



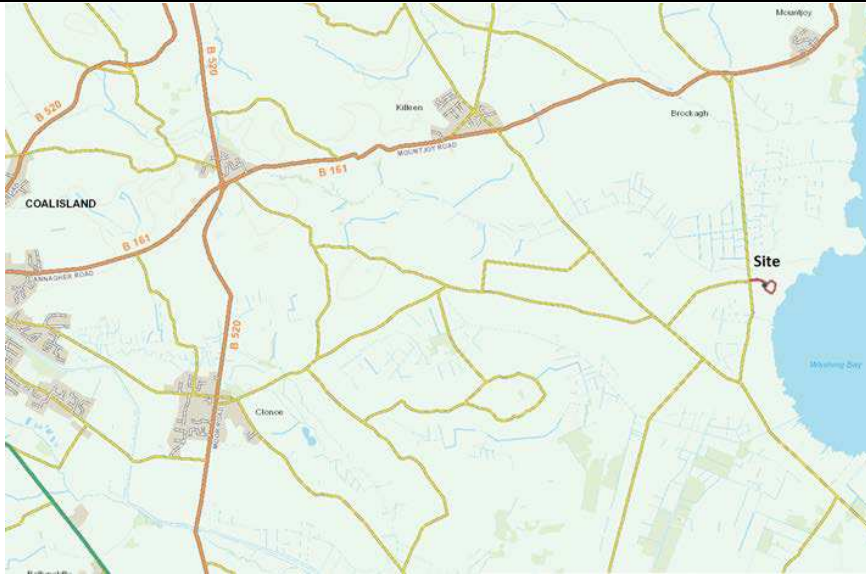
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0561/F	<b>Target Date:</b>
<b>Proposal:</b> Change of use from agricultural storage to external storage of raw materials and parking for established business.	<b>Location:</b> Lands 55m South East of 72 Ballybeg Road Coalisland.
<b>Referral Route:</b> CONTRARY TO POLICY	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Paul McAliskey 13 Doon Avenue Coalisland	<b>Agent Name and Address:</b> CMI Planners 38 Airfiled Road Toomebridge
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

None

### Characteristics of the Site and Area

The site includes a square shaped plot of land to the rear of number 72 Ballybeg Road, Washingbay. The site is accessed off the Ballybeg road via a small narrow gravel lane which serves the existing dwelling. Within the site there is a medium size what looks like an industrial shed with a brown aluminium clad roof and concrete base.. It has a large roller door which

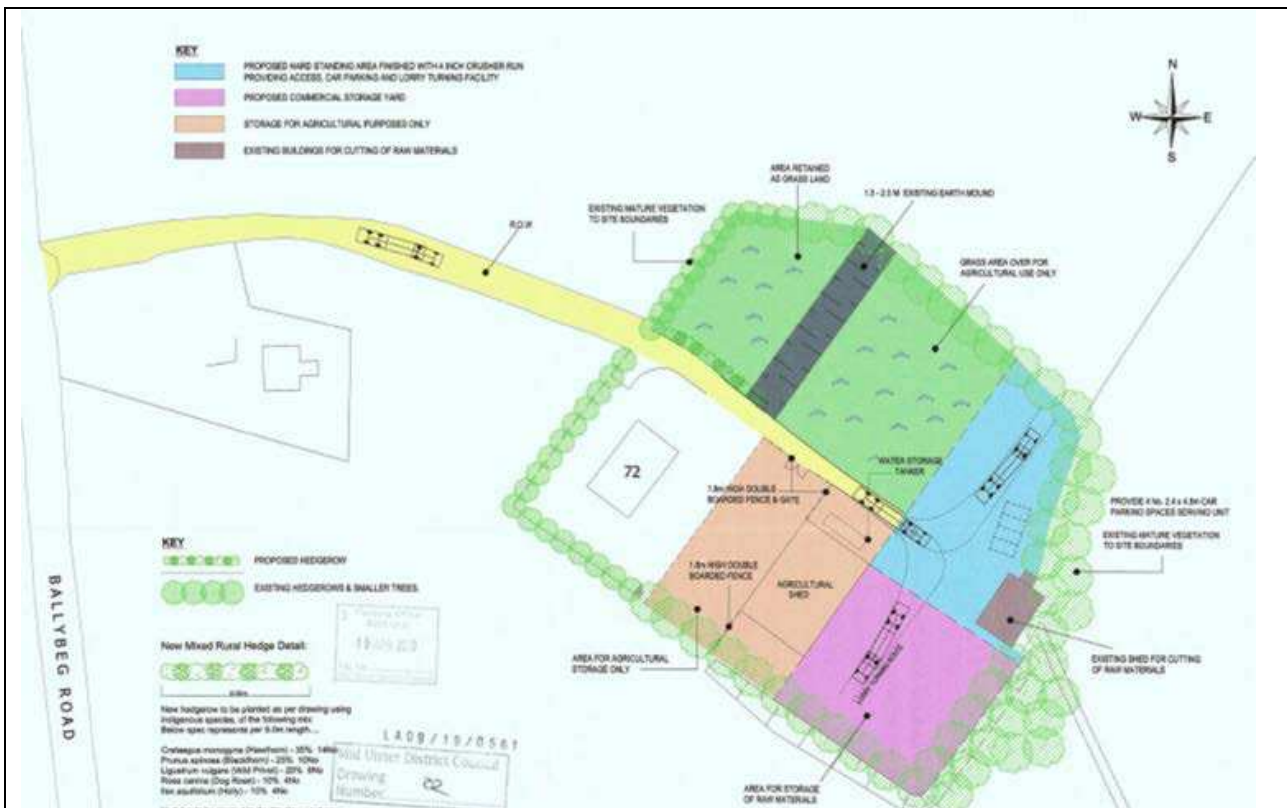
opens onto the yard. The yard itself is filled with several units, containers, lorry trailers and numerous materials and building goods. At the time of site visit there was also a tractor, a bus and a couple of vans and lorries. The yard was secured at the beginning of the laneway by 3 metre high metal gates.



The site lies within the open countryside outside all other areas of control. The site is a few miles to the East of Coalisland and near the Lough Shore. The surrounding land is predominantly agricultural land with only a scattering of isolated dwellings located along the roadside.

### **Description of Proposal**

Change of use from agricultural storage to external storage of raw materials and parking for established business.



## Planning Assessment of Policy and Other Material Considerations

SPSS

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 21 - Sustainable development in the countryside.

Planning Policy Statement 4 - Planning \_ Economic Development

Site History

M/2002/1292/F - Retention of Agricultural building - GRANTED

M/2009/0569/F - Conversion of engineering workshop to living accommodation - WITHDRAWN

M/2013/0246/O - Site for dwelling - REFUSED

2015/A0067- refusal of dwelling and garage - APPEAL GRANTED subject to negative conditions.

LA09/2017/0002/CA - Unauthorised change of use within building - CASE CLOSED 24.09.2019

2017/E0029 - change of use within bldg. from agri to industrial - APPEAL UPHeld

LA09/2018/0001/CA - Extension of yard area constituting a material change of use - ENFORCEMENT ACTION BEING PURSUED

2018/E0021 - Change of use on land for storage of steel and steel fabrication; & Change of use on land for parking of vehicles not associated with agricultural activity. -

LA09/2019/0158/CA - Unauthorised extension to building for industrial use. - CASE CLOSED 17.08.2021

2020/E0038 - Unauthorised erection and use of a building extension for industrial purposes - APPEAL UPHeld

Consultees: -

-Environmental Health were consulted and responded on 17.07.2019 asking for a noise impact assessment. To date this has still not been received.  
 -Shared Environmental services were consulted and responded on 25.06.2019 with no objections to the proposal  
 -NIEA were consulted and responded 18.05.2019 with no concerns subject to guidance.  
 -Transportni were asked to comment and responded on 22.05.2019 raising concerns regarding the substandard access and stating that visibility splays of 2.4 by 80/90 were needed and due to applicant, not owning the land these would not be achievable.

In line with legislation this proposal was Neighbour notified and advertised in several local press publication during May 2019 with no representations/objections having been received to date.

The Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) which came into effect in September 2015, is material to all decisions on individual planning applications. The SPPS retains policies within existing planning policy documents until a new Plan Strategy for the whole 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 or when the SPPS is silent or less prescriptive on certain policies. There is no conflict or change in policy direction between its provisions and those of Planning Policy Statement 21 `Sustainable Development in the Countryside (PPS 21). Therefore, PPS 21 provides the policy context for this Application.

#### 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.

Policy CTY 1 of PPS 21 sets out the types of development that are in principle acceptable in the countryside and will contribute to the aims of sustainable development. It states that planning permission will be granted for non residential development in the countryside in a number of instances. As this application seeks change of use from agricultural storage to storage of raw materials and parking for established business the development represents industry and business uses in accordance with Planning Policy Statement 4: Planning and Economic Development (PPS4), in particular Policy PED 3 which allows for the expansion of an established economic development use in the countryside.

Within PPS 4, Policy PED 2 states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of a number of policies including the expansion of an established economic development use in the countryside - PED 3.

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

The only established use within the site relates to the industrial use within smaller building which is immune from enforcement action however, there has not been a Lawful Development Certificate granted, and secondly the `Retention of an agricultural building?.

Acknowledging the industrial use within the smaller building on the site, the proposal represents a substantial and major increase, taking the area of the footprint of the smaller building of 135m2 in comparison with the overall size of the proposed site to be used for storage of raw materials

and lorry turning and parking at approximately 2000m<sup>2</sup>. This represents a major increase of 15 times the footprint of the immune building.

A proposal for a major expansion will only be permitted in exceptional circumstances where it is demonstrated that; relocation is not possible; the proposal would make a significant contribution to the area; and the development would not undermine the area.

Whilst the immune industrial use is of a small scale and is contained within the smaller building, the scale and nature of the deemed proposal for the external storage of raw materials and turning and parking within the extensive yard area would in my opinion harm the rural character of this area.

As such, the deemed proposal is contrary to Policy PED 3 and consequently Policy PED 2.

Policy PED 9 - requires a proposal for economic development use, in addition to other policy provisions within the Statement, to meet a number of criteria.

Criterion A requires the use to be compatible with the surrounding land uses, however, notwithstanding the presence of the small immune building, the surrounding land uses are primarily agricultural with some residential properties in close proximity - in particular no 72 directly to the west. The uses specified would therefore be incompatible with the surrounding land uses.

Criterion B and E requires that the proposal does not harm the amenities of nearby residents nor create a noise nuisance. No 72 is directly adjacent to the site and its rear elevation is approximately 10-15m from the site boundary. It is not associated with the development on the site. It is my opinion that the proposed change of use on the site would on the amenity of nearby residents through loss of amenity and creating a noise nuisance, in particular along the rear elevation and rear amenity space of No.72. In addition, the external storage of raw materials not associated with agricultural use will increase traffic movements unto the laneway to and from the site. The approach of the lane is directly to the front of no 72 and it comes up close to its gable. Given the close proximity and relationship of the lane to no. 72, I consider that the considerable vehicle movements would have a negative impact on the residential amenity. PED 9 advises us to seek to minimise adverse effects on the amenities of adjacent properties, particularly dwellings. The proposal is contrary to criteria B and E.

Criterion C and D require that the proposal does not adversely affect the natural or build heritage, nor cause or exacerbate flooding. I have no concerns in these regards.

Criterion G requires that the existing network can safely handle any extra vehicular traffic the proposal will generate. In my opinion i would have concerns that the existing laneway cannot safely handle the volume of additional traffic which consists of the movement of vehicles to and from the site. The condition of the laneway at the time of my site visit was in a very poor state which would appear to be the case due to the movement of heavy goods vehicles to and from the site. At my site visit it was clear there was numerous heavy goods vehicles including lorries, flat beds, tankers, telescopes, vans, tractors and buses present on the site, and it is clear the site is not being used consistently for agricultural purposes. The laneway due to its many potholes was just about passable by car. Given the clear increase in traffic movements and the nature of traffic using the lane I would be of the opinion that it cannot safely handle the extra vehicular traffic which is generated by the proposal. The proposal does not comply with criterion G.

Criterion H requires that adequate access arrangements, parking and manoeuvring areas are provided. It was clear from my site visit that manoeuvring areas for vehicles including heavy goods vehicles using the site are limited. The submitted block plan does however show a turning route, designated 4 car parking spaces.



Criterion I requires that a movement pattern is provided that supports walking and cycling and provides adequate and convenient access to public transport. The site is located in the rural area on a minor rural road and is not particularly close to any settlement. It is evident from submitted photographs and from my site visits that manoeuvring areas for vehicles including heavy goods vehicles using the site are limited. The submitted Site Plan does not show any turning circles, designated parking areas or manoeuvring areas. It is primarily only accessible by car. No evidence was presented in relation to access to public transport therefore I am not of the opinion that the location of the site meets the requirements of criterion I.

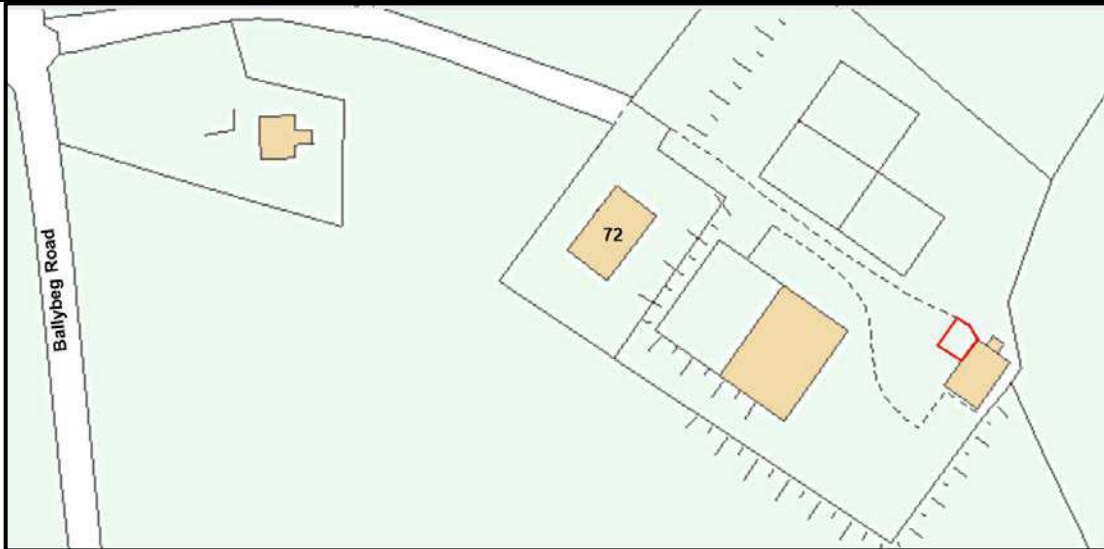
Criterion J requires that the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity. The amplification states that good design is important for industrial and economic developments as for other forms of development and it emphasises the requirement for attractive environments and well-designed sites. Around the site are parked forklifts, trailers, Lorries, tractors, cars and various items of machinery. In addition, there are racks of steel, containers and skips. The site appears to be disorganised and haphazard. The block plan does show existing boundaries to be retained and a small 9 metre row of native species hedgerow to be planted opposite to the gable of number 72. I am not of the opinion that the site layout and landscaping arrangements are of a high quality and meet the requirements of criterion J.

In conclusion, it is my opinion that the proposal is contrary to Policy PED 9 of PPS 4.

Planning Policy Statement 3, Access Movement and Parking, Policy AMP 2, Access to Public Roads 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 such access will not prejudice road safety or significantly inconvenience the flow of traffic. DFI Roads have been consulted and responded on 22.05.2019 raising concerns regarding the substandard access and stating that visibility splays of 2.4 by 80/90 were needed and due to applicant, not owning the land these would not be achievable.

Given the nature of the use on the site and the vehicles accessing the site such as large articulated lorries it is necessary to widen the laneway to 6m for the first 20m to ensure that vehicles can safely move off the public road and allow traffic to emerge safely from the site and the adjoining dwelling. The applicant does not own or have control of the lane, visibility splays or land on either side of the laneway required to make a safe access and there is no way of securing the required improvements. As such, the access would prejudice the safety and convenience of road users and the Council's objections in relation to Policy AMP. As adequate access arrangements cannot be provided it is also contrary to criterion (h) of Policy PED 9 of PPS4.

NB – The most recent planning appeal 2020/E0038 has allowed for a small extension to the existing old waterworks building to the rear of the site. The extension is small allows a small amount of the site turned over to industrial however in terms of the size of the overall site represents a minimal portion. The extension measures approximately 4.5m x 3m. Its location is shown highlighted in red on the image below.



The deemed proposal does not fall within any of the types of development which are considered to be acceptable in the countryside. I am not of the opinion that there are any overriding reasons why the proposal is essential and could not be located in a settlement.

In conclusion, as the Councils deemed reasons for refusal based on PPS 21, Policy CTY 1, PPS 4 and PPS 3.

**Neighbour Notification Checked**

**Yes**

#### Refusal Reasons

1.The proposal is contrary to the Dungannon and South Tyrone Area Plan 2010, the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

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

3.The proposal is contrary to Planning Policy Statement 4, Industrial Development and Policies PED 2, PED3 and PED9, in that the development would, if permitted, have an adverse impact on the living conditions of residents in number 72 Ballybeg Road by reason of noise and general disturbance.

4.The proposal is contrary to Planning Policy Statement 4, Industrial Development and Policies PED 2, PED3 and PED9, in that the development would, if permitted, would harm the rural character or appearance of the local area given the scale and nature of the proposal and the significant increase in the site area of the enterprise.

**Signature(s)**



<b>ANNEX</b>	
<b>Date Valid</b>	25th April 2019
<b>Date First Advertised</b>	9th May 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 72,Ballybeg Road, Coalisland	
<b>Date of Last Neighbour Notification</b>	7th May 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/2013/0246/O Proposal: Site for dwelling. Address: Adjacent to 72 Ballybeg Road, Washingbay, Decision: PR Decision Date: 09.12.2014  Ref ID: M/2009/0569/F Proposal: Proposed conversion of engineering workshop to living accommodation Address: 60m south-east of 72 Ballybeg Road, Washingbay Coalisland, BT71 5DX Decision: Decision Date: 02.12.2010  Ref ID: M/2002/1292/F Proposal: Retention of agricultural building which included cladded walls on top and roofing over of existing water storage tanks Address: Rear of 72 Ballybeg Road, Washingbay, Coalisland Decision: Decision Date: 27.11.2003  Ref ID: M/1999/0090 Proposal: Proposed Replacement Dwelling Address: 72 BALLYBEG ROAD WASHINGBAY COALISLAND Decision: Decision Date:  Ref ID: LA09/2019/0561/F Proposal: Change of use from agricultural storage to external storage of raw materials and parking for established business.	

Address: Lands 55m South East of 72 Ballybeg Road, Coalisland.,  
Decision: RL  
Decision Date:

**Drawing Numbers and Title**

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0872/F	<b>Target Date:</b>
<b>Proposal:</b> Replacement dwelling and garage	<b>Location:</b> 71 Stewartstown Road Coalisland
<b>Referral Route: Approval contrary to Environmental Health</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Patrick O'Farrell 53 Stewartstown Road Coalisland	<b>Agent Name and Address:</b> Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Advice
Non Statutory	DETI - Geological Survey (NI)	No Objection

### Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<p><b>Characteristics of the Site and Area</b></p> <p>The site is located within Coalisland, as defined in the Dungannon and South Tyrone Area Plan 2010.</p> <p>The sites is a rectangular shaped plot set back from the Stewartstown Rd on elevated lands to the rear of no. 65 Stewartstown Rd a 2 storey roadside dwelling with attached garage business including a large repair shed in a yard to its rear.</p> <p>The site is accessed off the Stewartstown Rd via a tarmac lane between the curtilage of no. 65 Stewartstown Rd and no. 77 Stewartstown Rd, a bungalow with extensive surround garden. In addition to the site, the lane provides access to no. 73 Stewartstown Rd a large hipped roof dwelling to the north east of the site.</p> <p>The site contains the remains of an unoccupied bungalow dwelling and its curtilage. The site is overgrown with vegetation. The dwelling just accessible through the vegetation is completely intact but for some broken windows. It has a rectangular floor plan and pitched roof construction with a rear return and sheds/outbuilding to its south side. It is smooth render finish with dark roof tiles, brown window frames and doors, and a brick chimney.</p> <p>With the exception of its northern boundary, where it is accessed off the lane, a mix of mature trees and hedgerow vegetation bounds the site.</p> <p>Views of the dwelling are on the northern approach over a short distance having passed no. 77 Stewartstown Rd until passing no. 65 Stewartstown Rd; and coming out of the entrance of the Brambles a housing development further north west of the site.</p> <p>Whilst there is undeveloped agricultural lands within Coalisland bounding and running to the south east of the site and a garage business to its north west / front, the area is primarily residential in nature.</p>	
<p><b>Description of Proposal</b></p> <p>This is a full planning application for a replacement dwelling and garage. The dwelling to be replaced is no. 71 Stewartstown Rd Coalisland.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>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.</p> <p><b>The following documents provide the primary policy context for the determination of this application:</b></p> <p>Dungannon and South Tyrone Area Plan 2010 Strategic Planning Policy Statement for Northern Ireland</p>	

Planning Policy Statement 3 - Access, Movement and Parking  
Planning Policy Statement 7 - Quality Residential Environments  
PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas

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 28<sup>th</sup> 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.

### **Relevant Planning History**

#### On Site

- M/1995/0588 - New pitch roof - 71 Stewartstown Rd Coalisland - Granted January 1996

#### Adjacent Site

- LA09/2019/0957/O - 2 storey dwelling & domestic garage - Site approx. 40m South of 73 Stewartstown Rd Coalisland - Granted 15<sup>th</sup> November 2019
- LA09/2020/1595/RM - 2 storey dwelling & domestic garage - Site approx. 40m South of 73 Stewartstown Rd Coalisland - Under Consideration.

The above applications relate to lands within the agricultural field to the rear of the current site.

### **Consultees**

1. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site was located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings. A search of their “Shafts and Adits Database” indicates that the proposed development is greater than 50 metres from the closest known disused shaft which lies south of the site boundary. The site does not contain any known mine shafts or any recorded mining activity below the surface. The closest mine shaft is unlikely to have any impact on the proposed development.
2. Environmental Health were consulted as the site comprises lands located on / adjacent a disused railway line. Environmental Health recommended the applicant submit sufficient information to determine the existence or otherwise of contamination, its nature and the risks it may pose and whether it may be remediated to an acceptable level. At the very least, this will require a preliminary risk assessment, which takes into consideration all potential pollutant linkages and an assessment of all potential risks in relation to those pollutant linkages. The provision of this information is required in order to establish whether more detailed investigation is required and whether any remediation of the site may be required.



This information required above, a Land Contamination Report, was sought on a number of occasions by email on the 10/09/2019, 21/10/2019, 12/11/2019, 23/12/2019, 13/02/2020, 01/06/2020, 30/11/2020, 02/02/2021, 12/05/2021, 16/06/2021, 09/08/2021 and most recently on the 14<sup>th</sup> September 2021. Whilst the agent advised in February a number of tests have been carried out to date no report has been received for further consideration.

Upon further consideration of the above Planning consider Environmental Health's request unreasonable in that there is an existing dwelling on site, which for all intents and purposes could be occupied, albeit with repair; and works that are not considered development or is permitted development could be carried out within its curtilage. As such, Planning would be prepared to grant approval of this proposal subject to an informative to warn the applicant the land may be contaminated and that they should investigate the site prior to the construction of the dwelling and garage to ensure protection of their amenity.

### **Key Policy Consideration and Assessment**

Dungannon and South Tyrone Area Plan 2010 – The Dungannon and South Tyrone Area Plan is the extant Plan for the area and identifies the site as being within the settlement limits for Coalisland on unzoned whiteland, adjacent to but not within an area of existing recreation and open space designated over / along an old railway line.

The Plan has defined the settlement limits and allows for development within these limits provided it meets with regional policy requirements of Policy SETT 1.

Policy SETT 1 sets out 6 criteria and a general criteria to meet with regional policy. I consider that if the development meets with regional policies contained in PPS 3 – Access, Movement and Parking; PPS7 – Quality Residential Environments; and PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas, it will meet the requirements of SETT1.

Strategic Planning Policy Statement for Northern Ireland – I do not consider the Strategic Planning Policy Statement has provided any change in policy direction or provided clarification in relation to any of the existing policies relevant to this proposal

PPS 3 – Access, Movement and Parking - The site is to be accessed via an existing unaltered access to the public road. As this is a replacement dwelling, there will be no intensification of the access; and based on the block plan submitted in-curtilage parking for 2 vehicles can be provided. Accordingly, I am content the proposal complies with the policy provisions of PPS 3.

As this site comprises lands located on / adjacent a disused railway line I would note Policy AMP 5 of PPS 3 offers protection to Disused Transport Routes from development that would prejudice their future re-use. However, this protection is only to routes identified in a Development Plan for transport or recreational purposes and the current site has not been identified for either purpose in the extant Plan. Whilst the draft Plan Strategy offers protection to disused transport routes, as detailed below, it does not yet carry determining weight.

Policy TRAN 2 of the draft Plan outlines that until such time as the Local Policies Plan is adopted there will be a presumption against development on disused transport routes (railway line, canals etc.) for uses other than recreational, nature conservation or tourism use, unless there is no reasonable prospect of reuse for future transport purposes and/or recreation purposes. Had this policy carried determining weight given development that has already occurred in the immediate vicinity I do not believe this small stretch of railway line viable for transport or recreational purposes.

PPS 7 – Quality Residential Environments - PPS 7 is the relevant material planning policy for this type of development within a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in the policy. I will deal with these as they appear in the policy.

- (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

I am content that the dwelling (and garage) is of an appropriate size, scale, design and layout. That it should be absorbed onto this well vegetated and enclosed site to respect its surrounding residential context and the character and topography of the site.

- (b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;

In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site; and vegetation along the boundaries of the site can be conditioned to be retained.

- (c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

I am dealing solely with an application for a single dwelling and domestic garage as such public open space is not a requirement for this type of proposal. I am content based on the block plan submitted adequate private amenity space in excess of the 70m<sup>2</sup> average promoted in Creating Places will be provided. The existing vegetation along the boundaries of the site can be, conditioned to be, retained to assist the development integrate and protect existing and potential neighbouring amenity.

- (d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;

I am dealing solely with an application for a single dwelling and I do not consider it is appropriate to require the provision of neighbourhood facilities for this scheme.

- (e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

The site accesses onto the Stewartstown Rd whereby footpaths link the development to services located within Coalisland. This will support walking and cycling and enable adequate and convenient access to public transport within the Town. Given the nature of the lane serving the development, I do not consider the provision of a footway to the front of the site necessary.

- (f) adequate and appropriate provision is made for parking;

I am content based on the block plan submitted in-curtilage parking for 2 vehicles, has been provided

- (g) the design of the development draws upon the best local traditions of form, materials and detailing;

The design of the proposed dwelling and garage is in my opinion appropriate to the site and locality. The dwelling has a simple rectangular form with pitched roof construction. It has a two storey centrally located front porch and single storey sun-lounge extension to its southern gable. Materials finishes include coloured render to walls and black/blue roof slates. The garage also has simple rectangular form with pitched roof construction with finishes to match the dwelling.

- (h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and

Paragraph 7.16 of Creating Places advises that there should be a minimum separation distance of 10m between the rear of new houses and the common boundary. Whilst the block plan submitted shows only approx. 5m between the rear of the new house and the boundary to its rear which adjoins whiteland which may be developed in the future it is greater than exists at present as the existing dwelling sits albeit at single storey immediately adjacent this boundary. The same block plan shows the dwelling fronting onto the rear of no. 65 Stewartstown Rd, which it is elevated above, with only an approx. 7m separation distance. Whilst this is 3m less than that recommended I am content that subject to the retention of vegetation along the north western boundary of the site there should be no unacceptable adverse impact on no. 65's amenity in terms of overlooking, loss of light or overshadowing. No 65 benefits from having its garage business to its north side including a large shed to its rear, which alongside vegetation bounding the site encloses the yard from the site above. The nature of this proposal, a replacement dwelling, it should not cause undue noise or other disturbance.

- (i) the development is designed to deter crime and promote personal safety

I am satisfied that the dwelling is in an established residential location where there are enough dwellings close by to deter crime to some degree.

**On the basis of the above assessment it is clear that the proposal under consideration complies with all the criteria set out in policy QD 1 of PPS 7 and PPS3**

**PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas**

I am satisfied that this proposal complies with Policy LC 1 of the Addendum to PPS 7, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this area., unit size is not less than recommended in Annex A of this policy and design can be considered under any subsequent reserved matters application.

**Other Considerations**

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding

**Recommendation**

Approval

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Refuse

**Conditions**

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

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

2. The existing mature trees and vegetation along the boundaries of the site identified on Drawing No. 01(Rev.01) bearing the date stamp received 24 NOV 2021, shall be retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

3. All proposed landscaping as detailed Drawing No. 01(Rev.01) bearing the date stamp received 24 NOV 2021, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

4. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan, Drawing No. 01(Rev.01) bearing the date stamp received 24 NOV 2021, is demolished, all rubble and foundations have been removed or retained but no longer used for human habitation .

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

**Informatives**

1. The applicant is advised that the land within the site may be contaminated and that they should investigate the site prior to the construction of the dwelling and garage hereby approved to ensure protection of their amenity.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
5. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.
6. Please see DETI Geological Survey of Northern Ireland (GSNI) consultation response received and scanned to the Planning Portal 22<sup>nd</sup> July 2019.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date: 07 DEC 2021</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0839/F	<b>Target Date:</b>
<b>Proposal:</b> Construction of 49 social housing units comprising 45 two storey houses, 4 no. bungalows, associated site works and landscaping	<b>Location:</b> Lands 62m S.W. of 5 Old Eglish Road Dungannon
<b>Referral Route: Approval, 3rd party objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Newpark Developments (NW) Ltd 72-74 Omagh Road Dromore	<b>Agent Name and Address:</b> Mc Girr Architects Ltd 670 Ravenhill Road Belfast BT6 0BZ
<b>Executive Summary:</b> The proposal is for Social Housing within Dungannon, and represents a quality residential environment.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### 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

Mainly road safety issues raised, and road improvements suggested.

### Description of proposal

This is a full planning application for the construction of 49 social housing units comprising 45 two storey houses, 4 no. bungalows, associated site works and landscaping at lands 62m S.W. of 5 Old Eglish Road, Dungannon.

Access is proposed from the Old Eglish Road. The development will comprise mostly 2 storey terraced and semi-detached dwellings, with 4 single storey properties. Retaining wall structures will be along parts of the SW, NW and NE boundaries. There is proposed communal open space to the eastern portion of the site, which will be a central area of

open space when the wider development is complete as shown in the conceptual drawing which is for information purposes only.

### **Characteristics of site and area**

This application site is located at 62m SW of 5 Old Eglish Road, Mill Field, Dungannon. It comprises the western half of a large rectangular shaped field located between Manse Road and Old Eglish Road. Along the north western boundary is a stepped wall which runs along the rear of Nos 8-52 Beechvale, which are a row of two storey terraced properties backing onto the site. The south western boundary which is adjacent to Manse Road comprises hedgerow and winds to the Old Eglish Road which forms the eastern boundary. The north east boundary, which is adjacent to the Ulsterbus Station and vacant Old Mill building off the Old Eglish Road, is defined mostly by chain mail security fencing. The site rises to a height in the westernmost corner and electricity poles traverse the site close to the northern boundary. The remaining boundaries are not defined and are open to the larger field.

This site is located within the development limits of Dungannon just south of the Town Centre boundary. It is zoned as Housing land under DH19 Land North of Manse Road in the Dungannon and South Tyrone Area Plan. The Manse Road which forms the southern boundary of the site here marks the development limit of Dungannon. The surrounding area contains a mixture of residential, commercial and industrial uses. The housing in the immediate area is of high density and the Ulsterbus Depot sits to the north and a large Tesco to the north west.

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

### **Planning Act 2011**

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

### **Area Plan**

Dungannon and South Tyrone Area Plan 2010.

The site is zoned as Housing Land under DH19 Land North of Manse Road. The key site requirements have been met. Policy SETT1 of the area plan has also been considered and in my view the proposal meets the requirements of this policy.

### **Local Development 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 and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Key planning Policy**

SPPS Strategic planning Policy Statement  
PPS7 Quality Residential Environmental  
Addendum to PPS7  
PPS15 Planning and Flood Risk  
PPS3 Access, Movement and parking

## Design Guide Creating Places

### Representations

This application was advertised in the local press and abutting neighbours notified. There have been 2 objections to this proposal from the same property. Both objections concentrate on road safety issues, especially along the Manse Road. The objections raise concern that the junction with manse Road and old Eglis Road is substandard, that there is no footpath along manse Road, and that there is poor visibility along stretches of Manse Road. The objector has stated that they would like to see road improvements along Manse Road to form part of this proposed development.

DfI Roads have been consulted on this proposal and on the objectors concerns. They have made no comment in relation to these concerns and do not require the improvements suggested by the objector to form part of this scheme. DfI Roads have considered road safety issues and Private Street drawings in relation to this proposal and are content with the scheme from a road safety point of view. DfI Roads do suggest that a safety barrier is erected along Manse Road to provide protection for road users and residents of the new development that back onto Manse Road. In this case I do not find the objectors concerns to be determining to the outcome of this application. I am satisfied that there is adequate footpath provision within the development that links into an existing footpath network which leads to the town centre, and provides a safe access provision for pedestrians, cyclists and those with disabilities.

### Consultees

NI Water state that there is no capacity at Dungannon Waste water Treatment Plant to accept sewage from this proposed development. However, the developer has commenced the M/2015/0042/F permission on site and the Planning Department of Mid Ulster council has confirmed in writing with the agent that this permission has lawfully commenced. Therefore there is a fall-back position for the developer to connect up to 91 units to Dungannon Waste Water Treatment Works, as per the previous permission. This subject application is for 49 units, a significant decrease in units from what could potentially connect. Plus, the housing density in this portion of the site is much less than what was granted under M/2015/0042/F. So there is no danger of more than 91 units connecting into the Dungannon Waste Water Works. In this case, given the fall back position, I find it acceptable to allow this proposal without the requirement for it's own private treatment plant. The issue now rests with NIW to connect the development, and these numbers should be factored into NIW calculations given that it was a live planning application.

DfI Roads raise no objections with the proposal subject to conditions.

Rivers Agency raise no objection subject to a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 prior to the commencement of any other development hereby approved.

NIEA raise no objections to the proposal.

SES raise no objections to this proposal and rule the proposal out from any further Habitats Regulation Assessment. SES recommend the inclusion of a condition seeking the method of sewage disposal on site prior to any development taking place. However, given the fall back position, it is the view of the Planning department of Mid Ulster Council that sewage can be dealt with through mains connection, therefore there is no need to add this condition.

Ulster Bus were consulted and make comment in relation to the development and how they would like to see construction carried out to ensure their business will not be negatively impacted. No specific planning material considerations have been raised, and the issues will be a civil matter between the interested parties with Mid Ulster Council not becoming involved in such matters of concern raised.

#### Planning History

M/2008/0538/F was granted approval in July 2010 for residential development consisting of 49 no. dwellings and 42 no. apartments, two and three storey dwellings and three storey apartments at 62m SW of 5 Old Eglis Road, Mill Field, Dungannon.

M/2015/0042/F- Renewal of residential development of 49 no. dwellings and 42 no. apartments, two and three storey dwellings and three storey apartments, at 62m SW of 5 Old Eglis Road, Mill Field, Dungannon, granted 05.04.2016

#### Assessment

The Strategic Planning Policy Statement which was published in September 2015 has retained PPS 7 which was the policy the original application was assessed under and thus applicable for this application.

The principle of development for housing on this site is considered acceptable given the land zoning and previous planning history on the site.

Policy QD1 - Quality in New Residential Development in states all proposals for residential development will be expected to conform to all of the following criteria:

- a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced area;

The principle of residential development has been established on this site as it is zoned as housing land in the Dungannon and South Tyrone Area Plan and as is evident on the planning history above.

In the Development Plan there were a number of Key Site Requirements designated for this zoned housing land which were deemed to be achieved in the previous permissions on site and no new planning policy has been introduced since these approvals.

Proposed housing density and layout is similar to what was previously approved. I find the density and character of the proposed development to be acceptable.

b) features of the archaeological and built heritage, and landscaped features are identified and, where appropriate, protected and integrated on a suitable manner into the overall design and layout of the development;

There are no archaeological features in the immediate vicinity of this site.

c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area. There is sufficient private amenity space provided for each dwelling in this application. A public area of open space has been indicated within the development. I consider this to be acceptable for a development of this size.

d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;

There is no requirement to provide local neighbourhood facilities, given the proximity to local services and shops within Dungannon Town Centre and beside the site.

e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

Footpaths are provided along the internal road in this development and additional footpaths are provided to allow access from this development onto Beech Valley as was a key site requirement in the zone designation in the plan. The location of this site within the town of Dungannon make it very accessible for walking and very convenient access to public transport, particularly as the bus station is located adjacent to the site.

f) adequate and appropriate provision is made for parking;

There is adequate in-curtilage space for parking provided for each dwelling proposed. DfI Roads do not raise any concern in this regard.

g) the design of the development draws upon the best local traditions of form, materials and detailing;

Proposed building materials are acceptable for this site and locality.

h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;

The design and orientation of the dwellings takes into consideration those proposed and existing dwellings in the immediate vicinity of the site, particularly those along Beech Valley. There are no issues of overlooking or overshadowing and I find the layout to be acceptable when viewed in the context of existing surrounding development.

i) the development is designed to deter crime and promote personal safety;

The footpath leading to Beech Valley has a landscaped area and street lights located along it which will provide a lit area. Rear gardens are protected by boundary fencing,

areas of communal open space are overlooked by surrounding properties. Overall the proposal is of a good layout to deter crime, while providing good connectivity to surrounding footpath and road networks.

Policy LC 1 - Protecting Local Character, Environmental Quality and Residential Amenity of the Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas states planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

(a) the proposed density is not significantly higher than that found in the established residential area;

The density is acceptable.

(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area;

The layout and design of residential development within this development is varied with 2 storey dwellings and single storey house types. I do not think this proposal is conflicting with the character of the existing residential area.

(c) all dwelling units and apartments are built to a size not less than those set out in Annex A;

The sizes of the dwellings proposed exceed the minimum recommended standards.

#### Other considerations

The site is not subject to flooding and there is no open watercourses being culverted.

Rivers Agency raise no issues in relation to site drainage subject to a full DA being submitted prior to the commencement of any development hereby approved.

An Environmental Impact Assessment was also undertaken as this application falls under Schedule 2 Part 10 b Urban Development projects.

From this it was determined no Environmental Assessment was required as any issues would be dealt with through the normal development management process in the determining of this application.

A land contamination report was provided and NIEA do not raise any objections subject to conditions being added to any permission.

This proposal is also for provision of social housing units, which is much needed within Dungannon. I find the development to be of a high quality.

**Neighbour Notification Checked**

**Yes**

#### **Summary of Recommendation:**

That planning permission is granted subject to the following conditions.

#### **Conditions**

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



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

2. Prior to the commencement of any development hereby approved, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 shall be submitted to the Planning Authority for its consideration and approval.

Reason: To safeguard against flood risk to the development and elsewhere.

3. Should new contamination or risks be encountered which have not previously been identified, works shall cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a Remediation Strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction. This strategy shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

4. After completing the remediation works under Condition 3 (above) and prior to the occupation of any dwelling hereby permitted, a Verification Report shall be submitted in writing and agreed with Planning Authority. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The Verification Report shall present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives, in agreement with the Planning Authority.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

5. Prior to the occupation of 50% of the dwelling units/apartments hereby approved, the developer shall construct, layout and plant all landscaped and open space areas (including all peripheral planting) as indicated on the approved Drawing No. 02 rev2 date stamped received 17 November 2021, and shall be permanently retained thereafter. The trees indicated within individual plots shall be planted during the first available planting season after the occupation of any dwelling on the plot and permanently retained thereafter unless otherwise agreed with the Planning Authority. These trees shall be retained and maintained by the owner of the plot and the condition referring to such retention and maintenance shall be placed as a condition of the sale of the plot.

All hard and soft landscaping works shown on the approved plan No. 02 rev2 date received 17 November 2021 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice, and shall be permanently retained thereafter unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape to aid the integration of the development into the local landscape in a timely

manner and to assist in the provision of a quality residential environment in accordance with PPS7 Quality Residential Development and PPS8 Open Space, Sport and Outdoor Recreation.

6. Areas of designated open space shall be managed and maintained in accordance with the provisions of Doc 1: Landscape Management Plan date stamp received 10 July 2020, unless otherwise agreed in writing with the Council.

7. No dwelling hereby approved shall be occupied until a signed Management and Maintenance Agreement for all areas of public open space has been put in place, and details of which agreed with the Planning Authority.

Reason: To ensure that the open space provided is managed and maintained, in perpetuity, in accordance with the Department's Planning Policy Statement 7 (PPS7)-Quality Residential Environments, and Planning Policy Statement 8 (PPS8)-Open Space, Sport and Outdoor Recreation.

8. Prior to the occupation of any dwelling indicated on Plots 1 - 10 on drawing No. 02 rev1 received 29/01/2021, all shall be fitted with upgraded double-glazing to the facades of properties facing onto Dungannon Bus Station. The glazing shall meet the specification of 4/12/12mm and provide a minimum 35dB Rw (Acoustics in the Built Environment- Advice for the design team, 2nd edition 1997).

Reason: To protect residential amenity.

9. An acoustic ventilation system shall be incorporated into each dwelling indicated on Plots 1 - 10 on drawing No. 02 rev1 received 29/01/2021 prior to the occupation of any of these dwellings. Each fitted acoustic ventilation system shall have a sound reduction index of 35dB Rw.

Reason: To safeguard residential amenity.

10. Upon completion of mitigation measures indicated in conditions 9 and 10 a post completion acoustic assessment shall be completed to show that the noise remediation features specified in conditions 9 and 10 are producing acceptable standards of protection as detailed in the ProPg: Planning and Noise Guidance. Should additional mitigation measures be required as a result of this further assessment, these shall be carried out in accordance with agreed mitigation with the Council's Planning Department prior to the occupation of any dwelling on plots 1 - 10 indicated on drawing No. 02 rev1 received 29/01/2021.

Reason: To safeguard residential amenity.

11. The existing hedge that forms the south western boundary of the site (along the Manse Road frontage) as indicated on Drawing No. 02 rev2 date stamp received 17 Nov 2021 shall be retained between 2.0 metres and 3.5 metres high above ground level at this point, except where it is required to be removed as part of this permission. Where gaps appear in this hedgerow, it shall be augmented and planted out with hawthorn hedgerow to ensure a continuous and even hedgerow, and shall be permanently retained thereafter unless otherwise agreed with Council.

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

12. The existing mature trees and vegetation along the remaining site boundaries as indicated on Drawing No 02 rev2 date received 17 Nov 2021 shall be permanently retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

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

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

14. Prior to the occupation of any dwelling hereby approved whose curtilage boundary abuts a retaining wall, that retaining wall structure shall be put in place in accordance with details indicated on drawing No. 09 rev2 date stamp received 17 Nov 2021, unless otherwise agreed in writing with Mid Ulster Council.

Reason: In the interests of safety, and to ensure a quality residential environment.

15. Prior to the occupation of any dwelling hereby approved, all boundary treatment indicated on drawing No.s 02 rev2 and 09 rev2 date stamp received 17 Nov 2021, and, 20 date received 24 Nov 2021, shall be put in place and permanently retained thereafter.

Reason: To ensure a quality residential environment and to safeguard residential amenity.

16. The development hereby approved shall be carried out in accordance with levels and cross sections indicated on drawings No. 02 rev2 and 16 rev1 which were date stamp received 17 Nov 2021, unless otherwise agreed in writing with Mid Ulster council.

Reason: To ensure a quality residential environment and to protect existing and proposed residential amenity.

17. The visibility splays of 2.4 metres by 70 metres in each direction at the junction of the proposed access with the public road, shall be provided in accordance with Drawing No. 14 Rev (XXXXXX to be agreed with DfI Roads before Committee) bearing the date stamp (XXXXXX to be agreed with DfI Roads before Committee) , prior to the commencement of any other works or other development hereby approved.

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

18. The access gradients to the dwellings 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.

19. The gradient of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a 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 user.

#### Private Street Conditions

PS01. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 14 Rev 1 bearing the date stamp 9th September 2021.

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

PS02. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road including a right turn lane have been completed in accordance with the details outlined blue on Drawing Number 14 Rev 1 (XXX) bearing the date stamp 9th September 2021 (XXX). The Department for Infrastructure hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

PS03. No dwelling(s) shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of each phase.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

PS04. The development hereby permitted shall not be adopted until any retaining wall requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been

approved and constructed in accordance with BD2 Technical Approval of Highways Structures : Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

PS05. No development within 10metres of the public road hereby permitted shall be commenced until the works necessary for the improvement of Manse Road including the vehicle restraint system have been completed in accordance with the details on Drawing Number 14 Rev 1 (XXXX) bearing the date stamp 9th September 2021 (XXXX- to be agreed).

Reason: To ensure that the structure is designed and constructed in accordance with the Design Manual for Roads and Bridges.

#### Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
4. The developer is advised to consider all comments raised in NIEA in their comments which were published on the planning portal on 30/11/2020, especially in relation to Drinking Water.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	10th July 2020
<b>Date First Advertised</b>	28th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 1 Glenmont Park,Dungannon,Tyrone,BT71 7BA The Owner/Occupier, 10 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 12 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 14 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 16 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 18 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 20 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 22 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 24 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 26 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 28 Beechvalley,Dungannon,Tyrone,BT71 7BN Maurice Girvan 2a Prospect Manse, Windmill Hill Road, Dungannon, BT71 7BS The Owner/Occupier, 2a Prospect Manse,Windmill Hill Road,Dungannon,Tyrone,BT71 7BS The Owner/Occupier, 3 Glenmont Park,Dungannon,Tyrone,BT71 7BA The Owner/Occupier, 30 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 32 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 34 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 36 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 38 Beechvalley,Dungannon,Tyrone,BT71 7BN The Owner/Occupier, 40 Beechvalley,Dungannon,Tyrone,BT71 7BN	



The Owner/Occupier,  
 42 Beechvalley,Dungannon,Tyrone,BT71 7BN  
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 44 Beechvalley,Dungannon,Tyrone,BT71 7BN  
 The Owner/Occupier,  
 46 Beechvalley,Dungannon,Tyrone,BT71 7BN  
 The Owner/Occupier,  
 48 Beechvalley,Dungannon,Tyrone,BT71 7BN  
 The Owner/Occupier,  
 5 Glenmont Park,Dungannon,Tyrone,BT71 7BA  
 The Owner/Occupier,  
 50 Beechvalley,Dungannon,Tyrone,BT71 7BN  
 The Owner/Occupier,  
 52 Beechvalley,Dungannon,Tyrone,BT71 7BN  
 The Owner/Occupier,  
 7 Glenmont Park,Dungannon,Tyrone,BT71 7BA  
 The Owner/Occupier,  
 8 Beechvalley,Dungannon,Tyrone,BT71 7BN  
 The Owner/Occupier,  
 9 Glenmont Park,Dungannon,Tyrone,BT71 7BB  
 Maurice Girvan  
 Dungannon Presbyterian Church,Prospect Manse,2A Windmill Hill  
 Road,Dungannon,BT71 7BS  
 The Owner/Occupier,  
 Prospect Manse,Manse Road,Dungannon,Tyrone,  
 The Owner/Occupier,  
 Ulster Bus Ltd,52 Beechvalley Way, Dungannon BT71 7BN

**Date of Last Neighbour Notification**

29th September 2021

**Date of EIA Determination****ES Requested**

No

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0908/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> 25m North East of 68 Hillhead Road Toomebridge
<b>Referral Route:</b>  Refusal contrary to PPS 3 -AMP3	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Damian Barton 68 Hillhead Road Toomebridge BT41 3SP	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT413SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Coleraine	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
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

Farm dwelling complies with CTY 10 criteria no third party representations received and all other material considerations have been taken into consideration.

## Characteristics of the Site and Area

The site is identified as lands located 26m NE of 68 Hillhead Road, Toomebridge. The site borders on onto Deerpark and Hillhead Roads. The site plot is triangular in shape measuring approximately 0.63 of a hectare. Site boundaries comprise intermittent low level vegetation on the south western boundary (running appavelled with the Hillhead Road); post and wire fencing and sporadic vegetation on the south eastern boundary; the other to the north eastern boundary consist of hedgerow and post and wire fencing. The surrounding landform is one of undulating countryside and the land raises from Hillhead Road. The main farm group is located to the south opposite Hillhead Road no 68 consisting of a one and a half storey dwelling with outbuildings to the rear. There is a large evergreen hedgerow to the front of No 68 running parallel with Hillhead Road. The buildings to the rear of 68 appear to be agricultural related. To the Southeast is a private laneway that runs parallel with the sheds servicing property and lands to southwest; to the east is no 62 a car sales businesses; located to the east is a detached dwelling No 60; and to the west is no 70 a small bungalow with an open area used for storing wooden pallets. The site is located in open countryside and is within a designation Cou 01 area of high scenic value: west as defined in the Magherafelt Area Plan 2015.

The Hillhead Road is part of the A6 protected route running from Toomebridge to Castledawson. There are limited views of the site on approach from either direction due to the built form on each side.

## Description of Proposal

The applicant is seeking outline planning permission for proposed dwelling and garage on a farm, which was received by MUDC Planning on 28/07/2020.

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk)

## Relevant planning history.

There is no relevant planning history associated with the proposed site.

## Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 10/08/2020 (publication date 11/08/2020). Ten (10) neighbouring properties were notified on 14/08/2021; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

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

- DFI Roads were consulted on 13/08/2020 and responded on 08/09/2020 recommending refusal under Protected Routes Policy PPS 3 AMP3. The response further stated that although the new A6 Trunk Road Scheme is now open to traffic the Contractor is responsible for the new road under his contract obligations until its completion. DFI Roads will not remove protected routes status from the existing A6 Hillhead Road prior to the completion of the new road. However, no date has been set for the de-trucking of this section of Hillhead Road.
- NIW were consulted on 13/08/2020 and responded 08/09/2020 no objections;
- DAERA were consulted on 13/08/2020 and responded on 03/09/2020 provided information pertaining to the farm activities of the farm.

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

Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 (MAP) acts as the LDP for this area as Mid Ulster District Council has not yet adopted a plan strategy for the district as a whole. The site is in the open countryside outside of any settlement limit or rural policy area defined in the plan. MAP does not offer any relevant policies relating to the assessment of this application.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing Planning Policy Statements including Planning Policy Statement 21 Sustainable Development in the Countryside (PPS 21). 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.

Policy CTY1 of PPS 21 sets out the types of development which are considered to be acceptable in principle in the countryside. It states that planning permission will be granted for an individual dwelling house in six specified cases, one of which is a dwelling on a farm in accordance with Policy CTY10. This sets out three criteria to be met and also requires the site to comply with other policies in PPS 21.

Criterion (a) of Policy CTY10 requires that the farm business is currently active and has been established for at least 6 years. Paragraph 5.38 of the justification and amplification text to Policy CTY10 states that the applicant will be required to provide the farm's business identification number along with other evidence to prove active farming over the required period. The farm business is owned by the appellant's father Mr Richard Barton. It comprises only one field



located 25m to the north east of no 68 Hillhead Road. DAERA were consulted on this application and in their initial response confirmed the farm was established in 1992; a category 1 farm, does not claim SFP and the lands which the site is located on is associated with another farm business. The agent submitted a farm map and a Lease Agreement signed by Mr. Richard Barton and Mr. Sean McGrogan dated 1st May 2011.

My observations made while on site confirmed the land is kept in good environmental condition and on the basis of invoices relating to fence repairs, hedge cutting, weed control, rolling and harrowing I am satisfied that criteria has been met.

With respect to (b) and upon a history of the farm business, I am content that it does not appear that there were any development opportunities approved or sold off the farm in the previous 10 years.

With respect to (c), as stated earlier in my report the registered farm address is 68 Hillhead Road, Toomebridge where the site is situated approximately 25m north east of 68. With this in mind, I am content that there will be sufficient visual linkage between the site and this registered group of buildings notwithstanding that the Hillhead Road bisects the site with the existing farm group.

I note that the policy states that where practicable that access should be taken from an existing lane, I note that the intention is to construct a new access arrangements onto Hillhead Road. From this I am content that the dwelling would be able to comply under this policy test.



**Fig. 1 Aerial overview of site and existing farm group 25m NE of No 68 Hillhead Rd.**

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 the site does sit higher than that of the registered farm address, in which I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. In which as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to aid integration. Therefore, a landscaping plan will be needed in any reserved matters application.

Given the landform I feel it necessary to restrict the ridge height of any dwelling to have a ridge height of no more than 7m above finish floor level. In addition, I feel it necessary to restrict the siting of any dwelling to the upper portion of the site along the roadside in line with the development pattern in the area. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. I am content that this application is unlikely to lead to further development through infilling. From all of this it has been agreed that the application is able to comply with CTY 14 on balance.

Planning Policy Statement 3, Access, Movement and Parking Policy AMP3 access onto a Protected Route will only be granted for a development involving a direct access, or intensification of use of an existing access onto a Protected Route. As this development is a farm dwelling that involves the construction of a new access arrangements is not included as one of the cases referred to in policy AMP3 the proposed development is contrary to Policy and should be refused.

#### **Other policy and 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 28<sup>th</sup> 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 ecological, flooding or residential amenity concerns. The south east section of the site shows on the flood maps as service water.

#### **Summary of Recommendation:**

In consideration of the above, it is my opinion that planning permission should be refused for the following reason

**Reasons for Refusal:**

The proposal is contrary to PP3, Access, Movement and Parking and Policy AMP 3 that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	28th July 2020
<b>Date First Advertised</b>	11th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 17 Aughrim Lane Toomebridge Toome The Owner/Occupier, 19 Aughrim Lane Toomebridge Toome The Owner/Occupier, 5 Blackpark Road Toomebridge Toome The Owner/Occupier, 50 Blackpark Road Toomebridge Toome The Owner/Occupier, 53 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, 53a Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, 60 Hillhead Road Creagh Londonderry The Owner/Occupier, 62 Hillhead Road Toome Londonderry The Owner/Occupier, 68 Hillhead Road Creagh Londonderry The Owner/Occupier, 70 Hillhead Road Creagh Londonderry	
<b>Date of Last Neighbour Notification</b>	14th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0908/O Proposal: Proposed dwelling and garage Address: 25m North East of 68 Hillhead Road, Toomebridge, Decision: Decision Date:  Ref ID: H/2003/0230/O Proposal: Site of dwelling and garage. Address: 60 Metres North West of 55 Hillhead Road, Castledawson.	

Decision:  
Decision Date: 07.11.2005

Ref ID: H/1998/0450  
Proposal: REPLACEMENT SEPTIC TANK  
Address: 9 AUGHRIM LANE CREAGH  
Decision:  
Decision Date:

Ref ID: H/1990/0560  
Proposal: H.V. O.H. LINE BM 0464/90  
Address: AUGHRIM LANE CREAGH MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1995/0246  
Proposal: SITE OF DWELLING AND GARAGE  
Address: ADJ TO 9 AUGHRIM LANE TOOMEBRIDGE  
Decision:  
Decision Date:

Ref ID: H/2014/0145/F  
Proposal: Proposed repositioning of entrance to existing dwelling  
Address: 55 Hillhead Road, Toomebridge, BT41 3SP,  
Decision: PG  
Decision Date: 22.12.2014

Ref ID: H/2007/1052/F  
Proposal: 1.Change of house type to that previously approved under current permission H/2005/0805/F. 2.Detached domestic garage (garage retrospective)  
Address: 55 Hillhead Road, Toomebridge  
Decision:  
Decision Date: 15.04.2008

Ref ID: H/1981/0364  
Proposal: SITE OF BUNGALOW  
Address: HILLHEAD ROAD, THE CREAGH, CASTLEDAWSON  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



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

## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

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



<b>ANNEX</b>	
<b>Date Valid</b>	11th September 2020
<b>Date First Advertised</b>	29th September 2020
<b>Date Last Advertised</b>	14th September 2021
<b>Details of Neighbour Notification</b> (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

<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	

ES Requested	Yes /No
<p><b>Planning History</b></p> <p>Ref ID: H/1993/0086  Proposal: SITE OF DWELLING &amp; 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**

<b>Drawing Numbers and Title</b>
----------------------------------

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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Type:  
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:



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

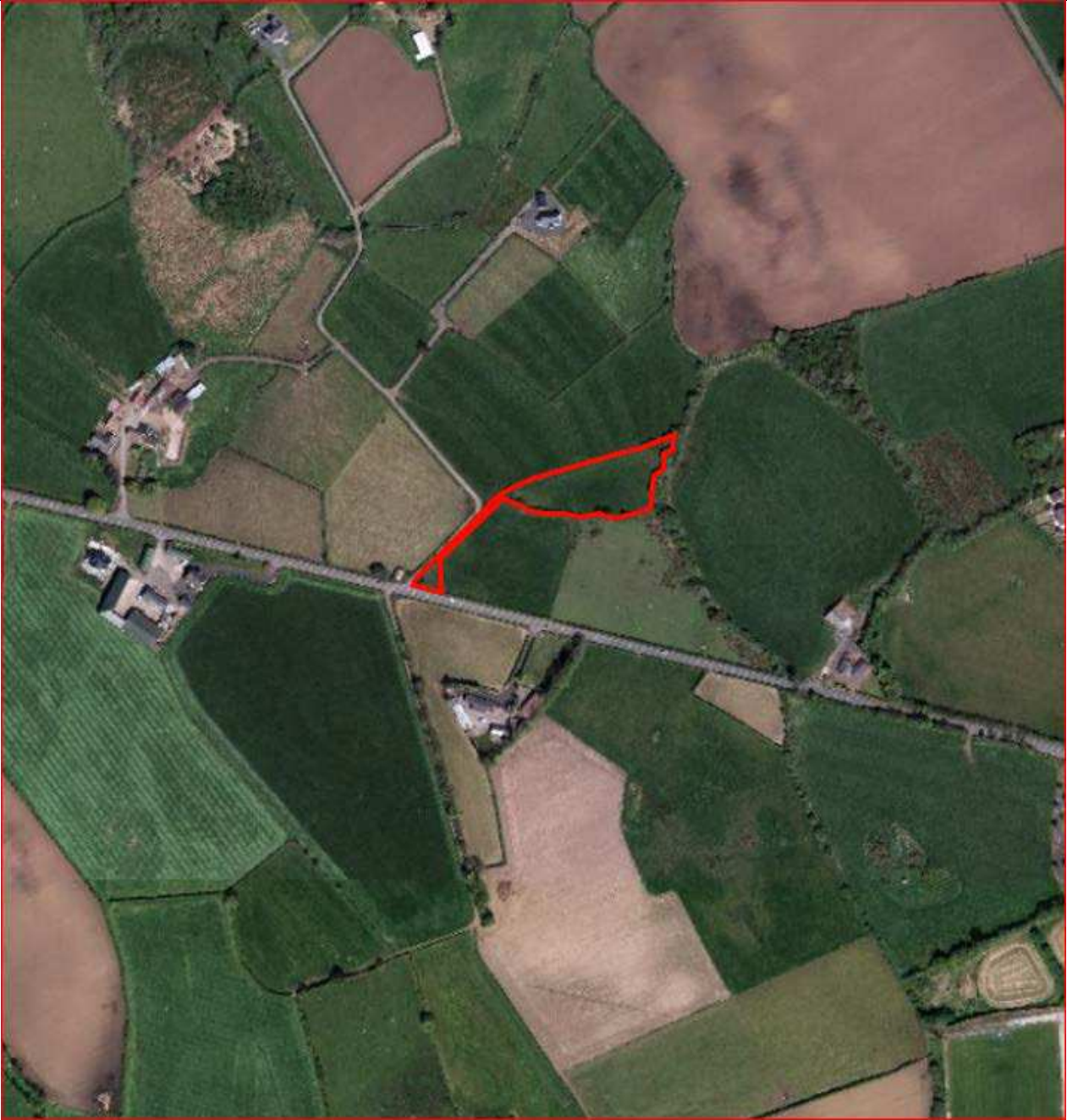
## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1630/O	Target Date:
Proposal: Proposed Farm Dwelling and Garage	Location: 200m North East of 51 Gulladuff Road Magherafelt
Referral Route:  This application is being presented to Committee as it is being recommended for Refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Mr Eoin Patrick Bennett 1 Clarkes Drive Gulladuff BT45 8RL	Agent Name and Address: CMI Planners Ltd 38 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
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
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 including representations	
No objections have been received in respect of this application.	
<p>Characteristics of the Site and Area</p> <p>The site is located approx. 200m NE of 51 Gulladuff Road, Magherafelt within the countryside as identified within the Magherafelt Area Plan 2015. The red line of the site includes an agricultural field set back from the Gulladuff Road to the rear of a second field which is outlined in blue, indicating ownership. The boundaries of the site are defined by existing hedging with a semi-mature thorn hedgerow along the southern boundary. There is a private laneway running parallel to the proposed laneway and provides direct from the Gulladuff Road to dwellings at No's. 48, 52 and 54. This laneway is bounded by a semi-mature thorn hedgerow. The site sits approximately 1m below the level of the Gulladuff Road which is bounded by a low cut thorn hedgerow set to the rear of a 1m wide grass verge. The lands are generally quite flat throughout although they fall away gently from the road and views of the site will be somewhat limited from public viewpoints given it is setback slightly from the roadside. The surrounding area is predominantly rural with scattered dwellings and their associated outbuildings. The Gulladuff Road, A42, is designated as a Protected Route.</p> <p>There are no other buildings either on the site although there is a small single shed measuring approximately 8.3m x 5.7m on a roadside site immediately adjacent to the western side of the existing laneway and which is set back around 3m from the road edge.</p> <p>Gulladuff settlement limit is located approx. 310m east of the site.</p>	
<p>Description of Proposal</p> <p>This is an outline application for farm dwelling and garage. The proposed development is being sought under PPS21 – CTY10 dwellings on farms.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Planning History</p> <p>H/2004/0843/O – Site of dwelling house and garage for Thomas Moore – Withdrawn 31.10.2005</p> <p>LA09/2019/0252/O – Farm dwelling and garage for Mr James McPeake – Withdrawn 07.12.2020</p> <p>Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.</p> <p>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</p>	

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.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is for a site for a dwelling in an undesignated rural area and is linked to a farm business.

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

#### CTY 10 – Dwellings on Farms

Planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

- DAERA's consultation response confirmed that the business has been in existence for more than 6 years however, the farm business has not claimed either single farm payments nor other Agri Environment payments in any of the last six years. DAERA have also advised that the proposed site is located on land which is currently being claimed by another farm business.  
In an attempt to show how the applicant's farm business is currently active, the following statement has been provided:-  
The previous application on the site, LA09/2019/0252/O was in the name of James McPeake (aka Seamus) ;  
James has a Category 1 business number allocated in 2010 and claims single farm payment on the application lands.  
James' daughter Attracta was gifted these lands as a wedding present . She is married to the current applicant Eoin Bennett.  
Eoin has his own Category 1 farm business number allocated in 2005 and has worked and maintained these application lands for the last 8 years;  
Eoin and Attracta have no farm buildings and currently live in a housing development within Gulladuff village.  
Notwithstanding the above, the submitted information raises the question, how does the applicant farm the lands subject of the application, or how is his holding active. No evidence has been provided, other than the above statement, to prove that the applicant is involved in any way with these lands, let alone farming them for the past 8 years. The previous application LA09/2019/0252/O clearly stated that the lands were owned by James McPeake who farmed them with his brother Brian.
- A planning history check of the farm shows that no dwellings or development opportunities in the countryside have been sold off from the farm holding since 25th November 2008.
- Policy CTY 10 also requires any such new building to be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access should be obtained from an existing lane.

There are no buildings located the proposed site or within the two fields identified on the applicant's holding, therefore the site is not visually linked nor is it sited to cluster with buildings on the farm. The policy does however, allow for consideration to 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).  
However, as these are the only field which appear on the applicants holding, they do not have the potential to locate a dwelling elsewhere.

Policy CTY 10 also states that 'In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.'

CTY 13 – Integration and Design of Buildings in the Countryside provides for buildings to be approved in the countryside where they can be visually integrated into the surrounding landscape and are of an appropriate design. However, as there are no buildings on the applicant's holding as identified by the farm maps, any dwelling cannot therefore be sited with such farm buildings.

With regards to the proposed site, a dwelling with a ridge height of 5.5m above finished floor levels and an under-build of not more than 0.45m above existing ground level would achieve an acceptable degree of integration, provided the existing north-western and southern boundaries are retained at their current heights as a minimum. This would be required as the existing roadside hedgerow on the eastern side of the proposed access would have to be removed to provide the required visibility splay. In providing such a splay would open up views towards the site from the public road thereby making it essential that the existing boundaries are retained. There is also a public interest from the adjacent laneway which serves three dwellings. However, from this laneway, a dwelling conditioned as detailed above would achieve an acceptable degree of integration provided the existing boundaries are retained.

#### CTY 14 – Rural Character

This is an application for a site for a dwelling on a farm holding that is sited away from any existing farm buildings. A dwelling on the proposed site would not be contrary to the requirements of this policy as it could achieve an acceptable degree of enclosure and would be viewed in isolation from any existing buildings. A dwelling on this site would respect the traditional pattern of development in the area as existing dwellings are mainly set well back of the public road with little visual impact.

The proposal is therefore acceptable under this policy.

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

Policy AMP 3 Access to Protected Routes (Consequential Revision) allows for such developments to access onto a protected route in certain circumstances. This includes a dwelling on a farm which meets the requirements of Policy CTY 10. However, in such instances, approval will only be granted in cases where the access cannot reasonably be obtained from an adjacent minor road.

The proposal is to develop a dwelling on a site which accesses directly onto the A42 Protected Route. The applicant only has the two fields identified at this location and therefore does not have the potential to site the dwelling at another location. However, the policy provision clearly states that planning permission will only be granted for a development proposal involving access onto a protected route in the case of a site for a farm dwelling where it would meet the criteria set out in Policy CTY 10 and access cannot be 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.

However, as in this case, even if it were accepted that the farm business is active and established and that it would meet the policy tests for a dwelling on the farm, access to the proposed site is not being taken from an existing access onto the Protected Route and consequently it fails the policy tests in that regard.

DfI Roads recommend the application be refused as it is contrary to this policy in that it would result in the creation of a new vehicular access onto a Protected Route thereby prejudicing the free flow of traffic and conditions of general safety.

CTY 16 – Development relying on non-mains sewerage advises that planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. As this is a rural site and P1 application form states that foul sewage will be disposed of via a septic tank, it is not envisaged that there will be an issue with pollution.

#### PPS 15 – Planning and Flood Risk

DfI Rivers advised that the site is not within but lies adjacent to the 1 in 100 year fluvial flood plain which bounds the site to the east and therefore they recommend that any dwelling be allowed an additional freeboard of 600mm. A 5m maintenance strip is also requested along an undesignated watercourse flowing along the eastern boundary of the site. This maintenance strip should be protected by way of a condition and kept free of any impediments.

#### Recommendation

On consideration of the above, it is my opinion that the proposal fails to meet the requirements of Policies CTY 1, 10 of PPS 21 and Policy AMP 3 of PPS 3 for the reasons as stated below:-

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

Refuse for the reasons stated below.

#### 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 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;  
the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
3. 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 onto a Protected Route thereby prejudicing the free flow of traffic and conditions of general safety.

Signature(s)

Date:

ANNEX	
Date Valid	17th December 2020
Date First Advertised	12th January 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	21.09.2021
Date of EIA Determination	N/A
ES Requested	No
Planning History  Ref ID: LA09/2020/1630/O Proposal: Proposed Farm Dwelling and Garage Address: 200m North East of 51 Gulladuff Road, Magherafelt, Decision: Decision Date:  Ref ID: H/2003/1277/F Proposal: Housing development - semi-detached and detached. Address: Adjacent to Clarkes Court and Oakland Crescent, Gulladuff. Decision: Decision Date: 14.12.2005  Ref ID: H/1981/0099 Proposal: SITE OF HOUSING DEVELOPMENT Address: GULLADUFF, MAGHERAFELT Decision: Decision Date:  Ref ID: H/1986/0145 Proposal: HOUSING DEVELOPMENT 17 NO DWELLINGS Address: GULLADUFF HILL ROAD, GULLADUFF, MAGHERAFELT Decision: Decision Date:  Ref ID: H/1974/0253 Proposal: LAYOUT OF HOUSING DEVELOPMENT	

<p>Address: GULLADUFF, MAGHERAFELT Decision: Decision Date:</p> <p>Ref ID: H/1981/0240 Proposal: MV O/H LINE (BM 4786) Address: GULLADUFF, MAGHERAFELT Decision: Decision Date:</p>
<p>Summary of Consultee Responses</p> <p>DAERA advised that the site is located on land associated with another farm business</p> <p>DfI Roads recommended that the applicaiton be refused as it creates a new vehicular access onto a Protected Route.</p> <p>DfI Rivers advised that the site is not within but lies adjacent to 1 in 100 year fluvial flood plain which bounds the site to the east.</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



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

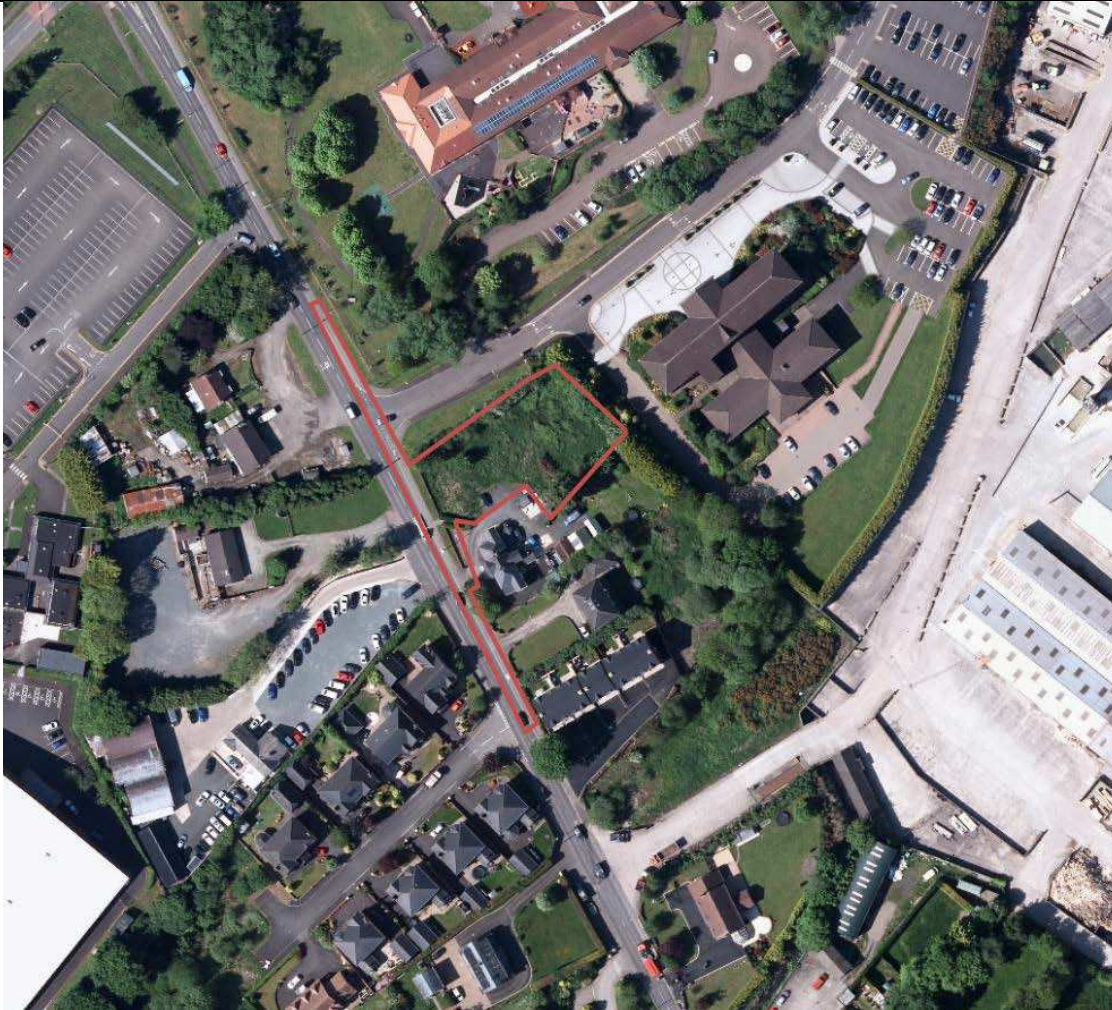
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0015/F	<b>Target Date:</b>
<b>Proposal:</b> The construction of 15 No. CAT1 (active elderly) apartments. Incorporating of 1 No. 3p2b Wheelchair Apt. 1 No. 2p1b Wheelchair Apt. 11 No. 3p2b Apts. & 2 No. 2p1b Apts. with associated car parking and landscaping.	<b>Location:</b> Lands to the side and rear of 52 Ballyronan Road Magherafelt
<b>Referral Route:</b> Approval is recommended however Statutory Consultee DFI Roads have raised concerns with parking shortfall.	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> T and M Scullion Ltd 2 Fallaghloon Road Maghera	<b>Agent Name and Address:</b> Mc Girr Architects Ltd 670 Ravenhill Road Belfast BT6 0BZ
<b>Executive Summary:</b> Proposal considered against prevailing planning policy and all material considerations below. It is considered the proposal complies with the relevant policy and no letters of representation received. DFI Roads concerns considered in more detail below and relate to parking shortfall.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DfI Roads – Enniskillen	Advice
Statutory	DfI Roads – Enniskillen	Standing Advice
Non Statutory	NI Water – Multi Units West	Substantive Response
Non Statutory	Environmental Health Mid Ulster	Substantive Response
Statutory	Rivers Agency	Substantive Response
Non Statutory	Environmental Health Mid Ulster	Substantive Response

#### Representations:

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

#### Characteristics of the Site and Area

The proposal site is located within the settlement limits of Magherafelt, outside the town centre as defined in the Magherafelt Area Plan 2015 (MAP). The site comprises a small vacant plot of land located between Kilronan School and the semi-detached properties

No.52-56 Ballyronan Road. Mid Ulster District Council offices are located immediately to the rear of the application site. The frontage of the site is defined by a low wooden fence with the southern boundary currently relatively undefined. The NE and NW boundaries are defined by mature trees and hedging. Site ground level appears to be at a slightly lower level to that of the adjacent Ballyronan Road network. The surrounding character is urban with a mix of land uses including Meadowbank Sports Arena, Ronan Valley Business Park, golf course and a commercial car sales business opposite the site. The predominant land use to the south is residential.

### **Description of Proposal**

This application seeks full planning permission for 15no. Apartments located to the side and rear of 52 Ballyronan Road, Magherafelt.

### **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
- PPS 7 - Quality Residential Environments
- PPS 3 - Access, Movement and Parking
- Planning Policy Statement 15 - Planning and Flood Risk
- Creating Places
- DCAN 8

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 28<sup>th</sup> 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.

### **History on Site**

H/2005/1136/O – Site of Housing Development - Rear of 52 Ballyronan Road – Permission Granted 24/01/07

### **Representations**

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

### **Key Policy Considerations/Assessment**

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

Paragraph 4.12 of the SPPS states amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas. Design and layout considerations will be considered further in this report. Consultation with NIW confirmed that there is available capacity for waste water treatment facilities at Magherafelt however they have advised the sewer network is capacity therefore have recommended no further connections are made to this network. This was considered at internal group with the Principal Planner and it was agreed that should planning permission be forthcoming it will be necessary to condition that no development should take place on site until the developer demonstrates an acceptable method of sewage disposal agreed with NI Water and provided in writing to Mid Ulster District Council. The SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It does not present any change in policy direction with regards to residential development in settlements than that provided under PPS7.

Magherafelt Area Plan 2015 is the statutory local development plan for the application site. The application site is located within the defined settlement limits of Magherafelt, located on white land with no specific zoning or designation. Plan Policy SETT 2 Development within Development Settlement Limits states favourable consideration will be given to development proposals within settlement limits provided that the proposal:

- is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials;
- is where applicable, in accordance with any key site requirements contained in Part 4 of the Plan.

The proposal site is not subject to any key site requirements. The scale, form, design and use of materials are considered acceptable and are considered in more detail below.

This proposal seeks full planning permission for 15no. Apartments comprising 3no. 1 bedroom apartments and 12no. 2 bedroom apartments. Drawing 02 Rev 1 and 03 Rev 1 date stamped 17<sup>th</sup> June 2021 provides details on the proposed siting, design, scale and access arrangements. Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD 1 of PPS 7 sets out the policy framework under which

applications of this nature should be assessed. The proposal has been considered against all criteria outlined under Policy QD1.

- a) The proposal is located on urban Whiteland with no specific zoning or designation within the settlement limits of the Magherafelt. There are varying land uses in the immediate context. The principle of residential development is generally acceptable within the development limit of Magherafelt and this proposal respects the use of the surrounding urban area and residential is considered compatible to the surrounding setting. The proposal comprises 15no. Apartments within one large block which will respect the building line along Ballyronan Road.
- b) No protected archaeological or built heritage features identified have been identified within the site or in close proximity thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests.
- c) Drawing 02 Rev 1 indicates some degree of shared open space surrounding the proposed building which would equate to approx. 15m<sup>2</sup> per apartment. Drawing 02 Rev 2 indicates a small area to the rear of the building as private amenity space on. Following internal discussions it is considered this is acceptable as communal space for residents in this instance given the location and that public open space and that public open space is available within Magherafelt Town which can be utilised by residents and can be accessed by car or foot
- d) The proposal site is situated within the settlement limits of the Magherafelt thus existing neighbourhood facilities are available in the locality. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area and the scale of development does not merit the provision of its own standalone facilities.
- e) The location of this site within the settlement limits of Magherafet supports walking and cycling and there is convenient access to public transport. The adjacent public road network would generate a high level of traffic as a key road into the town centre from the Magherafelt by pass. DFI Roads have been consulted and have raised no objections to the proposal in terms of access arrangements, however have raised concerns with respect parking which will be considered below.
- f) Parking Standards would indicate that this proposal for 4 two bed apartments and 11 two bed apartments (15 in total) requires 22 unassigned parking spaces. 15 in-curtilage spaces are being provided, leaving a shortfall of 7 spaces. The submitted TAF arguing that as the intended occupants of the proposed apartments will be category 1 active elderly social housing occupants, this justifies a reduction in parking standards. They rely on DCAN 8 Paragraph 3.37 which states a reduction in car parking provision may be appropriate where: a site enjoys a high level of pedestrian accessibility to local facilities and the public transport network; or car ownership among future residents is likely to be below average. Whilst the application is intended for social housing, the occupancy of the proposed apartments cannot be controlled. The applicant has also submitted

a Parking Survey which concludes that 5+ spaces are available within Meadowbank public car park between 9am-9pm and there is available on-street parking available for 5+ vehicles between 7am-7pm in a number of locations within 1.5 minute walk of the site. The Parking Shortfall has been considered at an internal group meeting with the Principal Planner and it was considered given the town centre location and surrounding availability of public and on street parking, the shortfall is considered acceptable in this instance. DFI Roads have been consulted with the Parking Survey and have stated that if Council are content with Parking Provision, they have no objections to the proposal subject to standard conditions. It is not considered that the proposal will conflict with existing land uses.

- g) The proposed building recognises the original characteristics of the area in terms of size, scale, form and materials. The critical elevation onto Ballyronan Road incorporates the appearance of a two storey projection to the front with a larger three storey section to the rear. The design and finishes of the proposed apartment block are in keeping with other buildings in the area and the finish of red brick respects and is in keeping with surrounding built form. The scheme is not dominated by large expanses of glazing and there is a good solid to void ratio. Roof pitches are reflective of buildings on Ballyronan Road and there are other three storey buildings located in close proximity within Sycamore Drive and MUDC Office.
- h) This proposal is residential in nature, there is a mix of land uses in the surrounding area and I do not consider the proposal will conflict with adjacent land uses. Generally, residential developments by their nature do not generate an unacceptable level of noise, odours or emissions which would impact on residential amenity. It is noted that Ronan Valley Business Park is located in proximity which is zoned as an area of existing major industry and includes a number of existing industrial businesses. Environmental Health were consulted and have identified the Ballyronan Road may give rise to excessive noise from traffic and suggested the imposing of a condition to any forthcoming approval to demonstrate that the residential amenity will not be impacted by traffic noise by submitting a noise assessment. It was considered necessary to consider this prior to planning approval being granted and the applicant subsequently submitted a Noise Impact Assessment. EHD have provided further consultation response outlining no concerns subject to conditions. Kilronan School is located directly north of the site separated by the access road to the School and MUDC Offices. Apartments 1, 3, 7 and 12 are located approx. 21 metres from the boundary with the school. The proposed apartment block is set back on the site and is approx. 21m to the rear of No.52 which is the closest third party dwelling. The existing boundary treatment of the school is palisade fencing and mature trees. The proposal includes retention and enhancement where necessary of the existing mature vegetation boundary treatment which will ensure the proposal will not result in unacceptable overlooking. The ridge height of the proposed apartment block is 11m at the highest point, having considered overshadowing it is considered that any loss of light will be limited and restricted to early mornings for property No.49 and No.51 and late evening for MUDC offices and the rear garden of No.52. It is not considered there will be a significant impact in terms of

overlooking, loss of light and overshadowing to warrant refusal or cause an unacceptable adverse impact on neighbouring amenity.

- i) I am satisfied that the overall development is considered to be designed to deter crime and promote personal safety. In-curtilage parking is provided and street lighting exists along the adjacent public roads.

**PPS 7 (Addendum) Safeguarding the Character of Established Residential Areas**

I am satisfied that, in principal, this proposal complies with Policy LC 1, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this locality where there is a mix of dwellings and apartments. In terms of keeping with the established character of the area, the proposal is residential in nature which is acceptable in the surrounding context. The pattern of development in the immediate area is a mix of large two and three storey buildings and I consider the type of building proposed, would not have an impact on the overall character and environmental quality of this area. All proposed apartments are in excess of the acceptable size as set out in Annex A of this policy.

**Additional Considerations**

Rivers Agency were consulted on this application and have advised that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain, however the site is shown to be within the climate change flood plain. The updated DFI Technical Flood Risk Guidance in relation to Allowances for Climate Change in Northern Ireland has been considered. Having considered the guidance and discussed the application at internal group and in light of the fact that DfI Rivers have advised they have no objection to this development in relation to Revised PPS 15, Planning and Flood Risk, FLD 1 we are content on this basis. Rivers Agency also advise that a designated culverted watercourse traverses the site, it is considered necessary to include a condition to any forthcoming approval that a suitable maintenance strip of minimum 5m is provided in order to facilitate replacement, maintenance or other necessary operations. Having considered the application at internal group with Principal Planner, it was considered that a Drainage Assessment is not required under Policy FLD3 as the proposal relates to one large unit rather than more than 10 separate dwelling units therefore the threshold to consider this policy has not been met.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval subject to the below conditions is recommended.

**Conditions**

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

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

2. The existing mature trees and vegetation along the NE, NW and SE boundaries shall be permanently retained at a minimum height of 1.5 metres 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.

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

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

4. All planting and boundary treatment comprised on drawing number 02 Rev 1 bearing date stamp 17th June 2021 shall be carried out prior to the occupation of any of the dwellings hereby approved and any trees or shrubs which, within a period of 5 years from the occupation of the dwellings, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity and to ensure the protection of residential amenity.

5. No development hereby permitted shall take place until a 5 metre level maintenance strip as agreed with DFI Rivers is provided to be protected from impediments, land raising or future unapproved development.

Reason: To ensure protection from impediments in relation to potential flooding issues.

6. The vehicular access including minimum visibility splays of 2.4 x 70 metres shall be provided in accordance with Drawing No 08 bearing the date stamp 17 June 2021 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.

7. The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a 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 user.

8. No occupation or operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently

marked in accordance with the approved Drawing No 08 bearing the date stamp 17 June 2021 to provide facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

9. No development hereby permitted should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) and full details have been provided to Mid Ulster District Council.

Reason: To ensure that a satisfactory means of sewage disposal is achieved and in the interest of safeguarding residential amenity and public health.

10. Glazing capable of providing a sound reduction as specified in the table below shall be provided to all habitable rooms as denoted in Figure A of the Acoustic Assessment (Reference 40-84; date stamped 15<sup>th</sup> November 2021) prior to the occupation of any unit.

Facade	Required Façade Sound Reduction of dB $R_{Tra}$ ( or $R_w + C_{tr}$ ) or greater	
	Daytime Room	Night-time Room
West	26	26
North	26	26
South	23	23
East	23	23

Reason: To protect residential amenity from transport noise.

11. Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 26 dB  $R_{Tra}$  when in the open position, shall be provided to all habitable rooms. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, "The Building Control Technical Booklet K – Ventilation 1998."

Reason: To protect residential amenity from transport noise.

### **Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under



other prevailing legislation as may be administered by the Council or other statutory authority.

4. The applicant's attention is drawn to NI Water Consultation Response dated 8<sup>th</sup> February 2021.
5. The applicant's attention is drawn to Rivers Agency Consultation Response dated 9<sup>th</sup> May 2021.
6. The developer, future purchasers and their successors in title should note that the access way and parking areas associated with this development are, and will remain, private. The DfI Roads has not considered, nor will it at any time in the future consider, these areas to constitute a "street" as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. Responsibility for the access way and parking areas rests solely with the developer.
7. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the DfI Roads for which separate permissions and arrangements are required.
8. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.
9. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.

**Signature(s)**

**Date:**



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 07/12/2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0090/F	<b>Target Date:</b>
<b>Proposal:</b> Replacement access laneway to dwelling (Amended Access)	<b>Location:</b> 37 Mullybrannon Road Dungannon.
<b>Referral Route:</b>  1. Objection from 1 third party.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Farasha Properties LTD 34 Culrevog Road Dungannon BT71 7PY	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b> There has always been an access to this site and LA09/2019/0145/O granted approval for a replacement dwelling along the lane. The applicant now has a proposal to retain the existing lane for agricultural use and have a new lane to the dwelling at 37 Mullybrannon Road and a dwelling under consideration a LA09/2021/0091/F which is also a replacement dwelling.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### 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

#### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with predominately agricultural fields, farm holdings and dwellings on single plots. To the north of the existing access lane to the site is a single storey and two storey dwellings with roadside frontages onto Mullibrannon Road. There are no other dwellings to the south of the access lane.

The Mullibrannon Road rises up from north to south where it flattens off just beyond the south side of the access. At the junction with Mullibrannon Road there is an existing

access lane and to the south of this lane land has been cleared for another lane which is the subject of this application.

At the site is an existing single storey building which is currently being used as a farm building. The building is finished in pebbledash walls and natural slate roof tiles. There are a number of tiles missing from the roof. There is also a dwelling under construction in the adjoining site. Along the southern boundary of the lane is a post and wire fence and the northern boundary of the adjacent lane has hedging.

### **Description of Proposal**

This is a full application for a replacement access laneway to dwelling (Amended Access) at 37 Mullybrannon 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.

### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty.

As shown in figure 1 below at the time of my initial site visit on the 24<sup>th</sup> February 2021 there was a dwelling under construction and thus the dwelling has not been neighbour notified.



Figure 1 – Dwelling under construction on adjoining site at Feb 2021



Figure 2 – Adjacent dwelling on 2<sup>nd</sup> site visit on 24<sup>th</sup> June 2021 and is still unoccupied.

At the time of writing, one third party objection has been received from Mr Brian Curran at No. 35 Mullybrannon Road. His dwelling is 48m north of the access lane to the application site. In his email dated 25<sup>th</sup> June 2021 Mr Curran raised a number of concerns about the proposal.

1. Principle – that the land should remain for agricultural. In response anyone can apply for planning permission on land within the countryside and it will be assessed whether it meets any of the policies.

2. Overlooking – The proposed laneway would lead to private areas of our lane bring overlooking by one using the lane. In rebuttal the laneway is 48m away from No. 35 and the applicant has proposed planting along both sides of the laneway. I am content there will not be unacceptable overlooking to No. 35 from the laneway.

3. Overshadowing – The addition of lights on the laneway will result in overshadowing to No. 35's living room. In rebuttal, the applicant has not proposed lights on the laneway and I am content there is sufficient separation distance between the lane and No. 35 for their not to be unacceptable overshadowing.

4. Disturbance – When vehicles access the proposed laneway noise can be heard in No. 35's living room. In rebuttal, there was already a laneway to the dwelling at No. 35 and this proposed is for a new shared laneway to No. 35 and the dwelling under consideration at LA09/2021/0091/F. I consider there will not be unacceptable disturbance due to the proposal.

5. Out of Character – The design of the proposed laneway is out of character with the surrounding area as there will be three laneways. In rebuttal, the applicant had originally proposed 2 laneways to the dwellings and retaining the agricultural lane. After discussions with the agent this has now been reduced to retaining the existing lane for agricultural use and a new laneway to serve the dwelling under construction at No. 35 and the other replacement dwelling still under consideration.

6. Road Safety – The objector has concerns about another access onto a narrow single track road. DFI roads were consulted about the proposal when it was three lanes and responded with no concerns and it has since been reduced to two lanes which is a lesser scheme.



## **Planning History**

### Application site history

LA09/2019/0145/O - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon, BT71 7ER – Permission Granted 19.04.2019

LA09/2019/0818/RM - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon – Permission Granted 11.09.2019

### Adjacent site

LA09/2021/0091/F - Proposed dwelling and garage (Amended Access and Additional Landscaping) - 150m South West of 35 Mullybrannon Road, Dungannon – Under Consideration

## **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 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010 and is not within any other designations or zonings in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

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

### **Policy AMP 2 – Access to public roads**

LA09/2019/0145/O and LA09/2019/0818/RM granted approval for a replacement dwelling at No. 37 Mullybrannon Road. There is an existing lane to this site and as it was a replacement there was no statutory requirement to consult DFI Roads or upgrade the access. As shown in figure 3 below as part of this approval established trees along the lane were supposed to be retained and as shown on figure 4 these have been removed but for one tree.



Figure 3 – Screenshot of the approved block plan for LA09/2019/0818/RM



Figure 4 – Photograph from the site visit showing the clearing of land for the access proposed in this application

In initial drawings submitted by the applicant it was proposed to retain the existing lane for agricultural use and have two new lanes. Roads accepted the principle of two lanes but in discussions with my senior planner it was agreed this was unacceptable. I consider three lanes would lead to a proliferation of accesses

The proposal for two lanes will not prejudice road safety and I am content the scale of the development is acceptable. Along both sides of the additional lane to the dwellings, new landscape planting of trees and hedging has been proposed. I am content this will address concerns stated by the objector about privacy and disturbance created by an additional lane.

### **CTY 13 Integration and CTY14 Rural Character in PPS 21**

There will only be critical views of the access when directly in front of the access along Mullybrannon Road. I am content as the applicant has proposed new landscaping along the lane this will assist in integrating it into the landscape.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

The proposal is recommended for approval as it meets the criteria in AMP 2 and CTY 13 and CTY 14 in PPS 21.

**Conditions**

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

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

2. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 90.0m in both directions shall be provided in accordance with drawing 01 Rev 3 date stamped received 16 SEP 2021. 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.

3. The access shall be paired with the existing access located to the north of the proposed access.

Reason: In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

4. The gradient of the access shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a 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 user.

5. The existing natural screenings of the site, as indicated on approved drawing No 01 Rev 2 date stamped received 15 NOV 2021 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

6. During the first available planting season after the occupation of the building for its permitted use, trees and hedging shall be planted along the boundaries of the access lane in accordance with approved drawing 01 Rev 2 date stamped received 15 NOV 2021.



Reason: In the interest of visual amenity and to ensure the development integrates into the countryside.

### **Informatives**

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

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

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

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

It is the responsibility of the developer to ensure that

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

**Signature(s)**

**Date:**



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 07/12/2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0091/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage (Amended Access and Additional Landscaping)	<b>Location:</b> 150m South West of 35 Mullybrannon Road Dungannon.
<b>Referral Route:</b> 1. Objection from 1 third party.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Farasha Properties Ltd 34 Culrevog Road Dungannon BT71 7PY	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b> I am content there is a dwelling to be replaced under CTY 3. The applicant has originally submitted proposal for a large two-storey dwelling on the site but after consideration it was decided a low ridge single storey dwelling would be more acceptable and integrate better into the landscape. I have no concerns about the design of the dwelling and extensive landscaping has been proposed to mitigate against long distance critical views.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### 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

#### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with predominately agricultural fields, farm holdings and dwellings on single plots. To the north of the existing access lane to the site is a single storey and two storey dwellings with roadside frontages onto Mullybrannon Road. There are no other dwellings to the south of the access lane.

The Mullybrannon Road rises up from north to south where it flattens off just beyond the south side of the access. At the junction with Mullybrannon Road there is an existing access

lane and to the south of this lane land has been cleared for another lane which is the subject of a separate application.

At the site is an existing single storey building which is currently being used as a farm building. The building is finished in pebbledash walls and natural slate roof tiles. There are a number of tiles missing from the roof.

### **Description of Proposal**

This is a full application for a proposed dwelling and garage (Amended Access and Additional Landscaping) at 150m South West of 35 Mullybrannon 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.

### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one third party objection has been received.

At the time of writing, one third party objection has been received from Mr Brian Curran at No. 35 Mullybrannon Road. His dwelling is 48m north of the access lane to the application site and 127m to the nearest gable wall of the proposed dwelling. In his email dated 25<sup>th</sup> June 2021 Mr Curran raised a number of concerns about the proposal.

1. Principle – that the land should remain for agricultural. In response anyone can apply for planning permission on land within the countryside and it will be assessed whether it meets any of the policies.

2. Overlooking – The proposed property would lead to previously private areas of our property being overlooked by at least 5 second floor windows. The applicant had previously submitted drawings for a two storey dwelling but this has since been revised to single storey dwelling with a ridge height of 5.2m. I am content as the proposed dwelling is now single storey and there is a separation distance of 127m to the nearest gable wall of the proposed dwelling there will be not unacceptable overlooking into the private amenity space of No. 35.

3. Overshadowing – The ridge height of hilltop location will result in unreasonable overshadowing. The use of exterior electric lights will prevent the enjoyment of No. 35's living space. In rebuttal, the ridge height has been reduced since the objection was received. I consider the sufficient separation distance, retention of existing trees along the east boundary and proposed landscaping will mitigate against any exterior lighting at the application site.

4. Disturbance - When vehicles access the proposed laneway and dwelling noise can be heard in No. 35's living room. In rebuttal, there was already a laneway to the dwelling at

No. 35 and this proposed is for a new shared laneway to No. 35. I consider there will not be unacceptable disturbance due to the proposal.

5. Overbearing – The scale of the proposed dwelling and hilltop location will have an oppressive impact on our property. In rebuttal, the applicant has since reduced the scale and massing of the proposed dwelling. I am content as there is a separation distance of 127m this is adequate for the proposed dwelling not to feel overbearing to No. 35.

6. Out of Character – The design of the proposed development is out of character with 2no. bungalows and 2no, regular two storey houses in the immediate area. In rebuttal, the applicant has since submitted a revised design and the proposed dwelling has been reduced to single storey. I am content the scale and massing of the dwelling is now in character with the surrounding area.

7. Road Safety - The objector has concerns about another access onto a narrow single track road. DFI roads were consulted about the proposal when it was three lanes and responded with no concerns and it has since been reduced to two lanes which is a lesser scheme.

### **Planning History**

#### **Adjacent site**

LA09/2019/0145/O - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon, BT71 7ER – Permission Granted 19.04.2019

LA09/2019/0818/RM - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon – Permission Granted 11.09.2019

#### **Application site history**

LA09/2021/0090/F – Replacement access laneway to dwelling (Amended Access) - 37 Mullybrannon Road, Dungannon – Application under consideration

### **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 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010 and is not within any other designations or zonings in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not



been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

### **PPS 3 - Replacement Dwellings**

The building to be replaced is single storey with pebbledash external walls and natural slate roof tiles. As shown in figure 1 below there are a number of tiles missing from the roof but I am content the walls are substantially in-tact. There are the remains of a blocked up window on the elevation and shown on figure 2. The building is divided into three rooms. Figures 5 and 6 show the building from the rear and side elevations and there are no windows readily visible. I am content in all probability the building was previously a dwelling and can be considered eligible for replacement.



Figure 1 – Photograph of the building to be replaced.



Figure 2 – Photograph of the remains of the fireplace inside the building





Figure 3 – Photograph of a small window in one of the rooms



Figure 4 – Photograph of a blocked up window on the front elevation and internal door.





Figure 5 – Photograph of a side elevation of the building



Figure 6 – Photograph of the rear elevation of the building

I completed a search for the site on PRONI historical maps and as shown in figure 7 below there has been a building on the site since 1832 – 1846. As the building has a single access lane that divides off to 2no. separate buildings I would be content in all probability this was a dwelling. The building to the south has already been replaced in a separate application and if the building in this application was a shed with that dwelling it more than likely would have been sited beside it and not have a separate entrance.

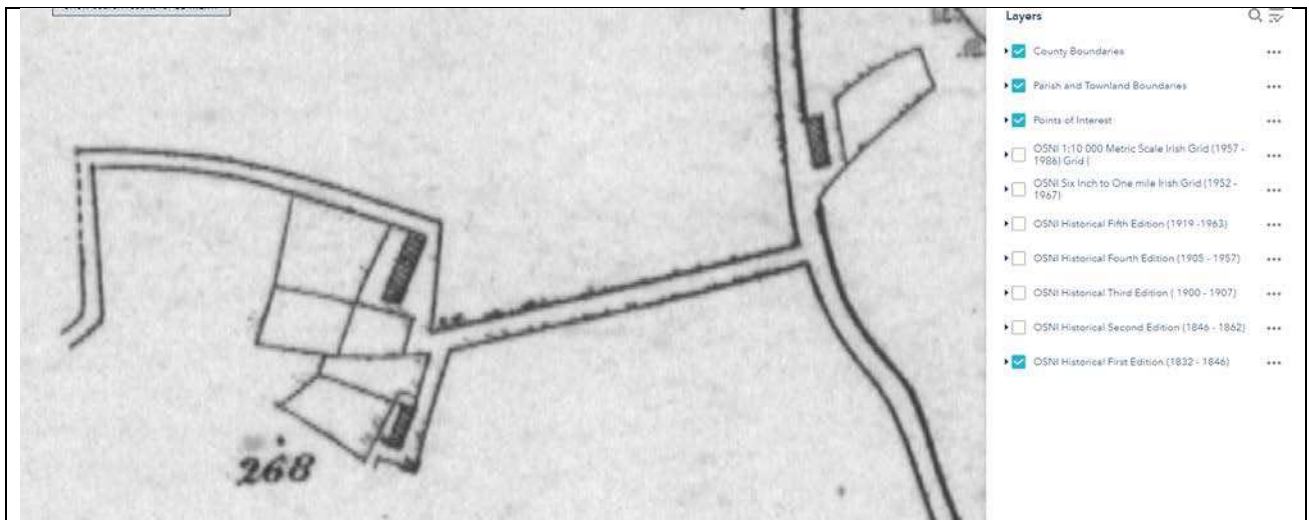


Figure 7 – Screenshot of the application site on PRONI historical maps

I would consider the building is a vernacular dwelling as it is single story with a long rectangular form and there are three rooms are connected internally. There is a single entrance from the front and the majority of the windows have a vertical emphasis and are on the front elevation. There is a chimney in a room which is accessed off the main door which would have been the kitchen area.

I consider the dwelling does not make an important contribution to the character of the local area as it is set back from Mullybrannon Road and there are minimal critical views from this road. There are only long distance views from the main Dual Carriageway between Dungannon and Ballygawley. The applicant has not proposed to retain the building as the new access will go through the location of the existing building.

I am content the proposed dwelling is sited within the established curtilage of the site which is part of a larger agricultural field. The proposed dwelling will be located approximately 16m from the dwelling to be replaced but as this building is located along the southern boundary of the field, I consider this is to restricted to accommodate a modern family sized dwelling.

In initial drawings submitted by the applicant, a large two storey dwelling was proposed with a ridge height of 8.8m to finished floor level. The site is on elevated land where the topography rises up from the Mullybrannon Road to the site. Initially, it was felt that the large dwelling could be mitigated against by an extensive landscaping scheme with trees and hedging. However, with further consideration especially on the critical views from the Dual carriageway it was agreed to ask the applicant to reduce the size to single storey and reduce the massing. I am content the low ridge height of 5.5m will allow the dwelling to integrate into the landscape.



Figure 8 – Snapshot of the design for the replacement dwelling

As shown in figure 8 above, I am content the design of the proposed dwelling is acceptable as the external finishes are grey slate roof tiles, smooth coloured render walls and natural stone. I consider this will fit with a similar dwelling which is under construction at No. 35. A modest single storey garage is proposed with the same external finishes as the dwelling so I have no concerns.

There is currently an access to the dwelling to be replaced and as this is a replacement dwelling there is no statutory requirement to upgrade the access. However the access arrangements are being dealt with under a separate application for a new access to serve both new dwellings under LA09/2021/0090/F.

Overall, I am content the proposal meets all the criteria in CTY 3 as there is a dwelling to be replaced and the proposal will not have a significantly greater impact than what is currently on site.

### **PPS 13 – Integration and Design of Buildings**

The proposed dwelling is situated on a site which is elevated and the topography rises up from 72.5 at the roadside to 79m at the start of the access but levels off at the site and the land starts to fall away slightly. I am content a single storey will not be a prominent feature at this location and the applicant has proposed extensive landscaping along the lane and around the site. There are critical views of the site from the dual carriageway but the landscaping will mitigate against any critical views. Overall, I am content the proposed dwelling and garage will integrate into the countryside.

### **PPS 14 – Rural Character**

As stated earlier I am content the proposal will not be a prominent feature in the landscape or lead to a suburban style build-up of development. The proposal is to replace an extant dwelling so will not have a greater impact. The single storey dwelling is in character with the surrounding area. Overall, I am content the proposal will not have an unacceptable impact on rural character.

### **PPS 3 Access, Movement and Parking** **Policy AMP 2 – Access to public roads**



LA09/2019/0145/O and LA09/2019/0818/RM granted approval for a replacement dwelling at No. 37 Mullybrannon Road. There is an existing lane to this site and as it was a replacement there was no statutory requirement to consult DFI Roads or upgrade the access. The applicant has proposed a new access to serve the dwellings and Roads were consulted and had no concerns subject to splays of 2.4m x 90m.

### **Other Considerations**

There are no other NED, HED or flooding issues at the site.

<b>Neighbour Notification Checked</b>	Yes
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### **Summary of Recommendation:**

I am content the proposal is recommended for approval as it complies with all the criteria in CTY 3, CTY 13 and CTY 14 in PPS 21 – Sustainable Development in the Countryside.

### **Conditions**

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

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

2. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 90.0m in both directions shall be provided in accordance with drawing 01 Rev 3 date stamped received 16 SEP 2021. 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.

3. The access shall be paired with the existing access located to the north of the proposed access.

Reason: In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

4. The gradient of the access shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a 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 user.

5. The existing natural screenings of the site, as indicated on approved drawing No 04 Rev 1 date stamped received 02 NOV 2021 shall be retained unless necessary to prevent danger to the public in which case a full expansion along with a scheme for

compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

6. During the first available planting season after the occupation of the building for its permitted use, trees and hedging shall be planted along the boundaries of the site in accordance with approved drawing 04 Rev 1 date stamped received 02 NOV 2021.

Reason: In the interest of visual amenity and to ensure the development integrates into the countryside.

### **Informatives**

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

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

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

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

It is the responsibility of the developer to ensure that

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

**Signature(s)**

**Date:**





**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0193/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed single storey extension to shop to include relocation of entrance with internal alterations to layout and provision for additional parking within the curtilage of the site	<b>Location:</b> 125 Mullinahoe Road Ardboe
<b>Referral Route:</b> Approval – objection received.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Cathal Forbes 125 Mullinahoe Road Ardboe	<b>Agent Name and Address:</b> APS Architects LLP 4 Mid Ulster Business Park Cookstown BT80 9LU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### Representations:

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

#### Summary of Issues

There was one objection received in relation to the proposal. The issue raised within this related to land ownership issues. The objection will be discussed in detail later in the report.

## Characteristics of the Site and Area

The site is located at 125 Mullinahoe Road, Ardboe. On site currently is an existing 'Spar' shop with associated petrol pumps and courtyard area. The surrounding area includes a mix of uses, including residential, commercial and recreational. Ardboe Gift centre is located to the north of the site and there is residential properties directly east and south of the red line of the site. The immediate area surrounding the site is quite built up given its location within Ardboe Settlement limits.

## Description of Proposal

Full planning permission is sought for a proposed single storey extension to shop to include relocation of entrance with internal alterations to layout and provision for additional parking within the curtilage of the site.

## Planning Assessment of Policy and Other Material Considerations

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 1, 1a, 2, 2a, 14 Lakeview, 1 Rossa Court and 127 Mullinahoe Road. At the time of writing, one third party representation has been received.

The representation received was an objection to the proposal on the basis that they believe the plans include land which is not owned by the applicant. The objection was not received by one particular name or address and rather the name noted on the representation was 'Lakeview Residents' which we can only assume refers to the properties south and east of the red line of the site, which includes Lakeview Cottages. The objection refers to a grass verge which has been publicly maintained for 40 years. They refer to the applicant recently placing bottle banks on this land. This is not shown on the plans submitted, however a number of bottle banks were evident at the time of the site visit. However, land ownership issues is not something which planning can consider a material consideration and is considered to be a civil matter which should be addressed outside of planning. The applicant/agent has filled in Certificate A on the P1 form which indicates they believe they are in ownership of all of the lands included within their red line and I am content that any planning permission granted will not confer title, it will be the responsibility of the developer to ensure that they control all the lands necessary to carry out any proposed development as per the informative attached, should approval be forthcoming.

### Planning History

There is not considered to be any relevant planning history associated with the site.

### Planning Assessment of Policy and Other Material Considerations

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Cookstown Area Plan 2010
- Planning Policy Statement 3 (PPS 3) - Access, Movement and Parking
- Planning Policy Statement 4 (PPS 4) - Planning and Economic Development
- Local 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 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

The Cookstown Area Plan 2010 identify the site as being within Ardboe Settlement Limits. There are no other specific designations or zonings within the Plan.

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Para 6.278 notes that Policies and proposals for shops in villages and small settlements must be consistent with the aim, objectives and policy approach for town centres and retailing, meet local need (i.e. day-to-day needs), and be of a scale, nature and design appropriate to the character of the settlement. Given the modest scale and nature of the changes proposed, I am content the proposal is in line with the SPPS.

The proposal includes a small single storey extension to the side of the shop and alterations to the front elevation of the shop. There are changes proposed to the parking and access arrangements within the site also. The proposed side extension appears subordinate to the existing building with a number of internal changes to the layout of the shop. There is adequate distance between the proposed extension and any neighbouring properties, with the closest properties from the extension being approx. 25m away. I have no concerns that there would be any loss of light, privacy or overlooking issues for neighbouring dwellings given the distance between the proposed extension and these dwellings. There are changes proposed to the front elevation to create an amended shop front. This includes aluminium and stone cladding and additional glazing to the shop front. I don't feel the changes proposed would have any negative impact on the site or the surrounding area.

Given the setting of the proposed development within Ardboe Settlement limits and noting the current use of the site won't be changing, I don't feel this proposal will have a detrimental impact on the surrounding area. The changes and materials proposed are modest and respectful to the existing character of the surrounding area and therefore are acceptable. I don't feel there will be any detrimental impact on the amenity of neighbouring properties either.

In terms of parking and access arrangements, DfI Roads have been consulted and following the submission of a TAF, DfI Roads raised no objection to the proposal subject to condition. They note there is a 70% increase in formal car parking spaces in relation to the 15% increase in floor space proposed. The parking standards have also been considered in relation to the proposal and we are content that the required parking for the use is provided within the curtilage of the site.

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>  Approval is recommended.	
<b>Conditions/Reasons for Refusal:</b>  1. . The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.  2. No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 03a bearing date stamp 12 August 2021 to provide facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.  Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.  Informatives  1. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the DfI Roads for which separate permissions and arrangements are required.  Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.  It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.  2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.	

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	10th February 2021
<b>Date First Advertised</b>	23rd February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Lake View Cottages,Dungannon,Tyrone,BT71 5AZ The Owner/Occupier, 1 Rossa Court,Ardboe,Dungannon,Tyrone,BT71 5AR The Owner/Occupier, 127 Mullanahoe Road,Dungannon,Tyrone,BT71 5AX The Owner/Occupier, 14 Lake View Cottages,Dungannon,Tyrone,BT71 5AZ The Owner/Occupier, 1a ,Lake View Cottages,Dungannon,Tyrone,BT71 5AZ The Owner/Occupier, 2 Lake View Cottages,Dungannon,Tyrone,BT71 5AZ The Owner/Occupier, 2a ,Lake View Cottages,Dungannon,Tyrone,BT71 5AZ Lakeview Residents Email	
<b>Date of Last Neighbour Notification</b>	21st September 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0193/F Proposal: Proposed single storey extension to shop to include relocation of entrance with internal alterations to layout and provision for additional parking within the curtilage of the site Address: 125 Mullinahoe Road, Ardboe, Decision: Decision Date:  Ref ID: LA09/2018/0762/O Proposal: Proposed gap site for dwelling & garage. (updated Land Ownership and additional Drainage Information) Address: 45m West of 151 Mullanahoe Road, Ardboe., Decision:	

Decision Date:

Ref ID: LA09/2018/1452/O

Proposal: Storey and Half Dwelling

Address: Adjacent to 141 Mullinahoe Road, Ardboe, Dungannon,

Decision: PG

Decision Date: 14.02.2019

Ref ID: LA09/2018/0597/O

Proposal: Proposed 1 1/2 storey dwelling

Address: 30 metres North of 143 Mullinahoe Road Dungannon townland of Mullinahoe,

Decision: PG

Decision Date: 20.08.2018

Ref ID: LA09/2017/0883/F

Proposal: Proposed change of house type

Address: 139b Mullinahoe Road, Ardboe,

Decision: PG

Decision Date: 26.10.2017

Ref ID: LA09/2015/0844/LDE

Proposal: A car dismantling operation and breakers yard and car parts containing end of life vehicles

Address: 145 Mullinahoe Road, Dungannon,

Decision: PG

Decision Date:

Ref ID: I/2002/0052/O

Proposal: Proposed Site for Dwelling

Address: 30 M West of 137 Mullinahoe Road, Ardboe

Decision:

Decision Date: 12.11.2002

Ref ID: I/2006/0870/F

Proposal: Proposed extension's to public bar to include repositioned toilets - extended lounge with additional storage.

Address: 139 Mullinahoe Road, Ardboe

Decision:

Decision Date: 23.03.2007

Ref ID: I/2007/0916/F

Proposal: Proposed single storey dwelling

Address: 30 metres West of 137 Mullinahoe Road, Ardboe, Dungannon



Decision:  
Decision Date: 18.02.2008

Ref ID: I/1995/0468  
Proposal: New dwelling  
Address: APPROX 50M WEST OF 149 MULLINAHOE ROAD ARDBOE  
Decision:  
Decision Date:

Ref ID: I/1992/0510  
Proposal: Bungalow  
Address: ADJACENT TO 143 MULLINAHOE ROAD, ARDBOE, COOKSTOWN.  
Decision:  
Decision Date:

Ref ID: I/1996/0446B  
Proposal: Dwelling  
Address: 60M SOUTH WEST OF 147 MULLINAHOE ROAD ARDBOE DUNGANNON  
Decision:  
Decision Date:

Ref ID: I/1992/0059  
Proposal: Site of bungalow  
Address: ADJACENT TO 143 MULLINAHOE ROAD ARDBOE COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1994/0159  
Proposal: Satellite Dish  
Address: FORBES SOCIAL CLUB KILLYGONLAND COAGH  
Decision:  
Decision Date:

Ref ID: I/1994/0480  
Proposal: Site for dwelling  
Address: APPROX 50M WEST OF 149 MULLINAHOE ROAD ARDBOE  
Decision:  
Decision Date:

Ref ID: I/1993/0371  
Proposal: Change of use from part of Club Premises to a Licenced  
Bookmakers Office  
Address: FORBES KITCHEN SOCIAL CLUB, KILLYGONLAN, COOKSTOWN.

Decision:  
Decision Date:

Ref ID: I/2007/0314/RM  
Proposal: Proposed new dwelling  
Address: Approx 50m West of No. 149 Mullinahoe, Ardboe, Dungannon  
Decision:  
Decision Date: 21.08.2007

Ref ID: I/1992/0404  
Proposal: Bungalow  
Address: ADJACENT TO 143 MULLINAHOE ROAD ARDBOE  
Decision:  
Decision Date:

Ref ID: I/2004/0048/O  
Proposal: Construct a dwelling  
Address: 50 metres west of 149 Mullinahoe Road, Ardboe, Dungannon  
Decision:  
Decision Date: 18.05.2004

Ref ID: I/1996/0446  
Proposal: Site for dwelling  
Address: 60M SOUTH OF 147 MULLINAHOE ROAD ARDBOE  
Decision:  
Decision Date:

Ref ID: I/2001/0744/F  
Proposal: Change of Use from Members Club to Licenced Premises.  
Address: 137 Mullinahoe Road, Ardboe  
Decision:  
Decision Date: 10.01.2002

Ref ID: I/2005/0802/F  
Proposal: Amended elevations & ATM machine added to previously approved shop.  
Address: 125 Mullanahoe Road, Ardboe, Dungannon.  
Decision:  
Decision Date: 16.08.2005

Ref ID: I/2004/0562/F  
Proposal: Proposed new VIVO store, incorporating grocers shop, post office, existing fuel pumps and other goods and services.  
Address: 125 Mullanahoe Road, Ardboe

Decision:  
Decision Date: 11.03.2005

Ref ID: I/2002/0289/F  
Proposal: Erection of 10 No. Dwellings & Garages  
Address: Lands to the rear of 125 Mullinahoe Road, Ardboe  
Decision:  
Decision Date: 07.10.2004

Ref ID: I/1979/0249  
Proposal: STORE  
Address: KILLYGONLAND, ARDBOE  
Decision:  
Decision Date:

Ref ID: I/2002/0005  
Proposal: Renovations and extensions.  
Address: 125 Mullanhoe Road, Ardboe, Cookstown.  
Decision:  
Decision Date: 26.06.2002

Ref ID: I/1980/0181  
Proposal: PROPOSED INSTALLATION OF ONE ADDITIONAL UNDERGROUND  
PETROL STORAGE TANK  
Address: 125 MULLINAHOE ROAD, ARDBOE, DUNGANNON  
Decision:  
Decision Date:

Ref ID: I/2002/0141/Q  
Proposal: Housing Development  
Address: Lands at Ardboe  
Decision:  
Decision Date: 10.06.2002

Ref ID: I/2002/0273/A41  
Proposal: NIHE renovations and extensions.  
Address: 125 Mullanhoe Road, Ardboe  
Decision:  
Decision Date:

Ref ID: I/2011/0401/F

Proposal: Revision of previous planning approval I/2010/0532/F to include increase in storage link area and replacement of domestic garage to 125 Mullinahoe Rd, Ardboe, Dungannon, BT71 5AX

Address: 125A Mullinahoe Road, Ardboe, Dungannon, BT71 5AX,

Decision:

Decision Date: 03.02.2012

Ref ID: I/2010/0532/F

Proposal: Provision of new Storage link Building Connecting Existing Store to Existing Shop and Provision of External public Toilet in rear yard attached to Existing Shop

Address: 125a Mullinahoe Road, Ardboe, Dungannon, BT71 5AX,

Decision:

Decision Date: 18.04.2011

Ref ID: I/2006/0757/F

Proposal: Proposed extension + sunroom

Address: No2 Rossa's Court, Mullinahoe Rd, Ardboe

Decision:

Decision Date: 15.02.2007

Ref ID: I/2003/0267/F

Proposal: Extension and alterations to existing shop

Address: Forbes Vivo Store, 125 Mullinahoe Road, Ardboe, Dungannon

Decision:

Decision Date: 12.12.2003

Ref ID: I/1993/0170

Proposal: Canopy and changing position of pumps (Filling Station)

Address: ADJACENT TO 125 MULLANHOE ROAD ARDBOE COAGH

Decision:

Decision Date:

Ref ID: I/2004/1424/F

Proposal: Erection of 11 dwellings and site road and garages

Address: Lands adjacent to Rossa Court, Ardboe and to the rear of 125 Mullinhoe Road, Ardboe

Decision:

Decision Date: 14.10.2005

## **Summary of Consultee Responses**

Drawing Numbers and Title
Drawing No. 04 Type: Proposed Elevations Status: Submitted
Drawing No. 03 Type: Proposed Plans Status: Submitted
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
Drawing No. 01 Type: Site Location Plan Status: Submitted
Drawing No. 05 Type: Existing Site Survey Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 07/12/2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0341/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed new site access (Revised Access)	<b>Location:</b> 36 Granville Road Dungannon.
<b>Referral Route:</b>  1. Contrary to Policy AMP 3 – Access to Protected Routes in PPS 3 – Access, Movement and Parking in that the development if permitted, would result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.  2. Contrary to Policy CTY13 – Integration and Design of buildings in the Countryside in PPS 21 in that the development if permitted would remove trees along the roadside boundary and provide open views of the site, thus the dwelling would be a prominent feature in the landscape.  3. Contrary to Policy CTY14 – Rural Character in PPS 21 in that the development if permitted would be a prominent feature in the landscape and damage rural character.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Farasha Properties Ltd 34 Culrevog Road Dungannon BT71 7PY	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Rpad Dungannon BT70 3LY
<b>Executive Summary:</b> The proposal will result in the creation of an additional access onto a protected route i.e. Granville Road and remove a row of established trees along the roadside boundary. The trees currently block critical views of the large two storey dwelling from the roadside and if these are removed for visibility splays the site will lack enclosure.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
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

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with a mix of agricultural fields, interspersed with farm holdings and single rural dwellings. There is minimal development pressure in this area from the construction of single dwellings, however the Granville Road is a heavily trafficked road between Dungannon and Granville and onto the M1 motorway.

The site lies just South of the settlement limits of Dungannon on the main Granville Road. It is located at number 36 Granville Road and Ballysaggart Lough to the East and Killymaddy Lough to the North West.

The red line of the site comprises large derelict two storey dwelling, a concrete yards and access off the Granville Road, a treed area to the North East and a portion of a larger open field to the South West. The site rises from the roadside NW to the rear SE, there is a further yard and large agricultural shed to the rear of the site outside the red line. The replacement dwelling itself is an old two storey farm dwelling that appears to have been vacant for some time. The window have been smashed with some boarded up, however, all walls, door and window openings are fully intact. It has a dark render finish with a slate roof and a two storey rear return. The whole site is overgrow with vegetation and a small wall and gate block any entrance to the rear of the site. There is a large two storey dwelling under construction which is currently accessed via the existing farm yard access.

Along the roadside boundary is a row of established trees and the site itself is a portion of a larger agricultural field.

### **Description of Proposal**

This is a full application for a proposed new site access (Revised Access) at 36 Granville 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.

### **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**

LA09/2020/0768/F - Proposed Replacement Dwelling - 36 Granville Road, Dungannon, Co Tyrone – Permission Granted 21.10.2020

### **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 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010 and is not within any other designations or zonings in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has



not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

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

#### **Policy AMP 3 – Access to Protected Routes**

Planning approval LA09/2020/0768/F granted permission for a replacement dwelling which at the time of my site visit was currently under construction. As shown in figure 1 below the new dwelling has approval from an access of the existing farm yard lane at No. 36 Granville Road.



Figure 1 – Block plan from original approval LA09/2020/0768/F

In initial drawings submitted by the agent the proposal was to keep this farm access and create a new access off the Granville Road, along the southern boundary of the site. In their consultation response dated 12 April 2021 DFI roads recommended the proposal for refusal as it would create a new vehicular access onto a protected route. Following this a revised scheme was submitted as shown in figure 2 below. This proposal involves closing up the existing farm access and creating two accesses along the southern boundary. Roads responded on the 26<sup>th</sup> October 2021 stating they held the same opinion as the previous response as the revised scheme will still involve the creation of a new access onto a protected route. In an email dated 26<sup>th</sup> October 2021 the agent reiterated they would prefer to have separate entrances to the farm and the dwelling. This proposal does not meet any criteria for the exception to a protected route so I would recommend refusal.

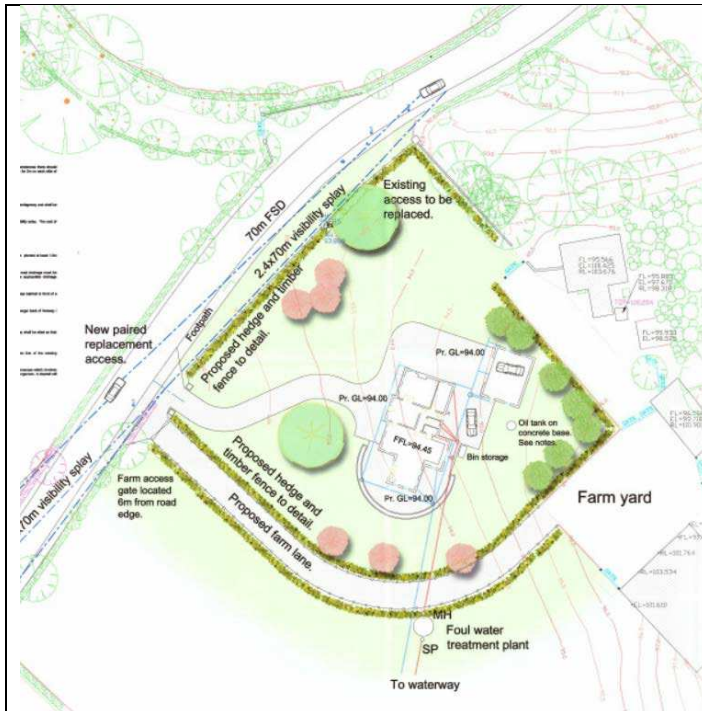


Figure 2 – Block Plan from this current application

### Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement.

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

Planning approval LA09/2020/0768/F granted permission for a large two storey dwelling as shown in figure 3 below.

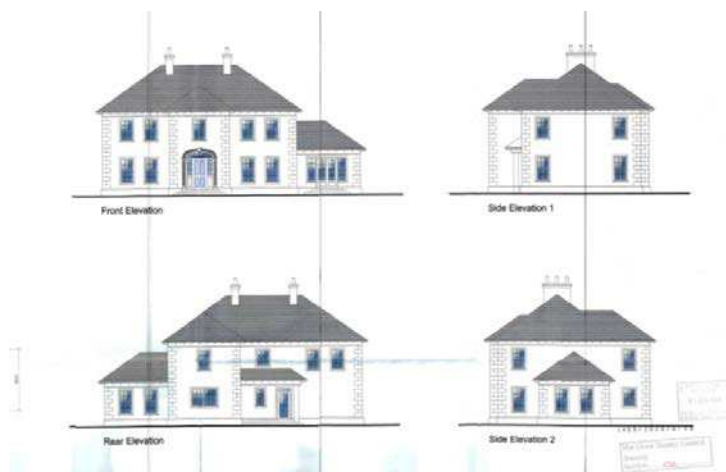


Figure 3 – Elevations of the approved dwelling under construction.

The topography of the site rises up from the road level and as shown in figures 4 and 5 below there is a row of established trees along the road boundary. The proposed new access to the south will involve the removal of these trees to achieve the visibility splays.



As shown in the images below the existing trees are providing enclosure to the dwelling and is not currently visible in critical views in both directions. The removal of the trees will open up the site and the dwelling will become prominent in the landscape. In addition, the site will lack natural boundaries which currently assist in integrating the dwelling in the landscape.



Figure 4 – Google Images of the roadside boundary of the site



Figure 5 – Photographs from the site visit showing the approved access off the existing farm lane and the row of trees along the boundary

I consider the new access is contrary to CTY 13 as it will remove the natural boundaries of the site which currently provide enclosure and the dwelling will be prominent.

#### **CTY 14 – Rural Character**

The removal of the trees along the roadside will make the dwelling under construction more prominent. The dwelling is at a higher level than the roadside and would become a prominent feature. I consider the removal of the trees and the proposed new accesses would be detrimental to the rural character of the area.

<b>Neighbour Notification Checked</b>	Yes
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<b>Summary of Recommendation:</b>
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The proposal is recommended for refusal as it does not meet the policy AMP 3 – Access to Protected Routes and CTY 13 and CTY 14 in PPS 21.

**Reasons for Refusal:**

1. Contrary to Policy AMP 3 – Access to Protected Routes in PPS 3 – Access, Movement and Parking in that the development if permitted, would result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
2. Contrary to Policy CTY13 – Integration and Design of buildings in the Countryside in PPS 21 in that the development if permitted would remove trees along the roadside boundary and provide open views of the site, thus the dwelling would be a prominent feature in the landscape.
3. Contrary to Policy CTY14 – Rural Character in PPS 21 in that the development if permitted would be a prominent feature in the landscape and damage rural character.

**Signature(s)**

**Date:**



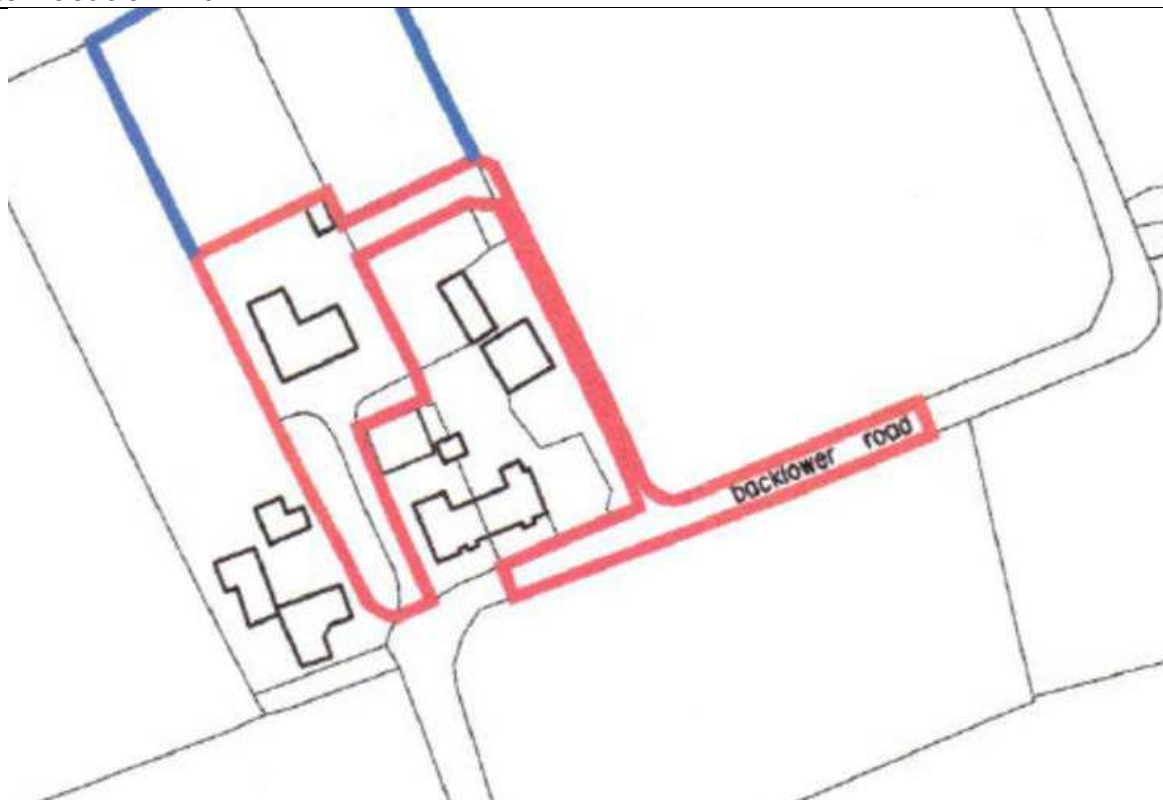
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0348/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of use of existing approved access to provide alternative access to No 81a Back Lower Road.	<b>Location:</b> 81a Back Lower Road Killycolpy Dungannon BT71 5ER.
<b>Referral Route:</b> Approval – objection received.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Patrick Teague 81a Back Lower Road Killycolpy Dungannon BT71 5ER	<b>Agent Name and Address:</b> Martin Quinn 190 Ballymaguire Road Stewartstown BT71 5NN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	1
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

There was one objection received in relation to the proposal – the contents of this objection will be discussed in detail later in the report, however the main issues raised within it include:

- Increased traffic flow
- Noise Issues
- Pollution
- Danger in relation to Roads concerns
- The use of proposed access for commercial purposes

## Characteristics of the Site and Area

The site is located within the rural countryside at No. 81A Back Lower Road approximately 4.2 miles east of Stewartstown and is out with any settlement limits set down in the Cookstown Area Plan 2010. At present on site is a single storey dwelling with a small building to the rear, situated approximately 50m back from the public road to the rear of 3 no. single storey dwellings fronting onto the Back Lower Road. The red line of the site included the existing access points to the dwelling including the access proposed to be retained under this application.

## Description of Proposal

Full planning permission is sought for the retention of use of existing approved access to provide alternative access to No 81a Back Lower Road.

## Planning Assessment of Policy and Other Material Considerations

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 77, 79, 81 and 83 Back Lower Road. At the time of writing, two objections and one letter of support has been received in relation to the proposal. The two objections have been received from the owner of 81 Back Lower Road and are identical in terms of the wording but were received on different dates. The letter of support was received from the owner of the laneway in question at 77 Back Lower Road.

The main issues raised within the objection include:

- Increased traffic flow
- Noise Issues
- Pollution
- Danger in relation to Roads concerns
- The use of proposed access for commercial purposes

The main concerns relate to road safety issues and as DfI Roads are the competent authority in dealing with such issues, they have been consulted on the application and have been made aware of the concerns raised in the objections. DfI Roads have not raised objections to the proposal but noted they would ask for the original access to be permanently closed and shown on drawing. This was queried with roads who noted that "it is standard practise by DfI to ask for closure of a previous entrance for the creation of a new one for a single dwelling, however due to this being a retention and previously approved, this would only be an advisory statement and not conditional as long as the lane way meets forward sight distance and visibility splay requirements." The agent has noted on the plans that the existing access is to be gated and predominantly closed. We are content with the findings of Roads and would advise that the applicant takes consideration to their advice.

In terms of pollution and noise issues, there is no intensification proposed under this application and therefore I do not feel there would be any additional noise issues or pollution as a result of this application. We have no evidence to suggest that the

application is being used for commercial purposes and therefore the application is taken at face value.

#### Planning History

LA09/2020/1648/LDP - 81a Back Lower Road, Stewartstown - Proposed single storey rear extension to provide rear new access hallway - PERMITTED DEVELOPMENT

I/2014/0368/F - 77, Back Lower Road, Mountjoy, Co Tyrone, BT71 5ER - Retention of access – PERMISSION GRANTED

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

- 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 Cookstown Area Plan 2010 identify the site as being outside any defined settlement limits, located East of Stewartstown. There are no other specific designations or zonings.

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 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

The Strategic Planning Policy Statement 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.

The proposal is for the retention of access to provide alternative access to 81a Back Lower Road. The access runs to the east and north of No 77 Back Lower Road to provide access to 81a Back Lower Road. In terms of policy AMP 2 of PPS 3, the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic and the proposal does not conflict with policy AMP 3 relating to Protected Routes. DfI Roads were consulted on the proposed development and raised no objection. As noted before, they would advise that the existing access to the site is permanently closed, however noted that this would only be an advisory statement given that the proposal is for the retention of access approved under I/2014/0368/F. I am content that the existing access is to be gated and predominantly closed as noted on the plans.

There is existing hedging along the eastern boundary which softens any potential impacts of the access. This will be conditioned to be retained as shown on the plans. It is my opinion that the proposed access will not be prominent and will blend with the existing landforms. In terms of policy CTY 13 of PPS 21, on balance, I am content that the access as already in places integrates into the countryside location. In terms of CTY 14, the proposal will not cause a detrimental change to the rural character of the area, as



the access is already in place as approved and does not result in a suburban style build-up of development or create or add to a ribbon of development.	
<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>  On balance, I recommend approval for this development as it satisfies the policy tests of the SPPS, PPS 3 and PPS 21.	
<b>Conditions/Reasons for Refusal:</b>  1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.  Reason: This is a retrospective application.  2. The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be submitted to Mid Ulster District Council in writing, and agreed, prior to the commencement of any works.  Reason: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site.	
<b>Signature(s)</b>  <b>Date:</b>	

ANNEX	
<b>Date Valid</b>	4th March 2021
<b>Date First Advertised</b>	16th March 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 77 Back Lower Road Dungannon Tyrone Mary Isobel Teague 77 Back Lower Road, Dungannon, Tyrone, Northern Ireland, BT71 5ER The Owner/Occupier, 79 Back Lower Road Mountjoy Tyrone The Owner/Occupier, 81 Back Lower Road Mountjoy Tyrone Michael Campbell 81 Back Lower Road, Mountjoy, BT71 5ER Michael Campbell 81 Back Lower Road, Mountjoy, Co Tyrone, BT71 5ER The Owner/Occupier, 83 Back Lower Road Mountjoy Tyrone	
<b>Date of Last Neighbour Notification</b>	11th June 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1648/LDP Proposal: Proposed single storey rear extension to provide rear new access hallway Address: 81a Back Lower Road, Stewartstown, Decision: PG Decision Date:  Ref ID: LA09/2021/0348/F Proposal: Proposed use of existing approved access to provide alternative access to No 81a Back Lower Road. Address: 81a Back Lower Road, Killycolpy, Dungannon BT71 5ER., Decision: Decision Date:  Ref ID: I/1974/0138	

Proposal: IMPROVEMENTS TO DWELLING HOUSE  
Address: LOWER BACK, STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/1997/0043  
Proposal: Dwelling  
Address: REAR OF 81 BACKLOWER ROAD STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/1999/4021  
Proposal: Re-Roofing of Part of Existing House  
Address: 81 BACKLOWER ROAD KILLYCOLPY DUNGANNON  
Decision:  
Decision Date:

Ref ID: I/1995/0377  
Proposal: Alterations to dwelling  
Address: 81 BACKLOWER ROAD STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/1977/0003  
Proposal: IMPROVEMENTS TO DWELLING.  
Address: LOWER BACK, STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/1999/0348  
Proposal: Proposed replacement of flat roof with new pitched roof  
on existing dwelling  
Address: 81 BACKLOWER ROAD KILLYCOLPY DUNGANNON  
Decision:  
Decision Date:

Ref ID: I/1996/0045  
Proposal: Site for dwelling  
Address: REAR OF 81 BACKLOWER ROAD STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/2010/0477/F

Proposal: Proposed replacement garage  
Address: 81 Backlower Road, Stewartstown  
Decision:  
Decision Date: 10.12.2010

Ref ID: I/1994/0328  
Proposal: Extension to Dwelling  
Address: 79 BACK LOWER ROAD DUNGANNON  
Decision:  
Decision Date:

Ref ID: I/1976/0392  
Proposal: EXTENSION TO DWELLING  
Address: LOWER PARK, STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/2001/0826/F  
Proposal: Extension and Alterations to Dwelling  
Address: 79 Back Lower Road, Stewartstown  
Decision:  
Decision Date: 10.01.2002

Ref ID: I/1977/0181  
Proposal: BUNGALOW  
Address: LOWER BACK, STEWARTSTOWN  
Decision:  
Decision Date:

Ref ID: I/2014/0368/F  
Proposal: Retention of access  
Address: 77, Back Lower Road, Mountjoy, Co Tyrone, BT71 5ER,  
Decision: PG  
Decision Date: 23.03.2015

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01a  
Type: Site Location Plan  
Status: Amended

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0376/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 6 retail units with associated car parking and ground works	<b>Location:</b> Lands approx. 45-55m N.E. of 40 Ballyronan Road Magherafelt
<b>Referral Route:</b> Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Magherafelt Commerce Park 40 Ballyronan Road Magherafelt	<b>Agent Name and Address:</b> D M Kearney Design 2A Coleraine Road Maghera BT46 5BN
<b>Executive Summary:</b> Proposal considered against prevailing planning policy. It is considered in the absence of outstanding additional information, the proposal fails to comply with Magherafelt Area Plan 2015 and the SPPS. No letters of representation received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing advice
Non Statutory	NI Water	Substantive Response

#### Representations:

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

#### Characteristics of the Site and Area

The site is located within the settlement limits of Magherafelt as defined in the Magherafelt Area Plan 2015. The proposal site is comprised of the yard of an existing petrol filling station and mixed use units which include a dentist, physio, engineering practice and alloy wheel shop and associated parking, as well as a portion of a larger field to the rear. The proposed retail units are to be located to the rear on undeveloped zoned housing land (MT05). The NW and SE boundaries of the site are defined by a semi mature hedgerow. The NE boundary is undefined on the ground and the SW is defined by metal fencing. The site sits at a similar level to the adjacent hard surfaced/forecourt area. The site will be accessed via the existing access coming off the Ballyronan Road.

This area is characterised by a mix of uses and densities. To the immediate NW of the site is Killowen Drive, a fairly high density Housing Development. To the SE of the site at the opposite side of the Ballyronan Road is Meadowbank Drive, a lower density housing development. As referred to above the site sits adjacent to a small mixed use complex. Further to the SE is Kilronan Special Needs Schools and MUDC. To the South is Meadowbank Sports complex.

### **Description of Proposal**

This application seeks full planning permission for 6 retail units with 2 separate buildings each with 3 separate units and a total of 40 associated car parking spaces. The total floor space equates to 650.24m<sup>2</sup>.

### **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
- PPS 3 - Access, Movement and Parking
- Parking Standards

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**

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.

### **History on Site**

LA09/2019/1536/O - Proposed Outline application for 3NR retail units and car parking - Class A1/A2 - Lands 40m NE of 40 Ballyronan Road Magherafelt -Permission Granted 23/10/20

LA09/2018/0246/O – Outline Planning Permission for residential development, with open space, access, landscaping, new roundabout and associated site works - Lands to the rear of 40 Ballyronan Road, adjoining Kilronan School and to the rear of No's 35-57 & 65-75 Killowen Drive, Magherafelt BT45 6EW - Permission Granted 05/12/18



LA09/2018/0002/F - Proposed single storey extension to rear of existing shop and replacement/ relocation of existing forecourt with the provision of new canopy. fuel pumps and tanks ,additional car parking and other minor groundworks - Site at 40 Ballyronan Road, Magherafelt - Permission Granted 21/09/18

H/2006/1044/F 2 No. retail units,1 Hot Food Bar and office/storage area - 40 Ballyronan Road, Magherafelt – Permission Granted 09/08/07

H/2004/0280/O - Site of retail and business park. To the rear of No.40 Ballyronan Road, Magherafelt - Appeal Dismissed

### **Key Policy Considerations/Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. The SPPS has superseded PPS 5 in respect of Retailing. It promotes a 'Town Centre' approach to retail development. It states that all policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment. In doing so a sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP. Where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused. The SPPS also requires applications for main town centre uses to be considered in the following order of preference (and consider all of the proposal's catchment):

- primary retail core;
- town centres;
- edge of centre; and
- out of centre locations, only where sites are accessible by a choice of good public transport modes

In the absence of a current and up-to-date LDP, applicants need to prepare an assessment of need which is proportionate to support their application. This may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites. In order to show compliance with the requirements of the SPPS, the agent was asked to submitted a supporting statement which sets out you justification and provide a statement of need in accordance with SPPS Paragraph 6.280-6.282. This was requested on 27/04/21 with follow up requests on 24/06/21, 13/08/21 and 01/11/21, however to date this information has not been provided. It is noted that there is an extant outline planning approval (LA09/2019/1536/O) for 3no. Retail units on the application site and under this application a Retail Statement and Supporting Statement were provided. The supporting information submitted under LA09/2019/1536/O included a Sequential Test which concluded no viable sites were available in the town centre and an Assessment of Need which contends that there is a need for more locally accessible shops and services

which provide essential goods and that the provision of these units could provide much needed employment opportunities in this area. It was considered under the outline approval that the information provided for 3no. Retail Units with total floor space of 302m<sup>2</sup> would be acceptable and in compliance with the SPPS. However, this full planning application is significantly greater with a total floor space proposed of approx. 650m<sup>2</sup> which is over double what was previously considered acceptable. The application site is outside Magherafelt town centre, SPPS explicitly states a sequential test should be applied that the applicant should be required to prepare an assessment of need for proposals outside the current centre. It is considered in the absence of this information the proposal is contrary to the SPPS.

Magherafelt Area Plan 2015 (MAP) - The application site is located within the settlement limits of Magherafelt and on Zoned Housing Land as designated in the MAP (MT05)

Policy SETT 2 of the MAP states that planning permission will only be granted for alternative types of development in a land use policy area where the proposal complies with 4 different criteria:

- Be subordinate to the preferred use and occupy a small portion of the land use policy area
- Exist in close proximity to the preferred use without adverse environmental consequences
- Not prejudice accessibility to the remainder of the land use policy area
- Not prejudice potential in the settlement to meet overall development needs.

The plan goes on to state that favourable consideration will be given to the development of zoned sites provided they are:

- Sensitive to the size and character of the settlement
- Are in accordance with any key site requirements

It is noted that the application site extends further within the zoned housing land than the previous outline approval with an increased site area of 0.495ha. Whilst it is recognised that the application site still occupies only a small portion of a larger zoned site, given that no supporting information has been provided for the increase to 6no. Units outside the town centre, it is considered the proposal currently conflicts with the extant area plan land zoning. The applicant has failed to provide any supporting information for the alternative development on this zoning and therefore it has not been demonstrated that the size of the proposal would be appropriate in this location outside the town centre and would not prejudice the potential to meet overall development needs.

It is considered the design, form and materials would not detrimentally impact the character of the settlement. Environmental Health were consulted and have advised that they would have no objections subject to the use class being restricted to A1/A2 which is considered appropriate. It is not considered the proposal would give rise to detrimental impact to residential amenity.

PPS 3 - Access, Movement and Parking - The application site seeks to use the existing access on to Ballyronan Road which is also used by the existing commercial units. DFI Roads have been consulted and have no objections to the access arrangements, however have advised that taking into account a loss of 13 existing spaces as a result of

the development, there will be a shortfall of 3 parking spaces. Given there are a number of varying uses of premises on the site which would attract large numbers of vehicles coming and going, it is considered necessary to address this parking shortfall. The applicant has failed to address this issue and should Members consider the principle of development acceptable, it will be necessary to consider PPS3 and Parking Standards.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement Paragraph 6.279 – 6.282 in that the proposal is not within the existing town centre and insufficient quantitative and qualitative information has been provided to make an assessment for the need for this application and the potential impact on vitality and viability of the existing centre.
2. The proposal is contrary to Magherafelt Area Plan 2015 in that the site is zoned for housing and insufficient information has been provided to demonstrate that the proposed development would not prejudice the delivery of housing to meet overall development needs.
3. The proposal is contrary to Policy AMP 7 of PPS3, Access, Movement and Parking in that it has not been demonstrated that adequate provision for car parking has been provided to serve the proposal.

**Signature(s)**

**Date:**



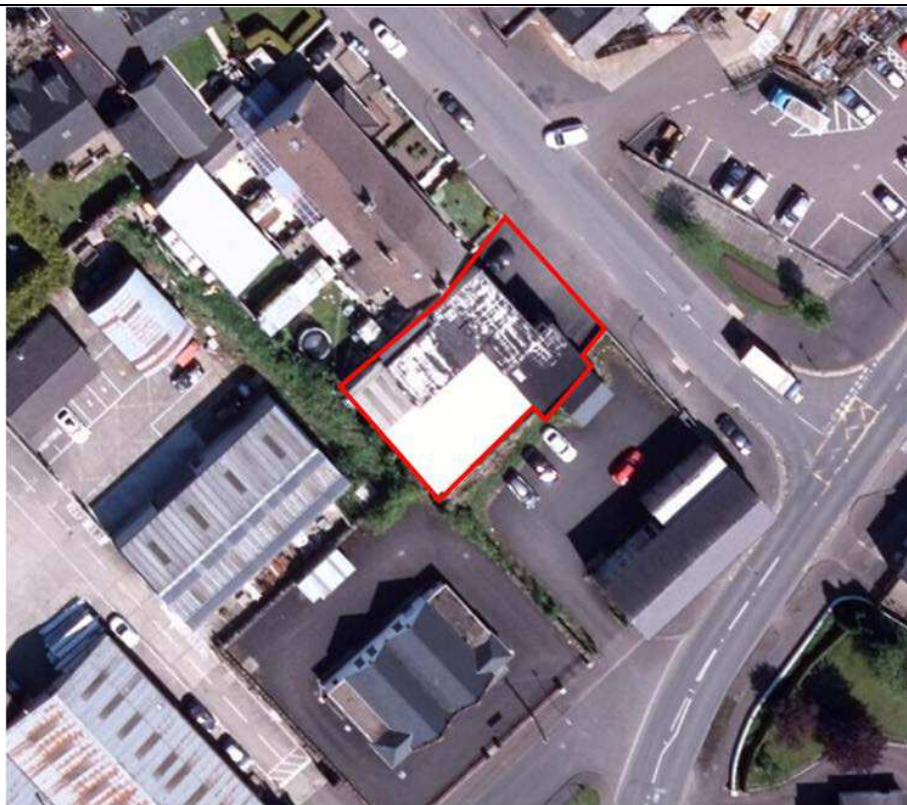
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 District Council

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0492/F	Target Date:
Proposal: Proposed alterations and extension to existing mixed use building to provide 1 No. retail unit and 4 No. apartments	Location: 1a Fair Hill Maghera.
Referral Route:  This application is being presented to Committee as it has attracted one letter of objection.	
Recommendation:	Approve
Applicant Name and Address: Declan McKenna 143 Tirkane Road Maghera BT46 5NH	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
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	No Objection
Non Statutory	NI Water - Multi Units West - Planning Consultations	Consulted in Error
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	

## 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 including representations

One objection have been received in respect of this application and relates to the following issue:-  
 Loss of light into rear amenity space;  
 This issue is dealt with in the report below.  
 Date of neighbour notification letter;

The date of neighbour notification is linked to when the application is received and validated and not to when the construction commenced on site.

Hole left in the garden by the builder after replacing a wall;

Damage cause to third party property is a civil matter between the applicant and the owner of the property affected and is not a planning matter.

2 steel beams attached to the party wall and will these affect the stability of the wall.

The proposed plans do not indicate any steel beams attached to objectors property. The stability of the wall is within the remit of Building Control and is not a planning matter.

It should be noted that although two letters of objection have been logged as having been received, the second letter was from the original objector and was only to confirm that they wished their comments to be treated as an objection.

#### Characteristics of the Site and Area

The premises originally consisted of a two storey, flat roofed building which contained a residential apartment, a mechanics garage/workshop, two shops, one of which was linked to the garage and the second selling musical instruments. There is a small off street parking area at the front which also provides access into the former garage/workshop. The site is bounded by an end-of-terrace two storey dwelling, owned by the objector, a rear car park serving a two storey office building, a church building, with a commercial workshop/store to the rear. There is a public car park directly opposite the site and this shares its access with a small steel fabrication business. The wider surrounding area is one of mixed use which also consists of residential properties, a fire station and a large former builders yard which is still in commercial use. The site is located just outside the town centre and within easy walking distance of all local services and less than 200m from the Main Street.

#### Description of Proposal

The proposal was originally submitted as 'Proposed alterations and extension to existing mixed use building to provide 2 No. commercial units and 4 No. apartments.' However, due to issues raised by Environmental Health regarding the potential of noise nuisance from the commercial unit, the proposal was amended to 'Proposed alterations and extension to existing mixed use building to provide 1 no. retail unit and 4 No. apartments.'

The former music shop unit is being retained as a shop with one apartment at the front being on ground and first floor level, a second apartment at the rear similarly being located over ground and first floor level with the two other apartments being solely on the first floor. The two storey apartment at the rear is a new build and extends the length of the building by around 2m with an increase in height of approximately 0.6m.

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

Relevant planning history

Reference	Location	Proposal/Complaint	Status	Date
LA09/2021/0492/F	1a Fair Hill, Maghera.,	Proposed alterations and extension to existing mixed use	VALID APPLICATION RECEIVED	
H/1998/0445	1 HALL STREET MAGHERA	OFFICE ACCOMMODATION	PERMISSION GRANTED	
H/1998/0637	57 HALL STREET MAGHERA	OFFICES WITH ASSOCIATED PARKING	PERMISSION GRANTED	
H/1992/6040	59-61 HALL STREET MAGHERA	DISPOSAL OF LAND 59-61 HALL STREET MAGHERA		
H/1996/0057	59-61 HALL STREET MAGHERA	EXTENSION TO OFFICES	PERMISSION GRANTED	
H/1990/0447	57 HALL STREET MAGHERA	REAR EXTENSION AND CONVERSION TO 2 No DW	PERMISSION GRANTED	
H/1991/0345	57 A&B HALL STREET MAGHERA	CHANGE OF USE TO ONE OFFICE UNIT	PERMISSION GRANTED	
H/1982/0183	FAIR HILL ROAD, MAGHERA	EXTENSION TO GARAGE/WORKSHOP	PERMISSION GRANTED	
H/2003/0338/F	"Younger Homes Ltd", 3 Craigadick Road	Exhibition conservatory.	PERMISSION GRANTED	19.07.2003
H/1989/0575	3 CRAIGADICK ROAD MAGHERA	DISPLAY CONSERVATORY FOR SALES UNIT	PERMISSION REFUSED	
H/1981/0128	CRAIGADICK ROAD, MAGHERA	RE-ROOFING AND REPAIRS TO EXISTING VACANT	PERMISSION GRANTED	
H/1998/0624	1 CRAIGADICK ROAD MAGHERA	EXTENSION TO CHURCH	PERMISSION GRANTED	
H/1985/0499	ELIM PENTECOSTAL CHURCH, HAL	TOILETS AND STORE EXTENSION TO CHURCH	PERMISSION GRANTED	

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP - Draft Plan Strategy has been published for consultation, 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 as these policies are cancelled by the introduction of the SPPS.

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

SPPS - Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy

PPS 7 - Quality Residential Environments

PPS 7 (Addendum) - Safeguarding the Character of Established Residential Areas

Creating Places

DCAN 8 Housing in Existing Urban Areas

The SPPS has superseded PPS 1 (General Principles.). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to any interests of acknowledged importance. The proposed development is not within an area of archaeological importance, it is not a Listed Building and is also located in an Area of Townscape Character.

The SPPS gives specific provision for Housing in settlements subject to a number of policy provisions. It does not present any change in policy direction with regards to residential developments in settlements. As such, existing policy will be applied, primarily PPS 7, Quality Residential Environments.

Magherafelt Area Plan 2015 - the site lies within the settlement limits of Maghera and immediately adjacent to, but outside the Maghera Town Centre.

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

The proposal is for the proposed alterations and extension to existing mixed use building to provide 1 no. retail unit and 4 No. apartments. DfI Roads advised that they have no objections subject to a condition subject to no retailing or other operations commencing from within the site until such times as the car parking is formally laid out as detailed on the site plan.

#### PPS 7 - Quality Residential Environments

PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

As this is an full application the proposed development is being assessed against these criteria as follows:-

- (a) The proposal meets the first of these criteria in that it respects the surrounding context insofar as the proposal is for a housing development within a predominantly residential area.
- (b) There are no features of archaeological or built heritage on this site. There are no TPO's near the site.
- (c) This proposal is for 4 apartments and one retail unit, close to the town centre. Although there is no requirement for the provision of public open space and are of external amenity space has been provided with the large rear yard, in addition to a communal bin storage area.
- (d) As the site is close to and within walking distance of the centre of Maghera, the provision of neighbourhood facilities are not deemed necessary within the site;
- (e) The site has direct vehicular access onto the Fairhill and close to Hall Street, which will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;
- (f) Adequate provision can be made for parking of vehicles with five parking spaces provided at the front of the site in addition to the free public car park directly opposite the site.
- (g) The design of the proposal is such that it extends the length of the existing building by 2.0m and raises the height by 0.6m. Although a neighbour adjacent to the north western boundary has objected and has asked the question 'Will this building block the light coming into my back garden?' The proposed extension extends the length and raises the height of the building by the dimensions stated above, which by the objectors own admission was constructed of fencing boards and tin. Such a structure would have been solid and unable to let sunlight pass through. Therefore to replace it with a structure of solid blockwork and increasing the overall size by the dimensions stated above, would not in my opinion, block so much light as to have a detrimental affect on the rear of their property. This is particularly so given that the propose extension is located to the south east of the objectors property and would only have the potential to affect day light from early to mid-morning, after which time the sun would be shining from the south west and thereby the proposed extension would not be casting any shadow on the objectors property.
- (h) The proposal will not create a conflict with adjacent land uses as these are predominantly existing dwellings. Environmental Health raised concerns regarding the potential for noise nuisance emanating from the commercial premises, however, this element has been removed from the proposal.



(i) Generally the layout is designed to deter crime as there are no areas which are unsupervised or overlooked.

PPS 7 - (Addendum) Safeguarding the Character of Established Residential Areas

I am satisfied that, in principal, this proposal complies with Policy LC1, protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this location where there is evidence of similar properties close by with flats above shops and terraced houses. In terms of keeping with the established character of the area, the proposal is largely residential in nature which is in keeping with both the existing use and the mix of uses in the immediate area. The four apartments are acceptable in size and provide a range of sizes of between 38m<sup>2</sup> to 90m<sup>2</sup> are in keeping with the guidance set out in Annex A of this policy.

Recommendations

Approve subject to the conditions listed below:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below:-

Conditions:

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

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

- 2 The retail unit indicated on drawing no. 03/1 date stamped 21st July 2021 shall be used only as a shop and for no other purpose in Use Class A of the Schedule to the Planning (Use Classes) Order (NI) 1989.

Reason: To prohibit a change to an unacceptable use within this Use Class.

3. No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02/1 bearing date stamp 21st July 2021 to provide facilities for parking within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

Signature(s)

Date:

ANNEX	
Date Valid	25th March 2021
Date First Advertised	6th April 2021
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 1 Craigadick Road, Maghera, Londonderry, BT46 5DB</p> <p>The Owner/Occupier, 1 Fair Hill Maghera Londonderry Elaine McShane 1 Fair Hill, Maghera, BT46 5AX Elaine McShane 1, Fair Hill, Maghera, Londonderry, Northern Ireland, BT46 5AX</p> <p>The Owner/Occupier, 3a ,Craigadick Road, Maghera, Londonderry, BT46 5DB</p> <p>The Owner/Occupier, 5 Fair Hill, Maghera, Londonderry, BT46 5AX</p> <p>The Owner/Occupier, 57 Hall Street, Maghera, Londonderry, BT46 5DA</p>	
Date of Last Neighbour Notification	21st April 2021
Date of EIA Determination	
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2021/0492/F Proposal: Proposed alterations and extension to existing mixed use building to provide 2No commercial units and 4No apartments. Address: 1a Fair Hill, Maghera., Decision: Decision Date:</p> <p>Ref ID: H/1998/0445 Proposal: OFFICE ACCOMODATION Address: 1 HALL STREET MAGHERA Decision: Decision Date:</p> <p>Ref ID: H/1998/0637 Proposal: OFFICES WITH ASSOCIATED PARKING Address: 57 HALL STREET MAGHERA</p>	

Decision:  
Decision Date:

Ref ID: H/1992/6040  
Proposal: DISPOSAL OF LAND 59-61 HALL STREET MAGHERA  
Address: 59-61 HALL STREET MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1996/0057  
Proposal: EXTENSION TO OFFICES  
Address: 59-61 HALL STREET MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1990/0447  
Proposal: REAR EXTENSION AND CONVERSION TO 2 No DWELLINGS  
Address: 57 HALL STREET MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1991/0345  
Proposal: CHANGE OF USE TO ONE OFFICE UNIT  
Address: 57 A&B HALL STREET MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1982/0183  
Proposal: EXTENSION TO GARAGE/WORKSHOP  
Address: FAIR HILL ROAD, MAGHERA  
Decision:  
Decision Date:

Ref ID: H/2003/0338/F  
Proposal: Exhibition conservatory.  
Address: "Younger Homes Ltd", 3 Craigadick Road, Maghera  
Decision:  
Decision Date: 19.07.2003

Ref ID: H/1989/0575  
Proposal: DISPLAY CONSERVATORY FOR SALES UNIT  
Address: 3 CRAIGADICK ROAD MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1981/0128  
Proposal: RE-ROOFING AND REPAIRS TO EXISTING VACANT WORKSHOP AND  
CONVERSION TO  
Address: CRAIGADICK ROAD, MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1998/0624  
Proposal: EXTENSION TO CHURCH  
Address: 1 CRAIGADICK ROAD MAGHERA  
Decision:  
Decision Date:

Ref ID: H/1985/0499  
Proposal: TOILETS AND STORE EXTENSION TO CHURCH  
Address: ELIM PENTECOSTAL CHURCH, HALL STREET, MAGHERA  
Decision:  
Decision Date:

#### Summary of Consultee Responses

All consultees responded positively.

#### Drawing Numbers and Title

Drawing No. 01  
Type: Proposed Plans  
Status: Submitted

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

Drawing No. 03  
Type: Site Location Plan  
Status: Submitted

#### Notification to Department (if relevant)

Date of Notification to Department:  
Response of Department:



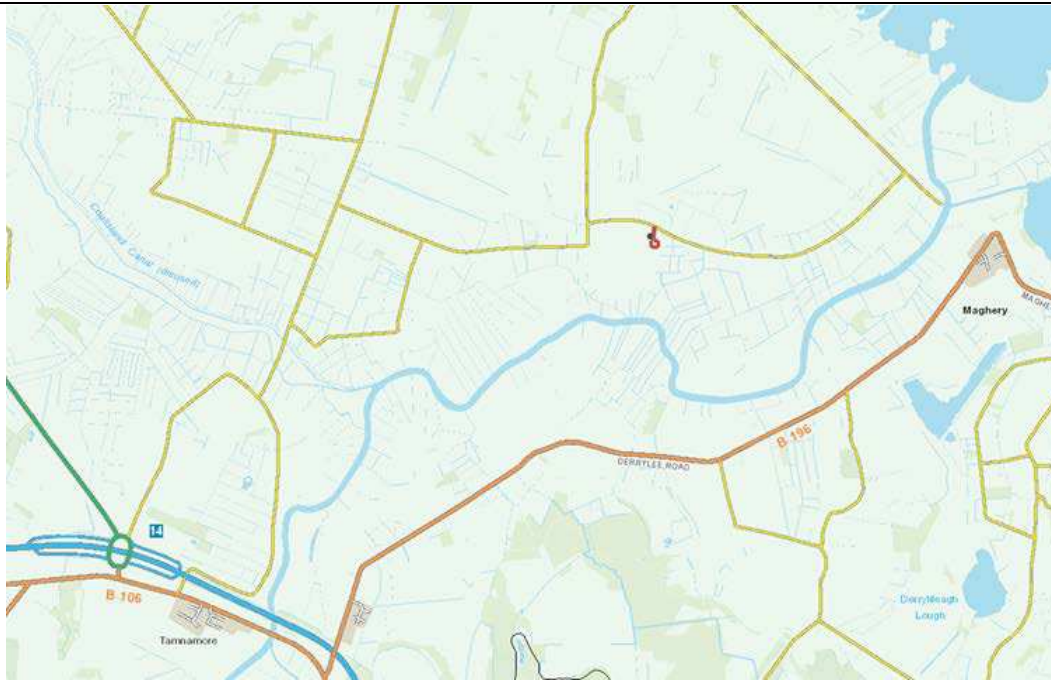
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0506/F	<b>Target Date:</b>
<b>Proposal:</b> Single storey dwelling on a farm with conversion and reuse of existing byre and upgrade of existing access	<b>Location:</b> 45m S.E. of 83 Derryloughan Road Coalisland
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Christopher Mc Cann 83 Derryloughan Road Coalisland Dungannon	<b>Agent Name and Address:</b> Ward Design 10 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Omagh	Substantive Response Received

### Representations:

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

### Summary of Issues

None

### Characteristics of the Site and Area

The site lies in the open countryside just a short distance to the north east of the settlement limits of Tamnamore and to the south west of Lough Neagh and outside all other areas of constraint as depicted by the DSTAP 2010.

The site is directly east of number 83 Derrylochan Road, Coalisland. The red line of the site includes a dwelling at number 83, a tarred laneway off the Derrylochan road, a concrete yard to the rear and a small byre type building to the east boundary. The red line also includes the field

to the east which is bounded on all sides by a native species hedgerow, with some trees along the roadside boundary. The existing dwelling is a small bungalow set back approx. 40 metres from the roadside.



### Description of Proposal

The proposal seeks full planning permission for a single storey dwelling on a farm with conversion and reuse of existing byre.





## Planning Assessment of Policy and Other Material Considerations

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

Dungannon and South Tyrone Area Plan 2010  
 Strategic Planning Policy Statement (SPPS)  
 Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 PPS 21: Sustainable Development in the Countryside  
 CTY 1- Development in the Countryside  
 CTY 10 ? Farm Dwellings  
 CTY 13 - Integration and Design of Buildings in the Countryside; and  
 CTY14 - Rural Character  
 PPS 3 - Access, Movement and Parking;

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

### Planning History

There is not considered to be any relevant planning associated with the site. The applicant originally applied for the conversion of existing byre to a dwelling, however, when the policy context was requested the applicant has amended the proposal to include a farming need.

Given the rural location of application site the nature of the proposal the application shall be assessed under Planning Policy Statement 21- Sustainable Development in the Countryside and in particular with the following;

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non agri-business, a



dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built up frontage. In this instance the application is for a farm dwelling and therefore must be considered against Policy CTY10 of PPS21.

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

With respect to (a) it is considered that this policy criteria has not been met, the applicant has not provided an Agricultural Business Identification number and is not in receipt of Single Farm Payments, and DAERA have confirmed that the applicant has no Business ID and does not claim single farm payments. To support the application there is three receipts dating back 1 year, this does not prove the farm business has been active and established for 6 years.

With respect 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) it is noted that the application site is located directly adjacent to the main holding and will be visually linked as it only separated by a low cropped hedge.

It is considered that the proposal is not in compliance with the criteria of Policy CTY 10.



Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity, however the proposal seeks to create a new driveway along the existing entrance and would involve the removal of mature trees at the entrance which currently provide significant screening

to the site. The site does benefit from this roadside vegetation cover, and their clearance to allow new splays would cause the dwelling to struggle to fit in unobtrusively.

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

#### 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.

Recommendation Refusal

**Neighbour Notification Checked**                      **Yes**

#### Refusal Reasons

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	29th March 2021
<b>Date First Advertised</b>	13th April 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 80 Derryloughan Road Coalisland Tyrone The Owner/Occupier, 80a Derryloughan Road Coalisland The Owner/Occupier, 81 Derryloughan Road Coalisland Tyrone The Owner/Occupier, 82 Derryloughan Road Coalisland Tyrone The Owner/Occupier, 82a Derryloughan Road Coalisland The Owner/Occupier, 83 Derryloughan Road Coalisland Tyrone The Owner/Occupier, 90 Derryloughan Road Coalisland Tyrone	
<b>Date of Last Neighbour Notification</b>	22nd April 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0844/F Proposal: Detached garage. Address: 83 Derryloughan Road, Coalisland, Dungannon BT71 4QS., Decision: Decision Date:  Ref ID: LA09/2021/0506/F Proposal: Single storey dwelling with conversion and reuse of existing byre and upgrade of existing access Address: 45m S.E. of 83 Derryloughan Road, Coalisland, Decision: Decision Date:  Ref ID: M/1990/0465	

Proposal: Extension to dwelling  
Address: 83 DERRYLOUGHAN ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1990/0094  
Proposal: Extension to Dwelling  
Address: 83 DERRYLAUGHAN ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1997/0087  
Proposal: Extension to dwelling  
Address: 83 DERRYLOUGHAN ROAD COALISLAND  
Decision:  
Decision Date:

#### **Drawing Numbers and Title**

Drawing No. 02  
Type: Proposed 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:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0507/O	<b>Target Date:</b>
<b>Proposal:</b> Site for dwelling and garage (Dwelling on a Farm)	<b>Location:</b> Approx 50m North East of 73 Reenaderry Road Derrytresk Coalisland
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Mr Thomas Hagan 215a Clonmore Road Dungannon	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Omagh	Substantive Response Received

### Representations:

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

### Summary of Issues

None



## Characteristics of the Site and Area

The site lies within the open countryside just a short distance to the North of the settlement of Tamnamore and the M1 Motorway and outside all other areas of constraint as depicted by the DSTAP 2010.

The red line of the site includes a concrete yard, an outbuilding with aluminum clad walls and roof and is situated just to the north east of number 73 Reenaderry Road. Derrytresk. The site has its own existing access, with the frontage enclosed by a 1.5 metre high closed board timber fence. The remaining part of the roadside boundary is defined by a thick row of mature hedging. The rear north facing boundary is also defined by mature hedging and the south facing boundary between the site and number 73 is defined by a timber fence. At the time of site visit the site had a number of vehicles parked up and it was clearly not being used for domestic purposes.



The dwelling to the south has been included in the blue line owned by the applicant which also includes a further large shed. The dwelling is a small bungalow finished in a white dash.

## Description of Proposal

The proposal seeks outline planning permission for a dwelling on a farm.

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

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

Dungannon and South Tyrone Area Plan 2010  
Strategic Planning Policy Statement (SPPS)  
Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
PPS 21: Sustainable Development in the Countryside  
CTY 1- Development in the Countryside  
CTY 10 - Farm Dwellings  
CTY 13 - Integration and Design of Buildings in the Countryside; and  
CTY14 - Rural Character  
PPS 3 - Access, Movement and Parking;

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

### **Planning History**

There is not considered to be any relevant planning associated with the site.

Given the rural location of application site the nature of the proposal the application shall be assessed under Planning Policy Statement 21- Sustainable Development in the Countryside and in particular with the following;

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built up frontage. In this instance the application is for a farm dwelling and therefore must be considered against Policy CTY10 of PPS21.

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



With respect to (a) it is considered that this policy criteria has not been met, the applicant has not provided an Agricultural Business Identification number and is not in receipt of Single Farm Payments, and DAERA have confirmed that the applicant has no Business ID and does not claim single farm payments. To support the application the applicant has submitted numerous invoices dating 2014 - 2019, of all the documents submitted none make reference to the applicants name and address, it is my opinion that this info as submitted is not sufficient and does not prove the farm business has been active and established for 6 years.

With respect 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) it is noted that the application site is located directly adjacent to the applicants existing dwelling and out building and will be visually linked as it only separated by a low fence.

It is considered that the proposal is not in general compliance with the criteria of Policy CTY 10.



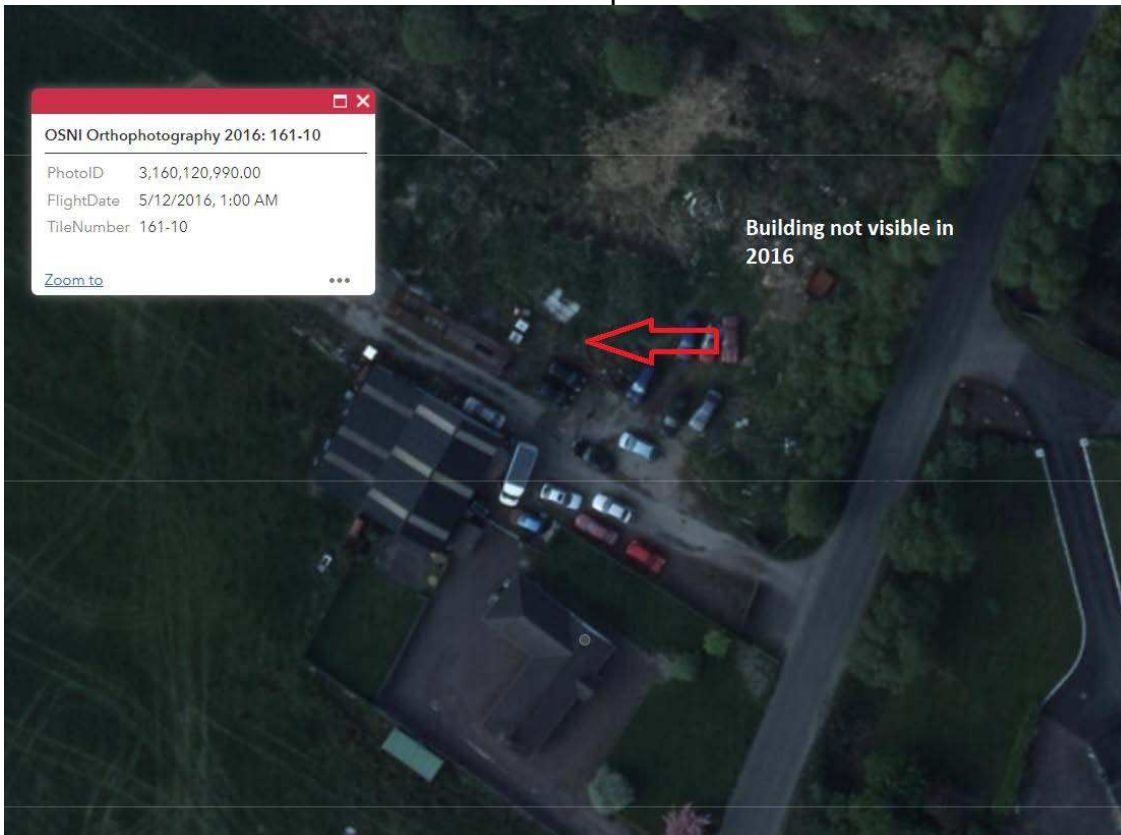
Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. The site does benefit from roadside vegetation cover, and would allow a dwelling to struggle to fit in unobtrusively.

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

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.

### Recommendation Refusal

It must also be noted that the existing shed on the site does not benefit from any planning permission and does not benefit from immunity as from the ortho below we can see it was not built in 2016. This has been passed to enforcement team for examining.



**Neighbour Notification Checked**

**Yes**

### Refusal Reasons

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	30th March 2021
<b>Date First Advertised</b>	13th April 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 73 Reenaderry Road Coalisland Tyrone The Owner/Occupier, 74 Reenaderry Road Coalisland Tyrone The Owner/Occupier, 74 Reenaderry Road, Coalisland, Tyrone, BT71 4QN The Owner/Occupier, 76 Reenaderry Road Coalisland Tyrone	
<b>Date of Last Neighbour Notification</b>	22nd April 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/0507/O Proposal: Site for dwelling and garage (Dwelling on a Farm) Address: Approx 50m North East of 73 Reenaderry Road, Derrytresk, Coalisland, Decision: Decision Date:  Ref ID: M/1978/0824 Proposal: EXTENSION TO DWELLING Address: 73 REENADERRY ROAD, COALISLAND Decision: Decision Date:  Ref ID: M/1986/0176 Proposal: 11 KV RURAL SPUR Address: DERRYTREEK, DUNGANNON Decision: Decision Date:  Ref ID: M/2014/0122/O Proposal: Replacement dwelling Address: 73, Reenaderry Road, Kingisland, Coalisland,	

Decision: PG  
Decision Date: 15.05.2014

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



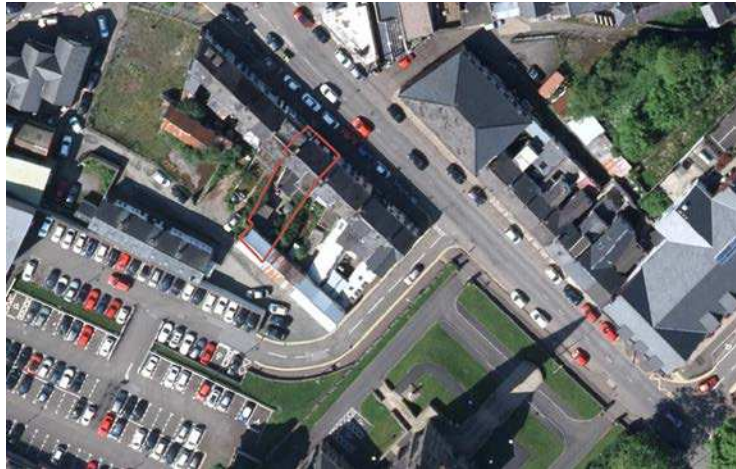
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0523/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of structures in connection with use of yard as a beer garden.	<b>Location:</b> The Flax Inn 27 King Street Magherafelt
<b>Referral Route:</b>  Committee - Approval	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> James O'Kane The Flax Inn 27 King Street Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Environmental Health Mid Ulster Council	Standing Advice
Statutory	Historic Environment Division (HED)	Content
Statutory	Environmental Health Mid Ulster Council	

### Representations:

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

### Summary of Issues

All necessary statutory consultations and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, one third party objection was received

### Characteristics of the Site and Area

The site is located at 27 King street, Magherafelt and is located within the development limits as defined in the Magherafelt Area Plan, 2015. The site is located in a row of terrace buildings and there is a mix of land use in the area including residential, commercial and retail. The building is currently used as a public bar and is long established in the area.





Photos of Rear of Site





### Description of Proposal

This is a full application for a retrospective change of use from yard to beer garden.

### Planning Assessment of Policy and Other Material Considerations

The following policies will be considered in this assessment:

- 1)SPPS - Strategic Planning Policy Statement for Northern Ireland
- 2)Magherafelt Area Plan 2015
- 3) PPS 6 - Planning, Archaeology and the Built Heritage
- 4) PPS 3 - Access, Movement and Parking
- 5) DCAN 4 - Restaurants, Cafes and Fast Food Outlets
- 6) Planning Strategy for Rural Northern Ireland



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

The 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 6 - Planning, Archaeology and the Built Heritage

A consultation was sent to HED (Historic Buildings) and they responded to say that HED (Historic Buildings) has no comment to make as the location and scale of the development are sufficiently distant from HB08/15/012 - Our Lady of the Assumption R.C. Church, King Street, Magherafelt (Grade B) as to have no visual impact.

HED (Historic Monuments) has assessed the application and, due to the nature of the proposed development, is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements

In terms of DCAN 4, the proposal for a change of use from an existing yard at the rear of the Public bar to a beer garden. There is an existing smoking shelter within the existing yard. I am content that the size, scale, massing and design are acceptable within this area.

Environmental Health were consulted on this application and had no objection subject to condition. They acknowledge the objection received and said that No 25 King Street (a residential property) has an outdoor amenity space and rooms which are elevated above the walls surrounding the proposed beer garden. This may expose residents to excessive noise should planning permission be granted. The environmental Health department are not in receipt of any noise complaints in relation to premises at 27 King Street and have requested that should approval be granted that a condition be attached.

In regard to Policy DES 2 - I am content that the proposed development neither conflicts with or detracts from the character, amenity and design of the area.

#### Representations

One objection and a video of the noise levels has been received in relation to this application, which highlights concerns in relation to noise and sanitation and other issues. As Stated above Environmental Health have been consulted on the application and have stated that they have not received any complaints and were content subject to conditions.

There is an access lane along the rear of the site which runs parallel to the site and properties located to the South West of the application site.

#### Access

The P1 form confirms the use of an existing unaltered access to a public road and that there is no intensification of use. Access and car parking arrangements have been considered and are deemed to be sufficient for the property.

#### Conclusion

In consideration of all of the above, the proposal is deemed to be acceptable and approval is recommended.	
<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b> Approve, subject to conditions	
<b>Conditions/Reasons for Refusal:</b>  Conditions  1.This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.  Reason: This is a retrospective application.  2. There shall be no form of entertainment (including live music, amplified or TV) played externally anywhere within the red line as shown on drawing No 02, date stamped 31st March 2021.  Reason: To protect adjacent residential property  3. This permission only relates to the retention of the structures on site on 31/03/2021. A photographic record has been retained for record purposes.  Informatives  1.This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.  2.This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.	
<b>Signature(s)</b>  <b>Date:</b>	

<b>ANNEX</b>	
<b>Date Valid</b>	31st March 2021
<b>Date First Advertised</b>	13th April 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Flax Lane, Magherafelt, Londonderry, BT45 6QP The Owner/Occupier, 23 King Street Magherafelt Londonderry The Owner/Occupier, 25 King Street Magherafelt Londonderry The Owner/Occupier, 29 King Street Magherafelt Londonderry The Owner/Occupier, 4 Flax Lane, Magherafelt, Londonderry, BT45 6QP The Owner/Occupier, 4 King Street, Magherafelt, Londonderry, BT45 6AR The Owner/Occupier, 6 Flax Lane, Magherafelt, Londonderry, BT45 6QP The Owner/Occupier, 8 Flax Lane, Magherafelt, Londonderry, BT45 6QP Bridie Gribbin Email The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0523/F Proposal: Retrospective change of use application from yard to beer garden Address: The Flax Inn , 27 King Street, Magherafelt, Decision: Decision Date:   Ref ID: H/1988/0402 Proposal: ALTERATIONS AND ADDITIONS TO PUBLIC HOUSE Address: 27 KING STREET MAGHERAFELT	

Decision:  
Decision Date:

Ref ID: H/1990/0297  
Proposal: ALTS AND ADD TO LICENCED PREMISES  
Address: 27 KING STREET MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1981/0397  
Proposal: CHANGE OF USE FROM GROCERY SHOP TO CAFE TO TEA ROOMS  
Address: 25 KING STREET, MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1977/0268  
Proposal: SITE OF REBUILDING OF SHOP WITH CONVERSION OF OFFICE TO FLAT  
Address: 23 AND 25 KING STREET, MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1981/0184  
Proposal: CHANGE OF USE OF GROCER/HARDWARE SHOP TO CHINESE CARRY OUT  
Address: 25 KING STREET, MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1996/0692  
Proposal: 2 FLATS  
Address: REAR OF 9-25 KING STREET MAGHERAFELT AND ADJACENT TO PROPOSED CAR PARK  
Decision:  
Decision Date:

Ref ID: LA09/2019/1672/F  
Proposal: Proposed change of use from foot clinic to cafe  
Address: 25 King Street, Magherafelt,  
Decision: PG  
Decision Date: 13.02.2020

**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. 02

Type: Site Layout or Block Plan

Status: Approved

Drawing No. 01

Type: Site Location Plan

Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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

### Characteristics of the Site and Area

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



**Representations**

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

**Description of Proposal**

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

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

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 - Ribbon Development

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

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

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

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

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

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

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

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

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

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

#### Other policy and material considerations

##### PPS 3 - Access, Movement and Parking;

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

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

<p>Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.</p> <p>I have no flooding or residential amenity concerns.</p>	
<p><b>Neighbour Notification Checked</b></p>	<p><b>Yes</b></p>
<p><b>Summary of Recommendation:</b></p> <p>Refusal</p>	
<p>Reasons for Refusal:</p> <p>1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the gap is able to accommodate more than two dwellings permitted under this policy and would create a ribbon of development along the Rogully Road.</p> <p>3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that if permitted would create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.</p>	
<p><b>Signature(s)</b></p> <p><b>Date:</b></p>	

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

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

Drawing No. 01/1  
Type: Site Location Plan  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0601/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of use and extension of domestic garage for dog grooming	<b>Location:</b> 22 Cloghog Road Cookstown
<b>Referral Route:</b>  3no. objections.	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Thomas Mc Donald 22 Cloghog Road Cookstown	<b>Agent Name and Address:</b> C Mc Ilvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b> The proposal has been considered against prevailing policy and all material considerations below. 3No. letters of representation have been received and are considered below.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Characteristics of the Site and Area

The application site lies within the rural area outside any defined settlement limits as defined in the Cookstown Area Plan 2010. The site is located approximately one and a half miles south east of Cookstown town centre. The site comprises the dwelling of No.22 Cloghog Road and associated garage and portion of land to the north of the dwelling. The existing dwelling is 1 and a half storey and the garage with attached store located to the northwest. The topography of the site is relatively flat. The proposal seeks to utilise the existing driveway on to the public road. The immediate surrounding context is rural characterised by agricultural fields, as well as dispersed dwellings and farm holdings. The roadside, northern and southern boundaries are defined by mature vegetation. The eastern boundary is partially bound by vegetation and partially undefined.

**Description of Proposal**

This planning application seeks full planning permission for the change of use and extension of the domestic garage associated with No.22 Cloghog Road for dog grooming.

**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  
 PPS 21: Sustainable Development in the Countryside  
 PPS 3: Access, Movement and Parking  
 PPS 4: Planning and Economic Development

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 28<sup>th</sup> 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, 3no. Third party objections have been received which are summarised and considered below.

- The type of development is not suited to this location.
- Neighbouring properties are experiencing existing noise pollution from applicant's family pets barking. Concerns additional dogs would impact on well-being/enjoyment of home and garden and disturb and upset residents and their own pets.
- Proposal has potential to hold 16 dogs due to holding cages, grooming tables and dog run which would be significant extra noise.
- Concerns with noise nuisance from people and vehicles dropping off and collecting dogs. Commercial traffic at odds with the residential character of the road. Expected 5 vehicles per day considered conservative estimate.
- Previously the surrounding area was quiet with no disturbance and this change of use would devalue properties.



The objectors concerns outlined above centralise around the potential for detrimental impact on residential amenity specifically from noise. The applicant has carried out a Noise Impact Assessment which considered noise from internal and external dog barking and vehicle movement on the site and included a noise management plan to ensure existing residential amenity is not negatively impacted by this proposal. MUDC Environmental Health Department have considered this and have raised no concerns subject to conditions. EHD have recommended conditions relating to mitigating noise, hours of operation and limiting the number of dogs on the premises at one time. It is considered that this will ensure no detrimental impact on residential amenity and address objectors concerns regarding numbers and disturbance from dogs and vehicle movements. It will be the applicant's responsibility to comply with all conditions attached to any forthcoming approval and failure to do may result in planning enforcement action. Section 131 (1) of the 2011 Planning Act (NI) states that failing to comply with any condition of planning permission constitutes a breach of planning control. The suitability of the site for this type of proposal will be considered below in greater detail against the relevant prevailing planning policy. With respect existing detrimental impact from the applicant's property from existing pets, noise pollution complaints should be reported for investigation to Mid Ulster Council Environmental Health Department. With respect the objectors concerns that the proposal will devalue properties, property values are not a material planning consideration.

### **History on Site**

LA09/2015/0475/O – Proposed gap site for dwelling and double domestic garage - Between 22 and 22A, Cloghog Road, Cookstown – Permission Refused 12/10/15

### **Key Policy Considerations/Assessment**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

The Strategic Planning Policy Statement for Northern Ireland states that the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. The SPPS states in the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must be restricted. However, Paragraph 6.88 provides an exception for a small scale new build economic development project outside a settlement where there is no suitable site within the settlement. An edge of settlement location will be favoured over a location elsewhere in the rural area, subject to normal planning considerations.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – Policy CTY 1 Development in the Countryside states there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why development is essential and could not be located in a settlement. Policy CTY1 of PPS21 provides circumstances for non-residential development in the countryside including farm diversification proposals in accordance with Policy CTY 11. Policy CTY 11 states planning permission will be granted for a farm or forestry diversification proposal where it has been

demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The proposal site is not located on a farm and no details of a farm or forestry business have been provided. Policy CTY 1 also provides a circumstance for the reuse of an existing building for non-residential development in accordance with Policy CTY 4.

Policy CTY 4 – The Conversion and Reuse of Existing Buildings states planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention subject to the below criteria.

Such proposals will be required to be of a high design quality and to meet all of the following criteria:

- (a) the building is of permanent construction;
- (b) the reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality;
- (c) any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building;
- (d) the reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining land or buildings;
- (e) the nature and scale of any proposed non-residential use is appropriate to a countryside location;
- (f) all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and
- (g) access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

I consider that the proposal satisfies criteria (a) - (g) stipulated above. The proposal relates to the conversion and extension of an existing domestic garage which is a permanent structure. The proposed extension is sympathetic in design and subordinate to the existing built form with finishes to match. The proposal relates to a small business for dog grooming of no more than 2 dogs at any one time within the curtilage of the applicants home. I consider that the nature and scale of the proposal is appropriate to a countryside location, the business is currently located in a high density residential area within the settlement limits of Cookstown. No potential detrimental impacts to the environment have been identified as a result of this proposed development and EHD have no objections with respect unduly affect to nearby residents amenity. DFI Roads are content with the proposal in terms of road safety and traffic flow.

CTY 4 broadly conforms to the policy approach of the SPPS with respect Conversion and Reuse of Existing Buildings, however the SPPS introduces a higher test and amends the wording from the conversion and re-use of a “suitable building” to the conversion and re-use of a “locally important building”. 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. Whilst the proposal may involve the re-use of a “suitable” rural buildings, the existing domestic garage is not considered to be a “locally important building of special character or interest”; therefore the proposal does not comply with SPPS Paragraph 6.73 in this regard.

Policy CTY1 permits non-residential development in the countryside for industry and business uses in accordance with PPS4.

The preamble to PPS4 states that for the purposes of the PPS, economic development uses comprises those which fall within Class B1 (Business), Class B2 (Light Industrial), B3 (General industrial) and B4 (Storage or Distribution) as defined in the Planning (Use Classes) Order (Northern Ireland) 2004. The use of the building as dog grooming does not fall within any of these use classes or other defined use classes. It is therefore a sui generis use and is not covered by PPS4. Nonetheless, the preamble of PPS4 states that the policy approach and associated guidance contained within it may be useful in assessing proposals for other sui generis employment uses.

Planning Policy Statement 4 (PPS4): Planning and Economic Development -Policy PED2 states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following:

- Policy PED 3 - The expansion of an Established Economic Development Use
- Policy PED 4 – The Redevelopment of an Established Economic Development Use
- Policy PED 5 - Major Industrial Development
- Policy PED 6 – Small Rural Projects

PED 2 goes on to state that proposals involving the re-use of rural buildings will be assessed under the provisions of PPS21. PPS21 CTY4 has been considered above and whilst the proposal complies with this policy it fails the policy test within the overarching Strategic Planning Policy Statement. The agent has provided background information that the applicant currently runs and manages a dog grooming business 'Wizard of Dogs' within the settlement limits of Cookstown. The premises are in a high density residential area with high level of traffic, rented and restricted in size. The applicant lives at No.22 Cloghog with his family and the agent has argued the conversion and extension of the redundant garage will allow a better work home life balance. The domestic appearance of the garage will not change and its finishes will remain in keeping with the main house with no commercial signage is proposed on the building. As explained in the noise report dogs will be kept at the premises for no longer than the time it takes to carry out the grooming service and the use is to be carried out totally within the building bar the external dog run area to be used as a 'toilet' area. The proposal does not relate to an existing established economic development use in the countryside or major industrial development, therefore PED 3, 4 and 5 do not apply. The proposal does not comprise “a community enterprise park/centre” or involve a “small rural industrial enterprise” therefore PED 6 is also not applicable. PED 2 states “All other proposals for economic development in the countryside will only be permitted in exceptional circumstances”.

The agent has provided a Supporting Statement which argues the conversion of the applicant's garage to a small scale dog grooming salon is in the spirit of SPPS, PPS 4 and PPS21 in facilitating opportunities for economic development without any detriment to the countryside or loss to neighbouring amenity. The agent states the proposal will provide a viable business opportunity to the applicant to provide revenue whilst working from home and provide help with his young family and it is not considered the proposal would have a detrimental impact on the rural environment. It is noted that Paragraph 5.10 of Policy PED 2 Justification & Amplification states *“the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes offer the greatest scope for sustainable economic development in the*

*countryside.... In general, new buildings for such uses in the open countryside will be strictly controlled, although it is recognised that some major industrial proposals may require a countryside location and that some small-scale economic development projects may be permissible outside villages or smaller rural settlements” (my emphasis).*

Having considered the nature, scale and specifics of the development, I consider the proposal would be acceptable in this location as an exception under Policy PED2. I recognise a proposal like this would be more likely to give rise to amenity issues if it were to be located in a residential area and Mid Ulster EHD having considered the Noise Impact Assessment and Noise Management Plan have offered no objections to the proposal site subject to conditions. The proposal is small scale and the agent has detailed dogs will only be on-site for the time it takes to groom and there will be a maximum of 3 dogs on site at any one time, with each being kept in either the holding pen or grooming areas. I agree that the proposal would be in the spirit of SPPS and PPS 4 in facilitating opportunities for economic development whilst maintaining the rural environment for people and visitors. I recognise the proposal will provide a viable business opportunity for the applicant to produce revenue and I do not consider the proposal would have a significant impact on the rural environment.

Policy PED 9 General Criteria for Economic Development outlines criteria in which proposals for economic development use will be required to meet, in addition to the other policy provisions within PPS 4.

The proposed extension and change of use relates to the existing domestic garage located to the northwest of No.22 within the existing curtilage. The application is for a dog grooming facility which by its very nature will produce noise from dogs barking and visitors to the site. The closest occupied residential property, excluding the applicant's property, is located approx. 38 metres to the north. As previously stated above, Environmental Health were consulted and have offered no objections subject to conditions. The agent provided a supporting statement which details there will be a maximum of 3 dogs on site at any one time, with each being segregated and kept in either the holding pen or grooming areas and will only be outside for a toilet break. Prior to the appointment, clients will be informed of the expected duration. It is considered the applicant has adequately demonstrated through the submitted noise management plan suitable mitigation to ensure no detrimental harm to the amenities of nearby residents. No natural or built heritage interests of significance have been identified on the site or nearby in which the proposed works will affect and the site is not subject to flooding. Given the nature of the proposal, it is not considered emissions or effluent will be an issue and the P1 form has advised sewage will be dealt with by septic tank and surface water by soakaway. The proposed development will utilise the existing access arrangements to the residential property on site. The P1 form states there will be an expected increase of 5 vehicles to the site daily. DfI Roads have been consulted and have offered no objections subject to conditions. It is considered the additional vehicular traffic generated as a result of the proposed development will not significantly impact the existing road network and there is adequate space for the parking and manoeuvring of vehicles on site. It is considered the proposed works are designed to deter crime and promote personal safety. The proposed development is sited approximately 21 metres from the public road and there will be public views when travelling in either direction. However, the domestic appearance of the garage will not change and the proposed extension is subordinate in scale with finishes to match the existing built form. The existing boundary treatment provides integration of the site into the landscape and it is

considered should permission be granted it is necessary to condition this vegetation is retained to ensure adequate screening. Overall, it is considered the proposed development would not offend Policy PED 9.

CTY 13 and CTY14 are also relevant to this proposal. It is considered the change of use and minor extension proposed is acceptable and will not change the overall residential character of the site. There is existing screening in place and it is considered the proposal would visually integrate into the surrounding landscape. The applicant has argued that the overall intent and spirit of PPS 21 is to re-use and convert redundant buildings were possible for an alternative use in line with sustainable development rather than promoting the accumulation of new buildings in the countryside. The domestic appearance of the garage will not change and the use is to be carried out totally within the building bar the few minutes per day the dogs are out in the holding pen. Overall, I consider the proposed development will integrate successfully and will not result in a detrimental impact to rural character in accordance with Policy CTY 13 and CTY 14.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

The Proposal complies with Policy PED 9, as well as Policy CTY 13 and CTY 14. Policy PED2 allows for an exception to policy in exceptional circumstances. It is recognised that accommodate a dog grooming facility requires certain site requirements and the very nature of development requires an appropriate setting given the potential nuisance. The applicant has provide a noise management plan and any forthcoming approval will be subject to the detailed conditions outlined below which are necessary to avoid detrimental impact to nearby residents. Overall, in this instance given the nature of the proposal and the site specifics, I consider the application could be considered as an exceptional circumstance under Policy PED 2 to warrant approval should Members agree.

**Conditions**

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

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

2. The existing mature trees and vegetation along the boundaries of the site shall be permanently 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.

3. Prior to the commencement of use hereby approved, all external doors to the proposed development shall be fitted with self-closing mechanisms and shall be permanently retained thereafter.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

4. The business hereby permitted shall only operate between 08:00 hours to 18:00 hours, Monday to Friday, 08:00 hours to 13:00 hours on Saturdays, and at no time on a Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

5. During the hours of operation permitted in condition 4, all external doors to the proposed development shall remain closed at all times except for access and egress.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

6. There shall be no more than 3 dogs on the premise at any one time, not including the dogs owned by the occupiers of No. 22 Cloghog Road, Cookstown.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

7. There shall be no dogs on the premise outside of the hours within condition 3, except for the dogs owned by the occupiers of No. 22 Cloghog Road, Cookstown.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

8. The building hereby approved shall be used for dog grooming only.

Reason: To prohibit a change to an unacceptable use and in the interests of residential amenity in a rural area.

9. The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 bearing the date stamp 14 April 2021 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.

### **Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under

other prevailing legislation as may be administered by the Council or other statutory authority.

4. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.
5. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 07/12/2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0625/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed off site replacement dwelling and domestic double garage	<b>Location:</b> Approx 126m North West of 59 Lurgaboy Lane Dungannon
<b>Referral Route:</b> <ol style="list-style-type: none"><li>1. Contrary to Policy CTY 1 in PPS 21 in that there is no overriding reason why the development is essential and cannot be located within a settlement.</li><li>2. Contrary to Policy CTY 3 – Replacement Dwellings in PPS 21 in that there is no overriding reason why the proposed dwelling cannot be sited within the existing curtilage.</li><li>3. Contrary to Policy CTY 8 – Ribbon Development in PPS 21 in that the development if permitted, would add to a ribbon of development in the countryside.</li><li>4. Contrary to Policy CTY 13 – Integration and Design of Buildings in the Countryside in PPS 21 in that the application site lacks existing natural boundaries and does not have a suitable degree of enclosure.</li><li>5. Contrary to Policy CTY 14 – Rural Character in PPS 21 in that the application site adds to a ribbon of development which is detrimental to rural character.</li></ol>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Joseph Mallon 48 Rossmore Road Dungannon	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b> I am content the proposal meets the principle of development for a dwelling to be replaced but there is not a substantial argument for an off-site location. The proposed off-site will add to a ribbon of development, has a poor degree of enclosure and is detrimental to rural character.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	DETI - Geological Survey (NI)	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice

### Representations:

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

### Characteristics of the Site and Area

As shown in figure 1 below the application site is outside the settlement limit of Dungannon to the north west as defined in the Dungannon and South Tyrone Area Plan 2010.



Figure 1 – snapshot from the Dungannon and South Tyrone Area Plan 2010

To the northwest of the site is inside the Dungannon limits and is mainly industrial and residential uses. The access to the dwelling at No. 109 is off the main Coalisland Road and through an entrance at Mallaghan Engineering. The access runs along a private laneway and there is another dwelling on the lane at No.103. The surrounding area to the south and east is semi-rural in character with agricultural fields, groups of farm buildings and dwellings on single plots.

The application site comprises an existing two storey dwelling at No. 109 which has finishes of pebbledash and red brick walls, brown profiled roof tiles and white upvc windows. Beside this dwellings are a number of agricultural buildings and a yard area. The building which is the subject of this application has the appearance of a dwelling with a small porch on the front, windows on the front and back elevation and a chimney projecting from the ridge. As this is an offsite proposal the siting of the proposed dwelling has a roadside frontage onto Lurgaboy Lane. The land is flat at the roadside portion of the land but falls away towards the rear boundary.

#### **Description of Proposal**

This is a full application for a proposed off site replacement dwelling and domestic double garage at lands approximately 126m North West of 59 Lurgaboy Lane, 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.

#### **Representations**

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

#### **Planning History**

No planning histories at the application site.

#### **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 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010 and is not within any other designations or zonings in the Plan.

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

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a replacement dwelling CTY 3 is the relevant policy in the assessment.

### **CTY 3 – Replacement Dwellings**

As shown in figures 2-4 below I am content the building has the appearance of a dwelling and exhibits all the essential characteristics of a dwelling. There is a chimney which projects from the ridgeline of the building, a small porch on the front elevation and windows on the front and back elevations of the buildings. I consider all the walls of the dwellings are substantially intact.



Figure 2 – Site photograph of the front elevation of the dwelling to be replaced



Figure 3 – Site photograph of the rear elevation of the dwelling



Figure 4 – photograph of the window on the rear elevation zoomed in



As shown in figures 2 – 4, on the day of my site visit the building had the appearance of a dwelling. However there does appear to have been recent works done to the building. New windows in place and there is fresh plastering around the window frames which suggest the windows have been reduced in size. The policy in CTY 3 states that dwellings does include buildings previously used as dwellings. In a supporting statement submitted by the agent that the building shows up on the 1840 Griffiths Valuation maps as per the attachment shown in figure 5. There is a building on the map but this does not demonstrate that the building was previously a dwelling. Also, submitted is a ledger which states 109 Coalisland Road as house, office and land. This is shown as townland 27 which corresponds to the Griffiths Map which shows the site in the red line of 27.

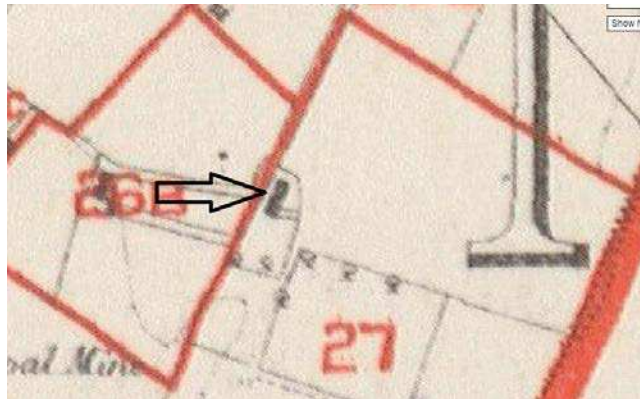


Figure 5 - Griffiths map showing a building in the 1840s.

No other evidence has been submitted by the agent to show the building was previously a dwelling. As the site is along a private lane there are no images on Google Maps. I completed a check on orthophotography and the building is on 2005 Imagery and there is a chimney and small porch on the imagery.



Overall, I am of the opinion looking at historical maps and what is on site at the time of the site visit, that in the balance of probability the building to be replaced was a dwelling and can be considered as a dwelling to be replaced in this assessment.

I consider the dwelling to be replaced has the appearance of non-listed vernacular dwelling as listed in Annex 2 of PPS 21. The dwelling has a long rectangular form and the depth of

the house is less than 6m. The majority of the windows are on the front and back elevations and there is a small porch on the front elevation. There are no critical views of the dwelling from the Coalisland Road and only long distance views from Lurgaboy Lane as shown in figure 6 below. I would not recommend retaining the building for use as a store or it's current use as a dwelling. Policy in CTY 3 states that the vernacular building should only be retained where it can be incorporated into the overall scheme with the new dwelling. As the proposal is for an off-site replacement this is not viable in this case.



Figure 6 – Site photograph of the off site location of the proposed dwelling with the farm sheds and existing dwellings in the background.

The proposed dwelling is sited at Lurgaboy lane which is not within the existing curtilage of the dwelling to be replaced. In a supporting statement received on the 20<sup>th</sup> July 2021 the agent states the reason for going off site is due to the access and getting to the current site. As shown in figures 7 and 8 below the current access is through Mallaghan Engineering car park on one side and the office on the other side, and then onto a shared laneway. The agent states in the supporting statement that Mallaghan Engineering use the same access point and heavy plant and machinery are regularly crossing the lane.

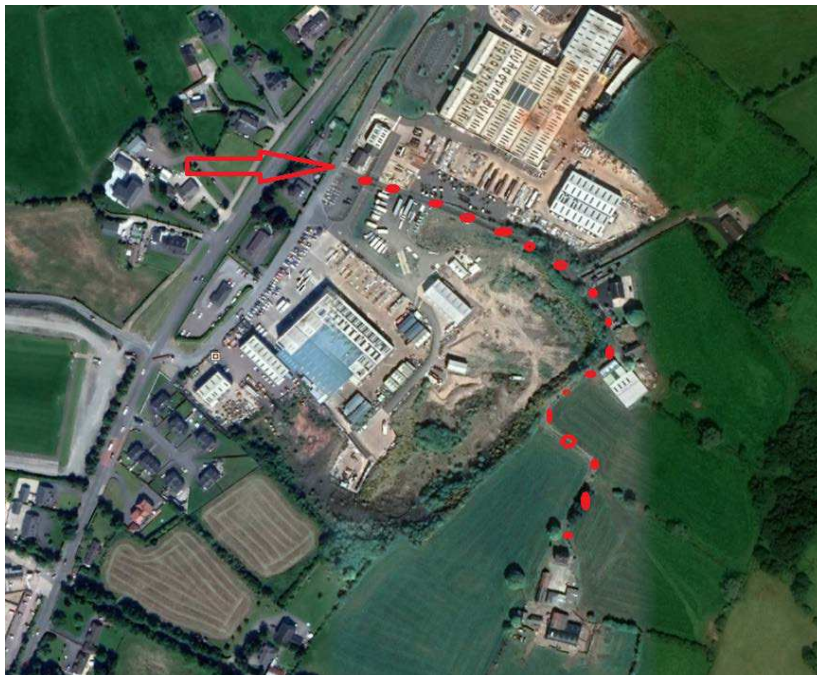


Figure 7 - Current lane to the site where the dwelling to be replaced is sited.



Figure 8 - Current access point through Mallaghan Engineering off the Coalisland Road

However as shown in figure 9 below the applicant owns a number of other fields around the existing farm dwelling and buildings at No. 109. The applicant is Mr Joseph Mallon who lives at No. 48 Rossmore Road and same applicant has had a farm dwelling granted under planning approval LA09/2019/1495/O. Figures 9 and 10 show land to the rear of the dwelling to be replaced which is field 4 on the map below. I consider there is land around the farm dwelling and building at No. 109 and there is no justification for siting a dwelling so far off site. I do not consider there are landscape or amenity benefits to siting off-site. A dwelling at No. 109 would cluster with the farm buildings and other dwellings and have a less visual impact than the proposed site.





Figure 9 – Map submitted by the agent showing land owned by the applicant.



Figure 10 – Photographs from the site visit showing land behind the dwelling to be replaced.

The proposed dwelling is single storey with a low ridge height and a small stonework porch on the front elevation. The proposed finishes are black slate roof tiles, smooth render walls



and black guttering and window frames. I am content the design of the proposed design is a simple form and typical of a rural dwelling. The adjacent dwelling and similar dwellings along Lurgaboy Lane are single storey. However as the off site location is much more open and there are minimal natural boundaries I consider the proposed dwelling will have a greater visual impact than the existing building which has limited critical views. The existing building is along a private lane and you can only see it in long distance views, while this site is on a roadside.

A new access is proposed to the off site location and again if the land around the building to be replaced was used there would be no need for another new access as the proposal could use the existing lane.

Overall, I am of the opinion that there is no reasonable argument for the off –site location along Lurgaboy Lane. The applicant has control of a number of field around No.109 Coalisland Road so there are better sites. The agent has stated the access through Mallaghan Engineering as a reason for going off-site but this access already serves other dwellings along this lane sufficiently and issues along a shared laneway

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

I consider the proposed off-site location is prominent in the landscape. It has a roadside frontage onto Lurgaboy Lane and the land slopes away from the roadside to the back of the site. Currently on site there is a post and wire fence along the roadside boundary and no natural vegetation along the remaining boundaries as the site is a cut-out of a larger agricultural field.



Figure 11 – Google images May 2011

I consider the site lacks long established natural boundaries and had a poor degree of enclosure and would rely on new landscaping to integrate.

A new access is proposed which runs through the middle of the site. Even-though another access onto a road is not ideal when the applicant could site beside the dwelling to be replaced and use the existing lane, Roads have responded with no concerns.

As stated earlier in the assessment I have no concerns about the design of the dwelling.

Overall, I do not consider the proposal meets all the criteria in CTY 13.

#### **CTY 14 – Rural Character**

The proposed dwelling in the off-site location will add to a ribbon of development and this is unacceptable as it is detrimental to rural character. The proposal will also be prominent in the landscape as it is a roadside location with no natural boundaries at the site. Overall, I consider the proposal will not meet all the criteria in CTY 14.

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

DFI Roads were consulted and had no concerns subject to visibility splays of 2.4m x 60m.

#### **Other Considerations**

Geological Survey were consulted and are content the site is located greater than 150m from the closest know abandoned mine working.

There are no other NED, HED or flooding issues at the site.

#### **Summary of Recommendation:**

The proposal is recommended for refusal as it does not meet the criteria in CTY1 or CTY 3 – Replacement Dwellings in PPS 21 – Sustainable Development in the Countryside.

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

1. Contrary to Policy CTY 1 in PPS 21 in that there is no overriding reason why the development is essential and cannot be located within a settlement.
2. Contrary to Policy CTY 3 – Replacement Dwellings in PPS 21 in that there is no overriding reason why the proposed dwelling cannot be sited within the existing curtilage.
3. Contrary to Policy CTY 8 – Ribbon Development in PPS 21 in that the development if permitted, would add to a ribbon of development in the countryside.
4. Contrary to Policy CTY 13 – Integration and Design of Buildings in the Countryside in PPS 21 in that the application site lacks existing natural boundaries and does not have a suitable degree of enclosure.
5. Contrary to Policy CTY 14 – Rural Character in PPS 21 in that the application site adds to a ribbon of development which is detrimental to rural character.

**Signature(s)**

**Date:**





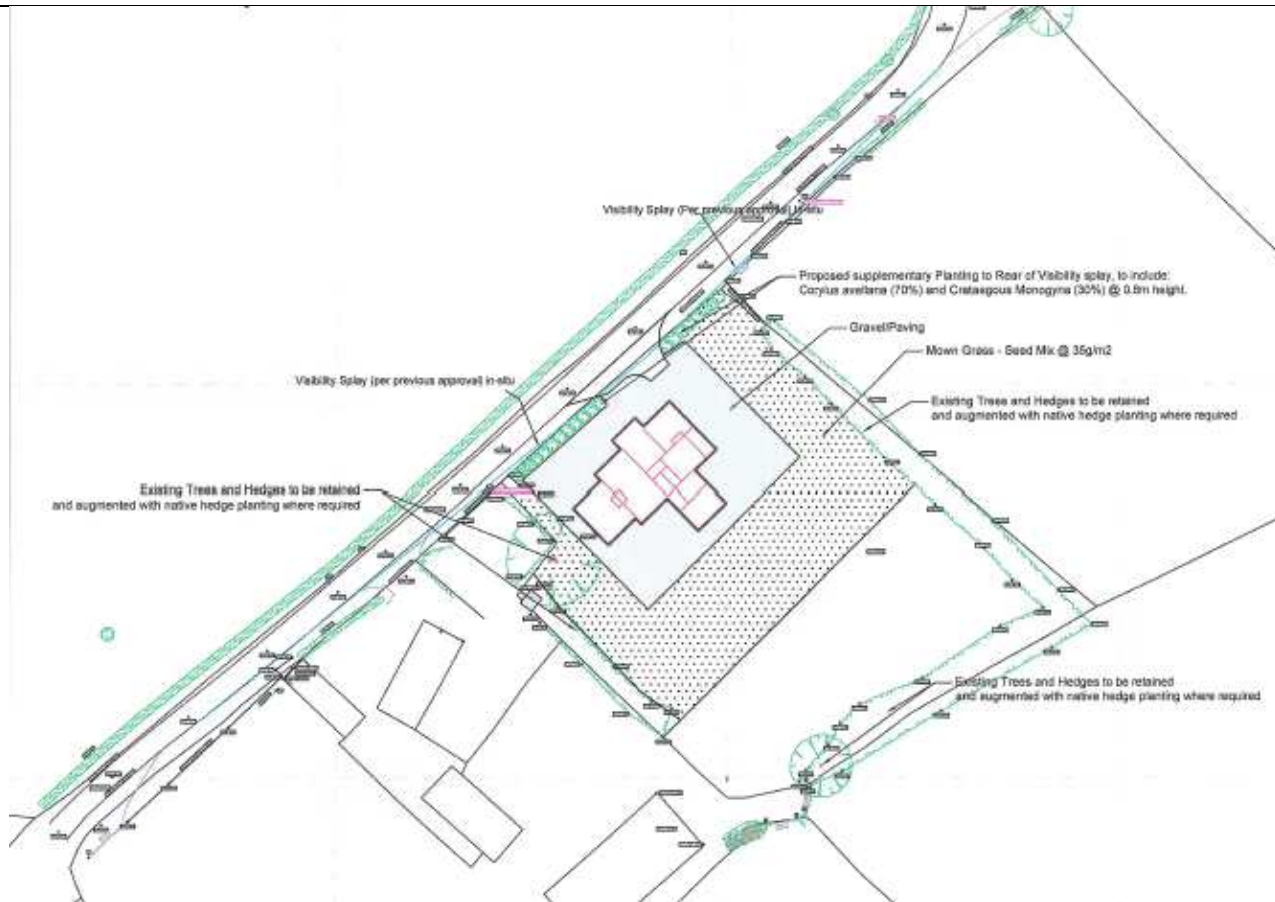
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0930/F	<b>Target Date:</b>
<b>Proposal:</b> Application for retention of two storey dwelling, change of house type (location) application from that previously approved under application LA09/2016/0321/F.	<b>Location:</b> 26 Toomog Road Dungannon Co Tyrone BT70 3BL.
<b>Referral Route:</b> Approval – objection received.	
<b>Recommendation:</b>	APPROVAL
<b>Applicant Name and Address:</b> Louise & Ronan Donnelly 26 Toomog Road Dungannon BT70 3BL	<b>Agent Name and Address:</b> CD Consulting (NI) Ltd 75 Creagh Road Tempo BT94 3FZ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
<b>Representations:</b>		
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

There were two objections received in relation to the proposal. Both objections were received from a solicitor on behalf of a neighbour to the site. It should be noted that both objections were identical in terms of the words within them, however the later objection was received on headed paper. The issues raised within the objections will be discussed in detail later in the report, however mainly related to:

- Integration concerns
- Overlooking
- Impact on Natural Environment
- Surface Water
- Encroaching on access to fields

## Characteristics of the Site and Area

The application site is located at 26 Toomog Road, Galbally and is located within the open countryside as identified in the Dungannon and South Tyrone Area Plan 2010. Within the red line of the site is an existing two storey dwelling and the existing curtilage surrounding it including a generous garden area. The lands drop gently from the roadside towards the rear of the site. The surrounding area is predominantly rural in nature and is made up with agricultural fields scattered with single dwellings and their associated outbuildings.

## Description of Proposal

Full planning permission is sought for the retention of two storey dwelling, change of house type (location) application from that previously approved under application LA09/2016/0321/F.

## Planning Assessment of Policy and Other Material Considerations

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified included: . At the time of writing, two representations were received. As noted before these were both received from solicitor and were on behalf of a neighbour to the site. Both representations contained the exact same wording, however the latest objection was on headed paper. There is no address noted as to who the objection is from. The issues raised within the objection included:

- Integration concerns
- Overlooking/Overshadowing
- Impact on Natural Environment
- Surface Water
- Encroaching on access to fields

The objection notes that the property is a two storey dwelling and it does not integrate with the neighbouring properties which are all single storey. There is concerns relating to overlooking and overshadowing of the neighbouring property raised and it notes that the proposal breaks the skyline. I would note that the changes proposed in this application in terms of the design of the dwelling itself are minimal. Both are two story with single storey front, rear and side projections. There were no objections submitted to the previous application, LA09/2016/0321/F.

In terms of overlooking and overshadowing, I am content there would be no concerns that this would be an issue. The single storey side projection is closest to the neighbouring property and therefore 1<sup>st</sup> floor windows which would potentially overlook the neighbouring site are located approx. 26m away from the closest neighbouring property. There is also existing mature trees which are located between the two properties which would restrict any overlooking concerns further. The existing vegetation/tree is shown on the plans and will be conditions to be retained. The objection notes that trees and hedging bordering their property have been removed without their permission. Although this is considered to be a civil matter between the two parties concerned, the conditions of the previous permission noted that the mature trees and

hedging along the boundaries should be retained. It is unclear looking at google street view and from the site visit which boundaries are accused of being removed.

The amended siting of the dwelling is referred to in the supporting statement provided by the agent. They note the dwelling has been moved approx. 14m forward in the site due to advice given to them by the contractor building the site. It was explained that due to the extreme sloping nature of the site they would be advised to build in this amended location to keep costs down. The agent notes within their supporting statement that the applicant was unaware of the need to get planning permission for a change of siting and as such has come in with this current application to try and regularise the development as a result of an enforcement case open on the site. In terms of the change in siting, I have no concern with the amendment made, nor do I feel this would have had any impact on the outcome of the previous application, LA09/2016/0321/F. The access shown on the plans appears to be broadly in the same location as the previous application and I can't see what impact this would have on accessing neighbouring fields.

#### Planning History

LA09/2016/0321/F - Change of house type from that previously approved under application M/2001/0694/F - Adjacent to 28 Toomog Road, Galbally, Dungannon – PERMISSION GRANTED

M/2001/0694/F - Land north-east of and adjacent to 28 Toomog Road, Galbally, Dungannon - Erection of dwelling and detached domestic garage – PERMISSION GRANTED

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

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Mid Ulster District Council Local 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 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

The site is located in the rural countryside as identified within the Dungannon and South Tyrone Area Plan and has no other zonings or designations within the Plan.

Full planning permission was granted on this site under LA09/2016/0321/F on 19<sup>th</sup> May 2016 with a five year time limit condition attached to it. I am content that this permission remains live and the principle of development has already been established on site already. From spatial images, foundations can be seen roughly in place in 2016 maps and the current ortho. Therefore, all that remains to be considered under this current application is the change of design.

As noted before, the dwelling proposed has a similar design and overall size to that approved previously (the previous design is shown below in figure 1 with figure 2 and 3 showing the proposed design under this current application and the site layout in relation to the previous approval). The dwelling has a simple front elevation with a small front, side and rear projection. I am content that this current proposal would be respectful to the existing character of this area and the neighbouring houses and the changes proposed would not have any greater impact than what was approved previously. The materials proposed, including render and natural stone are considered acceptable in this rural setting. I have no concerns regarding the change of house design adversely impacting the amenity of neighbouring properties in terms of overlooking or overshadowing given the separation distance and boundary treatment proposed. I am content that the proposal complies with Policy CTY13 and CTY14 of PPS21.

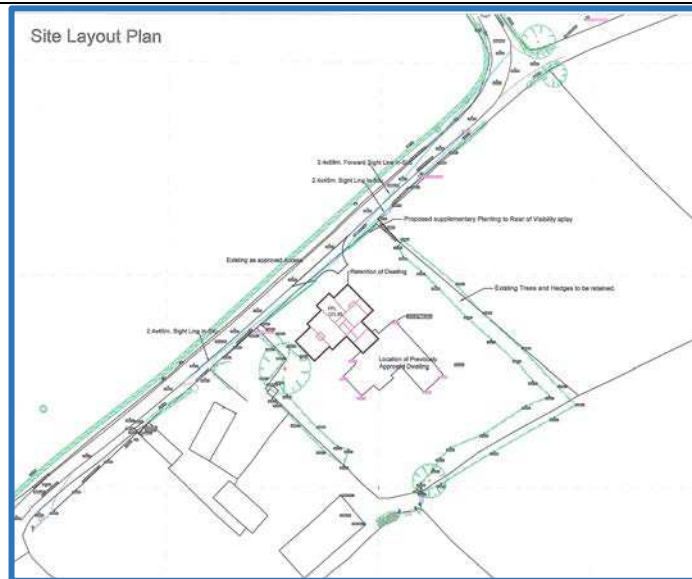


**Figure 1 – The design of dwelling as approved under LA09/2016/0321/F**



**Figure 2 – Design of dwelling as proposed under this current application**





*Figure 3 – Shows the proposed location under this current application in relation to the previous approval.*

The access point as approved under LA09/2016/0321/F is the same as what is shown on Drawing No.02a, with 2.4 x 45m sightlines shown on the plans. It was not felt necessary to consult with DfI Roads in this instance.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Approval is recommended.

**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. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: LA09/2016/0321/F on the 19<sup>th</sup> May 2016 and only one dwelling shall be constructed on the site.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site by ensuring only one dwelling is constructed on site.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	17th June 2021
<b>Date First Advertised</b>	29th June 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Faloon and Co Solicitors 27 Thomas Street,Dungannon,Tyrone,BT70 1HN The Owner/Occupier, 28 Toomog Road Dungannon Tyrone The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	20th September 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0930/F Proposal: Application for retention of two storey dwelling, change of house type (location) application from that previously approved under application LA09/2016/0321/F. Address: 26 Toomog Road, Dungannon, Co Tyrone BT70 3BL., Decision: Decision Date:  Ref ID: M/1988/0619 Proposal: LV O/H Line Extension Address: TOOMOG DUNGANNON Decision: Decision Date:  Ref ID: M/2001/0694/F Proposal: Erection of dwelling and detached domestic garage. Address: Land north-east of and adjacent to 28 Toomog Road, Galbally, Dungannon. Decision: Decision Date: 14.11.2001  Ref ID: LA09/2016/0321/F	

Proposal: Change of house type from that previously approved under application M/2001/0694/F

Address: Adjacent to 28 Toomog Road, Galbally , Dungannon,

Decision: PG

Decision Date: 25.05.2016

Ref ID: M/1998/0282

Proposal: Site for Dwelling

Address: ADJACENT TO 28 TOOMOG ROAD GALBALLY DUNGANNON

Decision:

Decision Date:

Ref ID: M/1998/0160

Proposal: Erection of Dwelling

Address: APPROX. 80M NORTH EAST OF 28 TOOMOG ROAD GALBALLY DUNGANNON

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

Drawing No. 03

Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Elevations  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



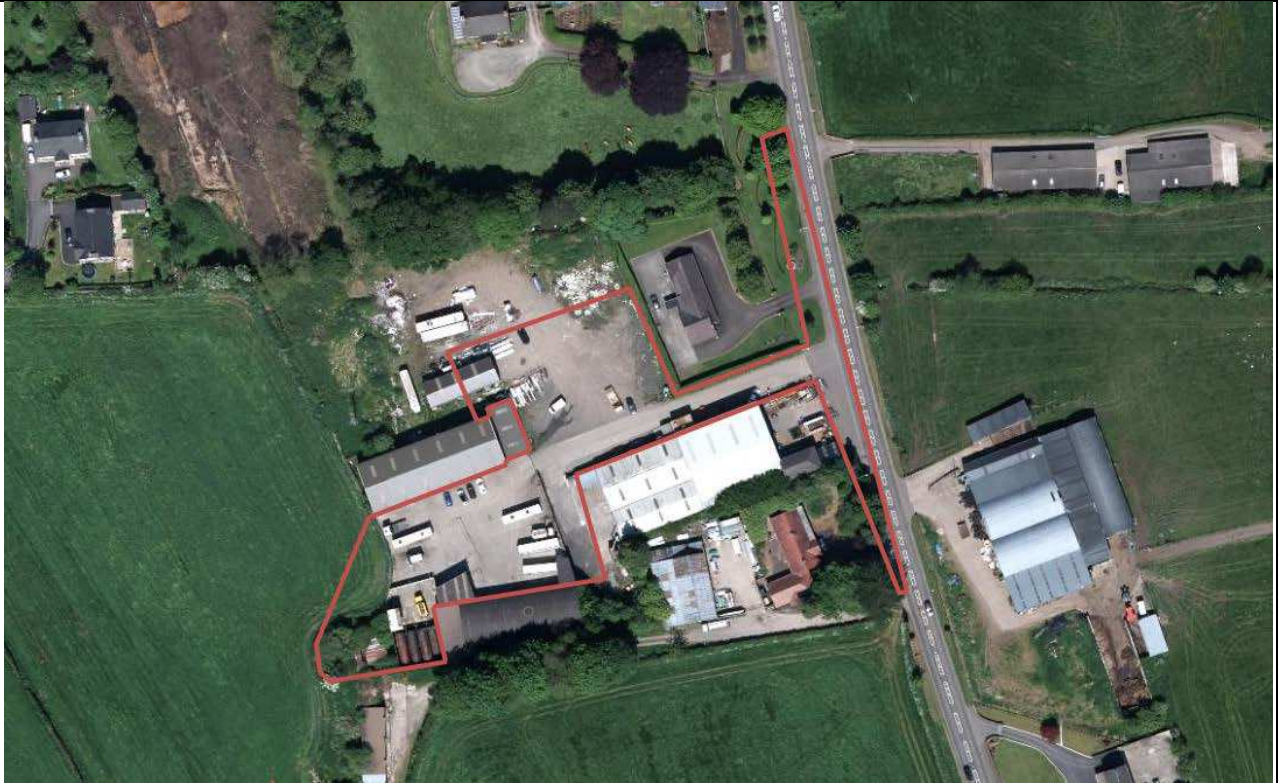
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1145/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed No1 industrial storage shed.	<b>Location:</b> Site adjacent to 17 Deerpark Road Bellaghy Magherafelt BT45 8LB
<b>Referral Route:</b> Exception to policy	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Seamus O'Kane Unit 3 17 Deerpark Road Bellaghy	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>  Small portion of the application site outside settlement limits. Proposal considered against relevant prevailing planning policy below. No letters of representation received	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health	Substantive Response
Statutory	DFI Roads - Enniskillen	Content

### Representations:

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

### Characteristics of the Site and Area

The application site is located predominantly within the defined settlement limits of Bellaghy, with a small portion of the site to the southwest in the rural countryside. The majority of the site falls within two zonings 'An Industrial (Land Use) Policy Area' and a 'Major Area of Existing Industry' defined within the Magherafelt Area Plan 2015. The site comprises an existing operational industrial yard located at the fringe of Bellaghy settlement limit. In the immediate context, there are a number of large industrial buildings, with two roadside dwellings to the east. In the wider landscape, there is a housing development to the NW and dispersed dwellings and farm holdings to the east. Green fields are located immediately west of the site and this area is defined as a Local Landscape Policy Area. The proposal is sited on a relatively flat area of land. The proposed unit is located approx. 140m from the Deerpark Road.



**Description of Proposal**

This planning application seeks full planning permission for 1no. Industrial shed to be used for storage located adjacent to 17 Deerpark Road, Bellaghy.

**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
- PPS 3 - Access, Movement and Parking
- PPS 4 - Planning and Economic Development
- PPS 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 28<sup>th</sup> 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 has 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**

LA09/2020/0600/F – Proposed industrial development consisting of 3 industrial units for light industrial and storage use - Lands to the rear of 17a Deerpark Road, Bellaghy, BT45 8LB - Under Consideration

LA09/2020/0311/F - Proposed change of use from vacant industrial unit to end of life vehicle facility (ELVF) access and ancillary site works - Lands approximately 25m North of unit4, 17 Deerpark Road, Bellaghy – Permission Granted 11/11/20

LA09/2018/0992/F - New workshop/garage unit - new site access onto Deerpark Road. Extension to overall site curtilage and provision for additional parking facilities - Approx. 35m SE of 3 Ballyscullion Road (Old Town), Bellaghy – Permission Granted 12/10/18

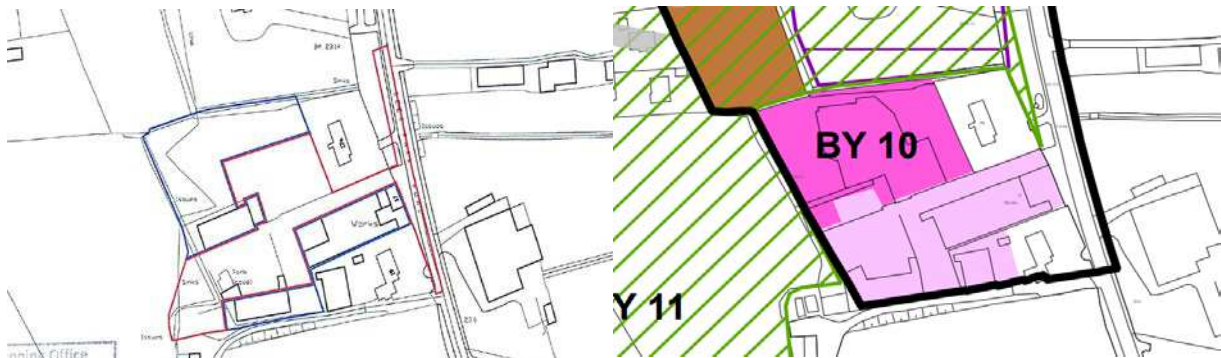
H/2007/0213/F - Proposed industrial development to provide five units for light industrial and storage - Land to rear of 17A Deerpark Road, Bellaghy – Permission Granted 22/02/10

H/2004/0207/F - Alterations to existing workshop. (Retrospective) - Adjacent to 19 Deerpark Road, Bellaghy – Permission Granted 22/07/05

H/2001/0138/F – Proposed Industrial Units And Office Accommodation - Behind 19 Deerpark Road, Bellaghy – Permission Granted 25/06/01

### **Key Policy Considerations/Assessment**

Magherafelt Area Plan 2015 – The site is located partially within the development limits of Magherafelt on zoned industrial land, however the area of the proposed development is located outside the defined settlement limits in the open countryside and partially within a Local Landscape Policy Area. Plan Policy CON 2 Local Landscape Policy Areas states within designated LLPAs planning permission will not be granted to development proposals that would adversely affect their intrinsic environmental value and character and also proposals which meet any additional key development requirements set out as appropriate in Part 4 of the Plan. I am content that this proposal will not adversely affect the intrinsic environmental value and character given the surrounding context and that there is no conflict with the key development requirements set out in Part 4 of the Area Plan.



The Strategic Planning Policy Statement for Northern Ireland encourages a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal, as such existing policy will be applied.

PPS4 – Planning and Economic Development is a retained policy document under SPPS and provides the appropriate policy context. The proposal involves the development of an industrial unit within an established industrial yard. Whilst the existing established business is located in the countryside, the proposed unit is located outside the settlement limits. Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) sets out the types of development considered acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4- Planning and Economic Development.

Policy PED 3 of PPS 4 states the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. The proposal does not fall neatly within Policy PED 3 as the established economic development is not located in the countryside, the small portion of the site to be developed is the only part outside settlement limits. Given the proposed industrial storage shed is outside the settlement limits of Bellaghy, the agent was asked to set out the policy context for the proposed development in the countryside. The agent has provided a supporting statement accepting the extent of the settlement limits of Bellaghy, however argues the portion of the site outside settlement limits has been a long established part of this industrial yard. The agent has provided a map from 1957-1986 which shows buildings on this portion of the site and aerial photos which show the area where the proposed building is to be located previously used for industrial purposes. From a review of ortho maps and the planning history, particularly the original 2001 approval, it is accepted that whilst this portion of land is not within Bellaghy settlement limits it has been associated within the existing industrial works on site for several years and formed part of the original application site. It is also noted that Magherafelt Area Plan 2015 is now six years since its expiry date. Therefore, there has not been a review of the settlement limit of Bellaghy for a number of years and work is still progressing on the new Local Development Plan which could take years to be adopted. Having discussed this at an internal group meeting, the group consensus was that the proposal should be treated as an exception to policy given it does not meet the circumstances set out in Policy PED2 for development in the countryside and given the history and specifics of this site.

All proposals for economic development are required to meet the policy provisions of Policy PED 9 - General Criteria for Economic Development within PPS4. It is considered the principle of development of an industrial unit is established at this location and the proposal will therefore be considered against PED 9 below.

*It is compatible with surrounding land uses.*

The proposed units are located within the existing industrial yard and adjacent to the applicants existing established business. The proposed industrial shed is for storage and it is considered compatible and appropriate to the surrounding uses.

*It does not harm the amenities of nearby residents.*

Mid Ulster Environmental Health Department have been consulted and have raised no objections regarding impact on residential amenity by way of unacceptable noise, nuisances or odours subject to conditions.

*It does not adversely affect features of natural or built heritage.*

No features of natural or built heritage have been identified which would be adversely affected by the proposed development.

*It is not located in an area of flood risk and will not cause or exacerbate flooding*

The site is not in area of recognised flood risk therefore it is not considered the proposal will exacerbate flooding.

*It does not create a noise nuisance*

The proposal is for storage and this use will be conditioned to any forthcoming approval. Given the nature of the proposal and siting to the rear of the site and in light of EHD raising no concerns, it is not considered the proposal will create a noise nuisance.

*It is capable of dealing satisfactorily with any emission or effluent*

Foul sewage will be disposed via mains and surface water via a soakaway. The P1 Form has not stated any emissions or effluent from the proposal and EHD have raised no concerns in this regard.

*The existing road network can safely handle any extra traffic.*

The proposal is within the existing complex and will use existing access arrangements. DFI Roads have no objections to the proposal. I consider that space remains within the site for private car use for employee parking, visitors and HGV movement and circulation.

*A movement pattern is provided that supports walking and cycling, and meets the needs of people whose mobility is impaired.*

It is noted that there is a footpath that leads to the application site from Bellaghy village where there is also public transport links. It is considered the movement pattern is acceptable in this instance given the specifics of the proposal and location.

*The site layout, building design, associated infrastructure and landscaping arrangements are of a high quality and assist the promotion of sustainability and biodiversity.*

The design of the proposed unit is considered typical to the type of use proposed and is compatible with the surrounding built form. The proposed floor space area of the units is approx. 240m<sup>2</sup> with a height of 5m. The site layout, building design, associated infrastructure and landscape arrangements are acceptable for this site and locality given this is within an existing established industrial park. The proposal site is set back from the public road therefore views will be limited/isolated.

*Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view*

Given the siting, the existing boundary treatment which defines the boundaries of the wider industrial park is considered acceptable boundary treatment and means of enclosure in this instance.

*Is designed to deter crime and promote personal safety.*

It is noted that the access of the site includes security fencing and gates, therefore I have no concerns with respect the design and crime/person safety.

**CTY 15 – The Setting of Settlements** - As the siting of the proposed shed is immediately outside the defined settlement limit of Bellaghy, the proposal must also be considered against CTY 15. It is accepted that development at this location will to some degree mar the distinction between Bellaghy settlement limit and the remaining countryside. However, there are limited public views of the proposed development from the Deerpark Road given the set back and screening from existing buildings within the industrial park. It is also accepted from a review of ortho maps that there previously were previously buildings at this location. I do not consider the proposed shed will have an unacceptable impact on the character of Bellaghy. The proposal is acceptable in this instance and will consolidate existing development within the industrial park and I consider should be treated as an exception to policy.

**PPS 3 - Access, Movement and Parking** - This proposal will utilise an existing access through the industrial park to the public road. DFI Roads have been consulted and have no objections. In light of this, it is considered the proposal complies with Policy AMP 2 of PPS 3.

### **Recommendation**

The proposal is in accordance with guidance contained within the Area Plan and prevailing planning policy. It is my view that the scale, nature and form of the proposal is appropriate to the location therefore, I recommend approval.

**Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

Having considered the prevailing planning policy and all material considerations outlined above, I am of the opinion that the proposed development is acceptable in this instance and members should consider granting planning permission as an exception to policy subject to the following conditions.

### **Conditions**

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

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

2. The building hereby approved shall be used for storage purposes only.

Reason: To prohibit a change to an unacceptable use and in the interests of residential amenity.

3. There shall be no deliveries and/or external activity to the building hereby permitted between 07:30 hours and 19:30 hours, Monday to Saturday and at no time on a Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

4. Within 4 weeks of a written request by the Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/ her expense employ a suitably qualified and competent person, to assess the level of noise from the development. Details of noise monitoring survey shall be submitted to the Environmental Health Service for written approval prior to any monitoring commencing. The Environmental Health Service shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Environmental Health Service should then be provided with a suitable report detailing any necessary remedial measures.

Reason: To protect residential amenity from noise, nuisance and general disturbance.

**Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1182/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of farm and factory shop and associated works	<b>Location:</b> Approx 70m N.E. of 70 Drumgrannon Road Dungannon
<b>Referral Route:</b>  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.	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> George Troughton 76 Drumgrannon Road Broughadowey Dungannon	<b>Agent Name and Address:</b> 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
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 28<sup>th</sup> 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.





2007



2019

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

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

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

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

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

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

The agent claims,

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

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

The Oxford Dictionary defines a Farm Shop as,

*“a shop that sells food and other items **from** a farm directly to the public.”*

and a Factory Shop as,

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

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

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

The agent goes on to say,

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

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

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



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

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

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

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

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

### **Consultations and Representations**

NI Water have no objection subject to standard conditions.

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

DfI Rivers have no objections

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

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

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

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

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

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

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

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

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

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

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

**Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

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

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

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

### **Reasons for Refusal:**

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	16th August 2021
<b>Date First Advertised</b>	31st August 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (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	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/1182/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

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



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1276/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling	<b>Location:</b> 35m N.W. of 270 Killyman Road Dungannon
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Paul Cranston 120 Bush Road Dungannon	<b>Agent Name and Address:</b> JEM Architectural Services Ltd 15 Finglush Road Caledon BT68 4XW
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### 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

None

### Characteristics of the Site and Area

The site lies within the Northern edge of the settlement limits of Killyman and outside all other areas of constraint as depicted by the DSTAP 2010. The M1 motorway runs directly past the North of the site. The area is predominantly residential in nature with detached dwellings on both sides, semi-detached dwellings to the rear and across the road frontage there is an agricultural field which is also within the settlement.

The red line of the site is located approx. 35 north west of number 270 Killyman road and includes a long narrow plot sandwiched between two dwellings, the site is approx. 8.5 metres wide. The site is much higher than the road level with a steep bank on the entrance to the site. It is bounded along all sides and to the rear by low cropped native species hedgerow and the frontage has been opened and is undefined.





There are trees on either side of the entrance with a hedge along the frontage to the west and a walled frontage along the road to the east. The dwelling has bungalows on either side.



## Description of Proposal

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



## Planning Assessment of Policy and Other Material Considerations

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

Dungannon and South Tyrone Area Plan 2010  
Mid Ulster Local Development Plan 2030 - Draft Strategy  
Strategic Planning Policy Statement (SPPS)  
PPS 7: Quality Residential Environment  
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. 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.

### Representations

No third party representations were received.

Policy QD1 of PPS 7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas. The current proposal is for a single storey detached dwelling. The Policy sets out nine criteria which all residential development proposals are expected to meet.

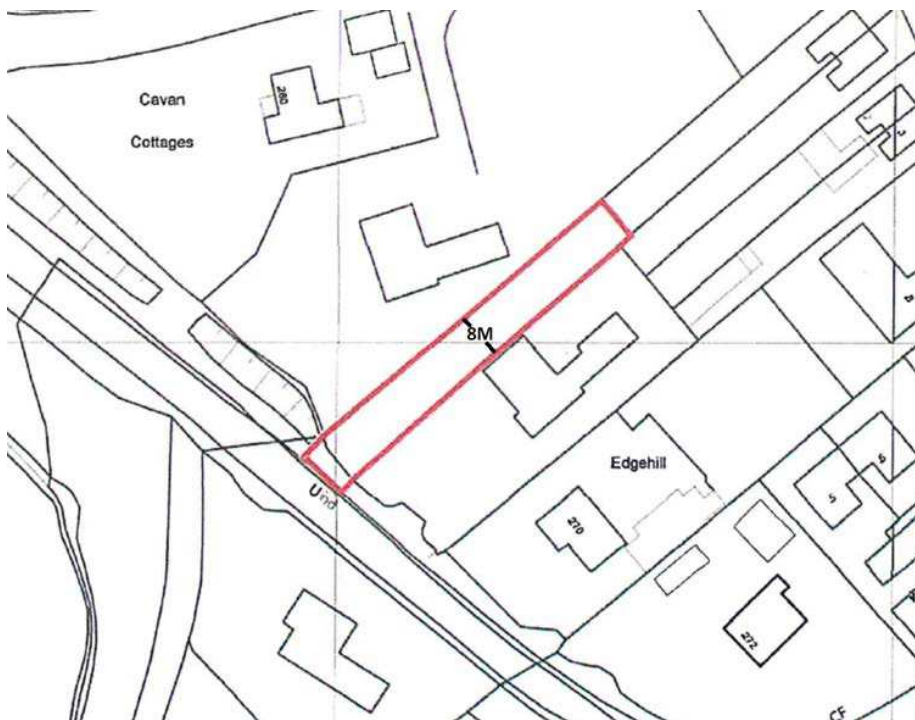


a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings structures and landscaped and hard surface areas:-

I note that the site is located within a mixed-use area inclusive of residential in close proximity, I note that the site appears as an urban infill given the level of build-up. However, it is my opinion that the site is too restrictive on terms of width to allow a dwelling to fit in acceptably. The site is approx. 8.5 metres with and any dwelling on this site would result in loss of amenity for the dwellings on either side.

b) features of the archaeological and built heritage, and landscape features are identical and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development:-

I am content that no features of archaeological or built heritage, and landscape features will be impacted from this proposal.



c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, plated areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area:-

Given the size of development I am content that the proposal does not require to provide public open space and given the size of site that there should be adequate private amenity space.

d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development: -

The size and scale of this development does not require it to make provision for local neighbourhood facilities. There are existing transport links in the area.

e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures:-

I am content the site will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system.

f) adequate and appropriate provision is made for parking:-

I am content that site is big enough to be able to provide sufficient parking for a dwelling.

g) the design of the development draws upon the best local traditions of form, materials and detailing:-

I note that this is only an outline application therefore no design details have been provided.

h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance:-

I note that no indicative site plan has been submitted, however, it is my opinion that due to the size and shape of the site any dwelling would give rise to loss of private amenity enjoyed by the neighbour, gable to gable distance of the existing dwellings is approx. 15 metres, also loss of light would be a concern due the site width of 8.5 metres, and finally overshadowing would also be a concern, due to its position to the NW, number 262 would experience overshadowing in early morning to afternoon sun. I note that additional landscaping will be solely required to reduce any concerns in regards to neighbouring amenity.

i) the development is designed to deter crime and promote personal safety:-

It is my opinion that the proposed development will not increase the potential for crime.

#### PPS 3: Access, Movement and Parking

DFI Roads were consulted in relation to the application and responded to confirm that they were content subject to conditions and informatives.

#### 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 does not yet carry determining weight.

As the application has failed to comply with all the criteria under Policy QD1 of PPS 7 I must recommend refusal for this application.

-Overdevelopment

-Loss of amenity

#### Neighbour Notification Checked

**Yes**

#### Refusal Reasons

1.The proposal is contrary to the Department's Planning Policy Statement 7; Quality Residential Environment in that the development, would, if permitted, result in an unacceptable loss of amenity on neighbouring properties by reason of overlooking, overshadowing and loss of light.

2.The proposal is contrary to the Department's Planning Policy Statement 7; Quality Residential Environment in that the development, would, if permitted, represent an overdevelopment of the site.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	1st September 2021
<b>Date First Advertised</b>	14th September 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Cavan Cottages Dungannon Tyrone The Owner/Occupier, 2 Cavan Cottages Dungannon Tyrone The Owner/Occupier, 260 Killyman Road Dungannon Tyrone The Owner/Occupier, 261 Killyman Road Dungannon Tyrone The Owner/Occupier, 268 Killyman Road Dungannon Tyrone Doreen Lewis 268 Killyman Road,Cavan,Killyman,Dungannon,BT71 6RT The Owner/Occupier, 269 Killyman Road Dungannon Tyrone The Owner/Occupier, 270 Killyman Road Dungannon Tyrone The Owner/Occupier, 3 Cavan Cottages Dungannon Tyrone The Owner/Occupier, 4 Cavan Cottages Dungannon Tyrone The Owner/Occupier, Holly Ridge 262 Killyman Road Dungannon	
<b>Date of Last Neighbour Notification</b>	21st September 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/1276/O Proposal: Proposed dwelling on a farm Address: 35m N.W. of 270 Killyman Road, Dungannon, Decision: Decision Date:  Ref ID: M/1976/0298	

Proposal: EXTESNSIONS TO COTTAGES.  
 Address: LAGHEY COTTAGES, KILLYMAN, CAVAN COTTAGES, KILLYMAN, BALLYNAKILLY  
 Decision:  
 Decision Date:

Ref ID: M/2003/0242/F  
 Proposal: Chalet type dwelling with attatched rear garage  
 Address: Site adjacent to no. 270 Killyman Road, Dungannon  
 Decision:  
 Decision Date: 30.05.2003

Ref ID: M/2000/1232/O  
 Proposal: Site for one and a half storey dwelling and detached domestic garage.  
 Address: Land adjacent to 270 Killyman Road, Dungannon.  
 Decision:  
 Decision Date: 21.03.2001

Ref ID: M/1995/0752  
 Proposal: Temporary mobile home for decanting purposes  
 Address: 3 CAVAN COTTAGES KILLYMAN  
 Decision:  
 Decision Date:

### **Drawing Numbers and Title**

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

### **Notification to Department (if relevant)**

Date of Notification to Department:  
 Response of Department:



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

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

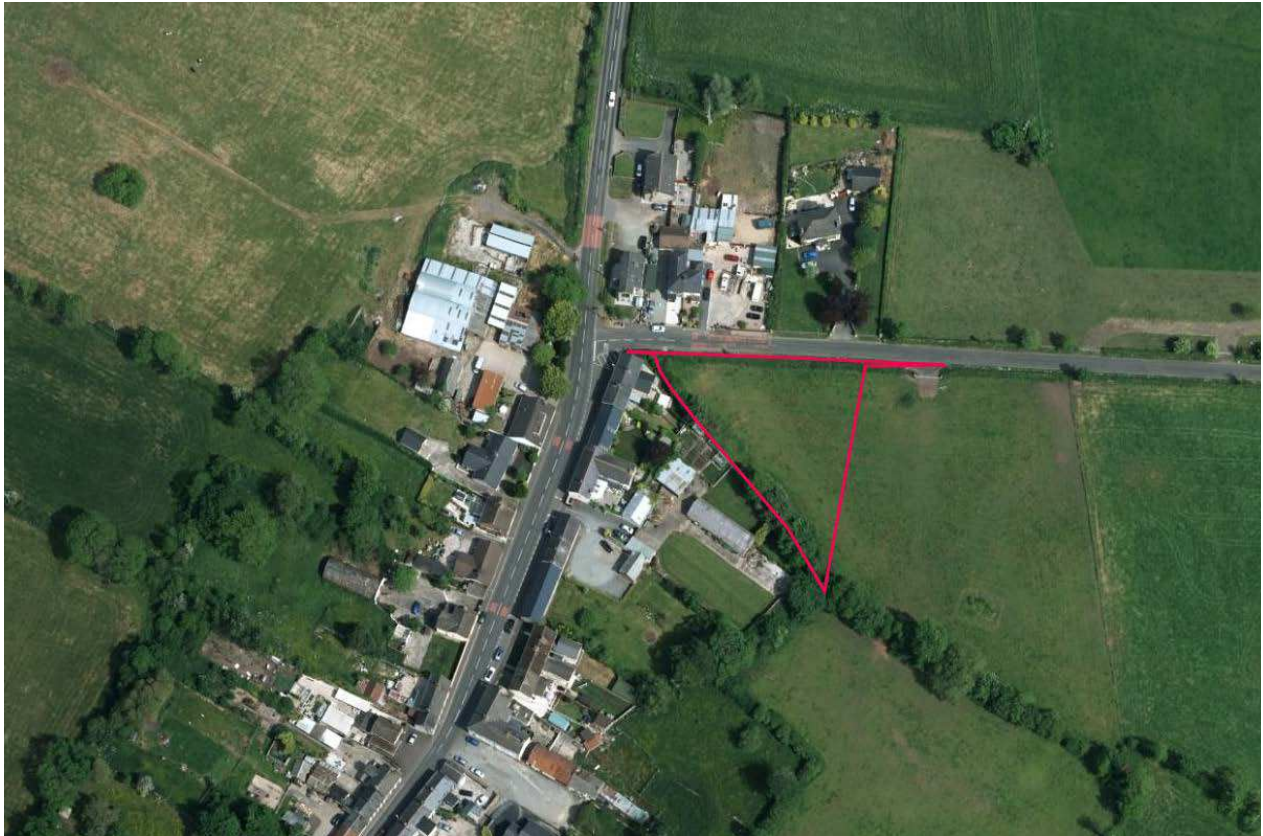
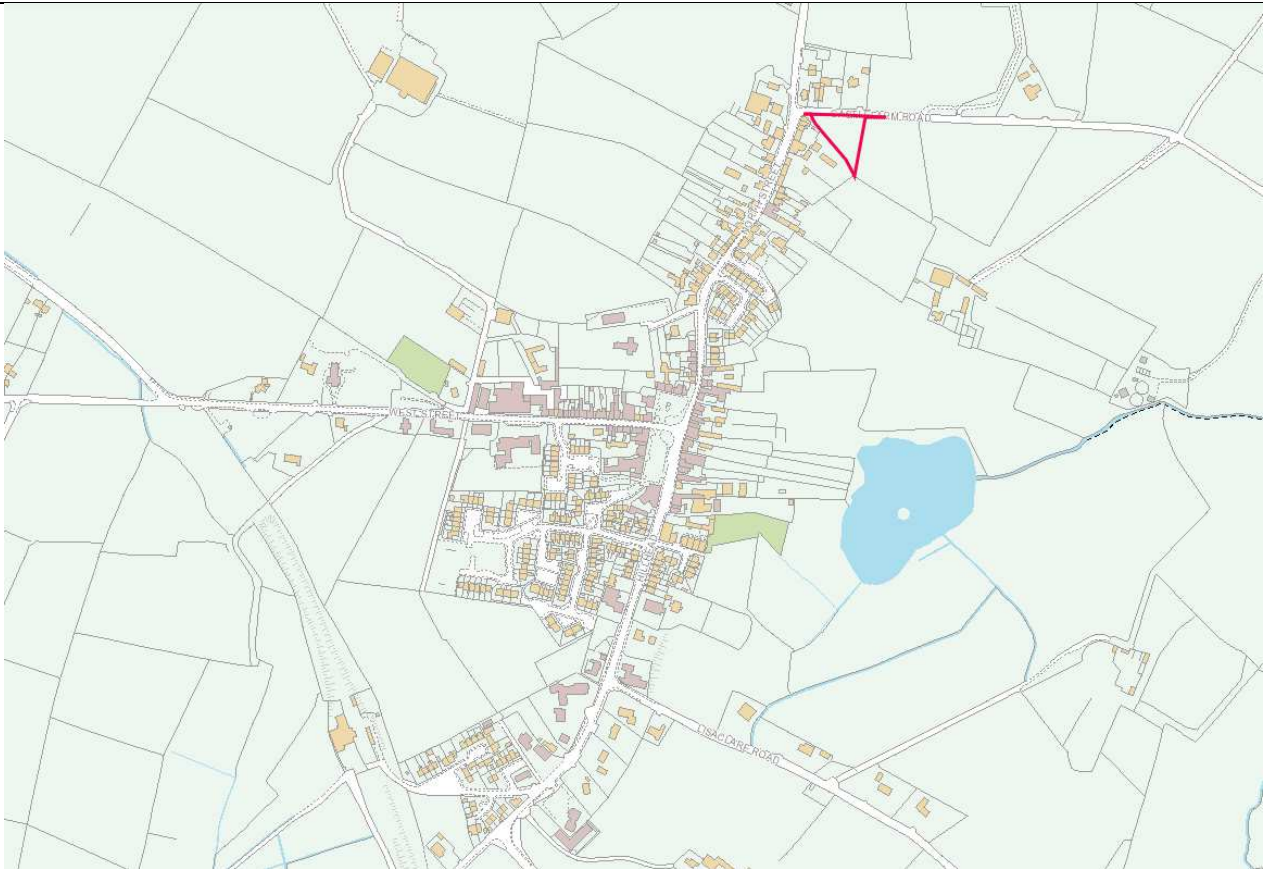
**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1331/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling & garage	<b>Location:</b> Approx. 55m SW of 10 Castlefarm Road Stewartstown
<b>Referral Route: Exception to policy</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Mr Michael Quinn 6 Strathmullan Killymeal Road Dungannon BT71 6XJ	<b>Agent Name and Address:</b> Henry Murray 37C Claggan Road Cookstown BT80 9XJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



Case Officer Report

Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Content

<b>Representations:</b>	
Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### **Description of Proposal**

This is an outline application for a dwelling and garage to be located on lands approx. 55m SW of 10 Castlefarm Road Stewartstown.

The current site was identified at a deferred office meeting on the 22<sup>nd</sup> April 2021 as a potential alternative to that being sought by the same applicant for a dwelling and garage on a farm under planning application LA09/2020/1248/O.

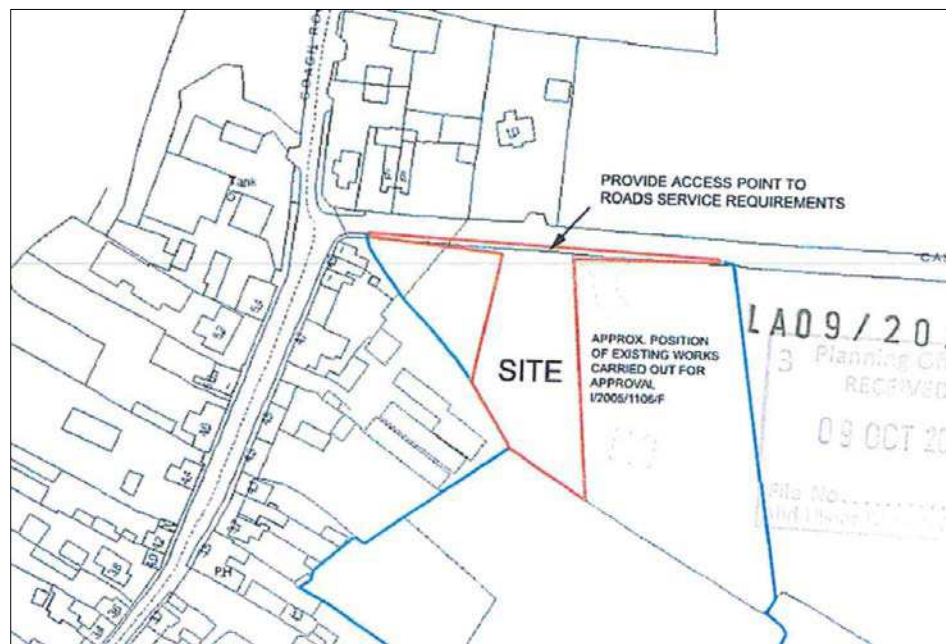


Fig 1: Site location plan for planning application LA09/2020/1248/O

Under LA09/2020/1248/O it was established that the applicant has an active and established farm business operating over 6 years and no evidence indicates any dwellings or development opportunities had been sold off this holding. However, he has no buildings on his holding to visually link or cluster the proposal thus failed to meet all the tests of Policy CTY10. Additionally it failed to meet further tests of PPS21 Sustainable Development in the Countryside, requiring the proposal to integrate (Policy CTY13) and not mar the distinction between the settlement of Stewartstown and the surrounding countryside (Policy CTY 15).



Subsequently, planning application LA09/2020/1248/O went to Planning Committee on the 12<sup>th</sup> April 2021 with a recommendation to refuse. The proposal was considered contrary to Planning Policy Statement 21 Sustainable Development in the Countryside:

- Policy CTY 1 in that there are no overriding reasons why the development is essential in this rural location and could not be located within a settlement;
- Policy CTY 15 in that development would if permitted mar the distinction between the settlement of Stewartstown and the surrounding countryside, and result in urban sprawl; and
- Policy CTY 13 in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and it is not visually linked or sited to cluster with an established group of buildings on a farm.

The current site comprising land to the west of the previous site LA09/2020/1248/O detailed above was identified as a potential alternative in that due to its location bound by development within Stewartstown to the north, west and south it would round off, rather than create urban sprawl or mar Stewartstown settlements.

It is considered a dwelling and garage sited on the current site, in general conformity with an indicative block plan submitted (see Figs 2&3 below), would have no significant impact on the setting of Stewartstown.

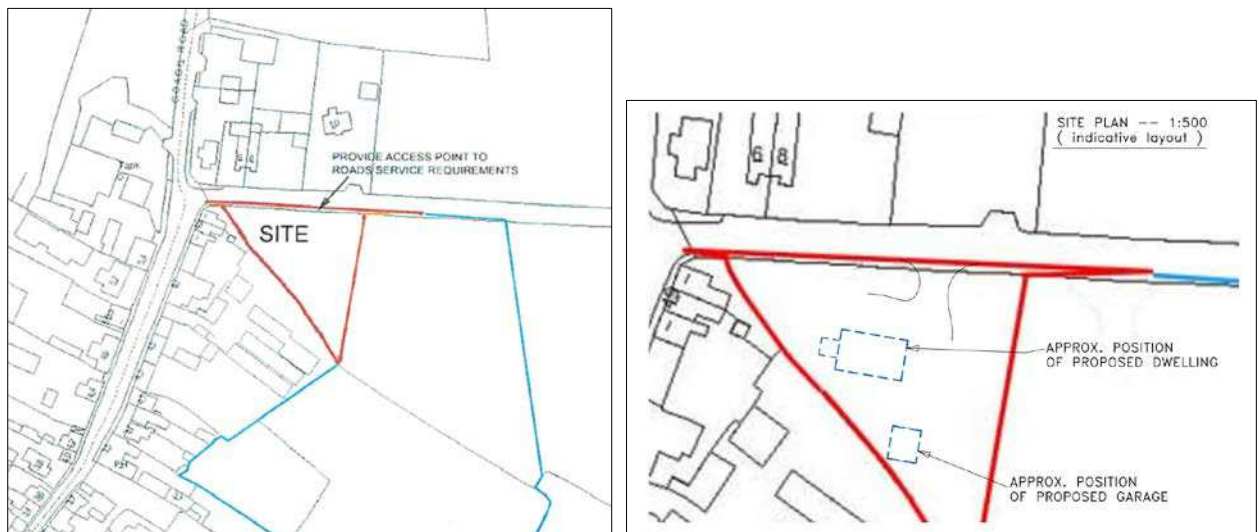


Fig 2 & 3: Current site location plan and indicative block plan

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

The site lies in the rural countryside at the edge of Stewartstown settlement limits designated by the Cookstown Area Plan 2021.

The site is a relatively flat triangular shaped plot of land cut from the western half of a larger agricultural field situated adjacent Castletown Road. A low hedge with a wide grass verge to the outside defines the northern / roadside boundary of the site. A mix of mature vegetation and trees; and in part a stonewall defines the southwest / rear boundary of the site. The eastern boundary of the site is open onto the host field. Critical views of the site are limited until just before and passing the roadside frontage of the host field due to the topography of the area; existing development within Stewartstown;

and mature vegetation on site and within the wider vicinity, which all come together to screen it.

The site nestles into and is bound to the north, west and south by development within the settlement limits of Stewartstown, primarily housing but also a large farm group to the south. A Local Landscape Policy Area designated by the Plan to protect Stewartstown Lough exists. The land to the east outside the settlement limits is typically rural, characterised primarily by agricultural land interspersed with detached dwellings, ancillary buildings and farm groups.

### **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 28<sup>th</sup> 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/1993/0412 - Dwelling - East of junction of Coagh Rd and Castlefarm Rd Stewartstown - Granted 11<sup>th</sup> April 1994 (Historical application)
- I/2000/0428/F - Erection of dwelling - Site immediately to east of junction of Coagh Rd / Castlefarm Rd Stewartstown - Granted 1<sup>st</sup> September 2000
- I/2005/1106/F - Renewal of I/2000/0428/F erection of dwelling - Site immediately to east of junction of Coagh Rd / Castlefarm Rd Stewartstown - Granted 15<sup>th</sup> October 2005

The above applications comprised the current site's host field. Whilst the 1993 application is historical therefore no details are available the more recent applications, the latter being a renewal of the former, granted a large 2 storey hipped roof dwelling and garage just east of the current site. Whilst historical orthophotography available appears to show foundations on site in 2011, it is unclear as to whether works commenced in accordance with the decision notice.

- LA09/2020/1248/O - Dwelling and garage (on a farm) - Approx. 60m south of 10 Castlefarm Rd Stewartstown - Deferred

The above planning application went to Planning Committee on the 12<sup>th</sup> April 2021 with a recommendation to refuse contrary to Policies CTY1, CTY15 and CTY13 of PPS21. Subsequently at a deferred office meeting, the current site was identified as an alternative (see 'Description of Proposal' for further details).

### **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 two archaeological sites/monuments (TYR039:010 and TYR039:012); and in proximity to a Listed Asset (HB09/08/025 - Pump at junction of North St / Castlefarm Rd).
  - Historic Buildings assessed the application and considered it would not unduly affect the Listed Asset, given the nature and scale of the asset and distance from the proposal.
  - Historic Monuments assessed the application were content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
3. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted under the applicant's previous application LA09/2020/1248/O with a P1C Form and Farm maps. DAERA confirmed the applicant's farm business as identified on the P1C Forms and Farm maps has been active and established for over 6 years.

### **Key Policy Considerations/Assessment**

Cookstown Area Plan 2010 – the site lies in the rural countryside just outside and at the edge of Stewartstown 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 – 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. These are listed in Policy CTY1 of PPS21.

Under LA09/2020/1248/O (see 'Description of Proposal') it was established that the applicant has an active and established farm business operating over 6 years and no evidence indicates any dwellings or development opportunities had been sold off this holding. However, he has no buildings on his holding to visually link or cluster the proposal thus failed to meet all the tests of Policy CTY10. The applicant's farm business consists of 2 separate holdings, one comprising land adjacent to and south of the current site outside Stewartstown settlement limits; the other 3 fields located to both sides of the Tullagh Rd, just outside the settlement limits of Cookstown. Additionally, his proposal failed to meet further tests of PPS21 Sustainable Development in the Countryside, requiring the proposal to integrate (Policy CTY13) and not mar the distinction between the settlement of Stewartstown and the surrounding countryside (Policy CTY 15).

Subsequently, planning application LA09/2020/1248/O went to Planning Committee on the 12<sup>th</sup> April 2021 with a recommendation to refuse. The proposal was considered contrary to PPS21 Sustainable Development in the Countryside:

- Policy CTY 1 in that there are no overriding reasons why the development is essential in this rural location and could not be located within a settlement;
- Policy CTY 15 in that development would if permitted mar the distinction between the settlement of Stewartstown and the surrounding countryside, and result in urban sprawl; and
- Policy CTY 13 in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and it is not visually linked or sited to cluster with an established group of buildings on a farm.

At a deferred office meeting for application LA09/2020/1248/O on the 22<sup>nd</sup> April 2021 the current site comprising land to its west was identified as a potential alternative in that due to its location bound by development within Stewartstown to the north, west and south it would round off, rather than mar, the settlement limits.

It is considered a dwelling and garage sited on the current site, in general conformity with an indicative block plan submitted (see Figs 2&3 further above), would have no significant impact on the setting of Stewartstown.

The current site still does not sit neatly within policies CTY 1 and 10 of PPS 21 as the fact remains that the applicant has no buildings on the farm to visually link or cluster the proposed dwelling and garage. However, unlike the previous scheme a dwelling and garage on this site would integrate in accordance with Policy CTY13 and round off rather than create urban sprawl or mar Stewartstown settlements thus not offending Policy CTY15. Accordingly, I think it is reasonable to accept a dwelling on this site in this exceptional case.

As this is an outline application the size, scale and design of the dwelling and garage can be considered further under any subsequent reserved matter application. I believe a suitably designed scheme, sited in general conformity with the indicative block plan submitted, should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given separation distances that will be retained.

#### **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.

Flood Maps NI indicate no flooding on site.

**Recommendation:** Approve

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Approve

**Conditions**

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

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

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

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

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

Reason: In the interest of visual and residential amenity.

4. The dwelling and garage hereby permitted shall be located in general conformity with drawing no. 02 bearing the date stamped received 17 NOV 2021.

Reason: In the interest of visual and residential amenity.

5. The existing natural screenings of the site, as indicated in green, on approved drawing No. 01 bearing the date stamped received 10 SEP 2021, shall be permanently retained intact unless necessary to provide access and/or visibility splays; or prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

Reason: In the interest of visual and residential amenity.



6. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of vegetation / trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted to the rear of the visibility splays. 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.

7. Prior to commencement of any development hereby approved, the vehicular access as detailed in the attached form RS1, including visibility splays of 2.4mx 60m in both directions and 60m forward sight distance, shall be provided in accordance with a 1:500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

#### Informatives

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1514/F	<b>Target Date:</b>
<b>Proposal:</b> Single 2 storey dwelling.	<b>Location:</b> 84 Orritor Road Cookstown BT80 8BN.
<b>Referral Route:</b>  Committee - Refusal	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Bell Contracts Ltd Unit 5 Mid Ulster Business Derryloran Industrial Estate Cookstown BT80 9LU	<b>Agent Name and Address:</b> Eamonn Moore Architect 10 Knockmoyle Cookstown BT80 8XS
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

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

### Characteristics of the Site and Area

The site is located within the limit of development for Cookstown as defined within the Cookstown Area Plan 2010. Access to the site is proposed from the Orritor road. The site at present is a vacant plot which is located to the front of a housing development (Forthglen). The level of the site is on or about that of the adjoining Orritor Road and Forthglen estate road. The southern and western boundaries are defined by boarded fencing and separate the plot from residential use on the opposite side of same. Temporary site fencing panels define the remaining boundaries. The area is residential in land use, with a two storey detached dwelling to the west, a pair of semi-detached

dwelling to the south. The semi detached dwellings are part of Forthglen estate which is an estate of semi detached two storey and one and a half type dwellings.

On the opposite side of the Orritor Road, from the proposed development are agricultural lands, which are outside the limit of development and designated as phase 2 housing lands.

### **Description of Proposal**

This is a full application for a single two storey dwelling

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

Relevant Site Histories:

Most recent history on site is LA09/2016/1326/F - 2 no Apartments, 84 Orritor Road, Cookstown, Permission Granted 08.06.2017.

I/2014/0409/F: Planning permission refused on 3/6/15 for a pair of 2storey semi-detached dwellings: reasons for refusal were;

- The proposal is contrary to Policy QD1 of Planning Policy Statement 7 (PPS7): Quality Residential Environments in that it has not been demonstrated that the development would create a quality and sustainable residential environment and fails to meet the requirements of criteria (a), (c), (f) and (g) of Policy QD1.

- The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 7, in that it would, if permitted, prejudice the safety and convenience of road users since adequate provision cannot be made clear of the highway for the parking and turning of vehicles which would be attracted to the site.

Previously I/2007/0113/F: Planning permission granted on 9th May 2007 for a proposed dwelling and garage on same site. Permission expired.

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

Principle of Development

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

SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

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.

The Cookstown Area Plan, 2010 identifies the site as being located within the development limits. The application is for a single two storey dwelling. Under Policy QD1 of PPS7- planning permission will only be granted for new residential developments where it is demonstrated that the proposal will create a quality and sustainable residential area. The design and layout of residential development should be based on overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;  
The proposal is borderline in the provision of private amenity space, just meeting the guidance as set out in Creating Places.

HED were consulted on the application and on the basis of the information provided, were content that the proposal is satisfactory to SPSS and PPS 6 archaeological policy requirements.

There is tolerable private open space within the site, with garden area to the rear . The proposal is for a single dwelling it is considered that it would be unnecessary to provide additional neighbourhood facilities due to the size and scale of the proposal. The proposal would not significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area.

#### Access

The proposal seeks to construct a new access to a public road. Transport NI were consulted on the application and responded to say that 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 adds to a proliferation of accesses onto this road. An alternative access could be achieved via the adjacent housing development road as per Paragraph 7.1 DECAN 15.

This was discussed with the agent and he did not wish to amend the application.

**Other Policy and Material Considerations:**

The detail of the proposal is a single two storey building. The external finish being red facing brick and white render with blue/black concrete tiles which is in keeping with the surrounding area,

The siting of the building respects the building line of the adjacent two storey dwelling which results in the footprint of the dwelling being

The site is not subject to flooding and there are no contamination or human health issues to consider.

**Conclusion**

In conclusion, the proposal is contrary to PPS 3, Access, Movement and Parking, Policy AMP 2 and therefore refusal is recommended.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refuse

**Refusal Reasons:**

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 adds to a proliferation of accesses onto this road.

NOTE: An alternative access could be achieved via the adjacent housing development road as per Paragraph 7.1 DECAN 15.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	15th October 2021
<b>Date First Advertised</b>	26th October 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 115 Orritor Road Cookstown Tyrone The Owner/Occupier, 117 Orritor Road Cookstown Tyrone The Owner/Occupier, 130 Orritor Road Cookstown Tyrone The Owner/Occupier, 130a Orritor Road Cookstown The Owner/Occupier, 68 Forth Glen Cookstown Tyrone The Owner/Occupier, 69 Forth Glen Cookstown Tyrone The Owner/Occupier, 70 Forth Glen Cookstown Tyrone The Owner/Occupier, 71 Forth Glen Cookstown Tyrone The Owner/Occupier, 72 Forth Glen Cookstown Tyrone The Owner/Occupier, 73 Forth Glen Cookstown Tyrone The Owner/Occupier, 74 Forth Glen Cookstown Tyrone The Owner/Occupier, 75 Forth Glen Cookstown Tyrone The Owner/Occupier, 76 Forth Glen Cookstown Tyrone The Owner/Occupier, 77 Forth Glen Cookstown Tyrone The Owner/Occupier, 78 Forth Glen Cookstown Tyrone The Owner/Occupier, 78 Orritor Road Cookstown Tyrone The Owner/Occupier, 79 Forth Glen Cookstown Tyrone The Owner/Occupier, 80 Orritor Road Cookstown Tyrone	



The Owner/Occupier, 82 Orritor Road Cookstown Tyrone The Owner/Occupier, 90 Orritor Road, Cookstown, Tyrone, BT80 8BN	
<b>Date of Last Neighbour Notification</b>	2nd November 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/0993/PAN Proposal: Proposed residential development and access Address: Lands to the west of Forthglen, adjacent to 130 and 130a Orritor Road, Cookstown, Decision: PANACC Decision Date:  Ref ID: LA09/2016/1326/F Proposal: 2 no Apartments Address: 84 Orritor Road, Cookstown, Decision: PG Decision Date: 08.06.2017  Ref ID: LA09/2021/1514/F Proposal: Single 2 storey dwelling. Address: 84 Orritor Road, Cookstown BT80 8BN., Decision: Decision Date:  Ref ID: LA09/2020/0762/PAD Proposal: 2 Semi detached dwellings Address: Corner site , Orritor and Forthglen Road junction, Cookstown, Decision: Decision Date:  Ref ID: I/2014/0409/F Proposal: Proposed pair of 2 Storey Semi-Detached Dwellings Address: 84 Orritor Road, Cookstown,	

Decision: PR  
Decision Date: 05.06.2015

Ref ID: LA09/2016/0342/PAD  
Proposal: Two apartments  
Address: 84 Orritor Road, Cookstown,  
Decision:  
Decision Date:

Ref ID: I/1993/0366  
Proposal: 12 No Dwellings  
Address: FORTH GLEN HOUSING DEVELOPMENT ORRITOR ROAD, COOKSTOWN.  
Decision:  
Decision Date:

Ref ID: I/1984/0157  
Proposal: HOUSING DEVELOPMENT AND PUMPING STATION  
Address: ORRITOR ROAD, COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1984/015701  
Proposal: HOUSING DEVELOPMENT AND PUMPING STATION  
Address: ORRITOR ROAD, COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1994/0148  
Proposal: 8 No Dwellings  
Address: FORTH GLEN HOUSING DEVELOPMENT ORRITOR ROAD COOKSTOWN  
SITES 40, 41, 42, 43, 44, 45, 46A, 46B  
Decision:  
Decision Date:

Ref ID: I/1993/0349  
Proposal: Extension to dwelling including domestic garage  
Address: 52 FORTHGLEN ORRITOR ROAD COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1998/0356

Proposal: Housing Development of 9 dwellings  
Address: SITES 1,3,4,5,6,7,8,9 & 10 FORTHGLEN PHASE TWO ORRITOR ROAD  
COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1995/0158

Proposal: Erection of 14 No dwellings

Address: FORTHGLEN (PHASE 2) ORRITOR ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1976/0023

Proposal: ERECTION OF NON SUBSIDY BUNGALOW

Address: ORITOR ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1985/0325

Proposal: DWELLING AND GARAGE

Address: ORRITOR ROAD, HALOON, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1999/0293

Proposal: Construction of dwelling and garage

Address: Adjacent to 86 Orritor Road Cookstown

Decision:

Decision Date: 18.11.2000

Ref ID: I/2003/0181/F

Proposal: Housing Development

Address: Housing Zone H18 , lands north of 99 -117 Orritor Road, Cookstown.

Decision:

Decision Date: 23.06.2010

Ref ID: I/2007/0113/F

Proposal: Proposed dwelling & garage

Address: Adjacent to 86 Orritor Road, Cookstown

Decision:

Decision Date: 16.05.2007

Ref ID: I/1986/0014  
Proposal: 33/11 KV CHANGEOVER (2ND AMEND)  
Address: TULLAGH, COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1993/6066  
Proposal: Site Layout (Roads) Forthglen Housing Development Orritor Road Cookstown  
Address: Forthglen Housing Development Orritor Road Cookstown  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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Status: Submitted

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Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 04  
Type: Proposed Elevations  
Status: Submitted

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

Drawing No. 02  
Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 05

Type: Proposed Elevations

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department: