



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: LA09/2016/0634/O	Target Date: <add date>
Proposal: Replacement of existing filling station, shop and car wash to incorporate along side it the construction of mixed use units (including a filling station, classes A1 and classes B2) and associated car parking and landscaping (amended plans)	Location: 132 Drum Road Cookstown
Applicant Name and Address: Mr Seamus Molloy 132 Drum Road Cookstown	Agent name and Address: CMI Planners Ltd Unit C5 80/82 Rainey Street Magherafelt BT45 5AJ
Summary of Issues: Scale and Nature of proposal contrary to PPS4 / Area Plan/ SPPS Intensification of an unsafe access to Protected Route	
Summary of Consultee Responses: DFI Roads objection	
Characteristics of the Site and Area: <p>The site currently accommodates a vacant shop, petrol filling station (disused), car wash, poly tunnels, tyre fitting centre, car repairs and a vacant dwelling. A car wash area on site at the time of the site visit includes a small shed of indoor valeting and wash ramp. The tyre fitting facility was located in sheds to the rear. A canopy and pumps remain on site. 3 detached dwellings are located to the west of the site all fronting onto Drum Road. The site, being located outside the settlement limits for Cookstown has agricultural lands opposite and at this point a more rural ambience.</p> <p>A historical permission under I/2000/0219/F included the proposed removal of the fuel pumps and canopy and change of use from existing coal yard area to display area for garden centre and COU from coal store to store and shop with extension for new garden centre. It is unclear if any aspect of this permission was ever implemented.</p>	



Deferred Consideration:

The original proposal on the site was presented to the Planning Committee in Feb 2017 and subsequently deferred for an office meeting held in Feb and a site visit with the agent in March 2017. The description has been amended to remove the reference to Classes A2, B1 _ D2 for the construction of mixed use units. The proposal still involves the replacement of existing filling station with a new one with 6 pumps, shop and carwash and the construction of units with classes A1 _ B2, along with car parking and landscaping.

The application again came before Committee in July 2017 with a recommendation to refuse, at the meeting members decided to defer the case for a site visit. The visit took place on the 21st July 2017. Those who attended observed the present mix of uses on the site and in particular observed the access difficulties to the left hand side emerging where DFI Roads have identified a shortfall in splays and a significant vertical plane issue due to a crest in the road. In concluding, CMI Planning (agent) indicated that he would carry out a traffic analysis for the proposal based on what 'lawful' uses on site were already attracting vehicles. As yet the Council have not received this survey despite a number of requests (3 in total) and conversations with the applicant and myself, Mr Molloy.

The SPPS supports Economic development in setting out the following aims:

6.81 The planning system has a key role in achieving a vibrant economy. In this regard, the aim of this SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development.

6.82 The regional strategic objectives²⁸ for facilitating economic development through the planning system are to:

- promote sustainable economic development in an environmentally sensitive manner;
 - tackle disadvantage and facilitate job creation by ensuring the provision of a generous supply of land suitable for economic development and a choice and range in terms of quality;
 - sustain a vibrant rural community by supporting rural economic development of an appropriate nature and scale;
 - support the re-use of previously developed economic development sites and buildings where they meet the needs of particular economic sectors;
 - promote mixed-use development and improve integration between transport, economic development and other land uses, including housing;
- and • ensure a high standard of quality and design for new economic development.

6.87 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. Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside. Such proposals may occasionally involve the construction of new buildings, where they can be integrated in a satisfactory manner.

6.88 In the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must however be restricted.

6.91 All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development.

In relation to retail use at this location the SPPS states:

6.270 The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS.

Regional Strategic Objectives

6.271 The regional strategic objectives for town centres and retailing are to: • secure a town centres first approach for the location of future retailing and other main town centre uses;

6.279 Retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. Such retail facilities should be required to be located within existing buildings. 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, and meet the requirements of policy elsewhere in the SPPS.

6.282 In the absence of a current and up-to-date LDP, councils should require applicants 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.

6.283 All applications for retail or town centre type developments above a threshold of 1000 square metres gross external area which are not proposed in a town centre location and are not in accordance with the LDP should be required to undertake a full assessment of retail impact as well as need

On further reduced plans received on the 14th March 2018 the retail element of this proposal is some 180sqm and 162sq.m in 2 separate A1 units. The applicant has not prepares an assessment of need which is proportionate to support the application as required by the SPPS however.

B2 or light industrial uses comprise approx. 310 sq.m over 5 separate smaller units. Class A1 retail on the site has largely been abandoned as I see it based on my observations. The proposal as it stands does not promote a town centre first approach for A1 retail use and promotes an intensification of the use of the site in a more formal way. The P1 form proposes an increase from 28 visitors to the site today to a total of 450 and an increase in vehicle numbers to 260 per day from a present level of 24. This underlines the concerns in particular relating to intensification of the access to the protected route.

This is also essentially the redevelopment of an established economic development site in the rural area, as such, in Policy terms PPS4 PED2, PED4 and PED9 are to be considered

Policy PED2 has provision for this proposal which in turn engages Policy PED 4 Redevelopment of an Established Economic Development Use in the Countryside

A proposal for the redevelopment of an established economic development use in the countryside for industrial or business purposes (or a sui generis employment use) will be permitted where it is demonstrated that all the following criteria can be met:

- (a) the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area;

The latest amended plans dated March 2018 have reduced the scheme somewhat. There is significant swathes of hard surfacing for a short stay car park to the front of the site and large parking and turning areas within the remainder of it. An attempt has been made to soften this with some greenspaces.

(b)there would be environmental benefits as a result of the redevelopment;

Other than bringing some sense of order to a site which has currently a rather mix of abandoned and operational uses there are no clear other environmental benefits

(c) the redevelopment scheme deals comprehensively with the full extent of the existing site or in the case of partial redevelopment addresses the implications for the remainder of the site; and

(d)the overall visual impact of replacement buildings is not significantly greater than that of the buildings to be replaced.

The overall replacement of buildings on the site currently (as below) is reduced on the March 2018 plans from the original submission and as such I don't feel there will be a significantly greater visual impact if the plans were to proceed.



Policy PED 9

General Criteria for Economic Development

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:

(a) it is compatible with surrounding land uses;

Given the site's historical use/s the proposed use is largely compatible in my view. The proposal does include Class B2 light industrial uses which may give rise to impacts on close by residential dwellings.

(b) it does not harm the amenities of nearby residents;

EHO have not objected to the proposal subject to conditions restricting the use to A1 and B1 (business). However plans proposed B2 uses within the site (light industrial). Given this it has not therefore been demonstrated that the proposal would not have a detrimental impact on some nearby residential property.

(c) it does not adversely affect features of the natural or built heritage; (none)

(d) it is not located in an area at flood risk and will not cause or exacerbate flooding; (none)

(e) it does not create a noise nuisance;
as per (b)

(f) it is capable of dealing satisfactorily with any emission or effluent; (no issues anticipated)

(g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;

DFI Roads have commented as below, these comments also relate to the reduced March 2018 plans.

As demonstrated in Section 25 of the P1 form, intensification is a major factor in DFI's decision on this application.

Also, given the topography of the Drum Road and the high speed of the traffic, DFI's recommendation to Council dated 10/8/2016 remains the same.

Dfi Roads are unable to approve this application for the following reasons:

- The development is contrary to Planning Policy Statement 3, Development Control: Roads considerations in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
- 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 proposes to intensify the use of an existing access at which visibility splays of 4.5m x 215m in both directions cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.
- The site access is unsafe for the significant intensification proposed and consequently Transportni's opinion is that the application of the full standard of 4.5m x 215m at the access is fully justified, particularly as it is a protected route. (Sight lines are not achievable on the vertical plane)
- Relaxations and departures from DMRB standards will not be accepted in order to ensure a safe access on this high speed trunk road.

(h) adequate access arrangements, parking and manoeuvring areas are provided; (as per above)

(i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport; (this is a site on the edge of Cookstown settlement with easy access)

(j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity; (broadly yes I'm of the view that this is the case)

(k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;

Subject to more landscaping details this matter could be addressed satisfactorily.

(l) is designed to deter crime and promote personal safety; - there appear to be no clear crime or personal safety concerns with the proposal.

(m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape. (as per my comments at h)

In considering the reduced scheme which has gone some way to addressing some of the building massing and inappropriate uses on the site, the proposal in my view fundamentally fails to demonstrate a clearly intensified safe access can be achieved onto a protected route and that the nature of proposed uses within the site (A1 and B2) are appropriate in relation to Cookstown town centre and the amenity of adjoining residential properties.

On this basis I recommend refusal as per the below amended refusal reasons:

Refusal Reasons

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

2. The proposal is contrary to Policies PED 4 and PED 9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal will not impact negatively on the amenities of the adjoining residential properties.

3. The proposal is contrary to the Cookstown Area Plan and the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development in that it has not been demonstrated that development would not have an adverse impact on the vitality and viability of the existing town centre.

4. The development is contrary to Planning Policy Statement 3, Development Control: Roads considerations in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

5. 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 proposes to intensify the use of an existing access at which visibility splays of 4.5m x 215m in both directions cannot be provided and requires a Right Turn Lane in accordance with the standards contained in the Department's Development Control Advice Note 15.

Signature(s): M.Bowman

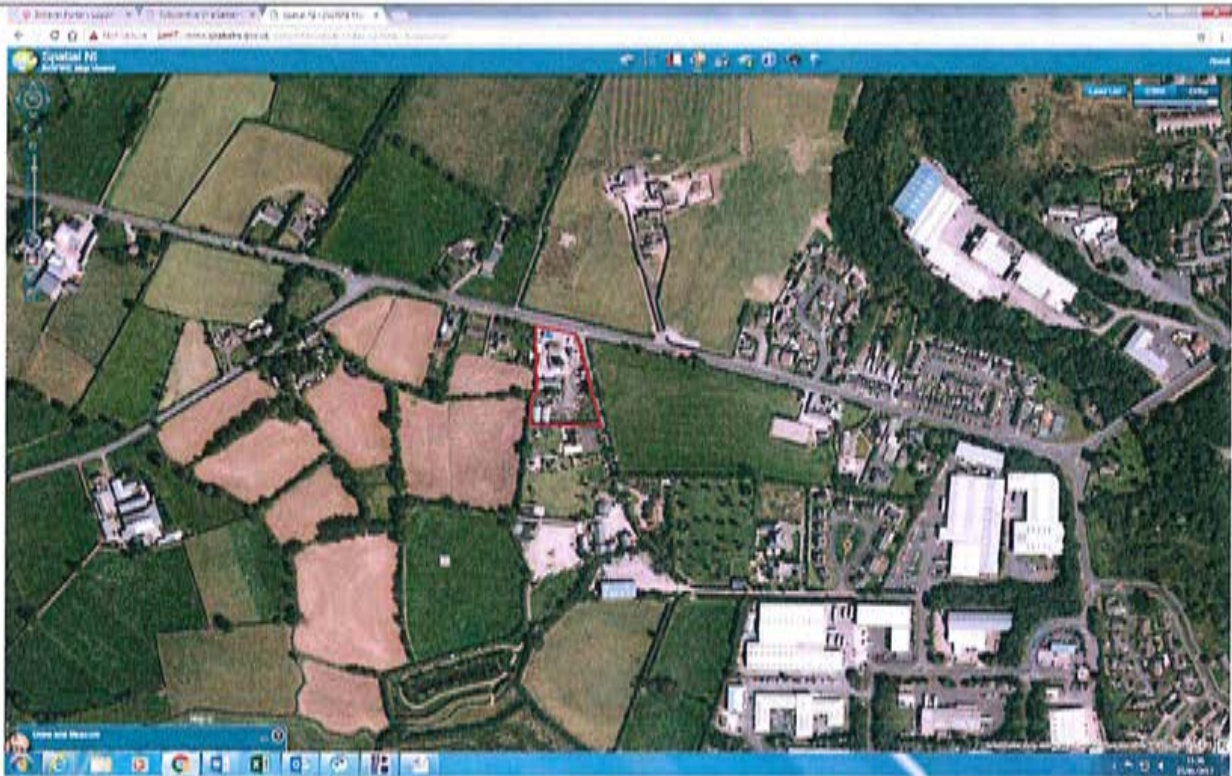
Date 24th Oct 2019

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0634/O	Target Date: 17/8/16
Proposal: Replacement of existing filling station, shop and car wash to incorporate along side it the construction of mixed use units (Classes A1, A2, B1, B2 and D2) associated car parking and landscaping	Location: 132 Drum Road Cookstown
Referral Route: Refusal recommended.	
Recommendation:	Refusal
Applicant Name and Address: Mr Seamus Molloy 132 Drum Road Cookstown	Agent Name and Address: CMI Planners Ltd Unit C5 80/82 Rainey Street Magherafelt BT45 5AJ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Detail of the Proposal:

Replacement of existing forecourt, shop, dwelling, tyre repair unit, greenhouses and car wash with new shop front, forecourt, carwash and retail/industrial units in compliance with Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside.

Characteristics of the Site and Area

The site currently accommodates a vacant shop, petrol filling station (closed), car wash, poly tunnels, tyre fitting unit and dwelling. The dwelling is single storey with garden area to rear. Car wash area includes small shed for indoor valeting and wash ramp. The tyre fitting service is accommodated in sheds to the rear and side of the dwelling and the single storey shop is located to the western side of the dwelling with petrol pumps and canopy to front of same. Poly tunnels are located towards the rear of the site in a separate compound. These do not have the

appearance of recent use. Three detached dwellings are located to the west of the site all fronting the Drum Road from which access is currently gained for the site. To the south of the site along a laneway is a detached dwelling with another dwelling and yard beyond. On the opposite side of the Drum Road are agricultural lands with dwellings and farm groups to the right and left of same. The area, although close to the edge of the limit of development (over 160 metres) has a rural feel.

Relevant Site Histories:

I/2000/0219/F

Proposed removal of existing fuel pumps and canopy and change of use from existing coal yard area to display area for garden centre and change of use from existing coal store and garage to store and shop with extension for new garden centre shop at existing service station premises.

Approved: 30/1/2001.

Conditions attached:

The change of use and extension for new garden centre shop, hereby approved, shall not commence until the fuel pumps and canopy have been removed from the site.

Reason: to ensure that the proposed development does not intensify the site usage.

Representations:

No representations received from neighbour notification or press notice. Consultation with Transportni and Environmental Health has resulted in differing opinions.

Planning Assessment of Policy and Other Material Considerations

The site is located within the open countryside as defined by the Cookstown Area Plan 2010 (CAP) where Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside applies. Policy CTY1 identifies acceptance of non-residential development, for industrial and business uses which accord with Planning Policy Statement 4 (PPS 4): Planning and Economic Development and in particular policies PED 2, 4 and 9. Although this application has been submitted for outline consideration a detailed site plan has been submitted for information purposes and forms the basis of the proposal.

Policy PED 2 Economic Development in the Countryside is relevant where policy allows for the redevelopment of an established economic use in compliance with PED 4. In my opinion the redevelopment of this economic development will harm the rural character or appearance of the local area even though there is no increase in the site area. The existing structures on site are single storey and residential in form, the new proposal entails significant structures of greater massing with significantly greater car parking and turning provision thus providing a negative visual impact. From the proposal submitted it is not evident that environmental benefits would result. The current layout does incorporate a small element of retail within the vacant shop. The scheme would if approved increase that provision significantly with the proposal for a main shop of some 375 sqm (4036 sqft). Policy PED 9 of PPS 4: provides general criteria for assessing all applications relating to the location in siting and design: impact on residents and the environment, access and movement improvement. This proposal is generally compatible with the existing land use. However since this proposal is adjacent to residential property attention needs to be given to the neighbours amenities. It is my opinion that as the scale of the buildings and the increase in both vehicles and customers is greater than that existing there will be a significant adverse impact on neighbouring amenity by way of increased noise and nuisance as well as

dominance and an overbearing impact on neighbouring property. There is no evidence of any negative natural or built heritage impact. The site is not in an area of flood risk and there is no evidence to suggest that any emission or effluent cannot be dealt with. There are issues relating to traffic movement and it has not been proved that there would be sufficient space for additional car parking and turning required for the development. In addition the access details cause concern in respect of traffic safety. Information to comply with the substantive Transportni requirements has not been requested as the principle of the development is at variance with policy. No provision has been allowed for significant site planting to aid integration of the proposal. It is noted that some of these issues could be dealt with by condition however the proposal in my opinion does not meet policy and in my opinion should be refused.

Other Policy and Material Considerations:

The Strategic Planning Policy Statement for Northern Ireland (SPPS) has removed Planning Policy Statement: Retailing and Town Centres however the SPS reinforces the importance of town centres and the need to locate such proposals within the town. This proposal although redeveloping existing uses proposes significant increase in town centre uses which I believe would be to the detriment of Cookstown and so contrary to policy.

The Drum Road is the main road between Omagh and Cookstown and has protected route status.

The uses proposed in this application are A1, A2, B1, B2 and D2. This equates to

Class A1: Shops

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food;
- (b) as a post office;
- (c) for the sale of tickets or as a travel agency;
- (d) for hairdressing;
- (e) for the display of goods for retail sale;
- (f) for the hiring out of domestic or personal goods or articles; or
- (g) for the reception of goods including clothes or fabrics to be washed, cleaned or repaired either on or off the premises where the sale, display or service is to visiting members of the public.

Class A2: Financial, professional and other services

Use for the provision of services which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public including—

- (a) financial services; or
- (b) professional services.

Class B1: Business

Use—

(a) as an office other than a use within Class A2 (Financial, professional and other services);

(b) as a call centre; or

(c) for research and development which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class B2: Light Industrial

Use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class D2: Assembly and leisure

Use as a—

(a) bingo hall;

(b) cinema;

(c) concert hall;

(d) dance hall;

(e) theatre.

It should be noted that a majority of the uses proposed would be more suited to being within the town centre and to that end to allow this proposal could have an impact on the vitality and viability of the town centre. The time for enforcement action for the noncompliance of the condition attached to the previous permission has now lapsed, however no application has been submitted for a certificate of lawfulness for the retention of the existing fuel pumps and canopy. The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features or conservation objectives of any European site. The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area.

Neighbour Notification Checked

Yes

Recommendation:

I recommend that this application is refused for the following reasons.

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 PED 2, PED 4 and PED 9 of Planning Policy Statement 4: Planning and Economic Development in that the scale and nature of the proposal would harm the rural character of the area and impact negatively on the amenities of the adjoining residential properties.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development in that the development would, if permitted, have an adverse impact on the vitality and viability of the existing town centre.
4. The proposed development would if permitted be contrary to Planning Policy Statement 3: Access Movement and Parking as it would prejudice the safety and convenience of road users since it has not been demonstrated that it would be possible within the application site to provide adequate sight lines, forward sight distance and right turn lane.
5. The proposed development would if permitted be contrary to Planning Policy Statement 3: Access Movement and Parking as it would prejudice the safety and convenience of road users since it has not been demonstrated that the internal layout can provide requisite parking and servicing to an adequate standard.

Signature(s)

Date:

ANNEX	
Date Valid	4th May 2016
Date First Advertised	19th May 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 129 Drum Road Derryloran Alias Kirktown Cookstown The Owner/Occupier, 130 Drum Road Derryloran Alias Kirktown Cookstown The Owner/Occupier, 130A Drum Road, Cookstown, Co Tyrone The Owner/Occupier, 132A Drum Road, Cookstown, Co Tyrone The Owner/Occupier, 134 Drum Road Derryloran Alias Kirktown Cookstown The Owner/Occupier, 136 Drum Road Derryloran Alias Kirktown Cookstown The Owner/Occupier, 137 Drum Road Derryloran Alias Kirktown Cookstown	
Date of Last Neighbour Notification	18th May 2016
Date of EIA Determination	n/a
ES Requested	Yes /No
Planning History Ref ID: LA09/2015/1052/PAD Proposal: Replacement of existing forecourt, shop, dwelling, tyre repair unit, greenhouses and carwash with new shop front, forecourt, carwash and retail/industrial units Address: 132 Drum Road, Cookstown, Decision: Decision Date:	
Ref ID: I/2000/0219/F Proposal: Proposed removal of existing fuel pumps and canopy and change of use from existing coal yard area to display area for garden centre and change of use from existing coal store and garage to store and shop with extension for new garden centre shop at existing service station premises. Address: Kirktown Service Station 132 Drum Road Kirktown Cookstown Decision: Approval Decision Date: 11.06.2001	

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

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

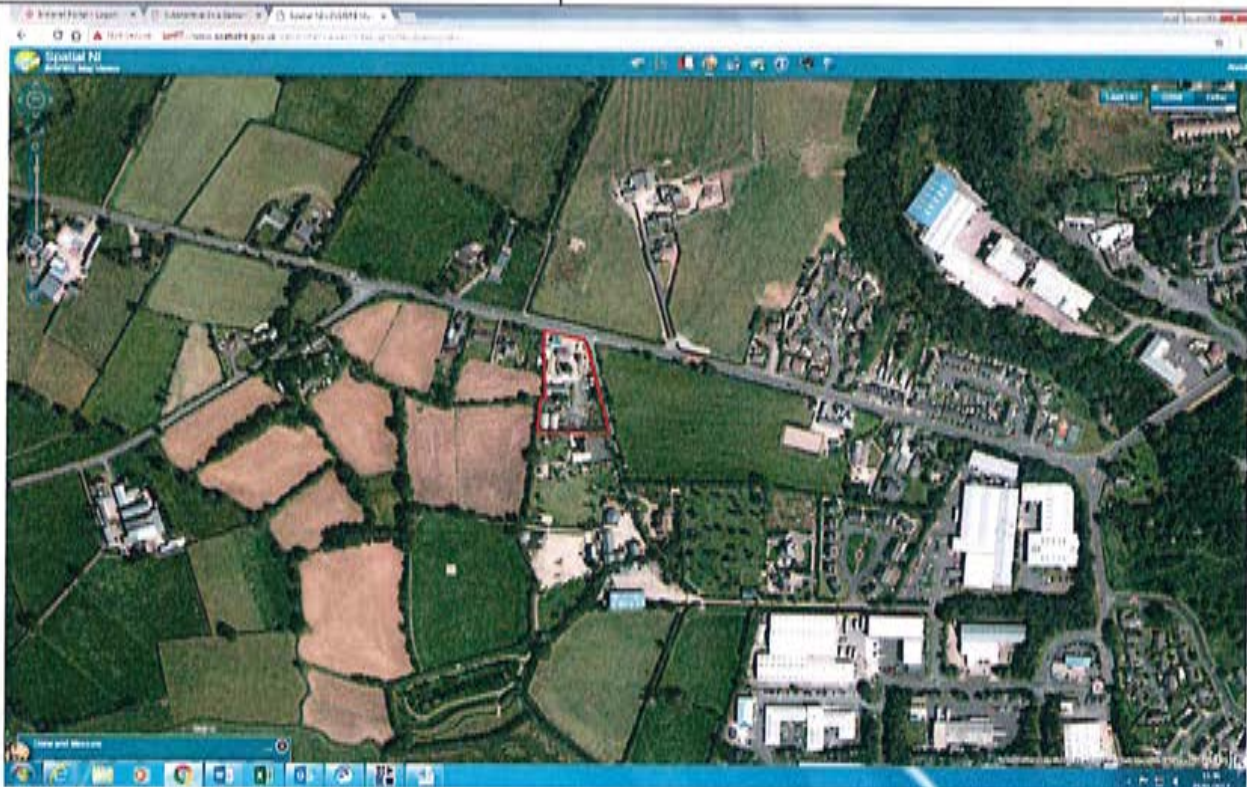
Drawing No. 02
Type: Concept Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department: n/a
Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2016/0634/O	Target Date:
Proposal: Replacement of existing filling station, shop and car wash to incorporate along side it the construction of mixed use units (including a filling station, classes A1 and classes B2) and associated car parking and landscaping (amended description)	Location: 132 Drum Road Cookstown
Applicant Name and Address: Mr Seamus Molloy 132 Drum Road Cookstown	Agent name and Address: CMI Planners Ltd Unit C5 80/82 Rainey Street Magherafelt BT45 5AJ



Location

*For committee
decision*

Summary of Consultee Responses:

TNI are objecting to the proposal.

Characteristics of the Site and Area:

The site currently accommodates a vacant shop, petrol filling station (closed), car wash, poly tunnels, tyre fitting unit, car repairs and vacant dwelling. The dwelling is single storey with garden area to rear. Car wash area includes small shed for indoor valeting and wash ramp. The tyre fitting service is accommodated in sheds to the rear and side of the dwelling and the single storey shop is located to the western side of the dwelling with petrol pumps and canopy to front of same. Poly tunnels are located towards the rear of the site in a separate compound. These do not have the appearance of recent use. Three detached dwellings are located to the west of the site all fronting the Drum Road from which access is currently gained for the site. To the south of the site along a laneway is a detached dwelling with another dwelling and yard beyond. On the opposite side of the Drum Road are agricultural lands with dwellings and farm groups to the right and left of same. The area, although close to the edge of the limit of development (over 160 metres) has a rural feel.

History on part of the site includes, I/2000/0219/F - Proposed removal of existing fuel pumps and canopy and change of use from existing coal yard area to display area for garden centre and change of use from existing coal store and garage to store and shop with extension for new garden centre shop at existing service station premises. Approved: 30/1/2001.

Description of Proposal

Replacement of existing filling station, shop and car wash to incorporate alongside it the construction of mixed use units (including a filling station, classes A1 and classes B2) and associated car parking and landscaping (amended description)

Deferred Consideration:

The original proposal on the site was presented to the Planning Committee in Feb 2017 as a refusal for the following reasons;

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies PED 2, PED 4 and PED 9 of Planning Policy Statement Planning and Economic Development in that the scale and nature of the proposal would harm the rural character of the area and impact negatively on the amenities of the adjoining residential properties.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development in that the development would, if permitted, have an adverse impact on the vitality and viability of the existing town centre.
4. The proposed development would if permitted be contrary to Planning Policy Statement 3: Access Movement and Parking as it would prejudice the safety and convenience of road users since it has not been demonstrated that it would be possible within the application site to provide adequate sight lines, forward sight distance and right turn lane.

5. The proposed development would if permitted be contrary to Planning Policy Statement 3: Access Movement and Parking as it would prejudice the safety and convenience of road users since it has not been demonstrated that the internal layout can provide requisite parking and servicing to an adequate standard.

And was subsequently deferred for an office meeting held in Feb and a site visit with the agent in March 2017. The description has been amended to remove the reference to Classes A2, B1 & D2 for the construction of mixed use units. The proposal still involves the replacement of existing filling station with a new one with 6 pumps, shop and carwash and the construction of units with classes A1 & B2, along with car parking and landscaping.

Planning Assessment of Policy and Other Material Considerations

The site is located within the open countryside as defined by the Cookstown Area Plan 2010 (CAP) where Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside applies. Policy CTY1 identifies acceptance of non-residential development, for industrial and business uses which accord with Planning Policy Statement 4 (PPS 4): Planning and Economic Development and in particular policies PED 2, 4 and 9. Although this application has been submitted for outline consideration a detailed site plan has been submitted for information purposes and forms the basis of the proposal.

Policy PED 2 Economic Development in the Countryside is relevant where policy allows for the redevelopment of an established economic use in compliance with PED 4. A proposal will only be permitted under this policy where it is demonstrated all the following criteria can be met;

- (a) The scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area; even though in this case there is no increase in the site area, it will be the increase in the proposed structures which will be significant in comparison to that existing on site. There is also significantly greater car parking providing a negative visual impact of hard standing on a roadside site.
- (b) There would be no significant environmental benefits as a result of the redevelopment.
- (c) The redevelopment scheme does deal with the full extent of the existing site and addresses the implications of the remainder of the site, a concept plan has been provided to show this.
- (d) The overall visual impact of the replacement buildings will be significantly greater than that of the buildings to be replaced. In particular the retail element of the scheme will be greatly increased. The main shop (Class A1) will be 375sqm and Unit 5 (Class A1) will be 324sqm, resulting in a total of approx. 700sqm. Currently on site is a small disused flat roofed building which has previously been the shop on site. In addition to this will be 3 workshops and a showroom which do not currently exist on site.

PED4 also goes on to state 'redevelopment proposals involving retailing, however, will not be permitted.'

Policy PED 9 of PPS 4: provides general criteria for assessing all applications relating to the location in siting and design: impact on residents and the environment, access and movement improvement. This proposal is generally compatible with the existing land use. However since this proposal is adjacent to residential property attention needs to be given to the neighbours amenities. It is my opinion that as the scale of the buildings and the increase in both vehicles and customers is greater than that existing there will be a significant adverse impact on neighbouring amenity by way of increased noise and nuisance as well as dominance and an overbearing impact on neighbouring property. There is no evidence of any negative natural or built heritage impact. The site is not in an area of flood risk and there is no evidence to suggest that any emission or effluent cannot be dealt with. There are issues relating to traffic movement and it has not been proved that there would be sufficient space for additional car parking and turning required for the development. In addition the access details cause concern in respect of traffic safety.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) has removed Planning Policy Statement: Retailing and Town Centres however the SPS reinforces the importance of town centres and the need to locate such proposals within the town. As the application is not in a town centre location a retail impact assessment is not required. This proposal although redeveloping existing uses proposes a significant increase in town centre uses which would be to the detriment of Cookstown and therefore remains contrary to policy.

It should be noted that a majority of the uses proposed would be more suited to being within the town centre and to that end to allow this proposal could have an impact on the vitality and viability of the town centre. The time for enforcement action for the non-compliance of the condition attached to the previous permission has now lapsed, however no application has been submitted for a certificate of lawfulness for the retention of the existing fuel pumps and canopy.

Recommendation

The application should be refused for the following reasons;

Refusal Reasons

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies PED 2, PED 4 and PED 9 of Planning Policy Statement 4: Planning and Economic Development in that the scale and nature of the proposal would harm the rural character of the area and impact negatively on the amenities of the adjoining residential properties.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development in that the development would, if permitted, have an adverse impact on the vitality and viability of the existing town centre.
4. The development is contrary to Planning Policy Statement 3, Development Control: Roads considerations in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
5. 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 proposes to intensify the use of an existing access at which visibility splays of 4.5m x 215m in both directions cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2017/1368/F	Target Date:
Proposal: Replacement dwelling (amended proposal)	Location: 45m North East of 19 Ardagh Road Coagh Cookstown
Applicant Name and Address: Mr Tony Anderson Gort Road Coagh Cookstown	Agent name and Address: Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
Summary of Issues: This application was originally submitted as a dwelling on a farm, however following a recommendation for refusal the proposal has been amended as an off-site replacement dwelling and has been recommended for approval on this basis.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is located less than 1 mile north-west of Ballinderry in open countryside in accordance with the Cookstown Area Plan 2010. The site outlined in red is located at No 19 Ardagh Road, Coagh and consists of a single storey dwelling, two small agricultural buildings and a cut-out portion of a large field identified as field No 5 on the farm map. The site fronts onto the public road with access via an existing laneway. The northern and southern boundaries are defined by 1.5m hedgerow and the southern boundary is defined	

by tall mature trees. The remaining eastern boundary is undefined. The topography of the area is relative flat in nature and the Ballinderry River is located approximately 150m south-east of the site.

Description of Proposal

The application seeks full planning for a two storey dwelling with attached carport and garage. The proposed dwelling has a 13m frontage with a gable depth of 8.8m and a ridge height of 8.5m above finished floor level. A two storey rear return is also proposed. The chimneys are expressed on the ridge, the wall finishes are smooth render painted white and the roof finishes is blue/black natural slate.

Deferred Consideration:

This application was originally submitted as a dwelling on a farm and presented as a refusal in Feb 2019 for the following reason;

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 a development opportunity has not been sold off from the farm holding within 10 years of the date of the application.

It was subsequently deferred for an office meeting held on 26th June 2019, for further consideration. The Area Manager had indicated that the application could have been held until the outcome of the draft area plan. However following the initial consultation period a number of objections to the policies in the plan were received and it was decided in June 2019, whilst the draft plan remains a material consideration, it cannot be given determining weight at the current time.

Following further discussions with the agent regarding alternatives for obtaining a dwelling, a replacement dwelling was put forward as an option.

The applicant submitted an amended P1 and plans changing the proposal to 'replacement dwelling at 45m NE of 19 Ardagh Road, Coagh'. Neighbours were re-notified and proposal was re-advertised. No objections were received.

The building proposed to be replaced is to the rear of the main dwelling on the farm, No.19. Our records do not show that No.19 was ever approved on the basis of a replacement for the building being replaced in this current proposal.

CTY3 states permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all ref to 'dwellings' includes those buildings formerly known as dwellings.

It is important to note that policy states buildings designed and used for agricultural purposes, will not however be eligible for replacement under this policy. However, the building in question for this site was designed as a dwelling (see evidence in report below), although it is no longer used as a dwelling house.

Land and Property Services public records show that within the red line of the site there were at one time 3 domestic properties at the site, and that two of the properties merged

to become one in the rating year 1880/1881, and that property is now known as No.19 Ardagh Road. There are currently 3 separate buildings on the site. Historical Ordnance survey maps show the building to be replaced as No.19, which would indicate it had been known as a dwelling at some stage. Current Ordnance survey maps show No.19 as the main dwelling to the front of the site. This would tie in with the LPA records that the dwelling formerly known as No.19 merged with another dwelling to become one.

Based on the information submitted by the agent there is sufficient evidence that the building to be replaced was once a dwelling.

Other general criteria under CTY3 has to be considered;

The building to be replaced is single storey and is set back behind the proposed site and existing 2 storey farm house, No.19. However to replace a dwelling in-situ would be very restrictive due to the existing house and shed and would not allow for adequate amenity space for either house and so there are amenity benefits. The proposed location is visually linked with the replacement house and the proposed planting aids in reducing its visual impact.

The overall size of the proposed 2 storey dwelling will allow it to integrate into the surrounding rural setting as it reflects the characteristics of a rural farm house and similar houses within the vicinity.

The proposed design at this location is acceptable and will not change the rural character of the area. Finishes are in keeping with traditional rural design guide.

DFI Roads have no objections subject to condition. Access will not prejudice road safety or significantly inconvenience the flow of traffic.

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

Recommended as approval for a replacement under CTY3.

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 dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan 01/01 date stamped 27th Sept 2019 is demolished, all rubble and foundations have been removed and the site restored in accordance with the details on the approved plans.

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

3. During the first available planting season after the occupation of the building for its permitted use, the landscaping scheme shall be carried out as shown in plan 01/01 date stamped 27th Sept 2019.

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

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

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

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

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

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

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

Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1368/F	Target Date:
Proposal: Proposed dwelling on a farm	Location: 45m North East of 19 Ardagh Road Coagh Cookstown
Referral Route: Contrary to CTY 10 of PPS 21	
Recommendation:	Refusal
Applicant Name and Address: Mr Tony Anderson Gort Road Coagh Cookstown	Agent Name and Address: Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
Executive Summary:	
Signature(s):	

*For committee
decision*



21/18

Case Officer Report

Site Location Plan



Consultations:

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

Non Statutory	DAERA - Coleraine	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 - The proposal is contrary CTY1 and CTY10 – in that a development opportunity has been sold off.		
Characteristics of the Site and Area The site is located less than 1 mile north-west of Ballyinderry in open countryside in accordance with the Cookstown Area Plan 2010. The site outlined in red is located at No 19 Ardagh Road, Coagh and consists of a single storey dwelling, two small agricultural buildings and a cut-out portion of a large field identified as field No 5 on the farm map. The site fronts onto the public road with access via an existing laneway. The northern and southern boundaries are defined by 1.5m hedgerow and the southern boundary is defined by tall mature trees. The remaining eastern boundary is undefined. The topography of the area is relative flat in nature and the Ballyderry River is located approximately 150m south-east of the site.		
Description of Proposal The application seeks full planning for a two storey farm dwelling with attached carport and garage. The proposed dwelling has a 13m frontage with a gable depth of 8.8m and a ridge height of 8.5m above finished floor level. A two storey rear return is also proposed. The chimneys are expressed on the ridge, the wall finishes are smooth render painted white and the roof finishes is blue/black natural slate.		
Planning Assessment of Policy and Other Material Considerations		
Relevant Site History: No relevant history on the proposal site on the Ardagh Road, however LA09/2016/0183/F - Proposed new dwelling and detached garage/store (infill site), located between 12 and 12a Gort Road, Coagh, Cookstown for Jeffrey and Naimh McCrystal - Approved 20th June 2016 is considered relevant because it has been 'sold off' from the farm holding.		
Representations: 1 neighbour notification letter was sent to the occupier No 60 Brookmount Road, Magherafelt. No letters of representation have been received		
Development Plan and Key Policy Consideration: Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.		
<u>Cookstown Area Plan 2010:</u> The site itself is located in the open countryside. There are no other designation on the site.		
<u>SPPS – Strategic Planning Policy Statement for Northern Ireland:</u> 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 (other than PPS 1, 5 & 9) together with the SPPS.

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

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

Policy CTY 1 of PPS 21 allows for a single dwelling on a farm subject to the policy tests laid down in policy CTY 10 and states that planning permission will be granted for a dwelling on a farm where three criteria are met.

Criterion (a) requires the farm business to be currently active and established for at least 6 years. The applicant has submitted a farm business ID number which DARD has confirmed is currently active and has been established more than 6 years and that the farm business has claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years.

Under criterion (b) which requires 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.

A planning history search reveals that a full application for new dwelling, ref No. LA09/2016/0183/F was approved on 20th June 2016 for Jeffrey and Naimh McCrystal, the applicant's brother in law and sister. The site is located between 12 and 12a Gort Road, Coagh and is in the process of being constructed. The site on the Gort Road is still shown as an agricultural field on the 2017 farm map, however Jeffrey and Naimh McCrystal completed certificate 'A' indicating that they were in full ownership of their site on 10th February 2016. A land registry check was carried out to determine if the land had been transferred. The land registry check proved inconclusive but indicated that an application was pending. However, given that the Jeffrey and Naimh McCrystal claimed ownership of their site in 2016, in my opinion this provides confirmation that the site has been transferred off the farm.

Paragraph 5.40 of the Justification and Amplification makes it clear that planning permission will not be granted for a dwelling under this policy where a rural business has recently 'sold off' a development opportunity from the farm such as a replacement dwelling. Paragraph 5.40 goes on to say for the purposes of this policy, 'sold-off' will mean any development opportunity disposed of from the farm holding to any other person including a member of the family. As the 2016 application was approved under PPS 21, and was subsequently 'sold off', this application fails to comply with criterion (b) of policy CTY 10.

Under criterion (c) of the policy which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. The established grouping is located immediately to the rear of the site and consists of a number of agricultural buildings and a single storey farm dwelling. The proposal site is a cut out portion of a large agricultural field identified on the farm map as field No 5. I am satisfied the proposal complies with criterion (c) and criterion (g) of CTY13. Site Curtilage of Proposed Dwelling

Integration.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

The proposed site is relatively flat and the rear boundary consists of a large belt of tall mature trees which provides an ideal backdrop to allow the proposed two storey dwelling to successfully integrate into the landscape. When travelling in a westerly direction the proposed dwelling will read with the established farm grouping located to the rear and when traveling in the opposite direction the mature belt of trees will help to screen the proposal.

In terms of design the proposed dwelling has become fairly standardised in rural areas and does consist of elements which are considered traditional such as vertically emphasised windows, linear form and chimneys expressed on the ridge. The finishes include blue/black natural slates and smooth rendered painted white are generally acceptable and will not appear incongruous in the rural area. The orientation of the proposed dwelling fronts onto the public road and the proposal will make use of an existing access onto the Ardagh Road.

Impact on Character and Appearance of the Area.

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. I am satisfied a new dwelling would not cause an undesirable change to the rural character due to the existing built form on the site.

Other Policy and Material Considerations

I am satisfied that the proposal is adequately sited and designed to avoid a significant adverse impact on neighbour amenity and that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

Neighbour Notification Checked: Yes

Summary of Recommendation: I recommend refusal on the bases that a development opportunity has been sold off.

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 a development opportunity has not been sold off from the farm holding within 10 years of the date of the application.

Signature(s) Sean Diamond

Date: 23/01/2018

ANNEX	
Date Valid	5th October 2017
Date First Advertised	19th October 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 19 Ardagh Road Coagh Londonderry	
Date of Last Neighbour Notification	31st October 2017
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2017/1368/F Proposal: Proposed dwelling on a farm Address: 45m North East of 19 Ardagh Road, Coagh, Cookstown, Decision: Decision Date:	
Summary of Consultee Responses	
Drawing Numbers and Title	
Notification to Department (if relevant) Date of Notification to Department: Response of Department:	



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2017/1705/F	Target Date: <add date>
Proposal: Retention of and completion to reinstatement of previous building for agriculture purposes	Location: 200m SW of 107 Lisacclare Road (on the Aughagranna Road) Stewartstown
Applicant Name and Address: James Canavan 80 Mountjoy Road Aughrimderg Coalisland	Agent name and Address: Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
Summary of Issues: Planning permission has been refused for a replacement dwelling on the site, the building was been reconstructed without planning permission, an application was submitted for its retention and re-instatement as a dwelling. The application has been amended to retain it for agricultural purposes. The building is located on an active and established farm.	
Summary of Consultee Responses: DFI Roads – approve with conditions to improve the access to achieve sight lines of 2.0m x 33.0m and forward sight distance of 33.0m. DEARA – the building is on an active and established farm	
Characteristics of the Site and Area: The application site is located in the rural location as defined within the Dungannon and South Tyrone Area Plan 2010. The access point is from an existing access onto Aughagranna Road. There is evidence of previous works to the building noted on my site visit report namely, parts of the exterior walls comprising of stone (remnants of 2 walls) with concrete block forming the main structure of the building. The block work of the building appears to be completed with a slate pitch roof, no chimney stacks are in place and part of the rear wall appears to be of original stone work.	

The application site forms part of a field where the land within it is slightly elevated towards the west there are no defined boundaries apart from post and wire fence erected to accommodate the curtilage of the site. The surrounding landform is one of undulating countryside where the land falls away from Aughnagranna Road in a westerly direction. There are views of the application especially traveling in a southerly direction along the Aughnagranna Road.

The wider area is predominantly agricultural, on the shores of Lough Neagh, relatively flat landscape.

The predominant land use in the area is agricultural fields, with dispersed single dwellings and farm holdings.

Description of Proposal

Retention of and completion to reinstatement of previous building for agriculture purposes.

Deferred Consideration:

Members are advised this application has a long planning history, pre-application discussion were held in 2013 where an opinion issued from DOE stating that permission for a replacement dwelling was unlikely to be forthcoming under CTY3 of PPS21. An application for a replacement dwelling was refused by the Department of the Environment under M/2014/0040/O. This decision was appealed by the applicant and was dismissed by the Planning Appeals Commission on 2nd November 2015 reference No. 2014/A280. The PAC determined that the proposal was contrary to;

- CTY1 and CTY3 of PPS21 in that the existing structure on site did not meet the criteria for a replacement dwelling;
- CTY13 in that a building on the site would not integrate into the landscape.

A planning proposal, LA09/2017/0614/F was submitted on a household developer application for improvements to dwelling. This proposal was withdrawn as it was determined the application was invalid, as it was assessed that no dwelling is in existence on this site to improve. This current application was submitted for the reinstatement of the building as a dwelling and was recommended as refusal. Following submission of farming information it has been established the building is on an active and established farm and the application has now been amended and is currently under consideration as an agricultural building. The applicant has advised it its only for the storage of animal feeds and equipment and will not be used to house any animals.

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

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 21: Sustainable Development in the Countryside

CTY1 - Development in the Countryside

CTY12 – Agricultural and Forestry Development

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 - Rural Character

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

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.

Key Policy Considerations/Assessment

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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 sets out, in policy CTY12, where new development on an active and established agricultural holding will be granted planning permission. Policy CTY10 sets out what is meant by an active and established farm business, DEARA have advised the building is on a farm that has been established for over 6 years and it is currently active.

This building is on an outfarm comprising 5.88ha, the main farm is located 1.2km to the south east, on the main Mountjoy Road. It is in 3 parcels and is 11.65ha used for keeping beef cattle, in 2017 there were 97 animals on the herd book. The proposed building is

small in scale and is only visible from close up views on the minor Augharanna Road. The site has some vegetation around its northern boundaries that help to screen it from views from the west. It is prominent in views from the east, though due to the road alignment, this is for a limited stretch of the minor road. I consider additional landscaping would reduce the impact of the building in this view. The building is modest in its size and scale and it is obvious there was a building on the site before. Evidence on the previous files indicates a building of a similar size and scale to the one proposed was previously on this site and as such I consider the building is appropriate to the area in terms of its size and scale. There are no occupied dwellings close to the site, though there is a site approved directly opposite. The applicant has advised the building will not be used for housing animals, it will be used as an agricultural store for feeds when animals are in these fields and as this will be in effect a store, I do not consider it will have any detrimental impacts on the amenity of any dwellings by virtue of noise or odours. There are no built heritage features on or adjacent to the site. This application is for an agricultural building, it is not for housing animals and as such is not a development that would result in any ammonia emissions. There are no other features of natural heritage on the site or adjacent to the site.

It has not been demonstrated that the building is necessary for the efficient use of the holding, it has not been demonstrated there are any demonstrable health and safety reasons for the building and it is not sited beside any buildings on the farm. I do not consider the proposed development meets with the exception within Policy CTY12 and in view of these failings, it is reasonable for members to refuse planning permission and for enforcement action to progress to remove the unauthorised works.

However, members should be aware that the enforcement action cannot seek the total removal of the building and clearing of the site, it can only put it back to the position it was previously in. This would result in the ruins of the building still on the site with no requirement to take these away. The retention of these ruins could, in my opinion, have a more detrimental impact on the appearance of this area than the proposed building with a properly conditioned and provided landscaping scheme. Members will be aware of planning gain and the concept that a development can result in the betterment of the appearance of an area. There is no specific policy for planning gain and it is a judgement taken in full knowledge of the facts of a case. In this case there is a building partially completed on the site, enforcement action cannot be taken to remove the entire building or to retain the existing vegetation on the site. The land owner can leave the original walls and clear all the vegetation from around the site which would result in this partial ruin being open to full public view. In my opinion the proposed building will not have any greater visual impact on the landscape than the previous ruinous building. A robust landscaping scheme can be conditioned for implementation along the road frontage and site boundaries. The landscaping will, in time, provide full screening of the building such that it will not be visible from any public views on the public road.

I consider a properly conditioned building here would be more preferable in visual amenity terms than the previous ruins that were on the site and I recommend this application is approved with the conditions attached.

Conditions/Reasons for Refusal:

CONDITIONS

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

Reason: This is a retrospective application.

2. The agricultural building approved shall be used only for agricultural storage and not for housing of animals.

Reason: To prohibit a change to an unacceptable use.

3. The vehicular access, including visibility splays of 2.0m x 33.0m and 33.0m forward sight distance shall be provided in accordance with Drawing No. 01 (Rev.2) bearing the date stamp 23 OCT 2018, prior to the building hereby approved becoming operational. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. All hard and soft landscape works as detailed on drawing no 01 (Rev.2) bearing the date stamp 23 OCT 2018 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within 6 months of the date of this permission. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

REASON: In the interests of visual amenity and the character of this rural area.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1705/F	Target Date:
Proposal: Retention of and completion to reinstatement of previous dwelling	Location: 200m SW of 107 Lisaclore Road (on the Aughagranna Road) Stewartstown
Referral Route: Recommendation to refuse	
Recommendation:	Refuse
Applicant Name and Address: James Canavan 80 Mountjoy Road Aughrimderg Coalisland	Agent Name and Address: Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF

Case Officer Report

Site Location Plan



Representations: None Received

Description of proposal

This is a full planning application for the reinstatement of previous dwelling

Characteristics of site and area

The application site is located in the rural location as defined within the Dungannon and South Tyrone Area Plan 2010. The access point is from an existing access onto Aughagranna Road. There is evidence of previous works to the building noted on my site visit report namely, parts of the exterior walls comprising of stone (remnants of 2 walls) with concrete block forming the main structure of the building. The block work of the building appears to be completed with a slate pitch roof, no chimney stacks are in place. The building resembles a small dwelling with a single window opening on either side of a central door, similar to the rear. There is evidence of a fireplace having been located to the northern elevation (roadside gable), and part of the rear wall appears to be of original stone work. The rest of the construction is new and there is still scaffold erected along the southern gable.

The application site forms part of a field where the land within it is slightly elevated towards the west there are no defined boundaries apart from post and wire fence erected to accommodate the curtilage of the site. The surrounding landform is one of undulating countryside where the land falls away from Aughnagranna Road in a westerly direction. There are views of the application especially traveling in a southerly direction along the Aughnagranna Road.

The wider area is predominantly agricultural, on the shores of Lough Neagh, relatively flat landscape.

The predominant land use in the area is agricultural fields, with dispersed single dwellings and farm holdings.

Planning Assessment of Policy and Other Material Considerations

Area Plan

Dungannon and South Tyrone Area Plan 2010- the site is located in the open countryside. No specific plan policies relate to the proposal and the provisions of SPSS and PPS21 apply.

Relevant Planning History

A pre-app was submitted in 2013 where an opinion issued from DOE stating that permission for a replacement dwelling was unlikely to be forthcoming under CTY3 of PPS21.

An application for a replacement dwelling was refused by the Department of the Environment under M/2014/0040/O. This decision was appealed by the applicant and was dismissed by the Planning Appeals Commission on 2nd November 2015 reference No. 2014/A280. The PAC determined that the proposal was contrary to;

-CTY1 and CTY3 of PPS21 in that the existing structure on site did not meet the criteria for a replacement dwelling;

-CTY13 in that a building on the site would not integrate into the landscape.

A planning proposal, LA09/2017/0614/F was submitted on a household developer application for improvements to dwelling. This proposal was withdrawn as it was determined the application was invalid, as it was assessed that no dwelling is in existence on this site to improve.

Objections

No 3rd party planning objections have been received.

Consideration

Since the appeal the applicant has carried out work to the structure on site, to re-instate the previous dwelling. Walls have been constructed in block, roof trusses have been put in place and a new slate roof installed. Inside the structure there is evidence of the previous structure which includes stone walls, window openings, a chimney breast and mosaic tiled floors. Photographic evidence of this has also been provided by the applicant.

On discussion with our Enforcement Team, a case has been opened on this site as it is their view that the works carried out are unauthorised. Works on the site have ceased, and no further enforcement action will take place until this application is decided. (enforcement ref: LA09/2017/0028/CA)

In my view, the works to the structure on site are unauthorised and the position has not change in my assessment of a replacement dwelling. There is no structure to replace.

Similarly, as no dwelling exists on site it is not possible to reinstate the dwelling as a considerable time has lapsed from when a dwelling did rest on this site and this use and structure has now been abandoned. In some instances, where exceptional circumstances are presented, it may be possible to reinstate a dwelling on a site, such as where a dwelling/building has been recently burnt down. No evidence has been presented by the applicant/agent of this nature to warrant reinstatement.

On 27th September 2018 an office meeting was held between the applicant (James Canavan), agent (Seamus Donnelly), Dr Boomer (Planning Manager) and I (Case Officer). During the course of this meeting it was agreed that the applicant would provide evidence that he farms the land, or provide the Agricultural Business ID of the person who does, in the attempt to make a farming case. No dispute lies over land ownership which belongs to James and his wife. The Business ID that was provided belongs to James' brother. This Business ID is both active and established but does not include the land which is under the ownership of James. DAERA confirm in their response dated 11/02/2019 that the field on which the proposed site is located has been claimed for SFP/SAF BPS 2005-2018 by a business other than that quoted on the P1C Form.

I e-mailed the agent on 31st January 2019 to provide a revised P1C form and farm maps showing the Business ID of the person who does farm James' land. 7 days were granted to provide this information and to date nothing has been forthcoming. In my view there is insufficient evidence to demonstrate that this farm land is both active and established and sufficient time has been given for the applicant to demonstrate that it is bot active and established. In my view all the facts have not been presented. The proposed dwelling is not sited beside existing farm buildings and does not meet this part of the policy. In my view the proposal is also contrary to policy CTY10 of PPS21.

Other information has been provided by the applicant/agent to demonstrate that the James is an active and established farmer. The evidence provided is over 20 years old, including old herd numbers, and it was not clearly demonstrated that the applicant has an established and active holding. While this may be the case, it has not been clearly demonstrated and therefore no weight can be attached to this argument at present. James does not currently hold any animals on his land.

The PAC also ruled that a single storey dwelling would not integrate onto this site. The site has not changed dramatically from this refusal and in my view a dwelling on the site will be contrary to policy CTY13 of PPS21.

Other considerations

I am not convinced that the description of proposal is correct, as it suggests that there is currently a lawful dwelling on site that can be reinstated/completed. In my view the description should be amended to 'site for dwelling' as no determining weight can be

attached to what is currently on site in terms of meeting the policy provisions of PPS21 Sustainable Development in the Countryside. This description can be amended should circumstances change.

The site is not subject to flooding and there are no land contamination issues to consider. No natural or built heritage interests will be detrimentally impacted by the development.

DfI Roads have no objections to this proposal subject to 2m by 33m sight spays in both directions and a 33m forward sight distance.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission is refused for the following reasons of refusal.

Refusal Reasons

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

2.The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and all external structural walls are not substantially intact.

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

-the farm business is currently active and has been established for at least six years;

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

4. The proposal is contrary to CTY13 of PPS21 in that;

-it lacks long established natural boundaries and is unable to provide a suitable degree of enclosure to integrate a dwelling into the landscape;

and as a result a dwelling on this site will have a detrimental impact on the visual amenity and landscape character of this area of countryside.

Signature(s)

Date:

ANNEX	
Date Valid	7th December 2017
Date First Advertised	21st December 2017
Date Last Advertised	12th July 2018
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	NA
ES Requested	No



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2018/0666/O	Target Date:
Proposal: New farm dwelling and garage	Location: Approx 40m South East of 32A Mayogall Road Gulladuff
Applicant Name and Address: Mr Damon Brown 32A Mayogall Road Gulladuff Magherafelt	Agent name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
Summary of Issues: The applicant initially sought permission to replace the existing mobile home with a dwelling. This was not possible under the current replacement policy and was then amended to an application for a dwelling on a farm. It has been assessed under CTY10.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The application site is plot of land located approx. 40m South East of 32A Mayogall Road, Gulladuff and is located just outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is triangular in shape and there is an existing static caravan/mobile home located on the site towards the northern corner. There are no other buildings within the red line of the site. The boundary of the site is comprised of a mixture of mature hedgerows and trees. There is one third party dwelling located to the North West of the site. To the South East there is a ribbon of detached dwellings fronting onto the existing lane.	

Description of Proposal

Farm dwelling and garage

Deferred Consideration:

This application was presented as a refusal to Committee in Feb 2019 and an office meeting was held on 14th Feb 2019 with the Area Planning Manager. The reasons for refusal are as follows;

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 not active and established for at least six years; the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.

2. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

The development would if permitted mar the distinction between the defined settlements limit of Gulladuff and the surrounding countryside.

As the agent wished the proposal to be assessed under CTY10, description now reads 'new farm dwelling and garage'. As previously stated there is no option to replace a static caravan with a dwelling, however it can continue to remain as a mobile as it would appear to be immune from enforcement as previously stated in the initial case officers report.

The applicant, Mr Brown, was issued with a farm Business ID on 27 Jan 2017. Previous to this, the applicants partner father and mother (Mr & Mrs Lagan now both deceased) farmed the land and evidence in the form of invoices and receipts have been supplied dating back to 2011, with Mr Brown being mentioned on them since 2014 for 32a Moyogall Road, when he took over working on the farmland. The land is kept in good agricultural condition and there has been sufficient information provided to show there is currently an active farm business, but CTY10 states the farm business has to be 'established for at least 6 years'.

DEARA confirmed that Mr & Mrs Lagan have not had a farm business registered with them. They do have records dating back to 1995 but these do not prove a farm business.

A letter from the applicant's accountant was forwarded to confirm farming income being declared on Mr. Brown's income tax returns from 2014 until present. These show he has claimed for farming related activities in his accounts since 2014. The details provided, together show the continuous farming of the land of Mr Brown since the deaths of Mr and Mrs Lagan and that this was an active and established farm business for over 6 years.

The only building on the farm is dwelling No. 32a, located to west, north/west of the site. Due to the shape of the site and how narrow it is at the north where the existing mobile sits, a dwelling would most likely have to be built on the larger southern part of the site as the top part may not accommodate a modest sized dwelling. The site will have to be opened up to provide an access and splays which will allow the site to be visually linked with the existing farm house across the road, in line with Policy CTY10.

Policy CTY15 had been considered as a refusal due to its location on the edge of the settlement limit of Gulladuff and that it would mar the distinction between the defined settlement limit and the surrounding countryside. However, although the site is on the settlement limit its location is not one that has as clear a distinction as would have other parts of the edge of the limits. Here a dwelling has been approved and built to the west, changing the character at this part of the settlement. I do not feel a dwelling on the site would result in urban sprawl or mar the distinction of the town and countryside of Gulladuff.

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

Approval is recommended.

Conditions

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

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

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

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

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

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

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

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

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

5. No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development.

Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

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

6. The proposed dwelling shall have a ridge height of less than 7 metres above finished floor level.

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

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0666/O	Target Date:
Proposal: Proposed replacement of existing Mobile Home with [new farm dwelling and garage]	Location: Approx 40m South East of 32A Mayogall Road Gulladuff
Referral Route: The proposal is contrary to the policy requirements of PPS 21 Sustainable Development in the countryside	
Recommendation:	Refusal
Applicant Name and Address: Mr Damon Brown 32A Mayogall Road Gulladuff Magherafelt	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

For comment
deavour

23/1/19

Case Officer Report

Site Location Plan



Consultations:

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

There have been no third party objections to this application. Transport NI and Water NI were consulted on the application. DAERA were also consulted.

Characteristics of the Site and Area

The application site is plot of land located approx. 40m South East of 32A Mayogall Road, Gulladuff and is located just outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is triangular in shape and there is an existing static caravan/mobile home located on the site towards the northern corner. There are no other buildings within the red line of the site. The boundary of the site is comprised of a mixture of mature hedgerows and trees.

There is one third party dwelling located to the North West of the site. To the South East there is a ribbon of detached dwellings fronting onto the existing lane.

Description of Proposal

The applicant initially sought permission to replace the existing mobile home with a new farm dwelling. This was not possible under the current replacement policy (CTY 3) and was then assessed under CTY 10, dwellings on farm.

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
3. Planning Policy Statement (PPS) 21 – Sustainable Development in the countryside
4. Planning Policy Statement 3 – Access, Movement and Parking

Planning History

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

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 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 SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered.

The proposal is for a new dwelling and garage on a farm. Initially the application came in as a replacement of existing mobile home with new farm dwelling. However, there is no provision to replace a static mobile home/caravan under the CTY3 Policy for replacement dwellings. I contact the agent to ask if they wanted the application assessed under any other policy and they requested that it was then assessed under Policy CTY 10 as a new

dwelling on a farm, this had been mentioned in the original proposal description. I then requested farm maps from the agent and consulted DEARA on the scheme. I also note that the mobile did not have planning permission, however as it appears to have been on the site for more than 5 years it is now immune from enforcement action, therefore the land can continue to be used for storage of a mobile.

PPS 21, Policy CTY 1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY10. This establishes the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

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

With respect to (a) the applicant provided a P1C form and I had to request farm maps from the agent/applicant and received a spatial NI map with the relevant fields identified. DAERA were consulted and responded to state that the Business ID identified on the P1C was not active or established. The business id was only issued on 27 January 2017 and no claims for BPS have been submitted. I enquired further information from the applicant/agent, they said they had acquired the farm from relations. I went back to DAERA and asked them to check if there was any continuation of farm numbers or any claims had been made. DAERA responded to say that the Business id was issued to Mr Daman Brown on 27 January 2017. The business was awarded following the submission of a 5 year lease for the two fields and no farm payments have been claimed over the past 6 years for any of the fields identified. Therefore this proposal fails to meet this test.

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

With respect to (c), there are no buildings within the red line of the site for a new dwelling to visually link or cluster with. There is one dwelling house within the blue land indicated on the location map drawing No 01, date stamped 15.05.2018, however a new one on the site and would not sufficiently link or cluster with the dwelling. The portion of the site where the mobile is located, narrows significantly and would not be suitable to accommodate a modest sized dwelling. Also, as the proposed site is on the boundary of the settlement limits of Gulladuff the development would if permitted mar the distinction between the defined settlement limit of Gulladuff and the surrounding countryside and is therefore contrary to policy CTY 15, the setting of settlements of PPS 21.

Access

Transport NI were consulted on this application and responded stating they had no objections to the proposal, subject to condition.

Conclusion

In conclusion, the proposal fails to meet the policy requirements of the SPPS, PPS 21 (Policy CTY 1, 10 & 15) and therefore it is recommended that permission is refused.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse

Conditions/Reasons for Refusal:

- 1) The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - the farm business is not active and established for at least six years;
 - the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm
- 2) The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the development would if permitted mar the distinction between the defined settlement limit of Gulladuff and the surrounding countryside

Signature(s)

Date:

ANNEX	
Date Valid	15th May 2018
Date First Advertised	31st May 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 22 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 24 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 26 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 28 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 30 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 32 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 32a Mayogall Road Gulladuff The Owner/Occupier, 34 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 36 Mayogall Road Gulladuff Londonderry	
Date of Last Neighbour Notification	29th May 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0666/O Proposal: Proposed replacement of existing Mobile Home with new farm dwelling and garage Address: Approx 40m South East of 32A Mayogall Road, Gulladuff, Decision: Decision Date: Ref ID: H/1997/0026 Proposal: DWELLING AND GARAGE Address: ADJ TO 32 MAYOGALL ROAD GULLADUFF MAGHERAFELT Decision:	

Decision Date:

Ref ID: H/2002/0280/A41

Proposal: Disabled Improvements to Dwelling

Address: 30 Mayogall Road, Magherafelt

Decision:

Decision Date:

Ref ID: H/2005/1025/F

Proposal: Two Storey Dwelling and Garage

Address: 700m NW of 32 Mayogall Road, Priest Town Lane, Gulladuff

Decision:

Decision Date: 21.12.2005

Ref ID: LA09/2015/1275/O

Proposal: Infill dwelling and garage between 32 and 32a Mayogall Road, Gulladuff

Address: Lands Between 32 and 32a Mayogall Road, Gulladuff,

Decision: PG

Decision Date: 15.06.2016

Ref ID: H/1996/0430

Proposal: SITE OF DWELLING

Address: ADJACENT TO 32 MAYOGALL ROAD KNOCKLOUGHRIM MAGHERAFELT

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2018/0799/F	Target Date:
Proposal: Proposed demolition of garage and provision of new detached dwelling	Location: Adjacent to 23 Beechland Road Magherafelt.
Applicant Name and Address: Ashley Booth 45 Ballynagarve Road Magherafelt BT45 6NB	Agent name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Summary of Issues: No objections have been received in respect of this application, two support letters have been received.	
Summary of Consultee Responses: Roads Service provided suggested conditions if the proposed development were to be considered acceptable.	
Characteristics of the Site and Area: Description of proposal The proposal is an application for a detached two storey dwelling within the side garden of an existing dwelling. Characteristics of the site and area	

The site is comprised of a small side yard/amenity area of a modest two storey detached dwelling at Beechland Road. Within that amenity area is a small single garage with a flat roofed which attached to a similar garage at no.25. The dwelling fronts onto a small, wedged shaped area of grass and a communal car parking area. The site is bounded along the rear of the public footpath by a low concrete wall. While the existing dwelling has a side yard/amenity area it also has an elongated private amenity area to the rear which is accessed via a narrow entry between the existing dwelling and the garage. The rear garden measures approximately 28m by 7m. Currently there is parking for one vehicle within the side yard/amenity area with a second parking space within the existing garage.

Description of Proposal

Proposed demolition of garage and provision of new detached dwelling

Deferred Consideration:

This application was presented as a refusal at Committee in June 2019 and an office meeting was held on 13th June with the Area Planning Manager. The application was been recommended as refusal for the following reasons;

1. The proposal is contrary to Policy DES2 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted;
be detrimental to the character of the surrounding area by reason of its siting and design which are out of character with the area; and
have an unacceptable negative impact on neighbouring amenity and therefore would not make a positive contribution to the area.
2. The proposal is contrary to the Magherafelt Area Plan, Policy QD1 of Planning Policy Statement 7 Quality Residential Environments and Policy LC1 of Addendum to Planning Policy Statement 7 Safeguarding the Character of Established Residential Areas in that the development would, if permitted:
fail to respect the surrounding context in terms of design, layout and appearance;
fail to make adequate provision for private amenity space;
have an unacceptable adverse impact on the private amenity space of the existing dwelling at No. 23;
be out of keeping with the overall character of the established residential area; and
Represent over-development of the site.

Following the office meeting, two letters of support have been received welcoming the proposal into the area.

Amendments were received on 10/10/19 to address the refusal reasons and concerns raised at the office meeting. The footprint of the proposed dwelling has been reduced ensuring it is in keeping with the scale of the existing dwellings in the development. Design and finish of the house is acceptable for the area.

The amenity space is the form of a long piece of land separated from the neighbouring property (no.23) with a 1.8m high timber fence with access gates. Although this is not the

character of the amenity space in the immediate area, the minimum requirements are being met in policy terms and it ensures the provision of amenity for the 2 dwellings.

DFI Roads have provided conditions to be attached at any decision notice. No objections have been received.

Approval 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 vehicular access, including visibility splays, shall be in place in accordance with Drawing No. **02/4** bearing the date stamp **19th Oct 2019**, prior to the commencement of any other works or other development hereby permitted.

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

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

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

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

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

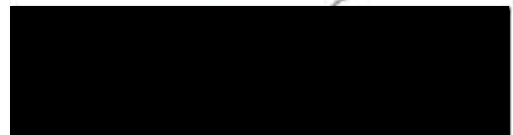
Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0799/F	Target Date:
Proposal: Proposed demolition of garage and provision of new detached dwelling (Amended Plans).	Location: Adjacent to 23 Beechland Road Magherafelt.
Referral Route: This application is being presented to Committee as it is being recommended for Refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Ashley Booth 45 Ballynagarve Road Magherafelt BT45 6NB	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary:	
Signature(s):	

For committee decision



23/5/18

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	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 representations have been received in respect of this application.

Description of proposal

The proposal is an application for a detached two storey dwelling within the side garden of an existing dwelling.

Characteristics of the site and area

The site is comprised of a small side yard/amenity area of a modest two storey detached dwelling at Beechland Road. Within that amenity area is a small single garage with a flat roofed which attached to a similar garage at no.25. The dwelling fronts onto a small, wedged shaped area of grass and a communal car parking area. The site is bounded along the rear of the public footpath by a low concrete wall. While the existing dwelling has a side yard/amenity area it also has an elongated private amenity area to the rear which is accessed via a narrow entry between the existing dwelling and the garage. The rear garden measures approximately 28m by 7m. Currently there is parking for one vehicle within the side yard/amenity area with a second parking space within the existing garage.

Planning Assessment of Policy and other Material Considerations Include Development Plan and planning history

There is no planning history on the site.

The proposal is in accordance with the Magherafelt Area Plan 2010 insofar as the site is unzoned land within an existing housing development.

PPS 7 Quality Residential Environments – Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment. 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.

The proposed development is assessed against these criteria as follows:-

- (a) The proposed layout fails to meet the first of these criteria in that it does not respect the surrounding context in terms of layout and appearance. Overall, this is a small restricted site which does not allow for a layout similar in size and appearance to the existing dwellings along this part of Beechland Road in that it removes a side amenity area and also relies on dividing up the rear amenity space by erecting a 1.8m high timber fence along its entire length. This will create two long and very narrow rear amenity spaces, one of which is 2.5m wide. Access to the two rear amenity spaces is via a shared entry between the two dwellings.
- (b) There are no features of archaeological or built heritage.
- (c) As the development is for 1 dwelling, the provision of public amenity space is not a requirement. The proposal will allow the provision of two separate private amenity spaces of around 95m² and 100m², however as discussed above the layout of these areas are impracticable and undesirable as the proposed dwelling has a poor relationship to its amenity space.
- (d) The proposal is for a single dwelling and therefore the provision of neighbourhood facilities are not deemed necessary within the site.
- (e) The site is within the settlement development limits of Magherafelt and therefore 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) Although the existing garage is to be removed and the parking availability reduced from two parking spaces, one in-curtilage parking space is proposed for the new dwelling. The existing dwelling will then rely on communal car parking.
- (g) The design as submitted is unacceptable. It is evident that the proposal is an attempt to shoehorn a dwelling into a restricted side yard/amenity area of an existing dwelling. The proposed development introduces a form of development which is alien to this area in that it proposes to erect a dwelling within a very restricted side yard/amenity area with the dwelling being gable end to the road and at its closest point is only 1m from the rear of the public footpath.

(h) Whilst the design and layout will not create conflict with adjacent land uses as these are predominantly residential, the layout, as discussed above, will undoubtedly have a major impact on the residential amenity of the existing dwelling at No.23 as the existing rear garden will be reduced to 2.5m wide at the rear of the dwelling. This is in addition to having to share an access to that amenity space with the proposed dwelling.

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

Addendum to Planning Policy Statement 7 – Policy LC 1 Protecting Local Character, Environmental Quality and Residential Amenity

In established residential areas 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;

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

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

While the proposal will not increase the overall density of the Beechland Road development significantly, the proposed site does not respect the existing pattern of development in that it results in a dwelling on an overly restricted site. This does not respect the existing layout in that the existing plot sizes are more substantial thereby resulting in more generous areas of private amenity space.

For a residential development scheme to be successful, the following issues, will need to be fully considered:

i. the extent of the surrounding area and the relevant development plan context;

ii. context of site and surroundings, including:

existing densities and layouts;

plot sizes;

ratios of built form to garden area;

spacing between buildings;

scale, height, and massing of buildings;

architectural styles and materials;

landscaping and boundary treatments; and

potential impacts on non-residential uses e.g. schools, open space, etc.

iii. the potential impacts of proposals on the street scene including main views, distance from boundaries of adjoining properties, overlooking, loss of light, overshadowing, refuse and recycling storage, noise or other general disturbance;

iv. the impact of parking provision on street scene, and the ratio of hard landscaping to soft landscaping / garden areas; and where appropriate,

v. the size, form, function and existing character of villages and smaller settlements.

The proposed development is considered to be contrary to the above addendum to PPS 7 in that it does not respect the existing plot sizes, the ratio of built form to garden areas, and the spacing between buildings. The proposal also fails to respect the existing street scene.

A Planning Strategy for Rural Northern Ireland

Policy DES 2 Townscape requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. In my opinion, the proposed development fails to make a positive contribution to this area as it proposes to develop a dwelling on a very

restricted site and in doing so will be out of keeping with the existing development within Beechland Road.

Recommendation

On consideration of the above, it is my opinion that planning permission should be refused for the reasons listed below:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse for the reasons stated below:-

Refusal Reasons

1. The proposal is contrary to the Magherafelt Area Plan, Policy QD1 of Planning Policy Statement 7 Quality Residential Environments and Policy LC1 of Addendum to Planning Policy Statement 7 Safeguarding the Character of Established Residential Areas in that the development would, if permitted;

fail to respect the surrounding context in terms of design, layout and appearance;

fail to make adequate provision for private amenity space;

have an unacceptable adverse impact on the private amenity space of the existing dwelling at No. 23;

be out of keeping with the overall character of the established residential area; and

represent over-development of the site.

2. The proposal is contrary to Policy DES2 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted;

be detrimental to the character of the surrounding area by reason of its siting and design which are out of character with the area; and

have an unacceptable negative impact on neighbouring amenity and therefore would not make a positive contribution to the area.

Signature(s)

Date:

ANNEX	
Date Valid	8th June 2018
Date First Advertised	21st June 2018
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 10 Beechland Place Magherafelt Londonderry</p> <p>The Owner/Occupier, 12 Beechland Place Magherafelt Londonderry</p> <p>The Owner/Occupier, 19 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 21 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 22 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 23 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 24 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 25 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 27 Aughrim Road, Magherafelt, Londonderry, BT45 6AZ</p> <p>The Owner/Occupier, 27 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 29 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 31 Beechland Road Magherafelt Londonderry</p>	
Date of Last Neighbour Notification	31st January 2019
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2018/0799/F</p> <p>Proposal: Proposed demolition of garage and provision of new detached dwelling.</p> <p>Address: Adjacent to 23 Beechland Road, Magherafelt.,</p> <p>Decision:</p> <p>Decision Date:</p> <p>Ref ID: H/2000/0196/F</p> <p>Proposal: Extension To Dwelling</p>	

Address: 21 Beechland Road, Magherafelt

Decision:

Decision Date: 14.04.2000

Ref ID: H/2005/0817/F

Proposal: Extension & Renovations To Dwelling

Address: 27 Aughrim Road, Magherafelt

Decision:

Decision Date: 30.05.2006

Ref ID: H/1992/0572

Proposal: ALTS TO DWELLING

Address: 25 BEECHLAND RD MAGHERAFELT

Decision:

Decision Date:

Summary of Consultee Responses

Roads Service provided suggested conditions if the proposed development were to be considered acceptable.

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02/1

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03/1

Type: Proposed Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2018/1179/F	Target Date;
Proposal: Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business	Location: 39 Rocktown Road Bellaghy
Applicant Name and Address: N.Ireland Wedding Cars 39 Rocktown Road Bellaghy	Agent name and Address: J E McKernan and Son 12 Cennick Road Gracehill Ballymena BT42 2NH
Summary of Issues: One of the main issues with the proposal was that the proposal refers 'existing wedding car hire business', and it has been claimed the building in question has been used for this use until it was storm damaged, but there was insufficient information provided to establish this use. However, since the office meeting a Certificate of Lawfulness has been approved under LA09/2019/0515/LDE which now confirms and establishes the use of the building as being for a car wedding hire business.	
Summary of Consultee Responses: No objections	

Characteristics of the Site and Area:

The proposal site is located on the road side of Rocktown Road, Bellaghy. This site has a modest detached bungalow and several domestic outbuildings, some of which are in a poor state of repair. Surrounding the proposal site is agricultural land which drops away in level from the proposal site. The road is a minor road which serves several properties but which leads to a dead end. The site has no distinctive or mature boundaries around it.

Description of Proposal

Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business.

Deferred Consideration:

This proposal was presented as a refusal in Feb 2019 to Committee for the following reasons;

1. The proposal is contrary to the Magherafelt Area Plan 2015, SPSS and Planning Policy Statement 4, Industrial Development Policy PED 2, PED3, PED4 & PED 9, in that the development would, if permitted, be incompatible with the character of the surrounding area by reason as it does not represent the expansion or redevelopment of an established economic development use in the countryside.
2. The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development (PED 9) _ Policy CTY 13 of PPS21, in that it has not been demonstrated that the proposed replacement building will not have an adverse visual impact in this countryside location.

It was subsequently deferred for an office meeting which was held on 14th Feb 2019. One of the main issues with the proposal was that the proposal refers 'existing wedding car hire business', and it has been claimed the building in question has been used for this use until it was storm damaged, but there was insufficient information provided to establish this use. However, since the office meeting a Certificate of Lawfulness has been approved under LA09/2019/0515/LDE which now confirms and establishes the use of the building as being for a car wedding hire business.

The damaged shed to be replaced has the same footprint as the proposed shed and will be surrounded by existing buildings. Its scale and design is appropriate for its location. It will not have a significant detrimental visual impact on the countryside.

DFI Roads have no objections subject to the conditions they have provided. Landscaping as shown will also be conditioned.

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

Approval 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 development shall be carried out in accordance with the stamped approved Drawing, No's: 02/1 date stamp 17 October 2018 also 01 and 03 date stamp 11 September 2018

Reason: To ensure the development is carried out in accordance with the approved plans.

3. Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

Reason: To ensure waiting vehicles do not encroach onto the carriageway.

4. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5m 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 users.

5. The existing natural screenings of this site as shown on plan 02/01 date stamped 17 Oct 2018, shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal. The proposed planting on the same plan shall be carried out in the next available planting season.

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

6. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted

shall be planted at the same place, unless the Council gives its written consent to any variation.

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

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1179/F	Target Date:
Proposal: Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business	Location: 39 Rocktown Road Bellaghy
Referral Route: Contrary to The proposal is contrary to the Magherafelt Area Plan 2015, SPSS and Planning Policy Statement 4 & PPS 21.	
Recommendation: Refusal	
Applicant Name and Address: N.Ireland Wedding Cars 39 Rocktown Road Bellaghy	Agent Name and Address: J E McKernan and Son 12 Cennick Road Gracehill Ballymena BT42 2NH
Executive Summary:	
Signature(s): Lorraine Moon	

for comm. mee
decision

[Redacted signature]

21/1/11

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

Refusal recommended – proposal contrary to

Characteristics of the Site and Area

The proposal site is located on the road side of Rocktown Road, Bellaghy. This site has a modest detached bungalow and several domestic outbuildings, some of which are in a poor state

of repair. Surrounding the proposal site is agricultural land which drops away in level from the proposal site. The road is a minor road which serves several properties but which leads to a dead end. The site has no distinctive or mature boundaries around it.

Description of Proposal

Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business.

Planning Assessment of Policy and Other Material Considerations

Consultees: - DfI were asked to comment and in their final response dated 19.11.2018 they are satisfied with the proposed access subject to conditions and informatives.

Site History - LA09/2016/0504/F - Approval granted 06.06.2018 for 'Erection of garages for the storage of vintage cars (retrospective), within this approval condition No. 2 specifically stated ' This permission authorises only private domestic use of the garage and does not confer approval on the carrying out of trade or business there from.' The reason for the this particular condition was stated as to prevent the creation of an unacceptable business use in the rural area.

This proposal is for the erection of garage to replace existing storm damaged garage in relation to ex. wedding car hire business. During the site visit carried out on 30.10.2018 it was noted the poor state of repair of the indicated building on site, it has been claimed that the building in question had been 'in use up to the time of the storm damage', however I would comment that it is unclear as to when the building was last in use as it appears to have been in disrepair for a long time with no available access unless through an adjacent agricultural field. The proposal description refers to 'ex. wedding car hire business', there was no evidence during the site visit as to the existence of this business. Upon discussion with senior planners the applicant was requested to amend the description of the proposal to 'domestic garage' as following the site visit and consideration of submitted information no business use has been established on site. This amendment has not taken place to date.

According to PED 2 of PPS 4 proposals for economic development uses in the countryside will be permitted in accordance with the provisions of PED 3, PED 4, PED 5 or PED 6. Economic development associated with farm diversification schemes and proposals involving the re-use of rural buildings will be assessed under the provisions of Planning Policy Statement 21 'Sustainable Development in the Countryside'. All other proposals for economic development in the countryside will only be permitted in exceptional circumstances. This particular proposal is not considered the expansion or redevelopment of an established economic development use as the site is not considered as an existing business, nor is it considered as major industrial development or a small rural project. The proposal is not seeking permission for the wedding car business at this location but is claiming that this business is already established and the replaced garage is to be used in conjunction with this.

A supporting statement has been submitted dated 04.12.2018 whereby the agent has claimed that the business use had been accepted under LA09/2016/0504/F & H/2014/0039/CA, however this is not correct and the business use was never established but rather the building approved was specifically only for private domestic use. Should the applicant wish to establish the business use then he would be required to submit a Certificate of Lawfulness.

Considering the proposal against the requirements of PED 9 of PPS4 it would be my consideration that the proposal is not compatible with surrounding land uses unless amended to

be a garage for domestic purposes only. The proposal site is not within an area affected by flood risk or have the potential to negatively impact on the natural or built heritage. It should also be noted that the proposed replacement building is of a greater scale than that which is already existing, currently the existing building sits at a much lower level than that of the dwelling, yard and other buildings however it is unclear from the submitted drawings as to how the replacement building would sit and what visual impact it may create. Thus I feel this proposal fails to meet the requirements set out in PED 9 of PPS 4.

In addition the proposal should be assessed against the requirements of CTY 13 of PPS21 - Integration and Design of Buildings in the Countryside, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As submitted the plans do not clearly demonstrate how the proposed triple replacement garage would integrate into the site as currently the storm damaged building sits at a much lower level than the remainder of the site and buildings but it is not clear whether the replacement building would be built at this same level or the ground be built up and the replacement building sit at the same level as the dwelling and existing sheds. This point I do feel is important and would result in a building either being acceptable in terms of visual integration and it being unacceptable. Thus it is my consideration that as submitted there is not a sufficient degree of information to determine this impact.

Having considered all of the above I feel that a recommendation of refusal would be the most appropriate.

Neighbour Notification Checked

Yes

Summary of Recommendation: Refusal

Reasons for Refusal:

1. The proposal is contrary to the Magherafelt Area Plan 2015, SPSS and Planning Policy Statement 4, Industrial Development Policy PED 2, PED3, PED4 & PED 9, in that the development would, if permitted, be incompatible with the character of the surrounding area by reason as it does not represent the expansion or redevelopment of an established economic development use in the countryside.
2. The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development (PED 9) & Policy CTY 13 of PPS21, in that it has not been demonstrated that the proposed replacement building will not have an adverse visual impact in this countryside location.

Signature(s)

Date:

ANNEX	
Date Valid	10th September 2018
Date First Advertised	27th September 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2018/1133/RM Proposal: One and a half storey dwelling and Garage. Address: 40m North West of 39 Rocktown Road, Bellaghy., Decision: Decision Date: Ref ID: LA09/2018/1179/F Proposal: Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business Address: 39 Rocktown Road, Bellaghy, Decision: Decision Date: Ref ID: H/1990/0539 Proposal: ALTS AND ADDS TO BUNGALOW Address: 39 ROCKTOWN ROAD CASTLEDAWSON Decision: Decision Date: Ref ID: H/2001/0114/RM Proposal: Dwelling And Garage Address: Adjacent To 43 Rocktown Road, Knockloughrim Decision:	

Decision Date: 27.03.2001

Ref ID: LA09/2016/0504/F

Proposal: Erection of garages for the storage of vintage cars (retrospective)

Address: 39 Rocktown Road, Bellaghy,

Decision: PG

Decision Date: 08.06.2018

Ref ID: H/2014/0194/O

Proposal: One and a half storey farm dwelling and garage

Address: 40m north west of 39 Rocktown Road Bellaghy,

Decision: PG

Decision Date: 13.01.2016

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0289/F	Target Date:
Proposal: Change of use from part of ground floor bookmakers to 2 No. 1 bedroom apartments and ground floor stores to 1 No. 2 bedroom apartment (amended description)	Location: 11 The Diamond Pomeroy
Applicant Name and Address: Patrick Keogh 6 Castlevew Heights Dungannon	Agent name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Characteristics of the Site and Area: The application site takes in a two storey building at 11 The Diamond, Pomeroy. It is within the settlement limits of the Village of Pomeroy as defined in the Cookstown Area Plan 2010. It has a rear return which also incorporates a lower ground floor. The ground floor is currently occupied by a hair salon and a book makers. The first floor provides residential accommodation. It is difficult to determine whether this residential accommodation is currently occupied. The lower ground floor is currently used for storage purposes ancillary to the book makers. The host building also includes a third party element which is not part of this proposal. Adjacent and attached to number 11 is Pomeroy Credit Union, a small single storey building. North Street runs along the Eastern gable of the host building. At the opposite side of North Street is a two storey terraced residential property. To the front of the site is a Listed (COI) Church, which is the main feature of the local Square. To the rear and NE of the host property is an ally which is used to access the lower ground floor of the building. Further to the NE is the rear gable of a two storey dwelling which fronts on to Lucy Street. The boundary treatment here is defined by a wall topped with a closed board wooden fence.	

This area is characterised by a mix of uses ranging from commercial, to residential to community buildings. It is designated as an Area of Townscape Character in the Cookstown Area Plan 2010.

Description of Proposal

This is a full application for Change of use from part of ground floor bookmakers to 2 No. 1 bedroom apartments and ground floor stores to 1 No. 2 bedroom apartment (amended description).

Deferred Consideration:

The proposal was recommended as a refusal at Planning Committee in August 2019 and was deferred for an office meeting which was held with the Area Planning Manager on 15th August 2019. The key issues for the meeting were to address the car parking provision and the inadequacies of the environment for any occupants.

At the meeting, the Area Planning Manager expressed great concern that two apartments at ground floor level created rooms without external windows, which were small and poor quality accommodation.

Neighbours and objectors were re-notified of the amended scheme. Re-advertisement took place of the amended reduced scheme. A further objection was received from 12-13 The Diamond, relating to car parking issues and 2 exterior windows. These issues had been previously raised and considered in the original case officer report. The 2 exterior windows on the side elevation look on to a blank wall and a boundary wall of No.12-13 and will have no impact on their privacy.

In the office meeting when addressing the car parking, the Planning Manager made it clear that he was unconvinced that the bookmakers currently generated a need for 10 spaces. When asked if the applicant could provide in-curtilage parking, it was stated they could not. It is clear the site is restricted and the Planning Manager advised that a reduction in the number of units would reduce parking pressures.

The scheme was reduced from 4 to 3 units, with only one on basement level. This would also alleviate the concerns of the limited size of the two original apartments proposed on the ground floor. Also following discussion, the plans were revised to allow more light into the apartments and an existing panel of wall between the living area/kitchen and kitchen/dining increased in width. Glazed doors are included at the main access and living room/hall and the depth of the living room window has been increased. The amended scheme has adequately addressed this issue.

DFI Roads have raised no concerns in relation to road safety and traffic flow but acknowledge the proposal fails to include parking provision in line with Parking Standards. In AMP7 of PPS3, it states where a reduced level of car parking can be accepted; Where the development is well served by public transport and where it would benefit from nearby or on street car parking.

There are 22 assigned spaces in the Square and 10/15 unassigned spaces. DFI Roads have indicated 5 unassigned spaces would be required for a development of this type. The bookmakers would have required 10 spaces so this scheme would actually require less spaces as a residential use.

In conclusion, I am content parking issues have been adequately addressed in line with policy requirements and the requirement can be met through the existing spaces in the locality. The final decision on this issue is however a matter for the Planning Committee.

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

Approval 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.

Informatives

1. The applicant is advised to ensure that all plant and equipment used in connection with the development is so situated, operated and maintained as to prevent the transmission of noise to nearby premises.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6/8/2019	Item Number:
Application ID: LA09/2019/0289/F	Target Date: 19/6/2019
Proposal: Change of use from part of ground floor bookmakers and lower ground floor stores to 4 apartments	Location: 11 The Diamond, Pomeroy
Referral Route: 1 no. objection received	
Recommendation: Approve	
Applicant Name and Address: Patrick Keogh 6 Castlevue Heights Dungannon	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon, BT70 3LY
Executive Summary: This proposal is in compliance with all relevant policy for this type of development in an urban location. 1 objection has been received and all material matters raised have been fully considered and do not merit the refusal of the application.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

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

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. 5 neighbouring properties have been notified of the proposal. To date there has been 1 objection received from the occupants of number 12-13 The Diamond, Pomeroy.

Issues raised are summarised and rebutted as follows:

- Impact on their privacy from overlooking bedroom windows
- Accuracy of elevation plans submitted
- Inadequate parking and blocking of their entrance
- Impact from noise
- Query as to whether this scheme will enhance the social make-up of this area in both the short and long term.

The bedroom windows referred to will be located on the ground floor and will look directly onto the boundary wall of number 12-13 The Diamond, which runs along North Street. Their ground floor position will not give rise to any overlooking into the rear amenity space of the objectors property and on this basis, I do not accept that the proposal will negatively impact on their privacy. The agent has amended the elevation drawings so that they reflect the proposed floor plans. Objectors and neighbours have been notified of these changes. The proposal does not include any parking provision. Parking Standards would indicate that 6 spaces are required for assigned parking and 5 for unassigned parking for a development of this nature. The applicant has submitted a Design and Access Statement in which he makes a case for not providing any parking as part of this scheme. I would agree that these apartments will be located in a village centre location where there is available parking within The Diamond. On the day of my site inspection I easily found a parking space in The Diamond. The red line of the application would indicate that it is actually impossible for the applicant to provide any in-curtilage parking so he has to rely upon existing parking spaces in The Diamond. I will explore this further in my report. The nature of the scheme is residential and does not normally generate any unacceptable levels of noise by its very nature. Environmental Health have been consulted with the objection letter and have no objection in principle. Any query around whether or not this scheme will enhance the social makeup of the village is not a material planning consideration in this assessment.

Having fully considered all material planning concerns raised in this objection letter it is my opinion that none of the issues raised would merit refusal of this application.

Characteristics of the Site and Area

The application site takes in a two storey building at 11 The Diamond, Pomeroy. It is within the settlement limits of the Village of Pomeroy as defined in the Cookstown Area Plan 2010. It has a rear return which also incorporates a lower ground floor. The ground floor is currently occupied by a hair salon and a book makers. The first floor provides residential accommodation. It is difficult to determine whether this residential accommodation is currently occupied. The lower ground floor is currently used for storage purposes ancillary to the book makers. The host building also includes a third party element which is not part of this proposal. Adjacent and attached to number 11 is Pomeroy Credit Union, a small single storey building. North Street runs along the Eastern gable of the host building. At the opposite side of North Street is a two storey terraced residential property. To the front of the site is a Listed (COI) Church, which is the main feature of the local Square. To the rear and NE of the host property is an ally which is used to access the lower ground floor of the building. Further to the NE is the rear gable of a two storey dwelling which fronts on to Lucy Street. The boundary treatment here is defined by a wall topped with a closed board wooden fence.

This area is characterised by a mix of uses ranging from commercial, to residential to community buildings. It is designated as an Area of Townscape Character in the Cookstown Area Plan 2010.

Description of Proposal

This is a full application for the proposed change of use from part of a ground floor bookmakers and lower ground floor stores to 4 one bedroom apartments.

the ATC or the adjacent Listed Church. Historic Environment Division (HED) have been consulted and have no concerns about the impact of this proposal on the Listed Church.

The 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 Feb 2019. Policy GP1 - General Principles Planning Policy and Policy HOU 2 – Quality Residential Development are applicable to this application. Whilst little weight can be attributed to the Draft Plan Strategy, it should be noted that the proposal does not raise any conflict with the Policies GP1 and HOU 2.

Planning Policy Statement 3 - Access, Movement and Parking.

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of an existing unaltered access to a public road. DFI Roads have been consulted and have raised no concerns in relation to road safety or traffic flow. They have acknowledged that the proposal fails to include any parking provision and that 5/6 parking spaces are required in line with Parking Standards Guidance.

Policy AMP 7 deals with Car Parking and Servicing Arrangements. It advises that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. This site is not in an area of parking restraint and DFI Roads have not raised any concerns in relation to road safety or traffic flow.

AMP 7 goes on to state that reduced level of car parking provision may be acceptable in certain circumstances, two of which are:

- where the development is in a highly accessible location well served by public transport
- where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking; or

Given the village centre location of this site it will be easy to access public transport. Ulster Bus does run a daily service through the village. There are 22 assigned spaces in the square and an additional 10/15 unassigned spaces. This proposal does not indicate any parking provision and at a minimum, 5 unassigned spaces would be required for a development of this nature. The bookmakers would have required a total of 10 spaces according to Parking Standards so this scheme actually requires less spaces than the current use. I am therefore satisfied that the parking requirement can be met through the spaces provided in the immediate locality.

Planning Policy Statement 6 - Planning, Archaeology and The Built Heritage

This site is located in close proximity to Altedesert Church of Ireland Parish Church, which is a Grade B1 Listed Building. Historic Environment Division have been consulted and have considered the proposal with respect to the setting of this Church. They have advised that as there will only be minimal external changes they have no objections from a built heritage perspective. I am therefore satisfied that the proposal complies with Policy BH 11 of PP 6 – Development effecting the Setting of a Listed Building.

Planning Policy Statement 6 (Addendum) – Areas of Townscape Character

Policy ATC 2 of the Addendum to PPS 6 deals with new development proposals in an Area of Townscape Character.

It states that new development will only be allowed where the development maintains or enhances its overall character and respects the built form of the area. It also requires that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development.

This proposal is for a change of use to an existing building with only minimal external changes to the building. There is no landscape features to be protected. The proposal is not in conflict with this policy test.

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

Policy LC 1 - Protecting Local Character, Environmental Quality and Residential Amenity is not relevant in this assessment as the site is not located in an "Established Residential Area"

Policy LC2 - The conversion or change of use of existing buildings to flats or apartments is relevant in this assessment.

LC2 states that Planning permission will only be granted for the conversion or change of use of existing buildings to flats or apartments (including those for multiple occupancy) where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

(a) there is no adverse effect on the local character, environmental quality or residential amenity of the surrounding area;

The proposed residential use is an acceptable use in this mixed-use area and will not have a negative impact on local character. The introduction of a ground floor bedroom window on the gable of the host building will not result in any overlooking into number 12-13 The Diamond. An existing stairwell and WC at the rear of the property will be converted into a Kitchen and Living room. The separation distance between the rear wall of the host building and the rear wall of number 14 Lucy Street is limited and would normally give rise to overlooking/privacy concerns, however given the lack of useable amenity space at the rear of number 14 Lucy Street, I am of the opinion that this matter would not merit the refusal of this application. I also would recommend that this particular windows be conditioned to be obscured glazing. The proposal does not involve the introduction of any new floor space so I have no concerns with the loss of light or overshadowing.

(b) the proposal maintains or enhances the form, character and architectural features, design and setting of the existing building;

As previously noted, the proposal involves only very minor design changes. These will not impact on the overall design and setting of the existing building.

(c) the original property is greater than 150 square metres gross internal floorspace;

The host building has in excess of 150 sqm of floorspace

(d) all flats or apartments are self contained (i.e. having separate bathroom, w.c. and kitchen available for use only by the occupiers);

Each of the 4 apartments are self contained and have their own bedroom, kitchen, living room and bathroom.

(e) the development does not contain any flat or apartment which is wholly in the rear of the property and without access to the public street.

Three of the apartments are located to the rear of the host property on the lower ground floor. They all have direct access out onto Lucy Street. The Fourth apartment is accessed via the gable of the host property.

Planning Policy Statement 7 - Quality Residential Environments.

PPS 7 is a policy consideration for this type of development in a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in Policy QD 1 (Quality in New Residential Developments) of PPS 7. I will deal with these as they appear in the policy.

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 proposed development is residential in nature and is in an area where there are a mix of uses including residential development. The proposed change of use will not detract from the overall character of the area. Proposed external changes to the host building are confined to windows so I have no concern with layout, scale, massing or appearance.

Features of the archaeological and built heritage, and landscape features should be identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development

The site is not in an area of archaeological importance. It is adjacent to a Listed Church. HED have been consulted and have no concerns. There are no TPO trees or important landscape features within the site to be retained or protected.

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

Communal amenity space is being provided. There is a small area for bin storage. Public open space is available within the village which can be utilised by residents and can be accessed by car or foot. Planting is not necessary for the purposes of integration.

Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development

The site is within the development limits of Pomeroy and there are existing neighbourhood facilities already available in the locality (eg) School, shops etc

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

As the site is within an urban settlement there is an existing movement pattern (eg) foot paths

and bus routes. The level of traffic travelling through the settlement would be fairly high and would be travelling at a low speed. DFI Roads have been consulted and have no objections to the proposal.

Adequate and appropriate provision is made for parking

I have dealt with parking under PPS3 policy consideration.

The design of the development must draw upon the best local traditions of form, materials and detailing

I have no concern with design.

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 have dealt with amenity under SPPS and PPS 7 (Addendum)

The development is designed to deter crime and promote personal safety

I am satisfied that the overall development is considered to be designed to deter crime and promote personal safety. Street lighting exists along the adjacent public road and The Diamond.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal complies with all relevant policy criteria for this type of development in an urban location. Approval is recommended subject to 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 kitchen and living room windows on the ground floor rear elevation shall be finished in obscure glazing.

Reason: In order to protect the amenity of neighbouring residents

Informatives

1. The applicant is advised to ensure that all plant and equipment used in connection with the development is so situated, operated and maintained as to prevent the transmission of noise to nearby premises.

Signature(s) *Karen McKinnell*

Date: *10-7-19*

Planning Assessment of Policy and Other Material Considerations

Planning History

I/2007/0800/F - 11-12 The Diamond, Pomeroy, Co. Tyrone. Change of use of general merchants shop to bookmakers. Approved 11.01.2008

I/2001/0613/F - 11-12 The Diamond, Pomeroy. Change of use from function rooms to 2 No Shop Units. Approved 31.12.2001

The relevant policies under consideration in this assessment are:

Strategic Planning Policy Statement (SPPS)

Cookstown Area Plan 2010

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

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 6 - Planning, Archaeology and The Built Heritage

Planning Policy Statement 6 (Addendum) – Areas of Townscape Character

Planning Policy Statement 7 (Addendum) - Safe Guarding the Character of Established Residential Areas

Planning Policy Statement 7 - Quality Residential Environments.

Creating Places

SPPS – Strategic Planning Policy Statement for Northern Ireland

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 interests of acknowledged importance. The proposal will not cause demonstrable harm to any interests of acknowledged importance. The site is not in an area of archaeological importance. There is a Listed Church located opposite the site. Historic Environment Division (HED) have been consulted and have no concerns about the impact of this proposal on this Listed Church. The closest third party residential properties to the site are located at 12-13 The Diamond and 14 Lucy Street. I am satisfied that given the nature of the proposal and the minor design changes being introduced, residential amenity will not be impacted upon. This will be addressed in more detail later in my report.

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. As such, existing policy will be applied, primarily PPS 7, Quality Residential Environments.

Cookstown Area Plan 2010 (CAP)

The site sits within the existing settlement of Pomeroy as defined in the CAP. It is also located within an Area of Townscape Character (ATC). The Area Plan does not set out any key site requirements for development within the village but it does raise capacity concerns and advises that schemes should be of an appropriate design so as not to impact upon the ATC. It also advises that development that will impact on the views of the Listed Church of Ireland will not normally be permitted. NIW have been consulted with this application and have no raised any concerns regarding capacity. The proposal involves only very minor design changes (introduction of 1 window and changes to 3 existing windows) to an existing building and given the minor nature of these changes I am satisfied that they will not have any negative impact on

ANNEX	
Date Valid	6th February 2019
Date First Advertised	21st March 2019
Date Last Advertised	30th May 2019
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Lucy Street Pomeroy Tyrone The Owner/Occupier, 12 The Diamond, Pomeroy, Tyrone, BT70 2QX James and Eithne Quinn 12-13 The Diamond, Pomeroy, Tyrone, BT70 2QX The Owner/Occupier, 13 The Diamond Pomeroy Tyrone The Owner/Occupier, 14 Lucy Street, Pomeroy, Tyrone, BT70 2QS The Owner/Occupier, 17 Loughbracken Road, Pomeroy, Tyrone, BT70 2SE The Owner/Occupier, Pomeroy Church Of Ireland 59 Main Street Pomeroy The Owner/Occupier, Pomeroy Credit Union, 8 The Diamond, Pomeroy, Tyrone, BT70 2QX	
Date of Last Neighbour Notification	9th July 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/0658/PAD Proposal: Public realm scheme Address: Main Street, Pomeroy, Decision: Decision Date: Ref ID: LA09/2019/0289/F Proposal: Change of use from part of ground floor bookmakers and lower ground floor stores to 4 apartments Address: 11 The Diamond, Dungannon, Decision: Decision Date:	

Ref ID: I/1980/0119

Proposal: EXTENSION AND IMPROVEMENTS TO DWELLINGS

Address: 8 AND 9 THE DIAMOND, POMEROY

Decision:

Decision Date:

Ref ID: I/1985/0217

Proposal: OFFICE

Address: THE DIAMOND, POMEROY

Decision:

Decision Date:

Ref ID: I/2003/0362/F

Proposal: Extension and refurbishment of existing office

Address: 8 The Diamond, Pomeroy

Decision:

Decision Date: 17.06.2003

Ref ID: I/2007/0800/F

Proposal: Change of use of general merchants shop to bookmakers

Address: 11-12 The Diamond, Pomeroy, Co. Tyrone

Decision:

Decision Date: 11.01.2008

Ref ID: I/1994/6090

Proposal: Social Club and 4 No. Houses Main Street Pomeroy

Address: Main Street Pomeroy

Decision:

Decision Date:

Ref ID: I/1994/6048

Proposal: Site Junction of the Diamond/North Street Pomeroy

Address: Junction of the Diamond/North Street Pomeroy

Decision:

Decision Date:

Ref ID: I/1994/0514

Proposal: Social Club

Address: 11 & 12 THE DIAMOND POMEROY

Decision:

Decision Date:

Ref ID: I/2001/0613/F

Proposal: Change of use from function rooms to 2 No Shop Units

Address: 11-12 The Diamond, Pomeroy

Decision:

Decision Date: 31.12.2001

Ref ID: I/1994/0515

Proposal: Town House

Address: 14 NORTH STREET POMEROY

Decision:

Decision Date:

Ref ID: I/2000/0060/F

Proposal: 2 No Town Houses

Address: 14 North Street, Pomeroy

Decision:

Decision Date: 14.03.2000

Ref ID: I/2000/0238/F

Proposal: Town House - Change of House Type (Ref: I/94/0515)

Address: 14 North Street, Pomeroy, County Tyrone

Decision:

Decision Date: 09.10.2000

Ref ID: I/1998/0241

Proposal: Realignment of Roadways, Footways, Parking Bays etc. Resurfacing/Tree Planting/Street Furniture/New Lampheads

Address: The Diamond and Main Street Pomeroy

Decision:

Decision Date: 13.05.2003

Ref ID: LA09/2017/0169/PAN

Proposal: Public realm improvements comprising street scape resurfacing and new paving to pedestrian footpaths and Pomeroy Square, upgrades to existing street lighting, safety/lighting bollards, outdoor furniture/planting, painting to selected existing buildings and resurface to link from Queen Elizabeth II Primary School and existing Main Street footpath

Address: Main Street, Pomeroy, Dungannon,

Decision: PANACC

Decision Date:

Ref ID: LA10/2018/1475/PAD

Proposal: Heart of Ancient Ulster Landscape Partnership 2019-2024

Address: Lands on Carrickmore Plateau and the Pomeroy Hills, Co Tyrone,

Decision:

Decision Date:

Summary of Consultee Responses

NIW – No capacity concerns
 EH – No objections
 DFI – No objections
 HED – No objections

Drawing Numbers and Title

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

Drawing No. 04
 Type: Existing Floor Plans
 Status: Submitted

Drawing No. 03 rev 1
 Type: Proposed Floor Plans
 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

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0385/O	Target Date:
Proposal: Rural type dwelling and garage.	Location: 20m North of 34 Waterfoot Road Ballymaguigan Magherafelt.
Applicant Name and Address: Paul Johnson 34 Waterfoot Road Ballymaguigan Magherafelt	Agent name and Address: Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
Summary of Issues: Dwelling is now assessed under CTY8 rather than CTy2a. No objections received.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is located approx. 20m North of 34 Waterfoot Road, Ballymaguigan. The site is located within the countryside as designated within the Magherafelt Area Plan 2015. The site currently appears to be used as a yard. The site is quite flat throughout and has a mix of vegetation and wire fencing providing the boundary treatment. The surrounding land uses are predominantly rural with dispersed dwellings and their associated outbuildings.	

Description of Proposal

Outline application for dwelling and garage.

Deferred Consideration:

The proposal was presented to Planning Committee in September 2019 as as a refusal and subsequently deferred for an office meeting which was held on 12th sept 2019.

The proposal has been refused for the following reasons;

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

2.The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or is not located at a cross-roads and the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure, the dwelling would if permitted visually intrude into the open countryside.

At the office meeting the argument for infill dwelling under CTY8 was raised as there is an existing laneway serving other dwellings to the west of the site. It was agreed a site visit and re-assessment would be carried out on this basis.

A site visit was carried out on 19th Sept 2019. To the west of the site is an existing laneway accessed off Waterfoot Road. No 34 has an access gate and frontage to the laneway, adjacent to this is the site and an agricultural field, which would equate to a small gap site 'sufficient only to accommodate up a maximum of two houses', adjacent to this is single storey dwelling, No.30 which has a frontage on to the laneway, and next is No.28 a two storey dwelling which fronts on to the end of the laneway, although it does not technically have a 'roadside frontage', it is read as part of a substantial and continuously built up frontage. It sits in a cluster of development of 3 agricultural sheds at the dead end of the laneway. Recent appeal decisions support this argument.

A dwelling on the site here will not cause any detrimental harm to the existing character of the area.

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

Approval is recommended with 7m ridge

Conditions

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

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

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

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

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

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

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

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

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

5. No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development.

Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

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

6. The proposed dwelling shall have a ridge height of less than 7 metres above finished floor level.

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

Signature(s):
Date

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0385/O	Target Date:
Proposal: Rural type dwelling and garage.	Location: 20m North of 34 Waterfoot Road Ballymaguigan Magherafelt.
Referral Route: Refusal	
Recommendation:	Refusal
Applicant Name and Address: Paul Johnson 34 Waterfoot Road Ballymaguigan Magherafelt	Agent Name and Address: Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan

**Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

Representations:

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

Summary of Issues

Contrary to Policy. No objections received.

Characteristics of the Site and Area

The site is located approx. 20m North of 34 Waterfoot Road, Ballymaguigan. The site is located within the countryside as designated within the Magherafelt Area Plan 2015. The site currently appears to be used as a yard. The site is quite flat throughout and has a mix of vegetation and wire fencing providing the boundary treatment. The surrounding land uses are predominantly rural with dispersed dwellings and their associated outbuildings.

Description of Proposal

Outline planning permission is sought for a rural type dwelling and garage.

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: 34, 35, 38 and 40 Waterfoot Road. At the time of writing, no representations were received.

Planning History

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

Planning Assessment of Policy and Other Material Considerations

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

The Magherafelt Area Plan 2015 identify the site as being outside any defined settlement limits, located North West of Ballymaguigan Settlement Limit. There are no other zonings or designations within the Plan.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. At present, it is felt that the proposal is contrary to the policies held within this document, more specifically Policy CT1 and criterion (a) and (b) of Policy CT2 however it must be noted that Draft Plan Strategy holds little determining weight following on from the consultation stage.

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.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being new dwellings in existing

clusters in accordance with CTY 2a. This application was also considered against the policy criterion held within CTY 8.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided that a number of criteria are met. The cluster of development lies outside of a farm and consists of four or more buildings including No 34, 38, 40 and 35 Waterfoot Road and therefore there is at least three dwellings within the cluster. The cluster is read together and appears as a visual entity in the local landscape. The first and second criteria of CTY 2a have been met.

The third criterion of CTY 2a requires the cluster to be associated with a focal point such as a social/community building/facility, or is located at a cross roads. The agent was asked to provide justification for the site and has not noted any of the aforementioned focal points therefore I have considered the closest social/community building/facility and crossroads to the site. There is a crossroads which is located approx. 260m SE of the site and Ballymaguigan GAA club grounds are located approx. 330m South East of the site. The GAA grounds and part of the crossroads to the south are located within the settlement limits of Ballymaguigan, both have been considered however it is felt that the site is not associated with either given the significant distance between them, consequently there is no focal point and third criterion of CTY 2a has not been met.

The proposed site is located to the rear of the existing dwelling (No. 34) and therefore public views would be somewhat limited. There is existing vegetation along some of the existing boundaries, however it is not considered that the site is bounded by two sides and therefore the proposal fails on the fourth criterion. The site is only bound by development along one side (southern boundary). The remaining three sides are not bound by development and as a result the proposed site is unable to be absorbed into the existing cluster through rounding off and consolidation. The proposed site would also visually intrude into the open countryside.

I am satisfied that the proposed site would not have significant adverse impact on neighbouring amenity, this would be further considered at RM stage if approval is forthcoming. The sixth criterion of CTY 2a has been met.

The proposal is contrary to a number of the criterion held within Policy CTY 2a. Policy CTY 2a states that all criteria must be met, therefore the proposal is contrary to policy and as such refusal is recommended.

There was some ambiguity about what policy the applicant/agent wanted the proposal to be assessed under. The agent referred to the site being "situated in a cluster" which links with the wording contained within CTY 2a, however to ensure that all avenues have been considered, the proposal was also considered under CTY 8. The application site is located to the rear of the dwellings along Waterfoot Road and therefore cannot be considered a gap site within an otherwise substantial and continuously built up frontage and therefore fails the policy tests held within CTY 8.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. 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. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the

<p>rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted however given the limited views available of the site and existing landscaping, it is considered that the impact of a suitably designed dwelling would be minimal however may lead to ribbon development. DfI Roads were consulted and have no objection to the proposal subject to condition.</p>	
Neighbour Notification Checked	Yes
<p>Summary of Recommendation:</p> <p>It is considered the proposal is contrary to the relevant planning policy and thus refusal is recommended.</p>	
<p>Conditions/Reasons for Refusal:</p> <p>Refusal Reasons</p> <ol style="list-style-type: none"> 1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. 2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or is not located at a cross-roads and the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure, the dwelling would if permitted visually intrude into the open countryside. 	
<p>Signature(s)</p> <p>Date:</p>	

ANNEX	
Date Valid	22nd March 2019
Date First Advertised	4th April 2019
Date Last Advertised	

Details of Neighbour Notification (all addresses)

The Owner/Occupier,
 34 Waterfoot Road, Magherafelt, Londonderry, BT45 6LF
 The Owner/Occupier,
 35 Waterfoot Road Magherafelt Londonderry
 The Owner/Occupier,
 38 Waterfoot Road Magherafelt Londonderry
 The Owner/Occupier,
 40 Waterfoot Road Magherafelt Londonderry

Date of Last Neighbour Notification

1st April 2019

Date of EIA Determination**ES Requested**

Yes /No

Planning History

Ref ID: LA09/2019/0385/O

Proposal: Rural type dwelling and garage.

Address: 20m North of 34 Waterfoot Road, Ballymaguigan, Magherafelt.,

Decision:

Decision Date:

Ref ID: LA09/2016/0061/O

Proposal: Erection of Replacement Dwelling with Detached Garage

Address: 32 Waterfoot Road, Ballymaguigan, Magherafelt,

Decision: PG

Decision Date: 16.06.2016

Ref ID: H/2001/0480/F

Proposal: Alterations and extension to dwelling

Address: No. 34 Waterfoot Road, Ballymaguigan

Decision:

Decision Date: 14.12.2001

Ref ID: H/2005/0245/F

Proposal: Conservatory to dwelling

Address: 34 Waterfoot Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 07.07.2005

Ref ID: H/1996/0646

Proposal: ALTS AND ADDS TO DWELLING

Address: 30 WATERFOOT ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2000/0045/F
 Proposal: Replacement Dwelling
 Address: 30 Waterfoot Road, Ballymaguigan, Magherafelt
 Decision:
 Decision Date: 15.03.2000

Ref ID: H/2013/0432/O
 Proposal: Proposed dwelling on a farm.
 Address: 30m North of 38 Waterfoot Road Magherafelt,
 Decision: PG
 Decision Date: 28.02.2014

Ref ID: H/2014/0280/F
 Proposal: Farm Dwelling and Garage
 Address: 30m North of 38 Waterfoot Road, Magherafelt. BT45 6LF,
 Decision: PG
 Decision Date: 13.10.2014

Summary of Consultee Responses

DfI Roads – content.

Drawing Numbers and Title

Drawing No. 01
 Type: Site Layout or Block Plan
 Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department: