon Road, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

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

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS outlines the aim to providing sustainable development and with respect to that should have regard to the Development Plan and any other material considerations. It retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The proposed net floorspace of the building to be retained as part of this application is significantly below the 1,000 sq. metres threshold for submitting a Retail Impact Assessment, as the SPPS requires. The SPPS advises that the policy provision of PPS 21: Sustainable Development in the Countryside are retained. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and includes Farm Diversification. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their

surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

As this application site is located in the rural countryside, outside of any designated settlement development limit identified in the DSTAP, the relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted.

Policy CTY 11 states that permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. It sets out a list of criteria whereby the development proposed demonstrates;

- a) The farm or forestry business is currently active and established

A Supporting Statement, farm maps along with floorplan and elevations of the building were submitted as part of this development proposal. No other information to verify that the farm business is currently active and established has been presented. Although the planning history surrounding the site would suggest the farm is currently active and established, this has not been demonstrated by the provision of a P1C form to consult DAERA as part of this submission.

- b) The character and scale are appropriate to its location

The building this application seeks to retain is sited to the front of a large grouping of agricultural buildings. It measures 6.6 metres wide, 15.9 metres long and is finished in materials which are not uncommon in the countryside. However, the large flamboyant colourful mural on the outer wall of the agricultural building adjacent to the site is out of keeping with this rural area, and its advertisement of Grange Farm is also unauthorised.



- c) It will not have an adverse impact on the natural or built heritage

I have no concerns regarding any implications this building may have on any heritage features, either built or natural.

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

Although the building to be retained does not itself generate any nuisances, its existing retail use does have a detrimental impact on neighbouring amenity. From the site visit is evident this shop is open to the public from the hours of 8 – 5 Monday to Friday and 8 – 4.40 on Saturday. The hours of operation combined with the nature of its retail use has resulted in an escalation in traffic on this laneway, thus impacting on the neighbour's amenity, as is discussed in more detail below.

The policy goes on to say that proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings.

In exceptional circumstances, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they,

- Are essential for the maintenance of the existing farm enterprise
- Are clearly unsuitable for adaptation and reuse
- Cannot be adapted to meeting the requirements of other statutory agencies

Where a new building is justified, it should be satisfactorily integrated with an existing group of buildings.

Paragraph 5.48 of PPS 21 clearly states that where a new building is proposed, or in this instance seeks retrospective planning permission, the applicant will be required to provide sufficient information to satisfactorily demonstrate why existing buildings cannot be used.



2004



2007



2019

In the Supporting Statement the agent has indicated on a map where,

“the sale of farm and factory goods at Grange Farm was historically carried out from a shed in the middle of the farmyard.”

It is evident from the orthophotography that there has been much development on the land surrounding this application site. However it is has not been demonstrated how any of the existing building were “unsuitable” for the retail use in this application

The agent has stated the building to be retained was constructed in order to

- Minimise access from members of the public to the farm for health and safety reasons (potential contamination of food preparation areas),
- Improve traffic management between customers to the shop and HGV deliveries to and from the site.

It is worth noting there is no evidence of any authorised retail element associated with this identified building. Therefore, any retail use is unauthorised and therefore cannot claim to be lawfully established or be justifiable in a need to expand.

The agent claims,

"The proposal for a farm and factory is clearly run in conjunction with the existing business, the applicant and his family are actively involved in both the shop and the farm business, with the shop, the farm and the factory all intertwined."

I have a number of issues with this statement in that there is reference to a "factory" numerous times throughout the agent's statement and the term is also included within the proposal description also. There has been no information provided as to where this factory is located, what it makes, ownership etc. As there is no planning history for such a development within this application site or the associated farm in the applicant's ownership, question arise as to whether it is operating as without the benefit of planning permission.

The Oxford Dictionary defines a Farm Shop as,

*"a shop that sells food and other items **from** a farm directly to the public."*
and a Factory Shop as,

*"a shop in which goods, especially surplus stock, are sold directly by the **manufacturers** at a discount".*

I am not convinced the said building is a "farm shop". While conducting the site visit I was able to gain access to the shop and it was evident there are a range of products on sale, the majority of which are not derived from the associated farm. The range of products included flowers, potatoes, coffee to go, jars of condiments, jam, bakery products, crisps, drinks and a large freezer and chill cabinet section.

From the information obtained during the site visit and that available on the internet advertising the services and products Grange Farm provides, I am not of the opinion the use of the building on this application site would constitute either a farm shop nor a factory shop. My own assessment would suggest this unit has the functioning properties of a wholesale food supplier, providing a retail outlet open to the public and a delivery service to businesses.

The agent goes on to say,

"There is a verifiable functional linkage between a large portion of the stock sold in the shop and that reared, produced and processed on site."

As already stated, this information has not been provided as part of this retrospective application, which has been submitted on the back of an enforcement case open on the unauthorised development on site. It is also contrary to what was viewed during the site visit.

According to the social media account of Grange Farm describes itself as a "Specialist Food Shop" and food wholesaler advertising the sale of Christmas Hampers, Cheese

Boards, Fruit Baskets, beef, Indian prawns, duck and pork. It also operates a daily delivery service of all products and

"Specialises in the supply of eggs, peeled potatoes and chips, meat products and fresh fruit and vegetables to Chinese and Irish takeaways, restaurants and delis."

This confirms my scepticism about the proposal description of this shop as a "farm and factory shop". It seems this is a retail outlet for some small homemade produce along with the usual items available in the average convenience store and products sourced in from other manufacturers.

Thereby I feel the correct policy to determine this application is the SPPS where in Town Centre and Retailing Paragraph 6.279

It may also be worth noting that although the Draft Plan currently does not have any weight, Policy RE 6 – Retail and Related Uses in the Countryside does say that in the countryside, new retail proposals for a farm shop..... will normally be restricted to a net floor area of 100 sq. metres.

Consultations and Representations

NI Water have no objection subject to standard conditions.

The Environmental Health Department of Mid Ulster District Council were consulted and have no concerns.

DfI Rivers have no objections

DfI Roads were consulted and recommended refusal having taken into consideration representations from local councillors and neighbours as well as Accident History from their database. The database shows 1 fatal accident in March 2019, 4 other injury accidents 2018-10, as well as a recent accident they are aware of which has not been uploaded to their database.

The A29 Drumgrannon Road is a Protected Route and Para 5.28 of PPS 3 – Access, Movement and Parking states that in all cases, where access to a Protected Route is acceptable in principle, it will also be required to be safe in accordance with AMP 2. Policy AMP 2 states that permission will only be granted for a development proposal involving direct access, or intensification of the use of an access, onto a public road where;

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic, and
- b) the proposal does not conflict with Policy AMP 3 – Access to Protected Routes.

DfI Roads have concerns as this access is substandard and does not meet the required standards as set out in DCAN 15 and there are a number of issues which need to be overcome in order to bring the access up to standard and improve the safety of this access;

- The access must accommodate two way traffic and as delivery vehicles are expected to utilise this access, Auto Tracking will be required to determine the width and the radii requirements of the access.
- A Transport Assessment Form must be completed.
- A Forward sightline of 147 metres from the south east and 124 metres from the northwest is required.
- 4.5 metres by 124 metres sightline to the northwest is required, with the tangential sight line requiring partial removal of a third party hedge.
- 4.5 metres by 147 metres sightline to the southeast is required.

In order to provide these requirements, third party land is needed and be included within the red line of the site.

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and RAMSAR sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats etc) Regulations (NI) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

There were three neighbouring properties notified about this application and it was advertised in the local media.

There are 2 separate objections received from 2 Councillors with both highlighting road safety as a huge concern, particularly because of the intensification of the access.

There are also a number of objections from the neighbouring property at No 82 Drumgrannon Road which note;

- The applicant only has a Right of Way through their property and has encroached it in an attempt to make improvements to the access lane.
- The shop sell products which are not produced on the farm.
- It has resulted in an intensification of the access due to the various amount of traffic movements to and from the shop; delivery of supplies to the shop, employee and customer traffic, wholesale delivery service to businesses, along with the daily everyday traffic generated on a working farm.
- The access is very dangerous as there is no right turning lane and the increased traffic to the shop, particularly when travelling from Dungannon direction have to wait in the road to turn into the farm and as this is just around the corner of a bend, the risk of accident on this dangerous stretch of road is exacerbated.
- Frequently they are hemmed in or cannot gain entry to their property due to their entrance being utilised as a layby, where vehicles wait for oncoming traffic from the shop.
- Lorries and vans make frequent trips to and from the shop outside of normal working hours, resulting in noise and light nuisance causing sleep disturbance.

Neighbour Notification Checked

Yes

Summary of Recommendation:

As there are a number of objections to this proposal and it is deemed contrary to policy, it cannot be determined under the Council's present Scheme of Delegation and must go to the Planning Committee for a decision.

This proposal to retain what is described as a “farm and factory shop” is misleading as it does not correctly describe the type of retailing on the site. It appears the building on site is a retail outlet with a floorspace in excess of 100 sq. metres which sells a wide variety of produce sourced from wholesalers while also providing a delivery service of the goods it sells to local businesses. This type of general convenience retailing goes against the SPPS as retailing is directed towards town centres. If this proposal were to be assessed under the correct use, it would be deemed contrary to SPPS which reiterates inappropriate retail facilities in the countryside must be resisted and this proposal is not considered to be an exceptional case.

I am of the opinion this application fails to comply with the criteria in CTY 1 and CTY 11 of PPS 21 as identified above. It also further jeopardises the safety of road users on what is already a notoriously well documented dangerous road. It fails to meet the criteria required by AMP 2 in PPS 3 and I would agree with DfI Roads this application should be refused.

Reasons for Refusal:

1. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) as retailing is directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted and this proposal is not an exception to policy.
2. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons as to why this development is essential in this rural location and could not be located within a settlement.
3. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm and the farm business is currently active and established. The development, will result in a detrimental impact on the amenity of nearby residential dwellings by reason of traffic generation, and it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.
4. The proposal is contrary to Planning Policy Statement 3 access, Movement and Parking in that it would, if permitted, result in the intensification of use of an existing access) onto the A29 Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	16th August 2021
Date First Advertised	31st August 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 69 Drumgrannon Road Dungannon Tyrone The Owner/Occupier, 71 Drumgrannon Road Dungannon Tyrone The Owner/Occupier, 82 Drumgrannon Road Dungannon Tyrone Dominic Molloy - Email Marian Duffy - Email Barry Monteith - Email	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2021/1182/F Proposal: Retention of farm and factory shop and associated works Address: Approx 70m N.E. of 70 Drumgrannon Road, Dungannon, Decision: Decision Date: Ref ID: M/1995/0776 Proposal: Dwelling Address: ADJACENT TO 82 DUNGANNON ROAD MOY Decision: Decision Date: Ref ID: M/2009/0264/F Proposal: Replacement dwelling and garage Address: Land approx 460m West of 70 Drumgrannon Road, Dungannon Decision: Decision Date: 12.06.2009 Ref ID: M/2004/0410/F Proposal: 2 no steel framed poultry sheds Address: land 175m NW of 70 Drumgrannon Road, Dungannon Decision:	

Decision Date: 19.07.2004

Ref ID: M/2006/1151/F

Proposal: 1no Steel Framed Poultry Shed

Address: Land approx 175m NW of 70 Drumgrannon Road Dungannon

Decision:

Decision Date: 13.06.2006

Ref ID: M/2004/1950/F

Proposal: 2 No steel framed poultry sheds

Address: Land 175m North West of 70 Drumgrannon Road, Dungannon

Decision:

Decision Date: 07.05.2005

Ref ID: M/2005/0373/O

Proposal: Erection of new two storey dwelling and detached garage

Address: Site adjacent to 82 Moy Road and Drumgrannon Road, Moy, Dungannon

Decision:

Decision Date: 23.08.2005

Ref ID: M/2001/0753/F

Proposal: Change of House type from previously approved application Ref:M/95/0776.

Address: Adjacent to 82 Dungannon Road Moy Co Tyrone

Decision:

Decision Date: 15.11.2001

Ref ID: M/1975/0312

Proposal: ERECTION OF BUNGALOW

Address: CULLKEERAN, MOY ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1994/6100

Proposal: Replacement Dwelling Dungannon Road Moy

Address: Dungannon Road Moy

Decision:

Decision Date:

Ref ID: M/1995/6076

Proposal: Dwelling 82 Drumgrannon Road Moy

Address: 82 Drumgrannon Road Moy

Decision:

Decision Date:

Ref ID: LA09/2015/0176/F

Proposal: Proposed 3 no additional broiler poultry sheds with 6 no feed bins, a biomass boiler shed with fuel bin and a storage shed (to contain in total 111,000 broilers - increasing total site capacity to 258,500 broilers)

Address: Land approx. 230m North of 70 Drumgrannon Road, Dungannon,

Decision: PG

Decision Date: 08.02.2016

Summary of Consultee Responses
DRD Roads
Environmental Health
Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted Drawing No. 02 Type: Road Access Plan Status: Submitted
Notification to Department (if relevant)
Date of Notification to Department: Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2021/1260/O	Target Date: 22 October 2021
Proposal: Proposed dwelling and garage	Location: Approx 80M East Of 24 Garrison Road Magherafelt
Applicant Name and Address: Donna & Danny O'Shea 3 Hanson Lane Huddersfield	Agent Name and Address: Cmi Planners 38 Airfield Road Toomebridge
Summary of Issues: This application was presented as a CTY 10 refusal to Members at Feb 2023 Planning Committee. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planning Officer. Following policy discussions at the office meeting and a site visit having been carried out by the Senior Officer the application is now being recommended for Approval, with the justification provided further in this report.	
Summary of Consultee Responses: No objections from DAERA or DFI Roads	
Description of Proposal This application seeks outline planning permission for a dwelling and garage	
Deferred Consideration: This proposal was initially considered under Policy CTY 10 - Dwelling on a Farm. Whilst DAERA advised that there is an active and established farm business belonging to the applicants father, the farm business and buildings are located at 12 McCooles Road which is removed from the application site. The proposed application site does not cluster or visually link with any buildings	

on the farm and the applicant was relying on clustering with a third party building. No supporting statement was submitted to make a case for siting away from a group of buildings on the farm. As such, the proposal is clearly at conflict with the provisions of policy CTY 10.

Members are advised that following a site inspection I am of the opinion that there is merit in considering this case under an alternative policy, policy CTY2A - Dwelling in an existing cluster. This policy sets out 6 criteria which must be adhered to. The site is located within an identifiable cluster of development, outside of a farm, of which there are in excess of 4 buildings. There are also more than 3 of these buildings which are dwellings. This satisfies the first criterion. The cluster does appear as a visual entity in this particular area. The site is bound to NW by a dwelling, garage and its associated domestic curtilage. To the South, just across the Garrison Road is another dwelling and garage. This dwelling has a fairly substantial curtilage to the front however it can still be regarded as development. To the SW is another dwelling and outbuilding. I am therefore content that the site has development on at least 2 sides which will provide an acceptable degree of enclosure, meeting this test of the policy. The site nestles naturally between number 25 and the dwelling the South. A dwelling here can be viewed as a natural rounding off of this particular cluster and will not further intrude into the local landscape. Given the separation distances from adjacent dwellings, I have no concern in respect of residential amenity.

The only criteria that has not been met is that the cluster is not located at a cross roads nor is it associated with a focal point. In this particular case, where the applicant has demonstrated that there is an active and established farm business however the siting provisions of CTY 10 cannot be met and when considered under CTY 2A the only criteria that isn't met is the focal point/cross roads association, it would not be unreasonable for Members to consider this case as an exception to Policy CTY2A. The spirit of CTY2A is that a dwelling can be absorbed into an existing cluster without impacting rural character or residential amenity and I would contend that this is clearly the case in this application.

Approval is recommended subject to standard conditions in respect of time, access, 6m ridge height, retention of boundaries and landscaping.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

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

Condition 2

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

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

Condition 3

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

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

Condition 4

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

Condition 5

The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21

Condition 6

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

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

Signature(s):Karla McKinless

Date: 9 March 2023

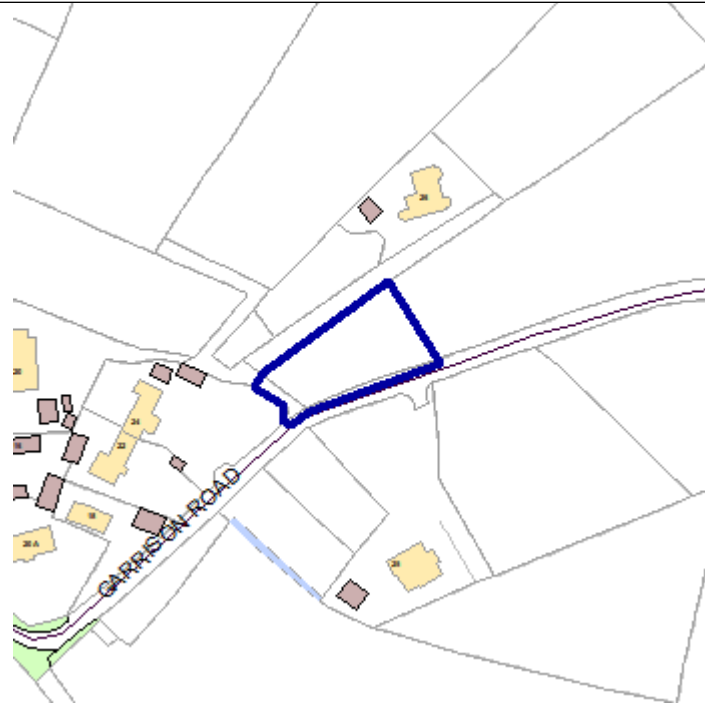


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 February 2023	Item Number: 5
Application ID: LA09/2021/1260/O	Target Date: 22 October 2021
Proposal: Proposed dwelling and garage	Location: Approx 80M East Of 24 Garrison Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Donna & Danny O'Shea 3 Hanson Lane Huddersfield	Agent Name and Address: Cmi Planners 38 Airfield Road Toomebridge
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DAERA - Coleraine	Substantive: TBCResponseType: FR

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

Characteristics of the Site and Area

The site is located approx. 80m East of 24 Garrison Road, Magherafelt and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is located on the edge of a small group of dwellings and is accessed via lane way, leading off the Garrison Road. This lane also appears to serve the dwelling at No 26. The site is a section of a larger agricultural field, the roadside boundary to the south to south- east is comprised of mature vegetation and trees and the boundary to the North and west is comprised of scattered mature vegetation and the boundary to the east is undefined.

Description of Proposal

This application seeks outline planning permission for a dwelling and garage on a farm dwelling

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Neighbour notification and press advertisement have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

Assessment

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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

Planning History

LA09/2018/0800/O – Proposed dwelling and garage, Land Between 20 & 26 Garrison

Road, Toberhead Knockloughrim, for Donna O’Kane, application withdrawn

Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is dwellings on a farm under Policy CTY 10.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

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

PPS 21, Policy CTY1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY 10. This establishes that the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - Demonstrable health and safety reasons or
 - Verifiable plans to expand the farm business at the existing building group(s)

With regard to (a) the applicant has provided details surrounding the farm business ID. DAERA were consulted. The farm business Id provided on the P1C form belongs to a Christopher O’Kane, 12 McCooles Road, Magherafelt and not the applicant for the proposed development. DAERA were consulted on the

application and responded to say that the business Id provided was active and established for 6 or more years. I contacted the agent to enquire if the Farm Business Id holder (Mr Christopher O’Kane) had given permission for his farm business ID to be used but I did not get a response to my question.

With regard to (b) there are no records indicating that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With respect to (c), the proposed development is located on a portion of a larger agricultural field on the edge of a group of third party dwellings. The proposed group of established buildings on the farm is discounted as it is a domestic garage associated with the dwelling house at No 24 (see photo below). This is not included in the blue line of the application. On inspection during my site visit it was evident that the proposed building associated with the farm business was a domestic garage used to store toys, bikes etc (see photo below).





I contacted the agent to enquiry about this and if there were any other group of buildings on the farm associated with the farm business I'd provided. The agent responded to say that the dwelling at No 24 has family members in it and the land is split pretty much in two by the main Derry to Belfast Road, with this road due to be upgraded to dual carriageway standards in the future he wishes to establish a base on this side of the road. A land registry check confirmed that the land is owned by Christopher O'Kane. Therefore the application fails to meet this policy test.

The P1 form indicates that the proposal includes the alteration of an existing access to the public road. DFI Roads were consulted on the application, and they responded to say that they were content subject to conditions.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal is for outline planning permission and details of design have not been submitted at this stage. The site is not sited to cluster with an existing group of building on the farm and potentially will not integrate sufficiently into the landscape.

In terms of Policy CTY14 Planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The site is not located to visually link or cluster with any existing farm buildings and therefore may cause detrimental change or erode the rural character of the area. Therefore, this proposal is contrary to the criteria set out in policy CTY13 &14.

Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The application fails to meet the policy criteria of PPS 21, CTY 10 in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.

Reason 2

This proposal is contrary to the criteria set out in policy CTY13 &14, as there is no group of buildings to visually link or cluster with and therefore would fail to integrate successfully into the existing landscape.

Signature(s): Siobhan Farrell

Date: 16 January 2023

ANNEX	
Date Valid	27 August 2021
Date First Advertised	7 September 2021
Date Last Advertised	7 September 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 22 Garrison Road Knockcloghrim Londonderry BT45 8RD The Owner / Occupier 25 Garrison Road, Magherafelt, BT45 8RD The Owner / Occupier 26 Garrison Road Knockcloghrim Londonderry BT45 8RD The Owner / Occupier 18 Garrison Road Knockcloghrim Londonderry BT45 8RD The Owner / Occupier 24 Garrison Road Knockcloghrim Londonderry BT45 8RD	
Date of Last Neighbour Notification	20 September 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DAERA - Coleraine-Substantive: TBCResponseType: FR	
Drawing Numbers and Title Site Location Plan Plan Ref: 01	

Notification to Department (if relevant)

Not Applicable



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/1284/F	Target Date: 28 October 2021
Proposal: Proposed dwelling under PPS 21 policy CTY 2a - New dwellings in existing clusters.	Location: Rear Of 123 Creagh Road Newbridge Magherafelt.
Applicant Name and Address: Emma Gribbin 123 Creagh Road Newbridge Magherafelt BT45 8EY	Agent name and Address: John Kearney Architecture 115 Oldtown Road Castledawson BT45 8BZ
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area The site is located approximately 1km north west of the development limits of Creagh and it is in the rural area as identified in the Magherafelt Area Plan 2015. The site is located to the rear of no 123 Creagh Road and will utilise an existing access serving that dwelling. The red line covers a portion of land currently used as a paddock for the housing of horses. The immediate area is defined by a mix of residential, commercial and agricultural uses with the wider area being rural in character with predominantly agricultural uses.	
Description of Proposal This is a full application for a dwelling in a cluster under Policy CTY 2a of PPS 21.	

Deferred Consideration:

This application was presented with a recommendation to refuse before Members at Planning Committee in July 2022. At that meeting Members agreed to defer the application for an office meeting with the Service Director and this took place on 14 July 2022. Following the office meeting I have carried out a site visit.

The application seeks for planning permission for a dwelling in a cluster as per Policy CTY 2a of PPS 21, and for an application to be approved it is required to meet all the listed criteria. The application was previously recommended for refusal as it was considered that although the application is within a cluster, the cluster is not associated with a focal point or is it located at a cross roads.

A previous application on the opposite side of the road under LA09/2021/0874/O accepted that Gribben House to the north west is a focal point in the area. From my site visit it was apparent that the cluster of development at the application site is partially visible from Gribben House and what if not immediately visible, there is certainly an awareness of the cluster of development.

I agree with the remainder of the assessment in terms of CTY 2a and I recommend an approval of this application subject to the conditions listed.

Conditions/Reasons for Refusal:**Approval Conditions****Condition 1**

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

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

Condition 2

The existing natural screenings of this site as indicated on drawing no 01 date stamp received on 1 September 2021, shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

Reason: To ensure the development integrates into the surroundings and to ensure the maintenance of screening to the site.

Condition 3

During the first available planting season after the occupation of the dwelling, a natural species hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site.

Reason: To ensure the amenity afforded by existing hedges is maintained.

Condition 4

During the first available planting season following the occupation of the dwelling hereby permitted all new boundaries have been defined by a timber post and wire fence with the

proposed landscaping as identified on drawing no 01 date stamped received 1 September 2021.

Reason: To ensure the proposal is in keeping with the character of the rural area.

Condition 5

The vehicular access, including visibility splays of 2.4m x 70m and a 70m forward sight line shall be provided in accordance with drawing no 01 bearing the date stamp 01 September 2021, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Signature(s):Karen Doyle

Date: 14 March 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1284/F	Target Date:
Proposal: Proposed dwelling under PPS 21 policy CTY 2a - New dwellings in existing clusters.	Location: Rear of 123 Creagh Road Newbridge Magherafelt.
Referral Route: To Committee - Refusal - Contrary to CTY 1, 2a, of PPS 21.	
Recommendation:	
Applicant Name and Address: Emma Gribbin 123 Creagh Road Newbridge Magherafelt BT45 8EY	Agent Name and Address: John Kearney Architecture 115 Oldtown Road Castledawson BT45 8BZ
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Historic Environment Division (HED)	Content

Representations:

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

Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 2a, of PPS 21.

Characteristics of the Site and Area

The site is located approximately 1km north west of the development limits of Creagh and it is designated to be within the open countryside as per the Magherafelt Area Plan 2015. The site is located to the rear of No. 123 Creagh Road where the intention is to use the existing access of No. 123. The red line covers a portion of land currently used as a paddock for the housing of one horses. The immediate area is defined by a mix of residential, commercial and agricultural with the wider being predominately agricultural.

Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

Description of Proposal

This is a full application for dwelling under PPS 21 policy CTY 2a - New dwellings in existing clusters, the site is identified as rear of 123 Creagh Road, Newbridge, Magherafelt.

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015
Mid Ulster Local Development Plan 2030 - Draft Strategy
Strategic Planning Policy Statement (SPPS)
PPS 21: Sustainable Development in the Countryside
PPS 3 - Access, Movement and Parking;

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

With regards to the first criteria, I am content that the cluster lies outside a farm and consists of four or more buildings in that at least three of these are dwellings. Furthermore I am content that the cluster appears as a visual entity. I am content that the old 'Gribbin House' factory building is able to provide a focal point however I hold the view that it is too far detached from the cluster to be considered as associated.

In terms of suitable degree of enclosure I am content that the site is able to bound with No. 123 on the western boundary, capable of bounding with No.119a along the southern boundary therefore I am content that there is suitable bounding. Given the location of the dwelling I am content that it will be fully absorbed into the cluster. Finally, given the size and location of the dwelling I am content that this dwelling is unlikely to result in an adverse impact on neighbouring amenity.

As such I hold the view that the application has failed under CTY 2a given the issue over the association with the focal point.

I note that no other case has been put forward by the applicant, in that there is no replacement or conversion opportunity, no farm case provided, not considered an infill. Finally there has been no personal and domestic circumstances provided nor any case for a dwelling for non-agricultural business.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Upon review of the proposed design I am content that it is acceptable and the dwelling will be able to successfully integrate into the landscape. I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that the proposed development complies under CTY 14 as the dwelling will not result in an adverse impact of the rural character of the area.

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

PPS 3 - Access, Movement and Parking;
DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

A consultation was also sent to HED, who confirmed that they were content with the proposal.

I have no flooding, ecological or residential amenity concerns.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refusal

Reasons for Refusal:

<p>1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p>
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2.The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or it is not located at a cross-roads.

Signature(s)

Date:

ANNEX	
Date Valid	2nd September 2021
Date First Advertised	14th September 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 115a Creagh Road Castledawson The Owner/Occupier, 117 Creagh Road Castledawson Londonderry The Owner/Occupier, 119 Creagh Road Castledawson Londonderry The Owner/Occupier, 121 Creagh Road Castledawson Londonderry	
Date of Last Neighbour Notification	14th September 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2021/1284/F Proposal: Proposed dwelling under PPS 21 policy CTY 2a - New dwellings in existing clusters. Address: Rear of 123 Creagh Road, Newbridge, Magherafelt., Decision: Decision Date: Ref ID: H/1991/0066 Proposal: BUNGALOW Address: REAR OF 121 CREAGH ROAD CASTLEDAWSON Decision: Decision Date: Ref ID: H/1994/0082 Proposal: SITE OF FARMWORKERS DWELLING Address: CREAGH ROAD CASTLEDAWSON Decision: Decision Date: Ref ID: H/1990/0123 Proposal: SITE OF BUNGALOW Address: BEHIND NO 121 CREAGH ROAD CASTLEDAWSON	

Decision:
Decision Date:

Ref ID: H/1991/0387

Proposal: UNDERGROUND SEWAGE PUMPING STATION WITH CONTROL KIOSK

Address: ADJ TO 121 CREAGH ROAD, ANNAHORISH CASTLEDAWSON

Decision:
Decision Date:

Ref ID: H/1990/0356

Proposal: SITE OF BUNGALOW

Address: REAR OF 121 CREAGH ROAD CASTLEDAWSON

Decision:
Decision Date:

Ref ID: H/1990/0273

Proposal: SITE OF BUNGALOW

Address: BESIDE 121 CREAGH ROAD CASTLEDAWSON

Decision:
Decision Date:

Ref ID: H/1993/6146

Proposal: SITE OF DWELLING CREAGH ROAD CASTLEDAWSON

Address: CREAGH ROAD

Decision:
Decision Date:

Ref ID: H/1995/0172

Proposal: DWELLING AND GARAGE

Address: BETWEEN 119 & 121 CREAGH ROAD CASTLEDAWSON

Decision:
Decision Date:

Ref ID: H/1993/0158

Proposal: SITE OF DWELLING

Address: BETWEEN 119 AND 121 CREAGH ROAD CASTLEDAWSON

Decision:
Decision Date:

Ref ID: H/2014/0435/F

Proposal: New 33kv 3x200mm AAAC system reinforcement between Creagh Sub Station and Tobermore. Overhead line will consist of single wood pole structures and double wood pole structures (H Poles)

Address: From: 122 Creagh Road Castledawson (VIA) Creagh Annaghmore Killyneese Aghagaskin Glenmaquill Grange Dromore Drumsamney Moyasset To 42 Desertmartin Road Tobermore,

Decision: PG
Decision Date: 15.12.2016

Summary of Consultee Responses
Drawing Numbers and Title
Drawing No. 01 Type: Site & Detailed Drawings Status: Submitted Drawing No. 02 Type: Elevations and Floor Plans Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1384/O	Target Date: <add date>
Proposal: Proposed Site for 2No Dwellings and Garages. Based on Policy CTY 8	Location: Vacant Lands adjacent to and west of 191 Battery Road Moortown BT80 0HY
Applicant Name and Address: Mr Maurice Devlin 191 Battery Road Ardean Cookstown BT80 0HY	Agent Name and Address: Clarman Ltd Unit 1 33 Dungannon Road Coalisland BT71 4HP
Summary of Issues: This application is for 2 dwellings between the 2 nodes of development at the Battery and Moortown. The coalescence of these two settlement limits will not have any significant impacts on the area or set any wide reaching precedents if approved.	
Summary of Consultee Responses: DFI Roads - access can be provided to standard Historic Environment Division – no concerns about archaeology	
Characteristics of the Site and Area: The site is located in the rural countryside as defined by the Cookstown Area Plan 2010 between two separate and distinct nodes of development forming Moortown settlement limits. Most of the housing within Moortown is located immediately west of the site along the Ardboe Rd in the larger node of development with the smaller node immediately to the east of the site comprising principally a harbour area on the shores of Lough Neagh known as 'The Battery'. A range of local services and community facilities are dispersed	

in both nodes.

The site is a relatively flat square shaped plot of land cut from the roadside frontage of a larger agricultural field situated adjacent Battery Rd. Mature hedgerows interspersed with trees bounds the site to the north along the Battery Rd, west and east. The southern boundary of the site is undefined and open onto the host field.

An agricultural access into the site off Battery Rd exists close to its western boundary with a wide gravelled driveway running to the rear of the northern roadside boundary and continuing along the eastern boundary. The driveway accesses lands / buildings at and to the rear of 191 Battery Rd, a large detached 2 storey dwelling on substantial grounds bounding the site to the east. A bungalow, 189 Battery Rd, also on substantial grounds bounds the site to the west. A housing development is under construction on lands immediately south of no. 189.

Views of the site are limited from the Battery Rd until just before and passing the roadside frontage of the site due to the topography of the area; existing development within Moortown; and mature vegetation on site and within the wider vicinity, which all come together to screen it. Critical views of the site are from Anneeter Rd, located to the northwest of the site, when travelling south on the approach to its junction with the Battery Rd.

Whilst the site is bound to both sides by development within the two nodes of development forming Moortown settlement limits, the area retains a rural feel and nodes distinctively separate. This is due to the well-vegetated nature of the site alongside agricultural lands outside the settlement limits to its north and south creating a visual break between the larger in my opinion more visually apparent node to the west and smaller more enclosed node 'The Battery' to the east. The Battery is more enclosed owing largely to its location at the end of the Battery Rd, the only road in/out, and the topography of area.

Description of Proposal

This is an outline application for 2 no. of dwellings and garages based on Policy CTY 8 of PPS21 to be located on vacant lands adjacent to and west of 191 Battery Rd Moortown.

Deferred Consideration:

This application was before the Planning Committee in January 2022 where it was agreed to defer for an office meeting with the Planning Manager (Service Director). A meeting was held on 10 February 2022 where the proposal was discussed further and the applicants representatives indicated they were aware the proposal does not have a policy basis. The application cannot rely on the development inside the settlement to form the book ends for infill however they felt there are a number of site specific circumstances here that require further consideration:

- the applicants house is located in the Battery and it has a large curtilage that extends outside the settlement, it has been this way for well over 5 year and is established
- The Battery contains a number of amenities for Moortown, hot food take away, bar, off license and the pier, these are frequented by the residents of Moortown, however there is no footpath link to allow the pedestrian access between both nodes
- Development of the Battery is being stifled due to the lack of connectivity, this site can deliver the footpath link and also provide access to the lands to the south for development

This is an unusual case in that the settlement limits for Moortown as defined in the Cookstown Area Plan 2010 has 2 nodes of development and the proposal will result in

the coalescence of these 2 nodes. The PAC Report for the Public Enquiry for the Cookstown Area Plan 2010 acknowledged there were objections to the settlement limits for Moortown being restrictive. The report advised the limits were quite generous in allowing for development. The area has changed considerably since the Plan was proposed and adopted, though it is noted there is still a generous amount of undeveloped land inside the defined limits as can be seen in the aerals below (Fig 1 and Fig 3).



Fig 1 – aerial photo 2006



Fig 2 – aerial photo 2006 zoomed



Fig 3 – aerial photo 2020

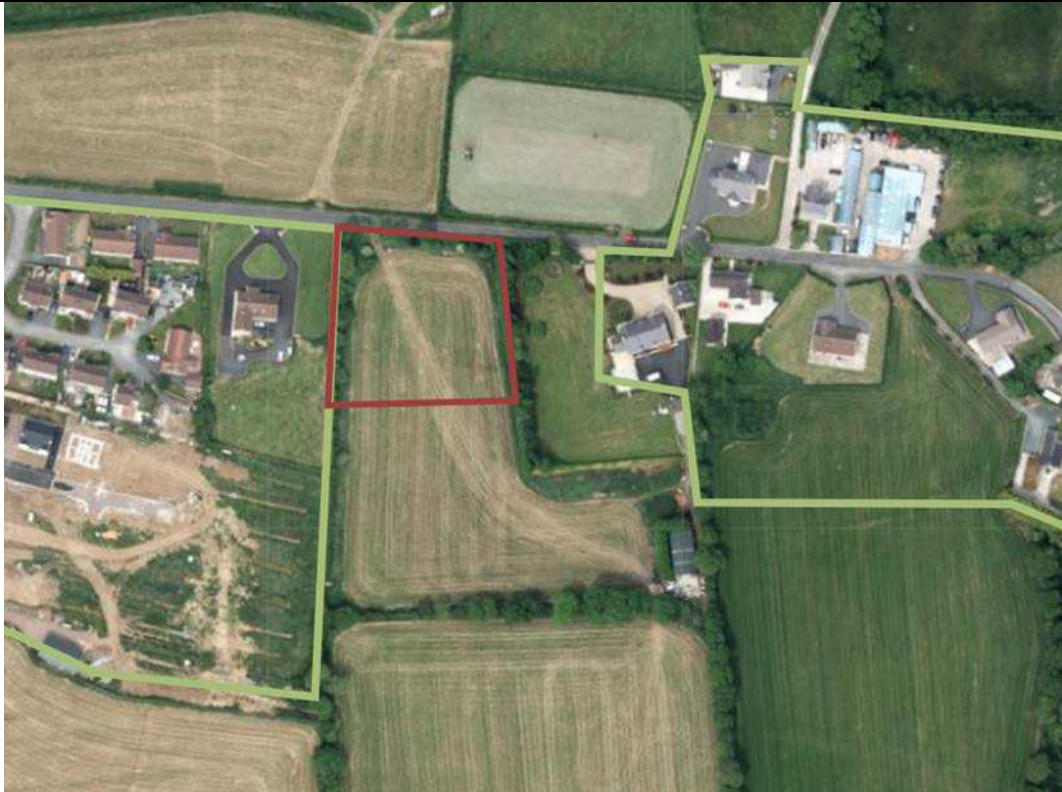


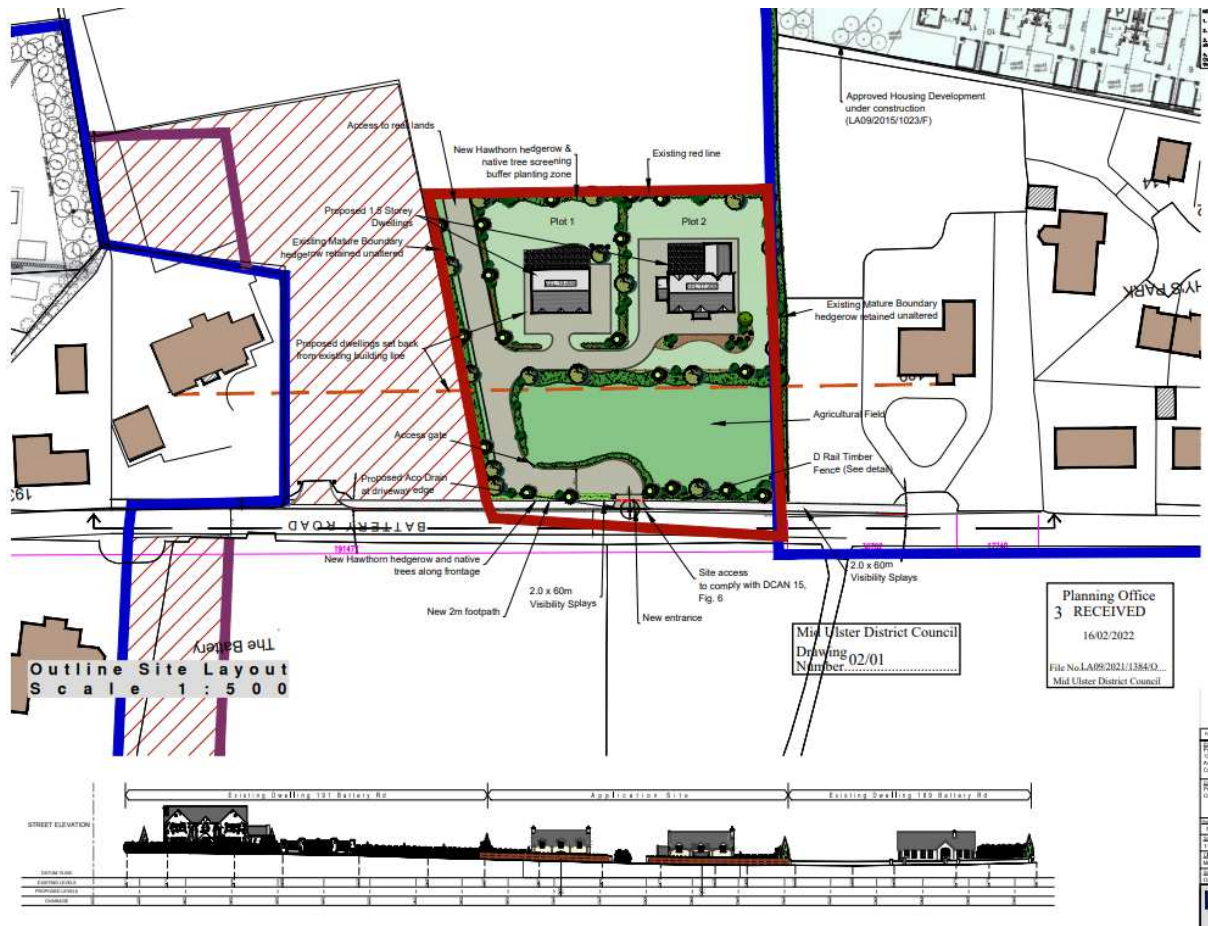
Fig 4 – aerial photo 2020 zoomed

Members attention is drawn to how small the gap in the road frontage is now in comparison to 2006, as well as the in-depth development to the rear of the houses either side of the gap. It would be reasonable to consider the proposed development here is a natural coalescence of the 2 nodes and would not cause any harm to the setting of either part of the settlement.

As there is no clear Policy support for the proposed development, if the proposal was to be allowed it would have to be an exception to policy. In making an exception members should be mindful of any precedent that could be set and how wide ranging that might be. Within the Mid Ulster Area there are 10 other settlements that have 2 nodes of development, Moneyneany, Swatragh, Dunnamore, Donaghmore, Edendork, Ballygawley, Aughnacloy, Ballymaguigan and Ardboe. There is also a settlement with 3 nodes at Aghaginduff/Cabragh, this can be discounted as there are 3 nodes of development and that is not comparable with this site and distinguishes it from this site. At Dunnamore and Moneyneany the small gap in the development is on both sides of the road, here the gap is only on one side of the road. The gaps at Ballygawley, Swatragh and Aughnacloy are on one side of the road, however those roads are Protected Routes which would not permit new development to have a direct access. The gap at Doaghmore is much greater than here which leaves the only other potential precedent is at Ballymaguigan. I do not consider an approval here would therefore set a wide ranging precedent.

At the deferral meeting it was noted there is limited access to The Battery and lands have been identified to the south for tourism development in the Draft Plan Strategy. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at

5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight. That said it would be prudent to ensure the lands to the south do not become sterilised from development. The applicant has indicated a willingness to set any house back from the road and to create an access to the lands at the rear to prevent this lands being sterilised.



In view of the limited precedent, limited impacts on the setting of the settlement limits here and the potential to provide footpath linkages, I consider an exception could be made and recommend planning permission is granted.

Conditions/Reasons for Refusal:

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

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

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

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

3. The proposed development, including a footpath along the road frontage, location of vehicular access, location of the dwellings and the curtilages shall be in general conformity with the details as shown on drawing no 02/01 bearing the stamp dated 16.02.2022.

Reason: To ensure protection of lands for future development

4. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 45.0m in both directions and forward sight distance of 45.0m, shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter

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

5. During the first available planting season following the occupation of the dwellings hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development; details of a native species hedge to be planted to the rear of the visibility splays and along all new boundaries of the sites. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure the provision of a high standard of landscape

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1384/O	Target Date:
Proposal: Proposed Site for 2No Dwellings and Garages. Based on Policy CTY 8	Location: Vacant Lands adjacent to and west of 191 Battery Road Moortown BT80 0HY
Referral Route: Contrary to Policies CTY1 and CTY15 of PPS 21	
Recommendation: Refuse	
Applicant Name and Address: Mr Maurice Devlin 191 Battery Road Ardean Cookstown BT80 0HY	Agent Name and Address: Clarman Ltd Unit 1 33 Dungannon Road Coalisland BT71 4HP
Executive Summary: The proposal is contrary to Policy CTY1 of PPS 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. The proposal is contrary to Policy CTY15 of PPS 21, in that the development would if permitted mar the distinction between the defined settlement limit of Moortown and the surrounding countryside; and result in coalescence of Moortown's distinct nodes of development.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Number of Petitions of Objection
and signatures

No Petitions Received

Description of Proposal

This is an outline application for 2 no. of dwellings and garages based on Policy CTY 8 of PPS21 to be located on vacant lands adjacent to and west of 191 Battery Rd Moortown.

Characteristics of the Site and Area

The site is located in the rural countryside as defined by the Cookstown Area Plan 2010 between two separate and distinct nodes of development forming Moortown settlement limits (see Fig: 1 below).

Most of the housing within Moortown is located immediately west of the site along the Ardboe Rd in the larger node of development with the smaller node immediately to the east of the site comprising principally a harbour area on the shores of Lough Neagh known as 'The Battery'. A range of local services and community facilities are dispersed in both nodes.

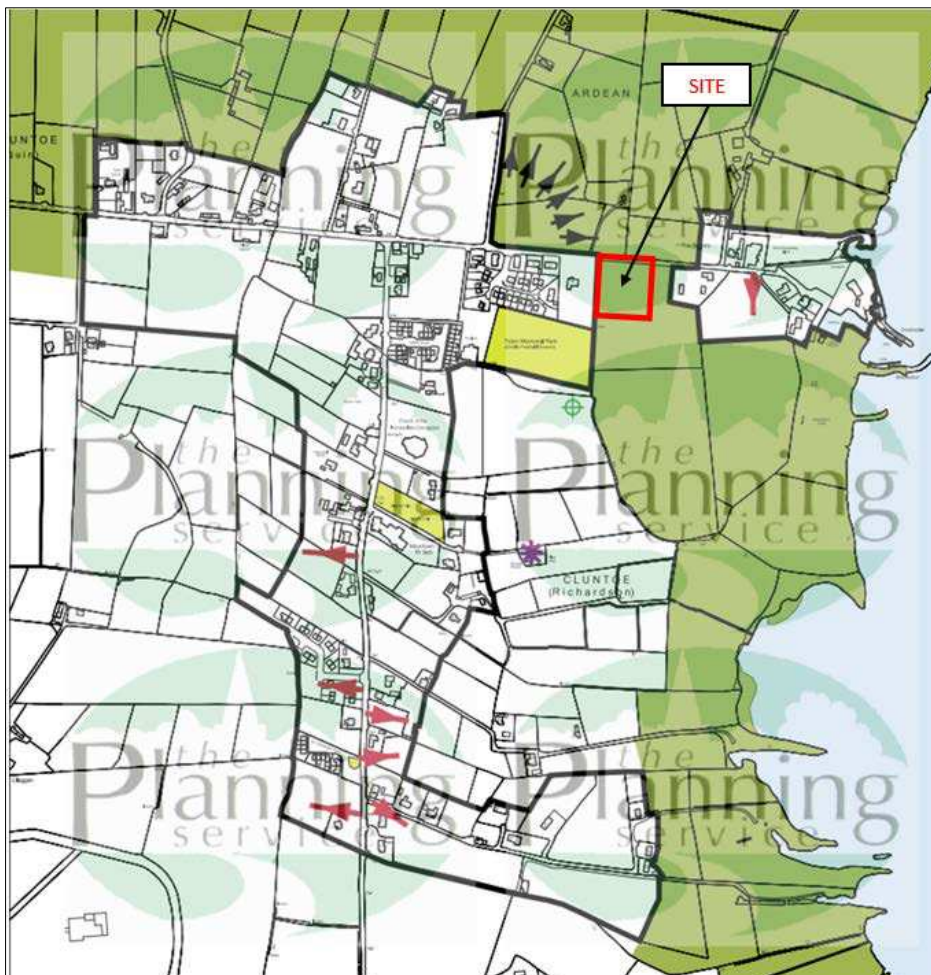


Fig 1: Moortown Settlement Limits

The site is a relatively flat square shaped plot of land cut from the roadside frontage of a larger agricultural field situated adjacent Battery Rd. Mature hedgerows interspersed with trees bounds the site to the north along the Battery Rd, west and east. The southern boundary of the site is undefined and open onto the host field.

An agricultural access into the site off Battery Rd exists close to its western boundary with a wide gravelled driveway running to the rear of the northern roadside boundary and continuing along the eastern boundary. The driveway accesses lands / buildings at and to the rear of 191 Battery Rd, a large detached 2 storey dwelling on substantial grounds bounding the site to the east. A bungalow, 189 Battery Rd, also on substantial grounds bounds the site to the west. A housing development is under construction on lands immediately south of no. 189.

Views of the site are limited from the Battery Rd until just before and passing the roadside frontage of the site due to the topography of the area; existing development within Moortown; and mature vegetation on site and within the wider vicinity, which all come together to screen it. Critical views of the site are from Anneeter Rd, located to the northwest of the site, when travelling south on the approach to its junction with the Battery Rd.

Whilst the site is bound to both sides by development within the two nodes of development forming Moortown settlement limits, the area retains a rural feel and nodes distinctively separate. This is due to the well-vegetated nature of the site alongside agricultural lands outside the settlement limits to its north and south creating a visual break between the larger in my opinion more visually apparent node to the west and smaller more enclosed node 'The Battery' to the east. The Battery is more enclosed owing largely to its location at the end of the Battery Rd, the only road in/out, and the topography of area.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030
Strategic Planning Policy Statement for Northern Ireland
Cookstown Area Plan 2010
Planning Policy Statement 3: Access, Movement and Parking
Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
Development Control Advice Note 15: Vehicular Standards
Planning Policy Statement 21: Sustainable Development in the Countryside
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

Planning History on Site

- I/2003/0904/O - Proposed site for new dwelling - Site adjacent to 193 Battery Rd Coagh - Refused 26th March 2004
Reasons for refusal were 1: Adverse impact on the setting of Newport Trench - East Tyrone Area Plan; 2: Lack of integration; 3: Ribbon development; 4: Build-up leading to change in rural character
- LA09/2020/1610/PAD - Proposed dwelling - Lands adjacent to 191 Battery Rd Moortown - PAD declined as proposal not of scale and complexity to warrant formal PAD. The applicant was however advised the critical view is from Anneeter Rd and while the curtilage of the property within 'The Battery' node of development extends into the countryside it was very apparent from the view that the buildings themselves did not close the gap. As such, the opinion offered was that the two nodes should maintain their separation at this point. That should any application come forward a recommendation to refuse should be presented to the Committee, as it would result in the coalescence of the distinct nodes. The Committee may take a different view but it is a matter for them ultimately to decide upon in line with the scheme of delegation.

Consultees

1. DfI Roads were consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives, subject to which I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Historic Environmental Division (HED) were consulted as the site is located within the buffer area of an archaeological site and monument (reference TYR040:011 - mound: fairy bush). Historic Monuments assessed the application and were content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Key Policy Considerations/Assessment

Cookstown Area Plan 2010 – the site lies in the rural countryside between two separate nodes of development forming Moortown settlement limits.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS 21 the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS 21.

The current proposal does not fall under any instance listed in Policy CTY1 of PPS21 accordingly there is no policy provision for the development of this site for 2 no. dwellings and garages.

Furthermore, the development of this site would be contrary to Policy CTY15 'The Setting of Settlements' of PPS 21, in that the development would if permitted mar the distinction between the defined settlement limit of Moortown and the surrounding countryside; and result in coalescence of Moortown's distinct nodes of development.

It is my opinion that this site has a role to play in preventing urban sprawl that would mar the distinction between the defined settlement limit of Moortown and the surrounding countryside; and result in coalescence of Moortown's distinct nodes of development.

As detailed above in the 'Characteristics of the Site and Area', whilst the site is bound to both sides by development within the two nodes of development forming Moortown settlement limits, the area retains a rural feel and nodes distinctively separate. This is due to the well-vegetated nature of the site alongside agricultural lands outside the settlement limits to its north and south creating a visual break between the larger in my opinion more visually apparent node to the west and smaller more enclosed node 'The Battery' to the east. The Battery is more enclosed owing largely to its location at the end of the Battery Rd, the only road in/out, and the topography of area.

The visual break provided by the site between the two distinct nodes providing a rural setting can be seen from the Anneeter Rd and the Battery Rd (see Figs 2 & 3, below). Whilst the curtilage of 191 Battery Rd the property within 'The Battery' node of development, since the adoption of the Cookstown Area Plan in June 2004, has extended into the countryside from both views the buildings in my opinion did not close the gap. I believe a dwelling, or as the case here 2 dwellings and ancillary garages, on this site will mar the distinction between the defined settlement limit of Moortown and the surrounding countryside; and result in coalescence of Moortown's distinct nodes of development.



Fig 2: View from Anneeter Rd on south approach to junction with the Battery Rd.



Fig 3: View from Battery Rd on western approach to the site.

Bearing in mind the above, a supporting statement was submitted alongside this application making the case, for the development of the site for 2 dwellings and ancillary garages. The statement generally sets out that the two nodes of development forming Moortown are the same settlement, that there is no planning purpose served by retaining the site in the countryside, it merely serves to split two parts of the same community. It goes into detail to outline that the development of this site will not cause any harm to the appearance of the area, particularly given the wider benefits it can provide for the local community. Four significant benefits set out were that it would:

- Provide two well designed dwellings suitable for future residents of Moortown;
- Provide a road stretch that is wide enough to allow cars to pass;
- Provide a footpath providing pedestrian safety whilst walking; and
- Strengthen the connection and links between the two parts of Moortown.

In relation to bullet point 2, 3 and 4 above, the statement set out there is a need for improved road widths and pedestrian access along the Battery Rd on safety grounds. That the applicant has control over lands to the east of the site as such has scope to upgrade vehicular and pedestrian infrastructure along the Battery Rd to the front of the site and nos.191 and 193 Battery Rd. This infrastructure could link to roads improvements and a footpath approved under previous applications I/2007/0228/F & I/2014/0052/F on lands at 195 Battery Rd. I/2007/0228/F granted permission for 12 detached dwellings with re-alignment of main road across the site in 2009. I/2014/0052/F granted permission to vary condition 11 of I/2007/0228/F so development could commence prior to the works necessary for the improvement of the public road being completed (see Fig 4, further below). The statement states the upgraded linkages needed on safety grounds would reinforce and regularise what is already occurring people walking and driving between facilities in the two nodes.

In addition to the above, the statement outlines in detail how in normal countryside circumstances there would be no dispute that the application site is an infill development of a continuously built up frontage and would be typically found to be an exception to Policy CTY8 of PPS 21 and approved. That not only is it an infill opportunity but a key link site if developed properly could provide wider community developments. Caselaw is

clear Development Plans should not be 'slavishly applied' and that Planning Policy Statements are guidance and not mandatory, there will be cases when a proposal has factors that outweigh any policy objections. That this proposal will not mar the distinction between the two nodes Moortown as the host field between the nodes is already to all intents and purposes part of the settlement. The circumstances of this proposal are unique. It does not set any precedent as there are site specific characteristics, planning gain merits and area plan designations that distinguish this proposal from other applications for dwellings in the countryside.

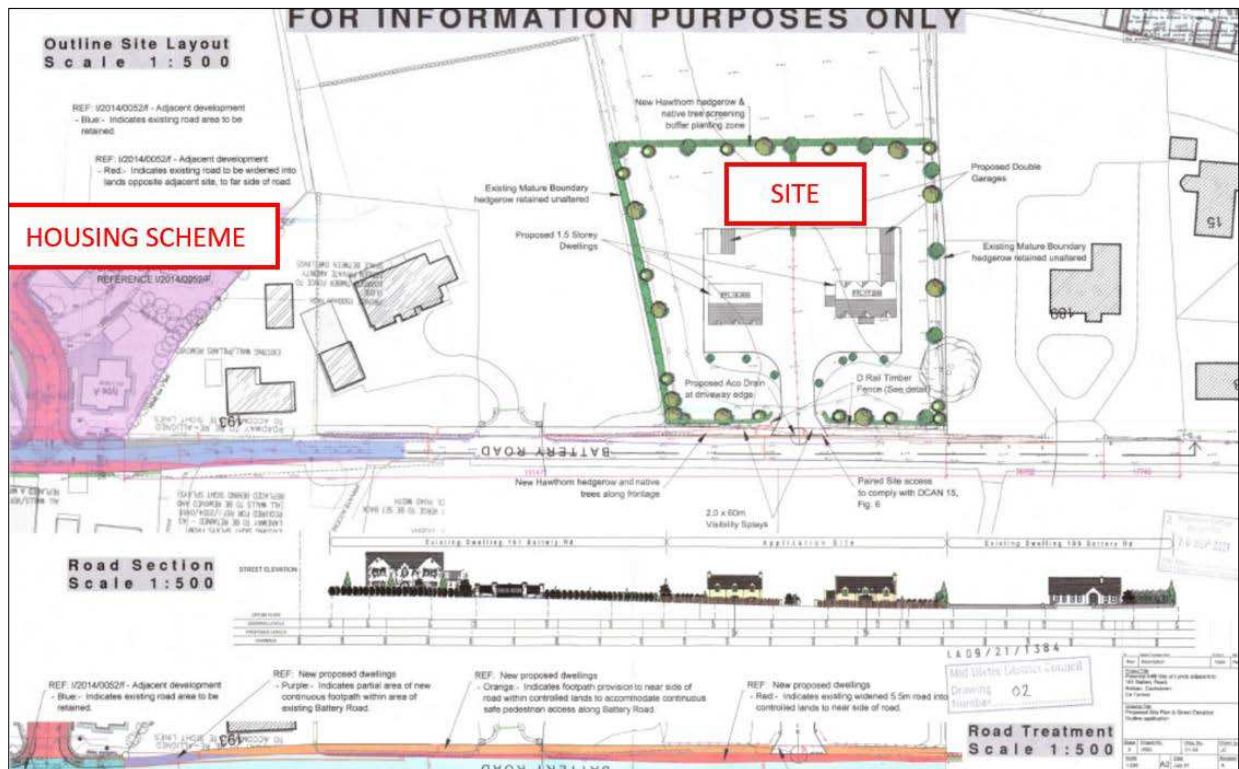


Fig 4: Block plan submitted to show scope for upgrade to vehicular and pedestrian infrastructure along the Battery Rd along site frontage and to the east with potential to link to a previously approved housing scheme.

Having taken into account the supporting statement my opinion has not changed. There is no policy provision within PPS21 permitting the development of this site for 2 no. dwellings and garages. Policy CTY 8 of PPS21 requires the infill to be within a line of development within the countryside, this proposal relies on development to both sides within the settlement. The site in my opinion provides a visual break and rural setting between the two distinct nodes. As previously stated whilst the curtilage of 191 Battery Rd the property within 'The Battery' node of development, since the adoption of the Cookstown Area Plan in June 2004, has extended into the countryside from the aforementioned views (see Fig 2 & 3 further above) the buildings in my opinion did not close the gap. I believe a dwelling, or as the case here 2 dwellings and ancillary garages, on this site will mar the distinction between the defined settlement limit of Moortown and the surrounding countryside; and result in coalescence of Moortown's distinct nodes of development. Accordingly, the proposal is contrary to Policy CTY15 of PPS 21.

Additional Considerations

In addition to checks on the planning portal Natural Environment Map Viewer (NED) map viewer available online has been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

Whilst Flood Maps NI indicate a very small amount of surface water flooding over the southwest corner of the site, I do not consider it would impact the development of this site. The indicative layout as shown on the submitted site location plans show all development outside the area at risk of flooding.

The site is located within SG Defence Estates relating to Met Office Radar however this proposal if would be under the 15.2 height threshold for consultation to Defence Estates. The site is also located within an area of constraint on wind turbines however this proposal is for 2 no. of dwellings and garage.

Recommendation: Refuse

Neighbour Notification Checked	Yes
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Summary of Recommendation:	Refuse
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Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of PPS 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 CTY15 of PPS 21, in that the development would if permitted mar the distinction between the defined settlement limit of Moortown and the surrounding countryside; and result in coalescence of Moortown's distinct nodes of development.

Signature(s)

Date:



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2021/1385/F	Target Date: 16 November 2021
Proposal: Amendment to previously approved vehicular access	Location: 250M North Of 2 Gortinure Road Maghera
Applicant Name and Address: Mr Rafferty 56 Carhill Road Garvagh Coleraine BT51 5PF	Agent Name and Address: Gerard McPeake Architectural Ltd 31A Main Street Limavady BT49 0EP
Summary of Issues: This application was presented as a refusal to Members at Feb 2023 Planning Committee as it was considered contrary to Policy AMP 3 of PPS 3 - Access to Protected Routes. Members agreed to defer the application for an office meeting which took place on the 17th Feb 2023. The application is now being recommended for approval, with the justification detailed further in this report.	
Summary of Consultee Responses: DFI Roads were re-consulted with drawing 02 rev 2 and have offered no objection	
Description of Proposal This is a full application for an amendment to previously approved domestic vehicular access	
Deferred Consideration: This application is to make minor amendments to the domestic access arrangements approved under LA09/2016/1012/RM. Following an office meeting and the submission of a revised site	

layout plan (02 rev 2), it would appear that the only significant difference between the access arrangements as indicated on 02 rev 2 and the access previously approved under LA09/2016/1012/RM is a change in alignment of the internal driveway. Both accesses appear to meet at the same point at the intersection of the road boundary fence with the adjacent driveway and there is no relevant change in the access with the Moneysharvin Road, which is a Protected Route. DFI Roads have been consulted and offer no objection to the revised arrangement. As such, I am now content that the proposal is not at conflict with Policy AMP 3 of PPS 3 as it does not involve the creation of a new access onto the Moneysharvin Road.

Approval is recommended.

Conditions/Reasons for Refusal:**Approval Conditions****Condition 1**

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

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

Signature(s):Karla McKinless**Date:** 20 March 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 February 2023	Item Number: 5
Application ID: LA09/2021/1385/F	Target Date: 16 November 2021
Proposal: Widening of previously approved vehicle access position to allow paired access onto the Moneysharvin Road.	Location: 250M North Of 2 Gortinure Road Maghera
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Rafferty 56 Carhill Road Garvagh Coleraine BT51 5PF	Agent Name and Address: Gerard McPeake Architectural Ltd 31A Main Street Limavady BT49 0EP
Executive Summary: To Committee - Refusal - Contrary to AMP 3 of PPS 3	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	Full & RM Resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Refer to Consultee comments returned 15/08/2022. No additional information submitted since

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

To Committee – Refusal – Contrary to AMP 3 of PPS 3

Characteristics of the Site and Area

This site is located approximately 3.5 km north of Maghera, in the open countryside as defined by the Magherafelt Area Plan 2015. The site location is listed as 250m north of 2 Gortinure Road, Maghera, however access to the site is proposed from the A29 Moneysharvin Road (protected route). There is an existing laneway to another dwelling which will be used for access. Mature trees exist along the road side with the site effectively screened by existing trees. All boundaries of the site are very well defined with mature vegetation. I note that on the ground is the footings of the approved garage. The immediate and wider setting are characterised by predominately agricultural land uses with a scattering of residential properties.

Relevant planning history

LA09/2020/1508/F - Construction of two storey dwelling & detached garage. - 250m North off 2 Gortinure Road, Maghera - Permission Granted 20.04.2021

LA09/2016/1012/RM - Construction of two storey dwelling and detached garage - 250m North off 2 Gortinure Road, Maghera - Permission Granted 11.04.2017

H/2012/0190/O - Construction of dwelling house and detached garage - 250m North off 2 Gortinure Road, Maghera - Permission Granted 23.08.2013

Representations

There was only one neighbour notification letter sent out however no objections received on this application.

Description of Proposal

This is a proposed full application for the Widening of previously approved vehicle access position to allow paired access onto the Moneysharvin Road, the site is located 250m North off 2 Gortinure Road, Maghera.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21 – Sustainable Development in the Countryside

PPS 3 – Access, Movement and Parking

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

I note that initially the application was for the alteration of previously approved vehicle access position, by relocating access south off the currently approved position. During the planning process the application was amended to read the widening of previously approved vehicle access position to allow paired access onto the Moneysharvin Road. In terms of policy AMP 2 of PPS 3, I note that the intention is to widen the access as per approved under LA09/2020/1508/F, I must note that the Moneysharvin Road is a Protected Route. I note that a consultation was sent to DFI Roads, who in their initial response PPS3 AMP3 Access to Protected Routes (Consequential Revision) is applicable. The proposed access is onto a Protected Route A29 Moneysharvan Road Maghera. P1 - New access stated. The previous access LA09/2020/1508/F was approved using an existing laneway. Annex 1 (b) Policy AMP 3 – A Farm dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 14 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route. DFI Roads opinion is that this is a new access which is not facilitated within the policy. I note that after the application was amended to reflect the widening of the existing access. I must note at this point that as the previous application was able to demonstrate access from a minor road therefore the consequential revision would not apply to this application.

I note a further consultation was sent to DFI Roads in relation to the widening of the access, in their response DFI Roads stated PPS3 AMP3 Access to Protected Routes (Consequential Revision) is applicable. The proposed paired access is onto a Protected Route A29 Moneysharvin Road Maghera. The Council Planning department should request an amended drawing to show –

1. A fully annotated drawing showing dimensions at the access with 2.4 x 160 metre visibility splays.
2. Showing no impact on the existing verge layout.
3. All works to be completed behind the existing verge line.

I note that the agent stated they would work directly with DFI Roads to try and resolve the issue. However after some time passed there was no resolution to be found. Given this I must refer to the view that this is essence creating an additional access onto the Protected Route, given such I must recommend refusal given that it is direct conflict with

AMP 3 of PPS 3.

I note that the ancillary works must also comply under CTY 13, with direct comparison with that of the approved access, I note that visually there is a minimal difference. I am content that the access will not conflict with CTY 13.

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

I have no flooding, ecological or residential amenity concerns.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Signature(s): Peter Henry

Date: 18 January 2023

ANNEX	
Date Valid	21 September 2021
Date First Advertised	5 October 2021
Date Last Advertised	5 October 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 107A Moneysharvan Road, Maghera, Londonderry, BT46 5PT	
Date of Last Neighbour Notification	29 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office- DFI Roads - Enniskillen Office-Full & RM Resp.docx DFI Roads - Enniskillen Office-Refer to Consultee comments returned 15/08/2022. No additional information submitted since	
Drawing Numbers and Title Site Layout or Block Plan Plan Ref: 02/1 Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1773/F	Target Date: 2 February 2022
Proposal: Retention of coach yard and ramp for washing own coaches as an extension to established business.	Location: Lands Immediately To The Rear And North West Of 30B Killyneill Road Dungannon
Applicant Name and Address: Mr Stephen Davison 26 Wellington Road Dungannon	Agent name and Address: Oonagh Given 10 Carnan Park Omagh BT79 7XA
Summary of Issues: The site lies in the rural countryside and outside any settlements limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is mainly single rural dwellings with a roadside frontage, dispersed groupings of farm buildings and agricultural fields. The site as a whole is accessed off Killyneill Road which is a country road and the nearest dwelling is No.25 which is 40m south west. The road slopes downwards steeply from the west to the east. The red line of the site comprises a narrow lane which leads to a large concrete yard to the rear of the wider site within the blue line which comprises three buildings, all of which have the appearance of agricultural buildings and are finished in concrete walls and tin sheeting on the roof and upper walls. Surrounding the buildings is a concrete yard. To the north and behind these buildings is the main body significant for this application and is now a concrete yard for the storage of coaches and buses. The buildings all have a long rectangular form and are currently being used as an office, car repair workshop and stores. Within the concrete yard facing Killyneill Road are a number of	

parked cars, vans and coaches associated with the sheds.

The red line of the site includes the access to the west which slopes down away from the road edge, it runs parallel to the existing buildings and opens into the large concrete yard to the rear, due to its position behind the existing buildings there are minimal views of this area from the roadside.

Summary of Consultee Responses:

Characteristics of the Site and Area

The site lies in the rural countryside and outside any settlements limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is mainly single rural dwellings with a roadside frontage, dispersed groupings of farm buildings and agricultural fields.

The site as a whole is accessed off Killyneill Road which is a country road and the nearest dwelling is No.25 which is 40m south west. The road slopes downwards steeply from the west to the east.

The red line of the site comprises a narrow lane which leads to a large concrete yard to the rear of the wider site within the blue line which comprises three buildings, all of which have the appearance of agricultural buildings and are finished in concrete walls and tin sheeting on the roof and upper walls. Surrounding the buildings is a concrete yard. To the north and behind these buildings is the main body significant for this application and is now a concrete yard for the storage of coaches and buses.

The buildings all have a long rectangular form and are currently being used as an office, car repair workshop and stores. Within the concrete yard facing Killyneill Road are a number of parked cars, vans and coaches associated with the sheds.

The red line of the site includes the access to the west which slopes down away from the road edge, it runs parallel to the existing buildings and opens into the large concrete yard to the rear, due to its position behind the existing buildings there are minimal views of this area from the roadside.

Description of Proposal

The proposal seeks full planning permission for the retention of coach yard and ramp for washing own coaches as an extension to established business.

Deferred Consideration:

This application was before the Committee in October 2022 where it was deferred for a meeting with the Service Director for Planning. At the meeting there was discussion about the existing use of the site. It was confirmed the access and whether or not there was a need to improve it was the only issue that required further assessment. The previous report has assessed this application and concluded that it meets with the policy for expansion of a business in the countryside in all other regards.

Following the meeting, I visited the site and was of the view sight lines of 2.4m x 45.0m, as requested in DFI Roads comments on 28 January 2022, were in situ. A visit was arranged with a Roads Engineer on 2 March 2023 where, following measurement of the sight lines, it was confirmed 2.4m x 45.0m sight lines are currently in place and no further works are required to provide these. The Roads Engineer asked for a detail to be provided to show the splays in place and that a condition is added to require they are kept clear in perpetuity. As the sight lines are in place, it is not necessary to request they are provided and I consider a condition stipulating the sight lines that must be maintained is sufficient. I note the objectors issues in respect of land ownership and the access, however based on the current site characteristics, there is no requirement to provide any improvements and the access as currently provided meets the requirements of the Roads Authority.

It has been concluded the proposal meets with all the criteria in PED4 and PED9 of PPS4 for the expansion of an established economic development in the countryside as such I recommend that planning permission is granted.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

Reason: This is a retrospective application.

Condition 2

The area within the existing 2.4m x 45.0m visibility splays and any forward sight line shall be permanently clear of any obstructions higher than 250mm above the levels of the adjoining carriageway.

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

the convenience of road users.

Condition 3

All hard and soft landscape works shall be carried out in accordance with the approved details, as shown on drawing No 01 bearing the stamp dated 13 DEC 2021 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the next available planting season following this decision. 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: To ensure the provision, establishment and maintenance of a high standard of landscape.

Signature(s):Phelim Marrion

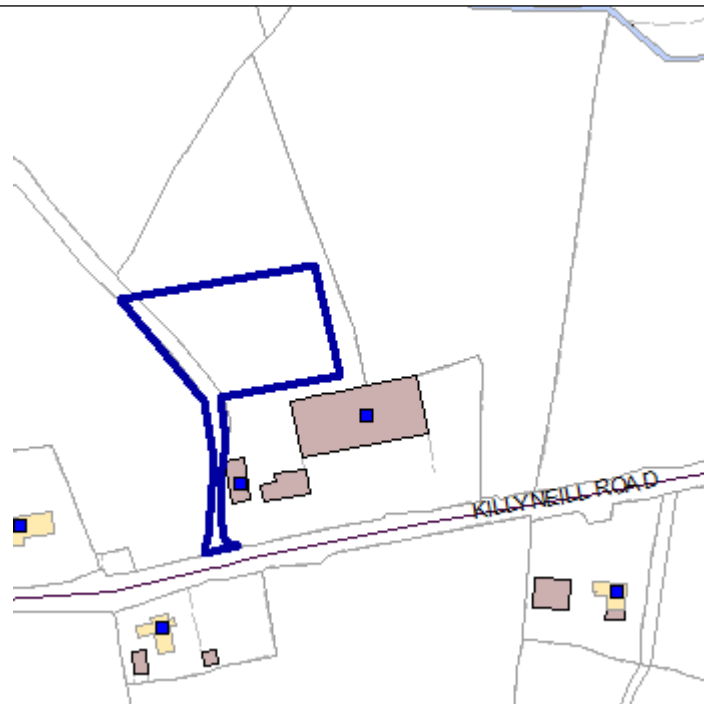
Date: 22 March 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 October 2022	Item Number: 5.4
Application ID: LA09/2021/1773/F	Target Date: 2 February 2022
Proposal: Retention of coach yard and ramp for washing own coaches as an extension to established business.	Location: Lands Immediately To The Rear And North West Of 30B Killyneill Road Dungannon
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Stephen Davison 26 Wellington Road Dungannon	Agent Name and Address: Oonagh Given 10 Carnan Park Omagh BT79 7XA
Executive Summary:	

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC

Representations:

Letters of Support	0
Letters of Objection	0
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The site lies in the rural countryside and outside any settlements limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in

character and is mainly single rural dwellings with a roadside frontage, dispersed groupings of farm buildings and agricultural fields.

The site as a whole is accessed off Killyneill Road which is a country road and the nearest dwelling is No.25 which is 40m south west. The road slopes downwards steeply from the west to the east.

The red line of the site comprises a narrow lane which leads to a large concrete yard to the rear of the wider site within the blue line which comprises three buildings, all of which have the appearance of agricultural buildings and are finished in concrete walls and tin sheeting on the roof and upper walls. Surrounding the buildings is a concrete yard. To the north and behind these buildings is the main body significant for this application and is now a concrete yard for the storage of coaches and buses.

The buildings all have a long rectangular form and are currently being used as an office, car repair workshop and stores. Within the concrete yard facing Killyneill Road are a number of parked cars, vans and coaches associated with the sheds.

The red line of the site includes the access to the west which slopes down away from the road edge, it runs parallel to the existing buildings and opens into the large concrete yard to the rear, due to its position behind the existing buildings there are minimal views of this area from the roadside.

Characteristics of the Site and Area

The site lies in the rural countryside and outside any settlements limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is mainly single rural dwellings with a roadside frontage, dispersed groupings of farm buildings and agricultural fields.

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Description of Proposal

The proposal seeks full planning permission for the retention of coach yard and ramp for washing own coaches as an extension to established business.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

There have been no official representations received, however there have a large amount of information received via email from a concerned member of the public.

The main concerns raised included;

- inability to obtain visibility splays
- increased vehicular use of the road causing road safety issues and road damage
- detrimental impact on ambience
- environmental issues
- land valuation
- disregard for planning regulations
- not suitable use for location

History on Site

M/2003/0816/F - Proposed change of use from existing quarry commercial building to coach, bus and taxi repair-storage area. Garage 1, 2 & 3 on accompanied drawings - 40 Metres North East of 25 Killyneil Road, Dungannon ? Permission Granted 14.10.2003

M/2005/1800/F - Retention of & change of use from Agricultural Store to vehicle repair garage - 240m N/W of 25 Killyneil Rd Dungannon ? Permission Granted 23.02.2007

LA09/2021/0329/LDE - Use of existing land & buildings by a Coach Hire Business comprising a coach yard, the use of a building for ancillary maintenance of coaches and use of a building as an ancillary office. - Clarkes Yard, Killyneill Road, Dungannon. –

Granted 22.06.2021

Background

The site is part of an established business for coach hire. This business acquired full planning permission in 2003 and a further CLUD in 2021 as the above history shows. This permission is made off the back of enforcement notice (LA09/2019/0161/CA) which was upheld and varied appeal (ref; 2020/E0051) with a small area of the site being declared as lawful.

In this case the applicant seeks to retain permission for a reduced area than that covered by the enforcement notice and otherwise intends to comply with the rest of the requirements of the enforcement notice.

The PAC upheld the councils refusal reasons relating to; size of extension, impact on visual amenity viewed from the east, lack of evidence on promotion of sustainability and road safety.

This new proposal seeks to alleviate the first two concerns by significantly reducing the size of the site area and by the provision of a planting bund along the east boundary. These two measures should reduce the visual impact when travelling along the Killyneill road from the east. The provision of the planting indigenous species also seeks to alleviate concerns surrounding sustainability and biodiversity.

With regards to the last issue of road safety the applicant is arguing that the general history of the use of the access has been significantly greater than it is currently. The lane also serves as access to a gravel pit to the rear of the site, this site to the rear houses a number of large sheds which were previously used in connection with quarrying at the gravel pit. Over the years the activities in these sheds has transitioned to other economic uses including Davidsons coaches, it first received permission in 2003 at which point Road service pointed out the access was substandard, however no conditions to improve were requested.

The sheds to the rear were granted permission for sandblasting in 2004 with the same note about substandard access added to the permission, but again no conditions to improve access were requested.

In 2007 a change of use was approved to allow a vehicle repair garage in one of the sheds to the rear, again there was no condition requiring access improvements. It can be assumed that this business would have had a relatively high number of vehicle movements.

In addition the agent submitted findings to show that vehicle movements to and from the site had not increased prior to the extension, in fact the test shower higher figures before the extension was carried out.

The agent is providing a case to suggest that vehicle movements associated with the

proposal do not amount to intensification on the laneway when compared to the usage when at its lawful busiest. In 2007 the lane was in use by the coach hire yard, the vehicle repair garage, and the sandblasting.

As a result of the demise of these businesses to the rear, it would follow that there are less vehicles in total using the lane, however, the agent would argue that it is unlikely that due to the yard extension that the volume of vehicles will match the previously permitted levels.

The condition of the access was known when the previous permission for the coach yard was approved and additional businesses were approved with no condition requiring improvements. The agent suggests that in this case they have shown that no additional vehicular movements are implied and it is unfair to expect access improvements when it hasn't been previously.

Assessment of Planning Issues/Material Considerations

The applicant seeks full planning permission for the retention of coach yard and ramp for washing own coaches as an extension to established business.

It is important to note that the use of this business has operated from the site since 1998 to present day.

The use benefits from planning permission since 14 October 2003, Planning approval M/2003/0816/F and the most recent permission being for 'Use of existing land & buildings by a Coach Hire Business comprising a coach yard, the use of a building for ancillary maintenance of coaches and use of a building as an ancillary office.' Which was granted permission 22.06.21, reference LA09/2021/0329/LDE.

The below images show the change in the site from 2016 to 2019.

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

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

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

Consultees

DfI Roads were formally consulted by the council and sought a scaled drawing showing the access to be constricted in accordance with the RS1 form. The agent however, has argued that it is not necessary to improve the access.

Environmental Health were also consulted and have no objection to the proposal subject to the site being restricted to storage only and a limit put on hours of operation. I find both conditions reasonable that meet the tests of a planning condition. While no hours of operation were placed on the 2007 permission, as this extension is now closer to surrounding residential development I find it important to restrict operations on this portion of the site.

Key Policy Considerations/Assessment

In the current Dungannon and South Tyrone Area Plan 2010, this application site is in un-zoned land located in the countryside therefore, the policy provisions of SPPS, PPS21 and PPS4 apply.

Policy CTY1 of PPS21 lists certain types of development that are considered acceptable in the countryside, including development for economic use in accordance with the policy provisions of PPS4 Planning and Economic Development. The SPPS introduced in September 2015 is a consolidation of some 20 Planning Policy Statements, and PPS4 is a retained policy until such time as a Plan Strategy for Mid Ulster is adopted. The SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal.

Policy PED 2 in PPS 4 Planning and Economic Development allows economic development in the countryside in accordance with certain policies. The relevant policy consideration for this development proposal is PED 3 - Expansion of an Existing Economic Development Use in the Countryside. It states that the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.

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

The application does still propose to retain a certain portion of the extended yard area, however, a significantly reduced area. I am of the view this increase in the site area is necessary to allow parking of coaches and an area for washing the said coaches. It is clear from the site visit that the yard parking area was needed as it was almost fully in use.

In my opinion this reduced yard area does not represent a major expansion of an

established business use in the countryside. No new buildings are proposed. The proposed planting bund and landscaping along the eastern boundary is crucial as it will soften the visual impact of this extension in the landscape.

The scale and nature of the proposed extension is subordinate to the existing buildings and yard, with the established business providing a backdrop when viewed from the west, with the proposed bund along the east and therefore the impact upon the rural character or appearance of the rural area is limited. The size and scale of the proposed works respect the context set by the existing buildings on the site as well as the size of the overall site area. As the yard will be used for storage only this will reduce impacts of noise, nuisance or general disturbance to nearby residential properties, and in my view will not cause detriment to their amenity, a view shared by Environmental Health.

PED 9 sets out a list of General Criteria for Economic Development in PPS 4 which development proposals must satisfy.

a) I am satisfied this proposal is compatible with the surrounding land use. The proposal represents an expansion to an established business in the countryside. This business has been established for over 10 years and the proposal is for parking/storage yard for coaches and a retention of a ramped coach washing area associated with this business.

b) Due to the proposed reduction in yard area and the planting bund I have no concerns regarding any harm to the amenity of nearby residential properties by way of overshadowing, dominance or privacy concerns, or noise, nuisance or general disturbance. Environmental Health have no concerns in this regard.

c) The site is not located in close proximity to any areas of built or natural heritage significance, therefore it would not have any impact upon built or natural heritage interests.

d) Due to the topographical characteristics of this site, I have no concerns the proposal is within an area of flood risk or that it exacerbate flooding.

e) This development proposal may not create any significant noise nuisance as it is for parking only. there will be minimal noise from the washing of the coaches. Environmental Health have no objections to the proposal subject to a condition limiting this area of the site to storage only and a limit put on hours of operation .

f) This application does not involve the intensification of any emission or effluent from the site.

g) The existing access presents a road safety issue, DfI roads have stated that the access is substandard and the access would need improvements, and the developer has not presented any suitable improvements to overcome the road problems identified.

h) DfI Roads have ask for a scaled drawing showing the access to be constricted in accordance with the RS1 form which would require an improvement to the existing access, however, the applicant feels this is an unnecessary request. This issue has been discussed at length at group and the opinion is that the proposed access is unsafe and without improvements is unfit for approval. The council do not feel the argument provided by the agent is sufficient to side step DfI recommendation.

i) Due to the nature of the business this application applies to, it would not require an extensive movement pattern.

j) There are no buildings to be constructed in this proposal. With the additional boundary treatment, I am content this proposal and the landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity.

K, l & m) The agent was requested to provide additional boundary treatment along the eastern boundary. The purpose of this was to reduce any views of the proposal, particularly when travelling from the East. This amendment of additional boundary treatment increased the enclosure of the proposal and thus will provide more screening of the proposal.

It is my opinion this proposal is satisfactorily integrated into the existing landscape. Given the existing topography I feel the creation of a bund also assists with integration into the landscape.

PPS 3 - Access, movement and parking.

Policy AMP2 of PPS3 states that 'Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic;'.

In this case the proposal would involve the usage of an already accepted substandard access. Visibility to the west is extremely poor with approx. 18 metres vision, DFI Roads have requested the access is improved and the applicant has failed to achieve this. It is my opinion that these requested visibility splays are necessary given the size of slow moving vehicles entering and leaving the site on the crest of a hill which will cause a road safety issue.

Recommendation Refusal

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

Reason 2

The proposal is contrary to Planning Policy Statement 4, Industrial Development, Policy PED 9, in that the development would, if permitted prejudice the safety and convenience of road users.

Case Officer: Peter Hughes
Date: 11 September 2022

ANNEX	
Date Valid	8 December 2021
Date First Advertised	6 January 2022
Date Last Advertised	4 January 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier Unit 3, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 4, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 2, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 1, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 5, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 6 30A Clarkes Yard Killyneill Road Dungannon Tyrone BT71 6LL	
Date of Last Neighbour Notification	13 January 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC	

Drawing Numbers and Title
Site Location Plan Plan Ref: 01
Notification to Department (if relevant)
Not ApplicableNot ApplicableNot Applicable

Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/1808/O	Target Date: 15 February 2022
Proposal: Site of dwelling house and domestic garage on a farm.	Location: Rear Of 39 Gortahurk Road Desertmartin
Applicant Name and Address: Eoighan MC Guigan 39 Gortahurk Road Desertmartin BT45 5NN	Agent name and Address: Architectural Services 5 Drumderg Road Draperstown BT45 7EU
Summary of Issues: Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21	
Summary of Consultee Responses: 	
Characteristics of the Site and Area <p>The site is located within the open countryside, in an Area of Outstanding Natural Beauty as per the Magherafelt Area plan. The red line of the site includes a small narrow section along the roadside, and extends further south rising to a level above the road level and extends behind the dwelling 39 Gortahurk Road. The site is well screened with mature tree lines along both the eastern and western boundary and meets at a point at the southern point of the field. The surrounding area is a mixture of residential, agricultural and business land uses, with a build up of development to the north of the site. The lands raise steeply to the south.</p> <p>Representations No third party representations have been received.</p>	
Description of Proposal <p>This is an outline planning application for a site of a dwelling house & domestic garage CTY2A.</p>	

Deferred Consideration:

This application was presented before the Planning Committee in March 2022 with a recommendation to refuse whereupon Members agreed to defer the application for an office meeting with the Service Director. Following the office meeting additional information has been received and the applicant wishes for the application to be considered for a dwelling on a farm rather than in a cluster under CTY 2a of PPS 21.

For a dwelling on a farm to be considered acceptable it must be all the criteria of Policy CTY 10 of PPS 21. I will deal with each of these in turn.

(a) The applicant submitted a P1c form but does not have a Business ID number and the land is not being claimed by anyone else as confirmed by DARD. The applicant has also submitted a number of receipts and invoices.

- A signed declaration from Noel McGuigan who claims he is an active farmer, has a Business ID number and has taken the land from Kevin and Joseph McGuigan since November 2013 and has paid them a yearly fee.

- Sales receipts from Heron Bros for good, though the only two legible dates are in 2021

- A signed declaration from Jim Hegarty that states he has been carrying out annual hedge cutting on the lands since 1998 until the present day for Kevin and Josephine McGuigan.

It would appear the applicant is receiving an income from the lands by means of letting the land and is also maintaining it in good agricultural condition as confirmed by the document and is evidenced from a visit to the site.

(b) I have carried out a planning history search and do not see there have been any other approvals for the applicant or his parents and therefore this criteria is satisfied.

(c) A new dwelling on the farm must be sited to cluster or visually link with a group of buildings on the farm. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

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

From the information that has been submitted it is clear the application meets criteria (a) and (b). The application is proposed to be located beside a single building on the farm which is belongs to the applicants parents (Kevin and Josephine McGuigan), and in which they currently reside. The applicant has also served notice on Kevin and Josephine McGuigan under Certificate C of the P2 form. The parents have been generating an income from the lands, as is evidenced on the documents provided and have been keeping the land in good agricultural condition. Although the proposal is not proposed to be sited beside a group of buildings on the farm it is proposed beside a single building on the farm and it has been accepted by the Planning Committee on previous applications as an exception to CTY 10 to allow a new dwelling beside a building on the farm.

Initially this application was for a dwelling in a cluster and it was recommended as a refusal on the basis that it did not meet the tests of CTY 2a. However, I do not consider a new dwelling at this location would appear as being out of character given the current level of build up in the immediate vicinity of the site. In my opinion a new dwelling will read as part of the wider group

of buildings that exist and it will be sited to cluster with the single building on the farm.

I recommend the Committee consider this application as an exception to CTY 10 (c) and approve this application for a dwelling on the farm subject to the conditions listed below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

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

Condition 2

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

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

Condition 3

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.

Condition 4

The curtilage of the proposed dwelling shall be as indicated in yellow on the approved plan 01 date stamped 21 December 2021.

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

Condition 5

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

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and with the adjacent residential dwellings.

Condition 6

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 form uploaded on the portal dated 15 February 2022.

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

Signature(s):Karen Doyle

Date: 22 March 2023



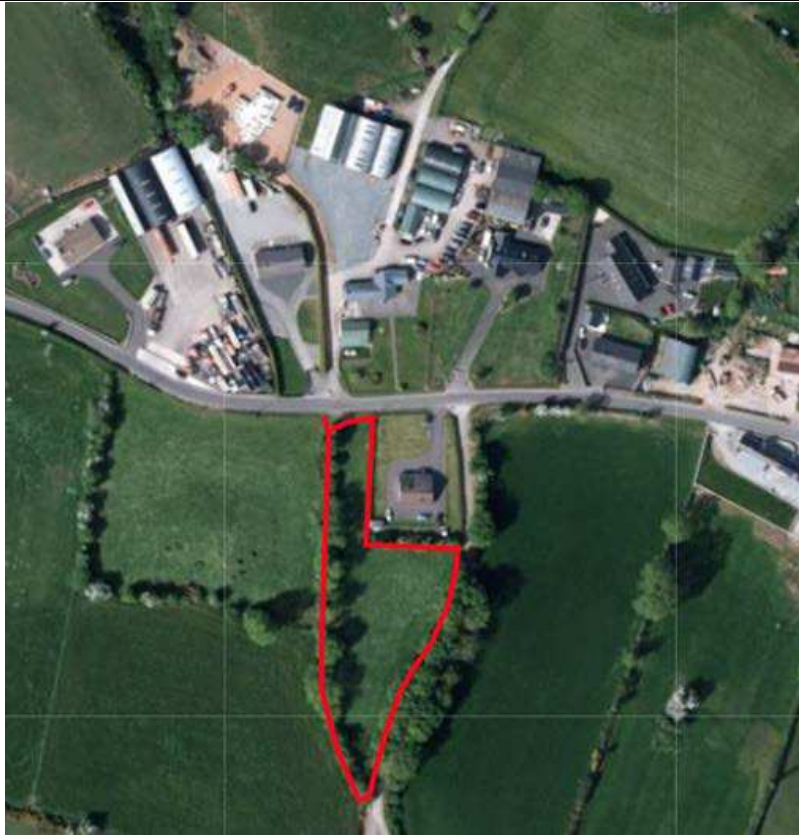
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1808/O	Target Date:
Proposal: Site of dwelling house and domestic garage CTY2A	Location: Rear of 39 Gortahurk Road Desertmartin
Referral Route: Refusal- Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21	
Recommendation:	Refusal
Applicant Name and Address: Eoighan Mc Guigan 39 Gortahurk Road Des	Agent Name and Address: Architectural Services 5 Drumderg Road Draperstown BT45 7EU
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

Representations:

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

Summary of Issues

Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21

Characteristics of the Site and Area

The site is located within the open countryside, in an Area of Outstanding Natural Beauty as per the Magherafelt Area plan. The red line of the site includes a small narrow section along the roadside, and extends further south rising to a level above the road level and extends behind the dwelling 39 Gortahurk Road. The site is well screened with mature tree lines along both the eastern and western boundary and meets at a point at the southern point of the field. The surrounding area is a mixture of residential, agricultural and business land uses, with a build-up of development to the north of the site. The lands raise steeply to the south.

Representations

No third party representations have been received.

Description of Proposal

This is an outline planning application for a site of a dwelling house & domestic garage CTY2A.

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 21: Sustainable Development in the Countryside
PPS 3: Access, Movement and Parking

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

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

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

I am content there is a cluster of development within the locality of the site that includes 8 dwellings as identified on the site location plan. As per the policy, the outbuildings and garages identified have been discounted.

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

Whilst travelling along the Gortahurk Road, the cluster appears in a visual entity in the local landscape, with the main cluster of development appearing to the north of the application site.

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

The agent contends that the cluster of development is associated with a business premises highlighted in yellow on the site location. It is unclear what the business premises is operating at

this location but at the time of the site visit and from ortho imagery there are a number of vehicles on and machinery on site. On balance, I am content that the business premises can be considered a focal point, which the cluster is associated with.

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

The redline of the application site goes around the curtilage of the dwelling at 39 which is located in the corner of the field with the majority of the application site located south of this. The site provides a suitable degree of enclosure in terms of mature trees along the boundaries of the site. However, I would the site is only bounded on one side with other development in the cluster being No.39 on part of the northern boundary and is not bounded on another side with development in the cluster, therefore failing to comply with this policy criteria.

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

As mentioned, the site is not bounded on at least two sides so the site cannot be absorbed into the cluster and cannot be considered being rounding off; rather it extends outside of the cluster intruding into the open countryside.

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

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape give the strong mature tree boundaries.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would therefore result in the erosion of the rural character of the area. A dwelling at this location would not respect the traditional pattern of settlement exhibited in the area as it would be extending outside the existing cluster of development visible, which are mainly roadside developments.

PPS 3- Access, Movement and Parking:

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

Other Material Considerations

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th

<p>September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.</p>	
Neighbour Notification Checked	Yes/No
<p>Summary of Recommendation:</p> <p>Refusal</p>	
<p>Reasons for Refusal:</p> <p>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.</p> <p>The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not bounded on at least two sides with other development within the cluster.</p> <p>The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would further erode the rural character of the area.</p>	
<p>Signature(s)</p> <p>Date:</p>	

ANNEX	
Date Valid	21st December 2021
Date First Advertised	11th January 2022
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 38 Gortahurk Road Desertmartin Londonderry The Owner/Occupier, 38a Gortahurk Road Desertmartin The Owner/Occupier, 39c Gortahurk Road Draperstown The Owner/Occupier, 40 Gortahurk Road Desertmartin Londonderry	
Date of Last Neighbour Notification	26th January 2022
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: H/2001/0329/F Proposal: Replacement Dwelling Address: 7 Keenaught Road, Desertmartin, Magherafelt Decision: Decision Date: 19.06.2001 Ref ID: H/2003/1006/O Proposal: Site of new dwelling and garage. Address: 250m North of 39 Gortnahurk Road, Draperstown. Decision: Decision Date: 23.03.2004 Ref ID: H/2005/0412/F Proposal: Proposed dwelling and garage Address: 200m North of 39 Gortahurk Road Draperstown Decision: Decision Date: 03.07.2006 Ref ID: H/2004/0784/O Proposal: Site of dwelling and garage. Address: Site 200m North of number 39 Gortnahurk Road, Draperstown. Decision: Decision Date: 18.02.2005 Ref ID: H/1988/0528 Proposal: SITE OF DWELLING	

Address: OPPOSITE 38 GORTAHURK ROAD DESERTMARTIN

Decision:

Decision Date:

Ref ID: H/1989/0460

Proposal: DWELLING

Address: 29 GORTAHURK ROAD DESERTMARTIN

Decision:

Decision Date:

Ref ID: LA09/2017/1178/F

Proposal: Proposed extension to dwelling including roofspace conversion and detached double garage

Address: 41 Gortahurk Road, Desertmartin, Magherafelt,

Decision: PG

Decision Date: 23.10.2017

Ref ID: LA09/2020/0696/F

Proposal: Proposed retention of the existing general purpose / storage shed for machinery and vehicles and the extension of the existing site curtilage

Address: 55m South of No 39C Gortahurk Road, Draperstown,

Decision: PG

Decision Date: 02.09.2020

Ref ID: LA09/2020/0787/F

Proposal: Family room extension to side of dwelling with minor internal alterations

Address: 39c Gortahurk Road, Draperstown,

Decision: PG

Decision Date: 14.09.2020

Ref ID: LA09/2021/1808/O

Proposal: Site of dwelling house and domestic garage CTY2A

Address: Rear of 39 Gortahurk Road, Desertmartin,

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2022/0097/O	Target Date: 21 March 2022
Proposal: Proposed site for a dwelling and domestic garage based on Policy CTY10 (dwelling on a farm)	Location: Site 50M South Of 105 Culnady Road Maghera
Applicant Name and Address: Mr Thomas Patterson 105 Culnady Road Upperlands Maghera	Agent Name and Address: Cmi Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SG
Summary of Issues:	
Summary of Consultee Responses:	
Description of Proposal This application seeks outline planning permission for a dwelling and detached domestic garage on lands approximately 50m south of 105 Culnady Road, Maghera. The dwelling is being applied for under PPS 21, Policy CTY 10 for a dwelling on a farm.	
Deferred Consideration: This application was presented before the Planning Committee in July 2022 with a recommendation to refuse whereupon Members agreed to defer the application for an office meeting with the Service Director. This meeting has since taken place. The application was presented with a recommendation to refuse as the applicant had failed to demonstrate the farm business is currently active and established for 6 years. The applicant submitted a P1c form, however the Business ID was only allocated on 15/11/2021	

with no claims being made by the applicant. DARD have confirmed the proposed site is on lands associated with another farm business. As part of the deferred consideration the agent has submitted a copy of a 20-year lease agreement between the applicant and Jim Hyndman who is a registered farmer and who claims the lands as part of his farm business. The agent has confirmed the agreement requires the applicant to maintain the lands in good agricultural condition. I consider the evidence demonstrates the applicant is receiving an income for the fields he owns, he is maintaining the lands in good agricultural condition and there are receipts from 2016 to the present day which verify the expenses incurred for this purpose. The applicant's father did have a Business ID number before he passed away but DARD have confirmed the applicant's number is not a direct continuation of his father's business and this cannot be relied upon. I consider the additional information demonstrates criteria (a) is complied with.

Criteria (b) and (c) are also met. No records have identified that any dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of this application. The proposed dwelling will be sited adjacent to the applicant's dwelling and outbuilding and thus this constitutes a group of buildings on the farm. A new dwelling will have a visual linkage with the group of buildings and it is proposed to utilise an existing laneway.

The proposal meets the requirements of CTY 13 and 14 and DfI Roads have no issues of concern.

I recommend an approval of the application subject to the conditions listed below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

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

Condition 2

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

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

Condition 3

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.

Condition 4

The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and with the adjacent residential dwellings.

Condition 5

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting, as finally approved, shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

Condition 6

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 form uploaded 3 March 2022.

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

Signature(s):Karen Doyle

Date: 15 March 2023



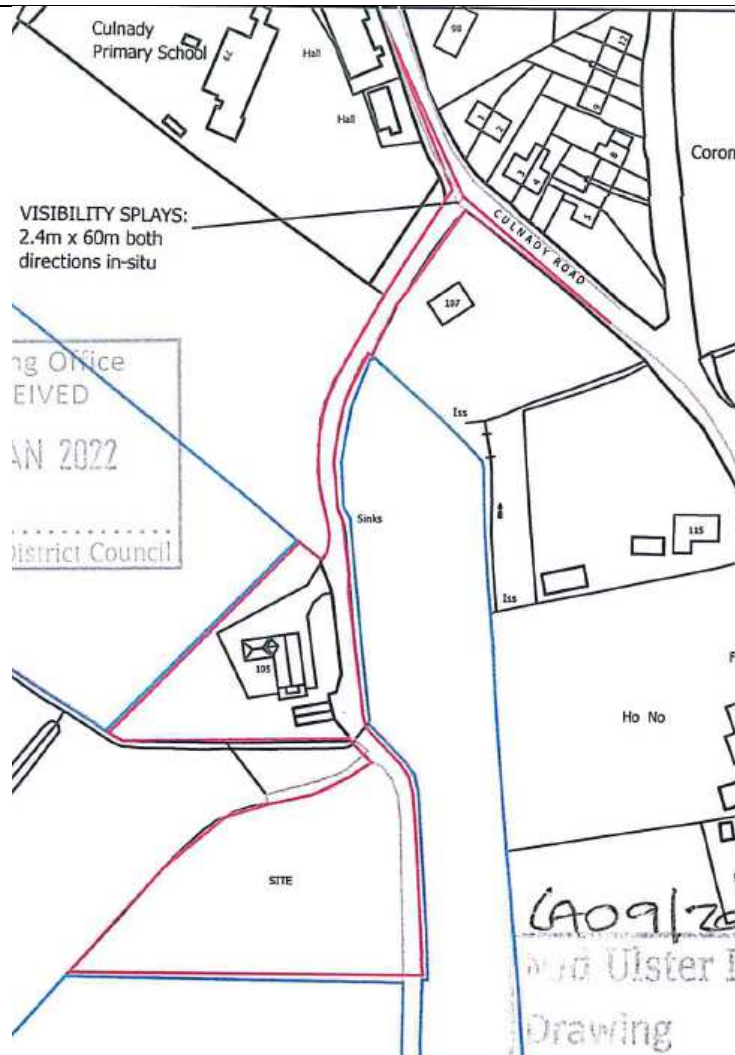
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2022/0097/O	Target Date:
Proposal: Proposed site for a dwelling and domestic garage based on Policy CTY10 (dwelling on a farm)	Location: Site 50m South of 105 Culnady Road Maghera
Referral Route: Recommended refusal – contrary to PPS21 Policy CTY10	
Recommendation:	Refusal
Applicant Name and Address: Mr Thomas Patterson 105 Culnady Road Upperlands Maghera	Agent Name and Address: CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge
Executive Summary: Proposal considered against prevailing planning policy - insufficient information has been provided to demonstrate the proposal complies with Policy CTY1 and CTY10 of PPS21. No objections received.	
Signature(s): <div style="height: 40px; border: 1px solid black;"></div>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads – Enniskillen Office	Content
Statutory	DAERA	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

Characteristics of the Site and Area

The application site is located approximately 120m south of the development limits of Culnady and as such the site is located in the open countryside as per the Magherafelt Area Plan 2015. The site comprises an agricultural field, access to the site is via an existing private laneway onto Culnady Road. The site is set back from the public road approx. 180m therefore public views of the site are minimal. The ground level falls when travelling on the private lane from the public road. There is an existing single storey

dwelling and small shed located immediately north of the site. The southern boundary of the site is undefined, whilst the remaining boundaries of the site are defined by trees and vegetation. The immediate area is rural in character dominated by agricultural land, with greater development pressure north of the site within the settlement of the Culnady.

Description of Proposal

This application seeks outline planning permission for a dwelling and detached domestic garage on lands approximately 50m South of 105 Culnady Road, Maghera.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 10 Dwelling on a Farm.

Planning Assessment of Policy and Other Material Considerations

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

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

Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

History on Site

H/2014/0180/O – Proposed dwelling and garage within an established cluster - Approx. 50 m north east of 105 Culnady Road Upperlands Maghera – Application Withdrawn 25/02/15

Key Policy Considerations/Assessment

Magherafelt Area Plan 2015 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings. The settlement limits of Culnady are in close proximity to the North.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. The current proposal falls under one of these instances, the development of a dwelling on a farm in accordance with Policy CTY10 – Dwellings on Farms.

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

- a) the farm business is currently active and has been established for at least 6 years
- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008
- c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - demonstrable health and safety reasons; or
 - verifiable plans to expand the farm business at the existing building groups(s)

With respect to (a) the applicant has provided details surrounding their farm business in the accompanying P1C form. DAERA have confirmed the business ID quoted on the P1C has not been in existence for more than 6 years, allocated 15/11/21, and advised no claims have been made on the lands. The agent advised that the farm business was owned by the applicants father (Mr William Hugh Patterson) and when he died his farm ID was closed and another allocated to the applicant. However, this was verified with DAERA and they have advised that Mr William Hugh Patterson's Farm Business is not closed and the applicant Mr Thomas Patterson was allocated a Farm Business ID in Nov 2021 to enable him to keep a pet lambs in the garden to the rear of his dwelling and this business is not a direct continuation of the fathers business. At this time, no other farm business ID has been provided and as the farm business being relied on has not been established for more than 6 years and has not been demonstrated to be active the proposal must fail on this criterion.

With respect to (b) the agent has provided the farm maps relating to the applicant's father Mr William Hugh Patterson farm business. From a review of these maps and a planning history check, no records have been identified which indicate that any dwellings or development opportunities out with the settlement limits have been sold off from this farm holding within 10 years of the date of this application. However, as stated above, DAERA have confirmed the applicant's farm business ID being relied on is not a direct continuation of the farm business which these farm maps relate. Clarification was sought from the agent on 23/05/22 whether the applicant owns the land included on the farm

maps and also clarification was the farm land divided when the applicant's father died however to date I have received no response. No development opportunities appear to be sold off within the land outlined in blue on the site location plan.

With respect to (c), the application site is adjacent to the applicants existing dwelling and outbuilding. It is considered the proposal will have a visual linkage with these existing buildings and the proposal will utilise the existing laneway. It is considered the proposal satisfies this criterion of CTY 10 policy.

This proposal should also be assessed against the requirements of Policy CTY 13 - Integration and Design of Buildings in the Countryside and Policy CTY14 Rural Character. , whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This is an outline application therefore there are no details regarding the size, scale and design of the proposed dwelling have been submitted. The proposal is located on an existing laneway set back from the public road therefore there will be minimal public views of the site. Given the surrounding built form, I consider a condition restricting the ridge height to 6 metres is appropriate to any forthcoming approval to ensure integration. Should members consider granting planning approval; additional landscaping should also be conditioned to be shown at Reserved Matters stage to aid with integration at this site. I do not consider the proposal would appear unduly prominent in the landscape and I do not consider the additional of a dwelling on the site would detrimentally change the rural character. As such the proposal adheres to the requirements of CTY13 and CTY 14 of PPS21.

Planning Policy Statement 3 (PPS 3 Revised Feb 2005) Access, Movement and Parking advises that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic; and the proposal does not conflict with Policy AMP 3 Access to Protected Routes. DfI Roads have been consulted and have no objection subject to standard conditions. I am content the proposal meets DfI Roads requirements and PPS3 Access, Movement and Parking.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

The proposal is recommended for refusal, as it does not comply with the SPPS and CTY1 of Planning Policy Statement 21.

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement 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 CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside, and does not merit being considered as an exceptional case, in that it has not been demonstrated that the farm business is currently active and has been established for at least 6 years.

Signature(s)
Date:



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2022/0556/O	Target Date: 23 June 2022
Proposal: Domestic dwelling and garage.	Location: Adjacent To 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ.
Applicant Name and Address: Ciara McGrath 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ	Agent Name and Address: Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
Summary of Issues: No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.	
Summary of Consultee Responses:	
Description of Proposal This application seeks outline planning permission for a dwelling and garage.	
Deferred Consideration: This application was presented before the Planning Committee in February 2023 where it was deferred for a site visit with Members. At the site visit Members were shown all the vantage points to the site and the surrounding development. Members were also advised, as they were at the Planning Committee, the agent did not initially advise under which policy the dwelling and	

garage is to be assessed and subsequently advised it can be considered as an infill opportunity.

It was clear from the site visit that the application site does not have a road frontage. It was also clear there is no substantial or built up frontage or a line of three or more buildings along a frontage at this location. There is one dwelling on the eastern side, No 37, and No 36 is located to the north of No 37. However, due to the siting and orientation of these dwellings, there is no substantial or continuously built up frontage or line of three or more buildings along a road frontage.

Accordingly, I recommend a continued refusal of this application for the reasons below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

Reason 2

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case

Reason 3

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

Signature(s):Karen Doyle

Date: 14 March 2023

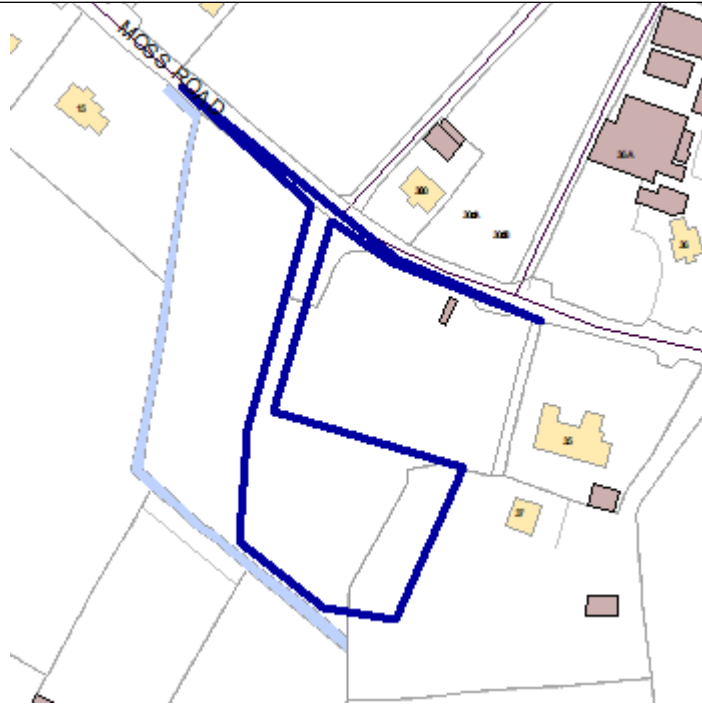


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 February 2023	Item Number: 5.17
Application ID: LA09/2022/0556/O	Target Date: 23 June 2022
Proposal: Domestic dwelling and garage.	Location: Adjacent To 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ.
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Ciara McGrath 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ	Agent Name and Address: Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-0556-O.pdf
Non Statutory Consultee	Rivers Agency	471191-06 Final Planning Authority reply.pdf

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

Characteristics of the Site and Area

The site is located Adjacent To 37 Moss Road, Ballymaguigan, Magherafelt and is located outside the designated settlement limits of Ballymaguigan as identified in the Magherafelt Area Plan, 2015. The site is a small portion of an agricultural field and the boundaries of the site are comprised of mature vegetation and trees, which is quite dense. The eastern boundary abuts the dwelling at No 37 and the site is set back from the Moss Road. The surrounding area is predominantly rural.

Description of Proposal

This application seeks outline planning permission for a dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Planning Assessment of Policy and Other Material Considerations

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

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan, 2015
- PPS21 -Sustainable Development in the Countryside
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 15 – Planning and Flood Risk

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

Planning History

There is no planning history relevant to the determination of this application.

Representations

Neighbour notification and press advertisement have been carried out in line with the Council's statutory duty. At the time of writing no third party objections were received.

Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the

Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).

No case was made to advise what policy the dwelling and garage was to be assessed under. I contacted the agent to enquire and he suggest possibly as an infill/gap site, no further case was presented.

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development but qualifies this by stating that “an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements”. A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.

The Policy further stipulates in paragraph 5.33 that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

This application site is considered against the existing pattern of development to determine if it complies with this policy. However, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and therefore this site is not believed to be suitable as an infill/gap site. There is one dwelling on the eastern side, No 37 Moss Road and No 36 is located to the North of No 37, however due to the siting and orientation of these dwellings, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal is for outline planning permission and details of design have not been submitted at this stage. However, the site is relatively well screened by the existing vegetation. A suitably designed dwelling house should integrate sufficiently into the landscape.

In terms of Policy CTY14 Planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. This application is not deemed acceptable under any of the policy headings in PPS 21 and it is therefore considered a new dwelling at this location will cause a detrimental change to the rural character of this area which is contrary to CTY 14 as it will result in a suburban style build up of development when viewed with existing buildings in the area.

Planning Policy Statement 3 - Access, Movement and Parking.

The P1 submitted with the application indicated that the proposal included the construction of a new access to the public road. DFI Roads were consulted on the application and responded to say they had no objection subject to conditions.

Planning Policy Statement 15 – Planning and Flood Risk

DFI Rivers were consulted on the application and responded to say that :

FLD2 - Protection of Flood Defence and Drainage Infrastructure

The proposal is affected by an undesignated watercourse, which flows along the southern

boundary of the site. Under 6.32 of the policy it is essential that a working strip of minimum width 5m is maintained. DFI Rivers recommends that the working strip is shown on a site layout drawing. It should be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising, permitted development rights or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times. The applicant should be aware that the riparian land owner is legally responsible to maintain the watercourse.

FLD3 - Development and Surface Water

Flood Maps (NI) indicate that the outlined site lies within adjacent to a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment is not required by the policy the developer should still be advised to appoint a competent professional to carry out their own assessment of flood risk and to construct in a manner that minimises flood risk to the proposed development and elsewhere.

I contacted the agent in regards to the response from DFI Rivers and a drawing was submitted to address these 5m Maintenance strip as detailed above. (Ref: drawing No 02, dated 23.01.2022).

Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

Reason 2

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case

Reason 3

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

Signature(s): Siobhan Farrell

Date: 20 January 2023

ANNEX	
Date Valid	28 April 2022
Date First Advertised	10 May 2022
Date Last Advertised	10 May 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 35 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 30 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 15 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 36A Moss Road Magherafelt Londonderry BT45 6LJ	
Date of Last Neighbour Notification	27 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/2002/1117/O Type: O Status: APPRET Ref: LA09/2017/0035/O Type: O Status: PG Ref: LA09/2017/1006/F Type: F Status: PG Ref: H/2004/1070/F Type: F Status: PG Ref: LA09/2021/0704/F Type: F	

Status: PG

Ref: H/1992/0061

Type: F

Status: PCO

Ref: LA09/2017/0617/F

Type: F

Status: PG

Ref: H/2003/0365/F

Type: F

Status: PG

Ref: H/1997/0292

Type: O

Status: PCO

Ref: H/2004/1497/F

Type: F

Status: PG

Ref: H/1998/0679

Type: F

Status: PCO

Ref: H/2004/0669/O

Type: O

Status: PR

Ref: LA09/2022/0556/O

Type: O

Status: PCO

Ref: LA09/2017/1405/F

Type: F

Status: PCO

Ref: LA09/2016/0761/F

Type: F

Status: PR

Ref: H/2011/0360/O

Type: O

Status: PR

Ref: H/2009/0190/O

Type: O

Status: PG

Ref: H/2004/0708/O

Type: O

Status: PR

Ref: H/2006/0693/F

Type: F

Status: PG

Ref: LA09/2016/0197/F

Type: F

Status: PG

Ref: H/1999/0495

Type: O

Status: PCO

Ref: H/1989/0106

Type: O

Status: PCO

Ref: H/1999/0025

Type: F

Status: PCO

Ref: LA09/2018/0754/O

Type: O

Status: PDE

Ref: LA09/2015/0598/F

Type: F

Status: PR

Ref: H/2004/0714/O

Type: O

Status: PR

Ref: LA09/2021/0511/F

Type: F

Status: PCO

Ref: LA09/2017/1378/F

Type: F

Status: PCO

Ref: LA09/2016/0635/LDE

Type: LDE

Status: PG

Ref: H/2004/0677/O

Type: O

Status: PR

Ref: H/1993/0120

Type: O

Status: PCO

Ref: H/2003/1437/O

Type: O

Status: PR

Ref: H/2002/1066/O

Type: O

Status: PR

Ref: H/2004/0354/O

Type: O

Status: PR

Ref: H/1995/0064

Type: F

Status: PCO

Ref: LA09/2017/0167/F

Type: F

Status: PG

Ref: LA09/2015/0483/F

Type: F

Status: PG

Ref: LA09/2021/0988/F

Type: F

Status: PG

Ref: H/2007/0592/F

Type: F

Status: PG

Ref: LA09/2017/1322/F

Type: F

Status: APPRET

Ref: H/1997/0583

Type: O

Status: PCO

Ref: H/1998/0004

Type: O

Status: PCO

Ref: H/1997/0036

Type: O

Status: PCO

Ref: H/1997/0414

Type: RM

Status: PCO

Ref: H/1996/0412

Type: O

Status: PCO

Ref: H/1999/0261

Type: F

Status: PCO

Ref: H/1997/0211

Type: O

Status: PCO

Ref: H/1998/0537

Type: RM

Status: PCO

Ref: H/1998/0278

Type: O

Status: PCO

Ref: H/2006/0338/F

Type: F

Status: PG

Ref: H/1985/0493

Type: RM

Status: PG

Ref: LA09/2017/1224/NMC

Type: NMC

Status: APPRET

Ref: H/2001/0140/F

Type: F

Status: PG

Ref: H/1985/0492

Type: RM

Status: PG

Ref: H/2002/0467/F

Type: F

Status: APPRET

Ref: LA09/2022/0458/O

Type: O

Status: PCO

Ref: LA09/2015/0347/LDE

Type: LDE

Status: PR

Ref: LA09/2018/1561/F

Type: F

Status: PG

Ref: LA09/2021/0912/F

Type: F

Status: PG

Ref: LA09/2021/1336/O

Type: O

Status: PCO

Ref: LA09/2022/0229/F

Type: F

Status: PCO

Ref: H/2001/0902/O

Type: O

Status: PG

Ref: LA09/2018/0007/F

Type: F

Status: PG

Ref: H/1988/0227

Type: RM

Status: PCO

Ref: H/1987/0348

Type: O

Status: PCO

Ref: LA09/2017/0399/F

Type: F

Status: PG

Ref: LA09/2021/1034/F

Type: F

Status: PG

Ref: H/2004/1380/F

Type: F

Status: PG

Ref: H/2006/0922/RM

Type: RM

Status: PG

Ref: H/2004/0791/O

Type: O

Status: PG

Ref: H/1992/0281

Type: O

Status: PCO

Ref: H/1995/0410

Type: F

Status: PCO

Ref: H/1988/0429

Type: O

Status: PCO

Ref: H/1995/6038

Type: PREAPP

Status: PCO

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx
NI Water - Single Units West-LA09-2022-0556-O.pdf
Rivers Agency-471191-06 Final Planning Authority reply.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1062/O	Target Date: 7 October 2022
Proposal: Proposed dwelling and garage within a cluster.	Location: 95M South Of No 4 Drumgarrell Road Cookstown BT80 8TA
Applicant Name and Address: Mr Ryan O'Neill 68 Drumconvis Road Coagh BT80 0HF	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was presented to Members as a refusal at Feb 2023 Planning Committee as it was considered that the proposal failed to comply with policy CTY 2A - Dwellings in an existing cluster. The application was deferred for an office meeting with Dr Boomer and the Senior Planning Officer, which took place on the 16th Feb 2023. The proposal is being recommend for refusal again under CTY 2A and the justification for this is detailed further in this report.	
Summary of Consultee Responses: The only consultee is DFI Roads who have not raised any objections but have advised Council that the required splay to the NE requires hedge removal which does not appear to be in the ownership of the applicant.	
Description of Proposal Outline planning permission is sought for a proposed dwelling and garage within a cluster.	
Deferred Consideration: The application is for a site for a dwelling under Policy CTY 2A, dwelling in an exiting cluster. At the deferred office meeting the potential for a farm dwelling was explored however the agent advised that this site is the only land the applicant owned so therefore a dwelling here would fail	

to meet the policy tests of CTY 10, dwelling on a farm. As there is no potential for a farm dwelling I have carried out a site inspection to reconsider the clustering case put forward to the Planning Department.

CTY 2A of PPS 21 states that permission will only be granted for a dwelling at an existing cluster of development provided the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings. This site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. Although there are a number of existing dwellings and associated outbuildings in the immediate locality, I am of the opinion that the cluster does not appear as a visual entity in the local landscape. There are too many visual gaps between dwellings in the area. There is very little visual appreciation of number 7, which is located down a laneway and number 8, which is well screened from the public road. There is also a substantial parcel of land between the application site and the dwellings at number 4 and number 4a. The third criterion notes that the cluster should be associated with a focal point such as a social/community building/facility or is located at a crossroads. I am not convinced that there is anything which would be considered as a focal point in close proximity to the site and thus the proposal fails on this criterion. The agent has referred to a shooting range on the site location plan, however I would contend that on the ground this is too far removed from the site and there is considerable distance between the two. The identified site is not bounded on any side by development and it is my consideration that the proposed development could not be absorbed into the existing landscape. There would be sufficient separation distance between the site and neighbouring properties to avoid any issues such as privacy or overlooking concerns.

I have also considered the proposal against the requirements of Policies CTY 13 and CTY 14 of PPS 21, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application I am not considering design. The proposed site has some degree of enclosure given the existing hedging which surrounds the site and therefore would not be relying solely on new landscaping. There will be critical views of this road side site from the public road on approach especially along the Killybearn Road. The proposed dwelling would extend the built form and will therefore extend a ribbon of development at this location when viewed in conjunction with number 6 and number 8 Killybearn Road, which is contrary to both CTY 8 and CTY 14.

There have been 2 objections to the proposal which have been considered in the previous case officers report.

It is recommended to Members that the application be refused as it fails to comply with CTY 1, CTY 2A, CTY 8, CTY 13 and CTY 14 of PPS 21.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21,

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Reason 4

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Killybearn Road.

Signature(s):Karla McKinless

Date: 8 March 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 February 2023	Item Number: 5.21
Application ID: LA09/2022/1062/O	Target Date: 7 October 2022
Proposal: Proposed dwelling and garage within a cluster.	Location: 95M South Of No 4 Drumgarrell Road Cookstown BT80 8TA
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Ryan O'Neill 68 Drumconuis Road Coagh BT80 0HF	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The proposal is considered to fail on Policy CTY 2a of PPS 21 and at the time of writing, two objections have been recieved. The details of these objections will be discussed later in the report.

Characteristics of the Site and Area

The site is located at lands located approx 95m South of No.4 Drumgarrell Road, Cookstown. The red line of the site includes a triangular shed roadside site and the visibility splays. The site is located at the junction of Drumgarrell Road and fronts onto Killybearn Road also. The site is described as agricultural and appeared overgrown in parts at the site visit. There is existing hedging and mature trees along most of the site boundaries. The surrounding area has a number of existing dwellings within close proximity, mostly to the north of the site, however overall the area still appears rural in nature. There is a shooting range located approx 320m as the crow flies NE of the site as noted on the site location plan.

Description of Proposal

Outline planning permission is sought for a proposed dwelling and garage within a cluster.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 8 Killybearn Road, 4 and 4a Drumgarrell Road. At the time of writing, two third party objections were received. The main issues raised within objections were:

- Filling of land/Contamination issues at site
- New access created
- Fails to meet with clustering policy and other policies within PPS 21
- Ownership of red line

Two objections have been received in relation to the proposal, the first being from Les Ross Planning on behalf of a local landowner and the second being from the owner of 4a Drumgarrell Road. With relation to the raising of ground levels by way of deposition and the access – there was a recent enforcement case (LA09/2022/0035/CA) which recently dealt with these matters. I am in agreement that the proposal fails to meet with clustering policy as held within PPS 21. The policies for CTY 2a, CTY 13 and CTY 14 are discussed later in this report alongside how we feel this proposal is contrary to a number of the criterion held within each of these policies. With regards to the red line, it was brought to our attention that the wrong certificate was filled in on the P1 form. The agent was made aware and noted that the applicants mother was in ownership of the lands. The agent was to provide an amended certificate clarifying this information, however this has not been received to date. Given that the principle of development at this site is not considered to have been met, I am content that the application is still presented to the committee at this time. If further discussions are to take place surrounding the application, this information should be received and further clarification surrounding the red line of the site may be requested.

Planning History

There is not considered to be any recent relevant planning history associated with this site, other than the recent enforcement case (LA09/2022/0035/CA) aforementioned in relation to the unauthorised access, filling of land and clearance of site.

Planning Assessment of Policy and Other Material Considerations

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

The Cookstown Area Plan 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

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

This proposal is for a new dwelling and garage. The agent has referred to the clustering policy on the site location plan, indicating a focal point and a cluster of development. A possible farming case was not explored given that this appeared to be the only lands within their ownership on the site location plan. The agent was emailed originally on 3/11/22 with a follow up email on 24/11/22 advising them of our group discussion, noting that we did not feel it met with the policy criterion of CTY 2a. No further justification was received from the agent. A further email was sent on 5/1/23, referring to the incorrect certificate which was filled in on the P1 form which was raised by our enforcement team who had carried out a land registry check on the lands. The agent has since clarified by email that the land has been transferred from the mother to the son (applicant). No further checks were carried out given that we do not feel the principle of development is met at this site.

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. Although there is a number of existing dwellings and associated outbuildings, we are not content that the cluster appears as a visual entity in the local landscape. The third criterion notes that the cluster should be associated with a focal point such as a social/community building/facility or is located at a crossroads. I am not convinced that there is anything which would be considered as a focal point in close proximity to the site and thus the proposal fails on this criterion. The agent has referred to a shooting range on the site location plan, however it is considered this is too far removed from the site and there is considerable distance between the two. The identified site is not bounded on any side by development and it is my consideration that the proposed development could not be absorbed into the existing cluster and would significantly altering the existing character or adversely impacting on the residential amenity. There would be sufficient separation distance between the site and neighbouring properties to avoid any issues such as privacy or overlooking concerns.

Assessing the proposal against CTY 8 – Ribbon development would also raise concern that allowing this proposal would extend an existing ribbon of development along Killybearn Road and as such would also be contrary to the policy criterion held within CTY 8.

It is also necessary for the proposal to be considered against the requirements of CTY 13 and

CTY 14 of PPS 21, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. The proposed site has some degree of enclosure given the existing hedging which surrounds the site and therefore would not be relying solely on new landscaping. Although the proposed dwelling may not be prominent due to being sited at road level, there will be critical views of the site from the public road on approach especially along the Killybearn Road. The proposed dwelling would extend the built form and will therefore extend a ribbon of development at this location, contrary to both CTY 8 and CTY 14. As such, the proposal is considered to be contrary to some of the policy criterion held within CTY 13 and CTY 14 and as such refusal is recommended.

Having considered all of the above and noting that the proposed site is not within an identifiable cluster of development and does not have a focal point relating to the site thus contrary to policy, it is my consideration that the application should be refused.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Reason 4

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Killybearn Road.

Signature(s): Sarah Duggan

Date: 24 January 2023

ANNEX	
Date Valid	24 June 2022
Date First Advertised	5 July 2022
Date Last Advertised	5 July 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 8 Killybearn Road Cookstown Londonderry BT80 8SZ The Owner / Occupier 4 Drumgarrell Road Cookstown Tyrone BT80 8TA	
Date of Last Neighbour Notification	1 August 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2019/0120/F Proposals: Retention of extension to dwelling to facilitate care of dependant relative Decision: PG Decision Date: 07-AUG-19 Ref: I/1974/0291 Proposals: ERECTION OF FARM SUBSIDY DWELLING Decision: PG Decision Date: Ref: I/1977/0290 Proposals: RETIREMENT BUNGALOW Decision: PR Decision Date: Ref: I/1974/029101 Proposals: ERECTION OF NON-SUBSIDY BUNGALOW Decision: PG Decision Date:	

Ref: I/1977/0119
Proposals: ERECTION OF GARAGE AND STORE
Decision: PG
Decision Date:

Ref: LA09/2019/1076/F
Proposals: Proposed side extension to dwelling
Decision: PG
Decision Date: 26-SEP-19

Ref: I/2003/0395/O
Proposals: Proposed dwelling and garage
Decision: PG
Decision Date: 09-JUL-03

Ref: LA09/2022/1062/O
Proposals: Proposed dwelling □ garage within a cluster.
Decision:
Decision Date:

Ref: I/2008/0223/F
Proposals: Proposed General purpose farm shed & shelter for ponies.
Decision:
Decision Date:

Ref: I/1993/0112
Proposals: Site of dwelling
Decision: PR
Decision Date:

Ref: I/1982/0001
Proposals: DWELLING HOUSE
Decision: PG
Decision Date:

Ref: I/1996/0052
Proposals: Dwelling
Decision: PR
Decision Date:

Ref: I/2002/0614/O
Proposals: Dwelling
Decision: PR
Decision Date: 11-MAR-03

Ref: I/2003/0763/RM

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 15-OCT-03

Ref: I/2004/0896/O

Proposals: Construct a dwelling

Decision: PR

Decision Date: 19-DEC-05

Ref: I/1985/020401

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/1985/0204

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/1987/0345

Proposals: SITE OF DWELLING

Decision: PR

Decision Date:

Ref: I/2006/0044/O

Proposals: Proposed site for dwelling

Decision: PR

Decision Date: 25-SEP-06

Ref: I/1989/0099

Proposals: Improvements to Dwelling

Decision: PG

Decision Date:

Ref: I/1996/0136

Proposals: Extension to Dwelling

Decision: PG

Decision Date:

Ref: LA09/2019/0124/LDE

Proposals: Building, car parking and access and use of same for counselling rooms and training office

Decision: PG

Decision Date: 17-OCT-19

Ref: I/1999/0680/O

Proposals: Dwelling

Decision:

Decision Date:

Ref: I/2005/0555/F

Proposals: Proposed extension & improvements

Decision: PG

Decision Date: 22-OCT-05

Ref: I/1974/008201

Proposals: ERECTION OF FARM DWELLING

Decision: PG

Decision Date:

Ref: I/1974/0082

Proposals: ERECTION OF FARM BUNGALOW

Decision: PG

Decision Date:

Ref: I/2000/0443/F

Proposals: Dwelling

Decision: PG

Decision Date: 07-SEP-00

Ref: I/1987/0177

Proposals: DOMESTIC GENERAL PURPOSE STORE AND SNOOKER ROOM

Decision: PG

Decision Date:

Ref: I/1982/0307

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: I/1982/030701

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-DC Checklist 1.doc
FORM RS1 STANDARD.doc
Roads outline.docx

Drawing Numbers and Title
Site Location Plan Plan Ref: 01
Notification to Department (if relevant)
Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1077/F	Target Date: 23 September 2022
Proposal: Proposed 2 storey dwelling and domestic garage	Location: 30M South West Of No. 55 Springhill Road Ballindrum, Moneymore BT45 7NH
Applicant Name and Address: Mr Mark Henry 3 Gallion Heights Moneymore BT45 7WE	Agent Name and Address: Lissan Design 45 Letteran Road Moneymore Magherafelt BT45 7UB
Summary of Issues: This application was presented to Members as a refusal at Jan 2023 Planning Committee. It was considered that the proposal failed to comply with Policy CTY 13 of PPS21 in terms of design and integration. Members agreed to defer the application for an office meeting with Dr Boomer, which took place on the 19 th Jan 2023. The application is now being presented to Members with a recommendation to Approve and the justification is provided in detail further in this report.	
Summary of Consultee Responses: DFI Roads were consulted with this application and requested a revised site plan to show a 2.4m x 120m Forward Site Distance. This has been provided and DFI Roads are now content with the access arrangements.	
Description of Proposal This application seeks full planning permission for a 2 storey dwelling and domestic garage	

Deferred Consideration:

This is an application for a dwelling on a farm. Compliance with Policy CTY 10 has been accepted, with the main issue being the design, scale and massing of the proposed dwelling along with the ability of the site to adequately integrate a dwelling.

It was agreed at the office meeting on the 19th January 2023 that I carry out a site inspection to assess the integration qualities of the site and to make a determination as to whether the proposed design was acceptable in the rural locality. The application site is a 0.26 hectare plot of agricultural land located to the rear (approx 30m SW) of a 2 storey farm dwelling and agricultural buildings at 55 Springhill Road. The proposed dwelling and garage will cluster with these existing buildings and this in itself provides a degree of integration.

When travelling in a NW direction along the Springhill Road towards Moneymore there are no long term critical views of the site due to the curvature of the road and the presence of a strong mature boundary in the adjacent field. There will only be short term views from this approach and given the set back position of the dwelling and its proximity to other buildings, including a 2 storey dwelling, the scale and massing will not appear excessive. When travelling in the opposite direction along the Springhill Road there is will be no visual appreciation of the dwelling.

The Springhill Road does sit at a higher level than the village of Moneymore and on the approach into Moneymore from Cookstown, when travelling downhill towards the village there are critical views of some developments along the Sprighill Road. In order to inform this assessment I did consider this vantage point and I am satisfied that propsed development will not be visible from this approach. Overall I am of the opinion that the site can accommodate the dwelling in terms of its scale and massing and it will not appear overly dominant or prominent from any vantage point. I do acknowledge that new planting will be necessary along the NW and SW boundaries to aid integration, however I am content that the adjacent buildings will go some way to provide a degree of integration.

Concern was previously raised about the design of the dwelling, in particular the hipped roof. I noted on the day of my site visit that the dwelling at opposite side of the road - number 58, has an element of a hipped roof as well as having a road side location. Given the lack of critical views of the site and its set back position, I am of the opinion that the hipped roof will not detract from the locality.

I recommend that this application now be approved subject to standard conditions in respect of time, access, retention of boundaries and planting.

Conditions/Reasons for Refusal:

Approval Condtions

Condition 1

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

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

Condition 2

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 2 bearing the date stamp 11th Oct 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

The access gradient(s) to the dwelling 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.

Condition 4

The existing natural screenings of the site, as indicated on drawing 02 date stamped received 11th Oct 2022 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.

Condition 5

During the first available planting season after the occupation of the dwelling, native species trees and hedgerow shall be planted along the NW and SW boundaries of the site in accordance drawing number 02 date stamp received 11th Oct 2022.

Reason: To ensure the development integrates into the countryside.

Signature(s):Karla McKinless

Date: 8 March 2023

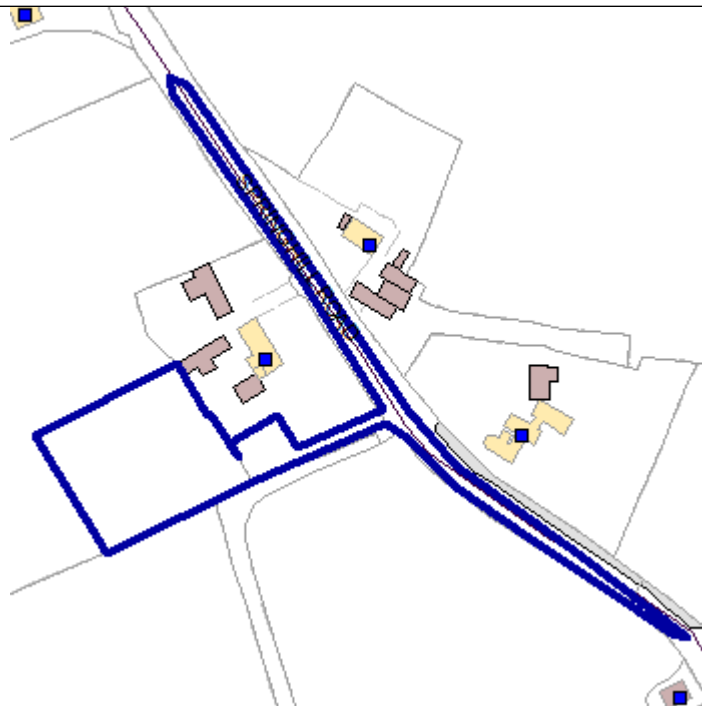


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 January 2023	Item Number: 5
Application ID: LA09/2022/1077/F	Target Date: 23 September 2022
Proposal: Proposed 2 storey dwelling and domestic garage	Location: 30M South West Of No. 55 Springhill Road Ballindrum, Moneymore BT45 7NH
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Mark Henry 3 Gallion Heights Moneymore BT45 7WE	Agent Name and Address: Lissan Design 45 Letteran Road Moneymore Magherafelt BT45 7UB
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval - Recon response.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docxDC Checklist 1.doc
Non Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2022-1077-F.DOCX

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

No third party representations were received during the assessment of this application.

All material considerations have been addressed within the determination below.

Characteristics of the Site and Area

The site is located approx. 30M South West Of No. 55 Springhill Road, Ballindrum, Moneymore, BT45 7NH and is located outside the designated settlement limits as defined in the Cookstown Area Plan, 2010. The site is a large irregular portion of an agricultural field. The elevations of the site falls away slightly from the Springhill road. The Southern boundary of the site is comprised of low level hedge rows and some scatter trees, the western and Northern boundaries are undefined and the Eastern boundary is comprised of low level hedge and some trees. The surrounding area is predominantly rural with scattered dwellings and farm holdings.

Description of Proposal

This application seeks full planning permission for a 2 storey dwelling and domestic garage

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Strategic Planning Policy Statement (SPPS)

Cookstown Area Plan, 2010

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

Planning History

There is no planning history relevant to the determination of this application.

Representations

Neighbour notification and press advertisement have been carried out in line with the

Council's statutory duty. At the time of writing, no third party objections were received.

Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is dwellings on a farm under Policy CTY 10.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

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

PPS 21, Policy CTY1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY 10. This establishes that the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - Demonstrable health and safety reasons or
 - Verifiable plans to expand the farm business at the existing building group(s)

With regard to (a) the applicant has provided details surrounding the farm business ID. DAERA were consulted and confirmed were consulted and confirmed that the farm business has been in existence and active for more than 6 years, therefore the application meets this test.

With regard to (b) there are no records indicating that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With respect to (c), the proposed development is located on a large portion of agricultural field and there farm buildings associated with the farm business located within the red line of the site, towards the south east, therefore the application meets this policy test.

The P1 form indicates that the proposal includes the construction of a new access to the public road. DFI Roads were consulted on the application and offered no objection providing that it is constructed and maintained to that detailed on drawing number 02, date stamped 11 Oct 2022 and conditions applied.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal is for full planning permission and details of design have been submitted. The proposed two storey dwelling, and domestic garage is designed with a hipped roof, the design is deemed to be out of keeping with the local character of the area and inappropriate for the site and its locality. There is a lack of established boundaries particularly along the western and Northern boundaries to provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. The proposal relies on new landscaping along these boundaries and does not have a sufficient backdrop, therefore fails to meet the criteria of Policy CTY 13.

In terms of Policy CTY14 Planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The proposal may be unduly prominent on the site and the design does not respect the traditional pattern of settlement exhibited in the area and could cause detrimental change to the rural character of the area, therefore it fails to meet the criteria of CTY 14.

I contacted the agent to give them the opportunity to amend the design , however they responded to say that his client wanted him to continue with the proposed design and was not prepared to amend it.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to CTY13 of PPS 21, in that the proposed design is deemed to be out of keeping with the local character of the area and inappropriate for the site and its locality. There is a lack of established boundaries particularly along the western and Northern boundaries to provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. The proposal relies on new landscaping along these boundaries and does not have a sufficient backdrop to provide sufficient screening of the site.

Reason 2

The proposal is contrary to CTY14 of PPS 21, as it has the potential to be unduly prominent on the site and the design does not respect the traditional pattern of settlement exhibited in the area and could cause detrimental change to the rural character of the area

Signature(s): Siobhan Farrell

Date: 20 December 2022

ANNEX	
Date Valid	10 June 2022
Date First Advertised	12 July 2022
Date Last Advertised	12 July 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 64 Springhill Road Moneymore Londonderry BT45 7NH The Owner / Occupier 58 Springhill Road Moneymore Londonderry BT45 7NH	
Date of Last Neighbour Notification	2 August 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: I/1997/0500 Proposals: Extension to Dwelling Decision: PG Decision Date: Ref: I/2002/0443/F Proposals: New repositioned access Decision: PG Decision Date: 19-SEP-02 Ref: I/1999/0054 Proposals: 33KV O/H Line Decision: PG Decision Date: Ref: LA09/2020/0810/O Proposals: Proposed site for a "Dwelling on a farm" & domestic garage (based on Policy CTY 10) Amended Access Decision: PG Decision Date: 22-OCT-20	

Ref: I/2008/0479/F

Proposals: Removal of existing rear return and renovation of dwelling (re-slate, new windows & doors, new stair, replaster internally & externally, new ground floor re-build chimney, new storm goods)

Decision: PG

Decision Date: 17-SEP-08

Ref: LA09/2016/0375/O

Proposals: Gap site for dwelling and garage

Decision: PG

Decision Date: 19-AUG-16

Ref: LA09/2022/1077/F

Proposals: Proposed 2 storey dwelling and domestic garage

Decision:

Decision Date:

Ref: LA09/2022/0060/RM

Proposals: Proposed 2 storey dwelling and domestic garage

Decision:

Decision Date:

Ref: LA09/2018/1435/F

Proposals: 2 Farm sheds -1 for the storage of winter fodder and 1 for animal shelter

Decision: PG

Decision Date: 16-SEP-19

Ref: I/1993/0452

Proposals: Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1995/0086

Proposals: Erection of Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1980/0062

Proposals: EXTENSION AND REPAIRS TO EXISTING DWELLING

Decision: PG

Decision Date:

Ref: LA09/2021/1627/F

Proposals: Proposed rear extension, detached garage & alterations

Decision: PG

Decision Date: 09-MAR-22

Ref: I/2004/0148/F

Proposals: Rough cast mobile home.

Decision: PR

Decision Date: 12-MAY-04

Ref: I/1998/0305

Proposals: Extension to Dwelling

Decision: PG

Decision Date:

Ref: I/1986/0440

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/2013/0004/O

Proposals: Gap site dwelling and garage

Decision: PG

Decision Date: 20-MAR-13

Ref: LA09/2021/0940/O

Proposals: Gap Site for Dwelling & Garage

Decision: PG

Decision Date: 26-AUG-21

Ref: I/1988/0462B

Proposals: Sewage Treatment Works

Decision: WITHDR

Decision Date:

Ref: I/1997/0491

Proposals: 2 no. dwellings

Decision: PR

Decision Date:

Ref: I/1983/0369

Proposals: 4 NO DWELLINGS

Decision: PR

Decision Date:

Ref: I/1996/6018

Proposals: Infill Site for 2 no. dwellings Springhill Road, Moneymore

Decision: PRER

Decision Date: 02-APR-96

Ref: I/1992/6010
Proposals: Dwelling Springhill Road Moneymore
Decision: PRER
Decision Date: 16-JUN-92

Ref: I/1988/0462
Proposals: Proposed Sewage Treatment Works
Decision: PG
Decision Date: 23-JAN-89

Ref: I/1995/6043
Proposals: Site for Housing Ballindrum Road Moneymore
Decision:
Decision Date:

Ref: I/1991/6021
Proposals: Surplus Land Springhill, Moneymore, Co Tyrone.
Decision: QL
Decision Date:

Ref: LA09/2021/0911/F
Proposals: Gap site for dwelling with integral garage
Decision: PG
Decision Date: 10-JAN-22

Ref: I/2010/0259/F
Proposals: Refurbishment of and extension to front and rear of existing Orange Hall
Decision: PG
Decision Date: 10-AUG-10

Ref: I/2003/0203/F
Proposals: Extension to dwelling
Decision: PG
Decision Date: 14-APR-03

Ref: I/1993/0057
Proposals: Domestic Garage
Decision: PG
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Consultation full approval - Recon response.docx
DFI Roads - Enniskillen Office-Roads Consultation full approval.docxDC Checklist 1.doc
DAERA - Coleraine-Consultee Response - LA09-2022-1077-F.DOCX

Drawing Numbers and Title
Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02 Elevations and Floor PlansPlan Ref: 03 Garage Plans Plan Ref: 04 Site Location Plan Site Layout or Block Plan
Notification to Department (if relevant)
Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1226/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage	Location: 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21. Following an office meeting with Dr Boomer, it was presented to Members again at February 2023 Planning Committee as a refusal with an additional CTY 8 refusal reason. Members agreed to a further deferral so that a site visit could be carried out. The Members site visit took place on the 24th Feb 2023 and the application is again being presented as a refusal under CTY 1, CTY 2A, CTY 8 and CTY 14 of PPS 21.	
Summary of Consultee Responses: DFI Roads consulted and have no objections to the proposal.	
Description of Proposal This is outline planning application for a proposed site for a dwelling and domestic garage.	

Deferred Consideration:

This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1230/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1230/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The overall gap in my opinion would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

As noted earlier in this report, it was agreed at February 2023 Planning Committee that a Members site visit take place. This took place on the 24th Feb. The site visit focused primarily on viewing the parcel of land adjacent to a dwelling at 25a Cloane Road so that a determination could be made as to whether the land was part of the curtilage of number 25a and as such, could be discounted from the "gap" when assessing the application under infill policy. Members were advised that this field, despite being used, in part, to locate a trampoline and climbing frame was not part of the lawful curtilage of number 25a. In order to be considered lawful domestic curtilage then a certificate of lawfulness would need to be approved. To date, no Certificate of Lawfulness has been submitted to the Planning Department so I therefore have no evidence to demonstrate that the field is lawfully part of domestic curtilage of 25a Cloane Road. I have liaised directly with the Department of Agriculture who have confirmed that this field is not land which is part of any Single Farm Payment claim.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill

development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Reason 4

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

Signature(s):Karla McKinless

Date: 8 March 2023



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1226/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage	Location: 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21.	
Summary of Consultee Responses: DFI Roads consulted and have no objections to the proposal.	
Description of Proposal This is outline planning application for a proposed site for a dwelling and domestic garage.	
Deferred Consideration: This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it	

was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1230/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1230/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The gap in my opinion creates a substantial visual break and would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable

Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Reason 4

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

Signature(s):Karla McKinless

Date: 23 January 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 November 2022	Item Number: 5.20
Application ID: LA09/2022/1226/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage	Location: 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The proposal is contrary to policy.

Characteristics of the Site and Area

The site is located approximately 2km North of the development limits of Draperstown and is located within the open countryside outside any other designations as per the Magherafelt Area Plan 2015. The red line of the site is the northern corner of an existing

larger agricultural field which is relatively flat in nature with shrubs and grass within the field. The eastern boundary is defined by mature trees, with a mature hedge row defining the roadside boundary. The northern boundary is defined by a post and wire fence. The site is located adjacent to the crossroads of Cloane Lane to the north and Cloane Road to the west. The surrounding area is mainly agricultural in nature with single dwellings located throughout.

Representations

No third party representations have been received.

Relevant Site History

LA09/2022/1230/O- Proposed Site for Dwelling and Domestic Garage. 155m South of No.25A Cloane Road, Draperstown. Pending Consideration

LA09/2020/0970/O- Dwelling and garage. Approx. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 5th May 2021

LA09/2021/1532/RM- Dwelling and domestic garage. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 25th January 2022.

Description of Proposal

This is outline planning application for a proposed site for a dwelling and domestic garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

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

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

Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

I do not believe there is a cluster of development which lies outside of a farm. The agent has shown on the site location plan they believe there are three plots to the north of the site which are shown as No.25 and an associated outbuilding, No.25a and an associated outbuilding and then plot 3 which appears to be an agricultural field and farm buildings to the north of this. However, having viewed these on the ground and reviewed ortho images it is clear the buildings in plot 3 are farm buildings with another farm building to the north of these at the rear of No.25. From this, there is no cluster as there are only three buildings identified as the outbuildings and garages have to be excluded.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above policy criteria, there is no existing cluster as per the policy definition so it fails to meet the above policy. It is noted that the site is located adjacent to a cross roads.

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

The site is not bounded by development on any sides. The agent has identified plot three directly adjacent to the north (separated by the Cloane Lane) but this plot adjacent the site is an agricultural field.

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

As mentioned, the site is not bounded on at least two sides and there is not an existing cluster.

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

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the mature tree boundaries which would provide a backdrop.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would result in the erosion of the rural character of the area.

PPS 3- Access, Movement and Parking:

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

Other Material Considerations

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons**Reason 1**

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Signature(s): Ciaran Devlin

Date: 17 October 2022

ANNEX	
Date Valid	4 August 2022
Date First Advertised	16 August 2022
Date Last Advertised	16 August 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2020/0970/O Proposals: Dwelling and garage Decision: PG Decision Date: 05-MAY-21 Ref: H/2003/1190/O Proposals: Site of one and a half storey dwelling and garage. Decision: PG Decision Date: 07-DEC-04 Ref: LA09/2022/1230/O Proposals: Proposed Site for Dwelling and Domestic Garage. Decision: Decision Date: Ref: LA09/2022/1226/O Proposals: Proposed Site for Dwelling and Domestic Garage Decision: Decision Date:	

Summary of Consultee Responses
DFI Roads - Enniskillen Office-Outline resp.docx
Drawing Numbers and Title
Site Location Plan Plan Ref: L01
Notification to Department (if relevant)
Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1230/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage.	Location: 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21. Following an office meeting with Dr Boomer, it was presented to Members again at February 2023 Planning Committee as a refusal with an additional CTY 8 refusal reason. Members agreed to a further deferral so that a site visit could be carried out. The Members site visit took place on the 24 th Feb 2023 and the application is again being presented as a refusal under CTY 1, CTY 2A, CTY 8 and CTY 14 of PPS 21.	
Summary of Consultee Responses: DFI Roads consulted and have no objections to the proposal.	
Description of Proposal This is an outline planning application for a proposed site for a dwelling & domestic garage.	

Deferred Consideration:

This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1226/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I have also considered the site and the adjacent application (LA09/2022/1226/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The overall gap in my opinion would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

As noted earlier in this report, it was agreed at February 2023 Planning Committee that a Members site visit take place. This took place on the 24th Feb. The site visit focused primarily on viewing the parcel of land adjacent to a dwelling at 25a Cloane Road so that a determination could be made as to whether the land was part of the curtilage of number 25a and as such, could be discounted from the "gap" when assessing the application under infill policy. Members were advised that this field, despite being used, in part, to locate a trampoline and climbing frame was not part of the lawful curtilage of number 25a. In order to be considered lawful domestic curtilage then a certificate of lawfulness would need to be approved. To date, no Certificate of Lawfulness has been submitted to the Planning Department so I therefore have no evidence to demonstrate that the field is lawfully part of domestic curtilage of 25a Cloane Road. I have liaised directly with the Department of Agriculture who have confirmed that this field is not land which is part of any Single Farm Payment claim.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill

development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Reason 4

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

Signature(s):Karla McKinless

Date: 8 March 2023



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1230/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage.	Location: 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21.	
Summary of Consultee Responses: DFI Roads consulted and have no objections to the proposal.	
Description of Proposal This is an outline planning application for a proposed site for a dwelling & domestic garage.	
Deferred Consideration: This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it	

was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1226/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1226/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The gap in my opinion creates a substantial visual break and would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable

Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Reason 4

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

Signature(s):Karla McKinless

Date: 23 January 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 November 2022	Item Number: 5.21
Application ID: LA09/2022/1230/O	Target Date: 17 November 2022
Proposal: Proposed Site for Dwelling and Domestic Garage.	Location: 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The proposal is contrary to policy.

Characteristics of the Site and Area

The site is located approximately 2km North of the development limits of Draperstown and is located within the open countryside outside any other designations as per the Magherafelt Area Plan 2015. The red line of the site is the southern corner of an existing

larger agricultural field which is relatively flat in nature with shrubs and grass within the field. The eastern boundary is defined by mature trees, with a mature hedge row defining the roadside boundary. The northern boundary is currently undefined with a laneway running adjacent to the southern boundary separating the application site from a dwelling under construction to the south. The surrounding area is mainly agricultural in nature with single dwellings located throughout.

Representations

No third party representations have been received.

Relevant Site History

LA09/2022/1226/O- Proposed Site for Dwelling and Domestic Garage. 100m South of No.25A Cloane Road, Draperstown. Pending Consideration

LA09/2020/0970/O- Dwelling and garage. Approx. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 5th May 2021

LA09/2021/1532/RM- Dwelling and domestic garage. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 25th January 2022.

Description of Proposal

This is an outline planning application for a proposed site for a dwelling & domestic garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 21: Sustainable Development in the Countryside
PPS 3: Access, Movement and Parking

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

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

Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

I do not believe there is a cluster of development which lies outside of a farm. The agent has shown on the site location plan they believe there are three plots to the north of the site which are shown as No.25 and an associated outbuilding, No.25a and an associated outbuilding and then plot 3 which appears to be an agricultural field and farm buildings to the north of this. However, having viewed these on the ground and reviewed ortho images it is clear the buildings in plot 3 are farm buildings with another farm building to the north of these at the rear of No.25 as seen in the image below. From this, there is no cluster as there are only three buildings identified as the outbuildings and garages have to be excluded.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above two points, there is no existing cluster as per the policy so it fails to meet the above policy. It is noted that the site is located south of a cross roads.

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

The site is bounded on the southern side by a dwelling currently under construction approved under applications LA09/2020/0970/O & LA09/2021/1532/RM. The site is not bounded on any other sides by development.

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

As mentioned, the site is not bounded on at least two sides and there is not an existing cluster.

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

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the mature tree boundaries which would provide a backdrop.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would result in the erosion of the rural character of the area.

PPS 3- Access, Movement and Parking:

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

Other Material Considerations

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

settlement.

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

Signature(s): Ciaran Devlin

Date: 18 October 2022

ANNEX	
Date Valid	4 August 2022
Date First Advertised	16 August 2022
Date Last Advertised	16 August 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2022/1230/O Proposals: Proposed Site for Dwelling and Domestic Garage. Decision: Decision Date: Ref: LA09/2020/0970/O Proposals: Dwelling and garage Decision: PG Decision Date: 05-MAY-21 Ref: LA09/2022/1226/O Proposals: Proposed Site for Dwelling and Domestic Garage Decision: Decision Date:	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Outline resp.docx	

Drawing Numbers and Title

Site Location Plan Plan Ref: L01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1294/O	Target Date: 5 December 2022
Proposal: Site for dwelling & domestic garage	Location: On Lands Approx 35M North Of No 12 Drumard Road Kilrea BT51 5TJ
Applicant Name and Address: Mr COLM BRADLEY No 74 DRUMNAGARNER ROAD KILREA BT51 5TE	Agent Name and Address: Mr BRENDAN MONAGHAN 38B AIRFIELD ROAD TOOME, ANTRIM BT41 3SG
Summary of Issues: This application was presented to Members as a refusal at January 2023 Planning Committee. It was considered that the proposal failed to comply with policies CTY 10, CTY 13 and CTY 14 of PPS 21. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planning Officer. The application is now being recommended for Approval, with the justification detailed further in this report.	
Summary of Consultee Responses: No consultations carried out as part of this deferred consideration	
Description of Proposal This is an outline planning application for a site for dwelling & domestic garage	
Deferred Consideration: This application for a farm dwelling was recommended for refusal based primarily on the site. It was considered by the previous case officer that a dwelling sited anywhere within the red line would fail to cluster nor would it be visually linked with the farm buildings associated with the	

farm business at 10 Drumard Road. It was also felt that site was too open and exposed and would fail to adequately integrate a dwelling. The farm business was considered to be established and active for the required period of time. No development opportunities have been sold of the holding in the last 10 years.

Following a deferred office meeting, I carried out a site inspection to assess the proposal. I would advise members that there are lands to immediate East of the application site which would be more policy compliant and if applied for, would adequately cluster a dwelling with the farm buildings. However, having viewed the application site on the ground I would be satisfied that a modest dwelling with a 5.5m ridge and sited in the extreme NW portion of the application site, would meet the visual linkage test contained within CTY 10. It would be obvious when travelling along the Drumard Road that a dwelling sited here was connected with the farm buildings at number 10. It would be necessary to condition the ridge height, floor space and siting of the dwelling to ensure that the dwelling would not appear prominent on this road side site, which does rise considerably in an Eastern direction. The applicants preferred location for siting a dwelling does not cluster with the farm buildings and in my opinion would fail to visually link with the farm buildings. It would result in a dwelling that would be too prominent on this site. The agent did provide a photomontage to show how a dwelling could sit in this preferred location, however this does not get over the visual linkage test and so in my opinion can not be considered acceptable.

Approval recommended subject to conditions

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

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

Condition 2

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

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

Condition 3

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 Form available to view on Public Access.

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

the convenience of road users.

Condition 4

The proposed dwelling shall be sited in the area shaded green on drawing L01 uploaded on Public Access on 22 Aug 2022

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

Condition 5

The proposed dwelling shall have a ridge height of no more than 5.5 metres above finished floor level

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

Condition 6

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

Condition 7

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform

Condition 8

The proposed dwelling shall have a footprint of no more than 150m², measured internally.

Reason: To ensure the dwelling does not negatively impact on the rural character of this area and integrates into the surrounding landscape.

Condition 9

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

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

Signature(s):Karla McKinless

Date: 9 March 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 January 2023	Item Number: 5
Application ID: LA09/2022/1294/O	Target Date: 5 December 2022
Proposal: Site for dwelling & domestic garage	Location: On Lands Approx 35M North Of No 12 Drumard Road Kilrea BT51 5TJ
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr COLM BRADLEY No 74 DRUMNAGARNER ROAD KILREA BT51 5TE	Agent Name and Address: Mr BRENDAN MONAGHAN 38B AIRFIELD ROAD TOOME, ANTRIM BT41 3SG
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-1294-O (2).DOCX
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-1294-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The proposal is contrary to Criteria C of policy CTY 10, CTY 13 & CTY 14 of PPS 21.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application site comprises of the front portion of a larger agricultural field. The site rises in an eastern direction from the road to the eastern boundary of the red line, which is currently undefined as the field extends further east and levels out. A low level hedge defines the northern and western boundary with mature trees and hedges defining the southern boundary. The surrounding area is a mix of agricultural and single dwellings, with a dwelling located directly north of the site with associated farm buildings and a third party dwelling and buildings located to the south.

Representations

No third party written representations have been received.

Description of Proposal

This is an outline planning application for a site for dwelling & domestic garage

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a

dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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

(a) the farm business is currently active and has been established for at least 6 years;
(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

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

The agent originally completed the application form in which they provided a farm business No. for Mr. Michael Bradley who gave consent for the farm business ID to be used. Following further discussions with the agent an amended P1c form was submitted and Mrs. Mary McCloskey's farm business was used and DAERA were consulted who confirmed the business ID was allocated in 1991, that payments have only been claimed in 2016 & 2017 and the site is located on land associated with another farm business. The agent provided a lease agreement from May 2015 which runs until May 2030, from this I am content the farm is currently active and has been established for at least 6 years.

Following a search on the planning system, I am content the proposal complies with criteria B above in that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With regards criteria C, the agent has indicated the proposed siting within the red line being towards the south eastern corner of the site. It will be located approximately 80m south west of the established group of buildings on the farm, which are located to the rear (east) of 10 Drumard Road. I do not believe a dwelling sited here would visually link with these buildings nor be sited to cluster with these buildings given the clear separation between the site and the buildings. The development is also proposing a new access to the dwelling. The policy states 'where practicable access to the dwelling should be obtained from an existing lane.' As the proposed siting is not sited to cluster or visually link, and no reasoning has been given for this alternative site, I believe it is practicable to use the existing access and an alternative siting within the red line, closer to the established group of farm buildings would satisfy criteria C. However, an alternative site within the red line would also be required to comply with Policy CTY 13 & 14.

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. As this is an outline application, no design details have been provided however, I do not believe a dwelling at this proposed siting would visually integrated in the landscape, and given the topography of the land, with the dwelling sited at the top of a hill it will be a prominent feature. There is some screening on the southern boundary which would aid integration however, it is felt that it would rely primarily on new landscaping for integration. As mentioned above the siting fails to visually link or be sited to cluster with an established group of buildings on a farm. It is felt that an alternative site within the red line would also fail to comply with this policy given it is an open and prominent site.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As stated, the proposed dwelling would be on an elevated site and would appear unduly prominent in the landscape. As such, the proposal is contrary to this policy.

PPS 3 - Access, Movement and Parking:

The proposal is to create a new access. Transport NI advised that they have no objection to the proposed development subject to conditions.

Other Material Considerations

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

Reason 2

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed building will be a prominent feature in the landscape and the site relies primarily on the use of new landscaping for integration.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape.

Signature(s): Ciaran Devlin

Date: 20 December 2022

ANNEX	
Date Valid	22 August 2022
Date First Advertised	6 September 2022
Date Last Advertised	6 September 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 12A Drumard Road Kilrea Londonderry BT51 5TJ The Owner / Occupier 10 Drumard Road Kilrea Londonderry BT51 5TJ	
Date of Last Neighbour Notification	16 September 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2017/0016/NMC Proposals: Proposed in line movement of Structure IMP73 (2 metres) West of previously approved location. Proposed in line movement of Structure IMP56 (1.5 metres) South West of previously approved location. All alterations are contained within the land ownership boundaries of the landowners who requested the movements. Decision: CG Decision Date: 17-JAN-17 Ref: LA09/2022/1294/O Proposals: Site for dwelling & domestic garage Decision: Decision Date: Ref: LA09/2017/0002/DC Proposals: Discharge of conditions 11 and 12 on Planning Application LA09/2015/1294/O Decision: AL Decision Date: 13-JAN-17 Ref: LA09/2017/0017/NMC Proposals: Proposed in line movement of Structure IMP42 (11 metres) West of previous	

approved location.

Proposed in line movement of Structure IMP76 (3 metres) West of previously approved location.

Proposed in line movement of Structure IMP79 (30 metres) North to boundary hedge.

This will require a further movement to structures AM78 (10 metres) and AM81 (10 metres) to accommodate this new structure location.

All alterations are contained within the land ownership boundaries of the landowners who requested the movements.

Decision: CG

Decision Date: 17-JAN-17

Summary of Consultee Responses

DAERA - Coleraine-Consultee Response LA09-2022-1294-O (2).DOCX

DAERA - Coleraine-Consultee Response LA09-2022-1294-O.DOCX

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: L01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1561/O	Target Date: 16 February 2023
Proposal: Proposed site for dwelling & domestic garage (based on policy CTY 2A - dwelling within an existing cluster)	Location: Approx 30M South Of No 26 Grillagh Hill Maghera
Applicant Name and Address: MR MALACHY SCULLIN No 10 CORLACKY HILL MAGHERA BT46 5NP	Agent Name and Address: MR BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
Summary of Issues: The application was presented to Members as a refusal at January 2023 Planning Committee. The proposal was deemed to be contrary to policies CTY 1, CTY 2A, CTY 8, and CTY 14 of PPS 21 and policies FLD 1 & FLD 3 of PPS15. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planning Officer, which took place on the 19 th January 2023. The application is again being presented as a refusal, for the same reasons and the justification for this is detailed further in this report.	
Summary of Consultee Responses: No new consultations carried out in my deferred consideration	
Description of Proposal This is an outline planning application for a proposed site for dwelling & domestic garage (based on policy CTY2a - dwelling within an existing cluster).	

Deferred Consideration:

The site subject of this application was applied for under Policy CTY 2A - Dwelling in an existing cluster. It was considered that the proposal failed to meet 3 of the 6 criteria contained within the policy. It does not appear as a visual entity in the local landscape. It is not associated with a focal point or cross roads and it was not demonstrated that development would not adversely impact on residential amenity. It was also considered that a dwelling on this site would fail to comply with policies CTY 8 and CTY 14 in that, it would create a ribbon of development along Grillagh Hill Road. Furthermore, the site also lies within a Fluvial Flood Plain and a single dwelling does not meet any of the exceptions contained within policy FLD 1 of PPS15. Consultation was carried out with DFI Rivers, who advised that surface water run-off from the development may adversely impact upon other development. They recommended that a Drainage Assessment be carried out for further consideration. This was never submitted and so the proposal is also contrary to policy FLD 3 of PPS 15. An objection was raised in relation to surface water flooding and the impact this would have on the neighbouring property. Without any Drainage Assessment to show otherwise it was determined that the proposal would adversely impact the amenity of the neighbouring property.

At the deferred office meeting no new information was submitted to deal with any of the issues detailed above. The potential for a farm case was explored however the agent advised this was not achievable. Having carried out a site inspection I am of the opinion that the previous case officers assessment of the case was accurate and I would concur that the proposal fails to comply with Policies CTY 2A, CTY 8 and CTY 14 of PPS 21.

Refusal is recommended

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

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point such as a social / community building/facility, or is located at a cross-roads and the development would adversely impact on residential amenity.

Reason 3

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along Grillagh Hill.

Reason 4

The proposal is contrary to Policy FLD 1 and FLD 3 of Planning Policy Statement 15, Planning

and Flood Risk in that the site is located within the 1 in 100 year fluvial flood plain and not Drainage Assessment has been submitted to prove surface water run-off from the site development will not adversely impact on other development.

Signature(s):Karla McKinless

Date: 9 March 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 January 2023	Item Number: 5
Application ID: LA09/2022/1561/O	Target Date: 16 February 2023
Proposal: proposed site for dwelling & domestic garage (based on policy cty 2a - dwelling within an existing cluster)	Location: Approx 30M South Of No 26 Grillagh Hill Maghera
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr MALACHY SCULLIN No 10 CORLACKY HILL MAGHERA BT46 5NP	Agent Name and Address: Mr BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	Rivers Agency	818577 - Final Response.pdf

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The proposal is contrary to Policy CTY 1, 2A, 8, and 14 of PPS 21 and policy FLD 1 & FLD 3 of PPS15.

One objection has been received. The objection did not raise any issues with the principle of development rather highlighting issues relating to drainage issues and highlighting surface water flooding within the site. These issues have been assessed as

part of this report.

Characteristics of the Site and Area

The site is located within the open countryside, outside any development limits of any other designations as per the Magherafelt Area Plan. The red line of the application site is comprised of the eastern, roadside portion of a larger agricultural field, which extends further west. The site is relatively flat, with a low level hedge defining the southern boundary, with the eastern and northern boundaries defined by post and wire fencing and wooden fencing separating the site from the adjacent dwelling to the north. The western boundary is currently undefined. The surrounding area is a mix of residential dwellings and agricultural land.

Description of Proposal

This is an outline planning application for a proposed site for dwelling & domestic garage (based on policy CTY2a - dwelling within an existing cluster).

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 21: Sustainable Development in the Countryside
PPS 3: Access, Movement and Parking
PPS 15 (Revised): Planning and Flood Risk

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

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

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A

number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

I am content there is a cluster of development which consists of four dwellings, three to the north of the site and one to the east.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above two points, it was agreed at an internal group meeting that the cluster does not appear as a visual entity in the local landscape. Furthermore, the agent is relying on a church in ruins and burial grounds approximately 250m north west of the site. Whilst this has been agreed as a focal point for other applications, these applications have been within the cluster associated with that focal point. While it is contended there is a cluster of development around the development site, this cluster is not associated with this focal point as it is too far removed, therefore failing to comply.

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

The site is bounded to the north by No.26 Grilagh Hill and although the public road separates the site from No.23 to the east it is agreed this is considered being bound. Therefore, the development is bounded on two sides.

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

As the development is bounded on two sides, I am content this site can be absorbed into the existing cluster and it will not visually intrude into the open countryside. There is an existing laneway directly adjacent to the south which acts as an important boundary for the cluster, any development beyond this would appear as visually intrusive in the open countryside.

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

An objection was raised in relation to surface water flooding and the impact this would have of the neighbouring property. DfI Rivers were consulted who stated that surface water run-off from the development may adversely impact upon other development. As such, in its current form and without any assessment to show otherwise, I believe the

proposal would adversely impact the amenity on the neighbouring property.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape with additional planting along the western boundary to aid integration. A ridge height condition of 6m should be applied to any approval.

Policy CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated, the proposed dwelling would not appear unduly prominent in the landscape if kept to a restricted ridge height. However, a dwelling in this location my view, would extend a ribbon of development along the Grillagh Road and would be contrary to Policy CTY 8 and Policy CTY 14.

PPS 3 - Access, Movement and Parking;

The proposal is to create a new access. Transport NI advised that they have no objection to the proposed development subject to conditions.

PPS 15 (Revised): Planning and Flood Risk

DfI Rivers were consulted and responded to state that the Strategic Flood Map (NI) indicates that the site lies within the 1 in 100 year fluvial flood plain. DfI Rivers would consider that this proposal is contrary to PPS 15, Planning and Flood Risk, FLD 1. I do not consider the application to be an exception to this nor of overriding regional importance. A Flood Risk Assessment has not been received or requested and as such the proposal is contrary to FLD 1.

DfI Rivers stated further that surface water run-off from the development may adversely impact upon other development. Therefore, DfI Rivers would recommend that a Drainage Assessment is carried out for our consideration. As the principle of development has not been agreed or established a Drainage Assessment was not request and as such the proposal is contrary to FLD 3.

Other Material Considerations

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point such as a social / community building/facility, or is located at a cross-roads and the development would adversely impact on residential amenity.

Reason 3

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along Grillagh Hill.

Reason 4

The proposal is contrary to Policy FLD 1 and FLD 3 of Planning Policy Statement 15, Planning and Flood Risk in that the site is located within the 1 in 100 year fluvial flood plain and not Drainage Assessment has been submitted to prove surface water run-off from the site development will not adversely impact on other development.

Signature(s): Ciaran Devlin

Date: 20 December 2022

ANNEX	
Date Valid	3 November 2022
Date First Advertised	15 November 2022
Date Last Advertised	15 November 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 23 Grillagh Hill Maghera Londonderry BT46 5PR The Owner / Occupier 26 Grillagh Hill Maghera Londonderry BT46 5PR	
Date of Last Neighbour Notification	25 November 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/2009/0068/F Proposals: Proposed farm dwelling. Decision: PG Decision Date: 09-APR-09 Ref: LA09/2022/1561/O Proposals: proposed site for dwelling & domestic garage (based on policy cty 2a - dwelling within an existing cluster) Decision: Decision Date: Ref: H/1979/0515 Proposals: SITE OF BUNGALOW INCLUDING GUEST HOUSE ACCOMMODATION Decision: PR Decision Date: Ref: H/2002/1113/F Proposals: Two storey dwelling and garage. Decision: PG Decision Date: 17-JAN-03 Ref: H/2008/0645/F	

Proposals: Retrospective relocation of access approved under H/2002/1113/F, erection of pillars and wing walls. Proposed adjacent farm shed and new access.

Decision: PG

Decision Date: 28-JUL-09

Ref: H/2002/0224/O

Proposals: Site For Two-Storey Dwelling & Garage

Decision: PG

Decision Date: 24-MAY-02

Ref: H/2012/0155/F

Proposals: Proposed extension and alterations to provide additional creche/day care facilities and first floor living accommodation to supersede planning approval

H/2008/0638/F

Decision: PG

Decision Date: 12-SEP-12

Ref: H/2001/1037/F

Proposals: Dwelling & Garage

Decision: PG

Decision Date: 14-MAR-02

Ref: H/2003/1052/O

Proposals: Site of dwelling and garage.

Decision: PG

Decision Date: 04-AUG-04

Ref: H/2004/1364/F

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 08-JUL-05

Ref: H/2008/0638/F

Proposals: Proposed incorporation of creche facilities into existing dwelling.

Decision: PG

Decision Date: 16-JUN-09

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Rivers Agency-818577 - Final Response.pdf

Drawing Numbers and Title
Site Location Plan Plan Ref: 01
Notification to Department (if relevant)
Not Applicable