



04 April 2023

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Tuesday, 04 April 2023 at 19:00 to transact the business noted below.

A link to join the meeting through the Council's remote meeting platform will follow.

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

1. Notice of Recording  
This meeting will be webcast for live and subsequent broadcast on the Council's You Tube site [Live Broadcast Link](#)
2. Apologies
3. Declarations of Interest  
Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.
4. Chair's Business

### Matters for Decision

#### Development Management Decisions

- . Receive Planning Applications 7 - 224

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2018/0703/F	6 semi detached houses at sites 20, 22, 24, 26, 28 And 30 Killyliss	APPROVE

		Manor, Eglish, Dungannon for PKJ Construction Ltd	
5.2.	LA09/2019/1065/F	12 semi-detached two storey houses and associated site works at Sites 21, 23, 25, 27, 29, 31, 32, 33, 34, 35, 36 & 38 Killyliss Manor, Eglish, Dungannon. for MSJ Contracts Ltd	APPROVE
5.3.	LA09/2020/0966/F	Housing development of 26 two storey dwellings, site road and associated site works at lands 20m W of 180 Battery Road, Moortown, for Loughview Developments	APPROVE
5.4.	LA09/2022/0230/O	Site for dwelling and garage at lands approx. 30m SE of 99 Mullaghboy Road, Bellaghy, for Mr Hugh Glackin	REFUSE
5.5.	LA09/2022/0314/F	Retention of 2 additional fun farm buildings with the reconfiguration of parking and turning areas (approved LA09/2017/1704/F); utilisation of the existing access lane, with improvements to the existing access, to serve the business (lane approved under LA09/2017/1704/F not to be built) at 250M NE of 260 Drum Road, Cookstown for Martin McDonald	APPROVE
5.6.	LA09/2022/0385/F	Retention of garage and container units at entrance to quarry site off the Lurgylea Road, (SW of The Church of the Immaculate Conception) 100m NE of 141 Cappagh Road, Galbally, Dungannon for Mr Terry Donnelly	REFUSE
5.7.	LA09/2022/1145/F	Office building with associated access, vehicle and cycle parking, drainage infrastructure, hard & soft landscaping and bin storage & external plant within fenced enclosure at lands at Tobermore Road, opposite 15-17 Cherry Hill and approx 50m S of 58 Largentogher Park, Largentogher, Maghera for BSG Civil Engineering Ltd	APPROVE
5.8.	LA09/2022/1408/O	Infill dwelling and domestic garage at 70m NE of 107	REFUSE

		Drummerr Lane, Coalisland for Mr John McCabe	
5.9.	LA09/2022/1473/O	Dwelling and garage at 60m NW of 55 Annaghmore Road, Castledawson for Alvin McMullan Esq	APPROVE
5.10.	LA09/2022/1563/O	Dwelling and domestic garage on infill site at lands 68m S of 90 Cookstown Road, Dungannon for Mr Darryl Rafferty	REFUSE
5.11.	LA09/2022/1568/O	Site for dwelling & garage at lands approx 140m SE of 84 Lisaclare Road, Stewartstown for Mr Edward Coyle	APPROVE
5.12.	LA09/2022/1692/O	Dwelling and garage at lands 50m W of 160B Washingbay Road, Coalisland, for Mr Colin McCuskey	APPROVE
5.13.	LA09/2022/1697/O	Dwelling and garage at 60m NE of 11 Creagh Hill, Castledawson for Mrs Anne McGrogan.	REFUSE
5.14.	LA09/2022/1699/F	New Access at 23 Ballymacombs Road, Portglenone, for Mr James Donnelly & Sons	APPROVE
5.15.	LA09/2022/1702/F	Temporary mobile classroom and school meals accommodation, hard play area, LPG gas compound, substation, retaining walls, underground drainage system and all associated ground work required for the operation of IC Dungannon during the construction and redevelopment of the College. Temporary permission is required until the new college becomes operational at Intergrated College Dungannon, 21 Gortmerron Link Road, Dungannon for Board of Governors of Integrated College	APPROVE
5.16.	LA09/2022/1761/F	Infill/gap sites for 2 dwellings and domestic garages at 90m NW of 28 Mawillian Road, Moneymore for Mr Paddy Campbell.	REFUSE
5.17.	LA09/2023/0036/O	Two storey dwelling and garage at 40m E of 98 Mountjoy Road, Coalisland for Mrs David and Marissa Canavan	APPROVE
5.18.	LA09/2023/0105/O	Site for dwelling and domestic garage at 60m E of 32 Drummuck	REFUSE

		Road , Maghera for Grainne and Tommy Quigley	
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Receive Deferred Applications

225 - 512

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2019/1008/F	Retention of dwelling in substitution of M/2012/0006/F at 7 Tobermesson Road, Dungannon, for Conor Curran	APPROVE
6.2.	LA09/2020/1107/F	Change of use to proposed car sales yard at approx 25M NW of 60A Ballyronan Road, Magherafelt for Mr Joe Bateson	APPROVE
6.3.	LA09/2020/1590/F	Farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway & alterations to public road access at 50m SE of 21 Tandragee Road, Pomeroy, Dungannon for Mr Kyle Smyth	APPROVE
6.4.	LA09/2021/0129/O	Site for dwelling & double domestic garage at approx. 40m NE of 2 Ballynagilly Road, Cookstown, for Mr James Harkness	REFUSE
6.5.	LA09/2021/0719/F	Farm dwelling and garage at approx 25m E of 25 Creagh Hill Road, Toomebridge for Mr Brendan Mulholland	REFUSE
6.6.	LA09/2021/1182/F	Retention of agricultural building including offices, storage spaces and area for sale of goods produced on the farm. (amended description) at approx 70m NE of 70 Drumgrannon Road, Dungannon for George Troughton	APPROVE
6.7.	LA09/2021/1260/O	Dwelling and garage at approx 80m E of 24 Garrison Road, Magherafelt for Donna & Danny O'Shea	APPROVE
6.8.	LA09/2021/1284/F	Dwelling at rear of 123 Creagh Road, Newbridge, Magherafelt. for Emma Gribbin	APPROVE
6.9.	LA09/2021/1384/O	Site for 2 dwellings and garages at vacant lands adjacent to and	APPROVE



		W of 191 Battery Road, Moortown for Mr Maurice Devlin	
6.10.	LA09/2021/1385/F	Amendment to previously approved vehicular access at 250m N of 2 Gortinure Road, Maghera for Mr Rafferty	APPROVE
6.11.	LA09/2021/1773/F	Retention of coach yard and ramp for washing own coaches as an extension to established business at lands immediately to the rear and NW of 30B Killyneill Road, Dungannon for Mr Stephen Davison	APPROVE
6.12.	LA09/2021/1808/O	Site of dwelling house and domestic garage on a farm at rear of 39 Gortahurk Road, Desertmartin for Eoighan McGuigan	APPROVE
6.13.	LA09/2022/0097/O	Site for a dwelling and domestic garage at site 50m S of 105 Culnady Road, Maghera for Mr Thomas Patterson	APPROVE
6.14.	LA09/2022/0556/O	Domestic dwelling and garage adjacent to 37 Moss Road, Ballymaguigan, Magherafelt for Ciara McGrath	REFUSE
6.15.	LA09/2022/1062/O	Dwelling and garage within a cluster. at 95m S of 4 Drumgarrell Road, Cookstown, for Mr Ryan O'Neill	REFUSE
6.16.	LA09/2022/1077/F	2 storey dwelling and domestic garage at 30m SW of 55 Springhill Road, Ballindrum, Moneymore for Mr Mark Henry	APPROVE
6.17.	LA09/2022/1226/O	Site for dwelling and domestic garage at 100m S of 25A , Cloane Road at the junction of Cloane Road and Cloane Lane, Draperstown, for Mr Mark Quinn	REFUSE
6.18.	LA09/2022/1230/O	Site for dwelling and domestic garage at 155m S of 25a Cloane Road, Draperstown, for Mr Mark Quinn	REFUSE
6.19.	LA09/2022/1294/O	Site for dwelling & domestic garage on lands approx 35m N of 12 Drumard Road, Kilrea, for Mr Colm Bradley	APPROVE
6.20.	LA09/2022/1561/O	Site for dwelling & domestic garage at approx 30m S of 26	REFUSE

		Grillagh Hill, Maghera for Mr Malachy Scullin	
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#### Matters for Information

- 7 Planning Committee Minutes of Meeting held on 7 March 2023 513 - 544

**Items restricted in accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014. The public will be asked to withdraw from the meeting at this point.**

#### Matters for Decision

8. Receive Report on Request for a TPO
9. Receive Enforcement Report

#### Matters for Information

10. Planning Committee Confidential Minutes of Meeting held on 7 March 2023
11. Enforcement Cases Opened
12. Enforcement Cases Closed



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.1
<b>Application ID:</b> LA09/2018/0703/F	<b>Target Date:</b> 16 July 2018
<b>Proposal:</b> Proposed 6 Semi detached houses	<b>Location:</b> Sites 20 22 24 26 28 And 30 Killyliss Manor Eglish Dungannon
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> PKJ Construction Ltd 31C Stilogo Road Eglish Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

<b>Case Officer Report</b>		
<b>Site Location Plan</b>		
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<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: FR
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
Statutory Consultee	DFI Roads - Enniskillen Office	12-01-2023.pdf
	DFI Roads - Enniskillen Office	Previously answered
Statutory Consultee	DFI Roads - Enniskillen Office	Conditions 13-03-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Previously answered
<b>Representations:</b>		
Letters of Support	0	
Letters of Objection	1	
Letters Non Committal	0	
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>		
<p>The site lies within the settlement limits of Eglish on the upper north west outskirts and</p>		

outside all others areas of constraint as depicted by the Dungannon and South Tyrone area Plan 2010. The site is accessed off the main Killyliss road and cuts through the first part of the Killyliss Manor development. This development consists of 8 pairs of semi detached dwellings all of the same size and design.

The red line then opens to the rear portion of the site which is an agricultural field, part of which is bare soil and the remainder grassed over. The north and west boundaries of the site are undefined on the ground and is joined to the portion of the field which is subject to planning ref LA09/2019/1065/F. There is a mix of hedgerow and fencing along the southern boundary, and the eastern boundary will be connected on to the rest of the development.

To the North and west, the site is surrounded by agricultural fields, to the east is the Killyliss Manor houses and to the south the site backs on to the rear of the dwellings in Roan park. Further to the rear is Eglish GAC grounds as well as the local primary school, with a local shop and st Patricks church at the junction with the Eglish Road.

### **Description of Proposal**

The proposal seeks full planning permission for 6 semi detached houses.

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

#### **Policy Consideration**

#### **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.

#### **Area Plan**

Dungannon and South Tyrone Area Plan 2010- within development limits of Eglish, no zoning. In the plan it states that housing development will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement.

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, two objections have been received from concerned Roan Close residents.

The main concerns they highlighted included;

- Dwellings proposed are in too close proximity to existing

- Road safety
- Increased traffic congestion
- Loss of privacy
- Loss of sunlight
- And loss of character

#### Assessment of objections

With regards to the first concern over the proximity of the dwellings to the existing dwellings in Roan Close, the closest dwelling is site number 30, which backs onto number 5B Roan Close. The back to back separation distance is 15 metres at the closest point and 8 metres between the back wall of the proposed dwelling and the rear boundary. The remainder of the dwellings have over 30 metres gap back to back, there is also a mature boundary along the property line.

With regards to the road safety aspect and the increased traffic congestion, since the time of the objections there has been a number of amended drawings, the final version of the PSD drawings has been stamped granted by DFI Roads and the new scheme involves an improved junction scheme at the junction of the Killyliss and Eglish Road. These extensive works will bring massive improvements to the road infrastructure and the general area, they will also improve rather than compromise the existing traffic congestion in the area. All the dwellings have two car parking spaces so there should be minimal on street parking.

With regards to the loss of light and privacy, the back to back distances to the dwellings in Roan close is not of concerns barring number 5B which is approx. 15metres back to back with site number 30. The position of the existing boundary hedge which will be retained will reduce any concerns of overlooking and with the position of the existing dwellings to the south there will be minimal loss of sunlight as the shadow will be cast from the existing dwellings to the proposed.

Finally, the site lies within the settlement limits of Eglish and is an extension of the newly built Killyliss Manor. In terms of layout, scale, proportions, massing and appearance of the buildings, the dwellings will be of the same as the existing. There will no impact of the character of the area.

#### Planning History

M/2005/0203/O – Housing development – Withdrawn  
 M2006/1618/F – 9 Dwellings - GRANTED – 22.10.2008  
 M/2007/0861/O – Housing development – GRANTED - 9.11.2007  
 M/2013/0449/F – 4 Dwellings – GRANTED – 15.6.2104  
 M/2014/0412/F – 16 Dwellings – GRANTED – 21.03.2016(layout below)

LA09/2017/1099/F – change of house types – GRANTED 11.12.2017  
 LA09/2019/1065/F – 12 dwellings – Current application

#### Mid Ulster Development Plan 2030 - Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in

assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council are now preparing to submit the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

This residential proposal lies within the settlement limit of Eglish and therefore PPS 7, Quality Residential Environments is the relevant policy consideration.

PPS 7 states the development should respect the surrounding context and be 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;

It is my opinion that the proposal layout, purporting to 3 pairs of semi detached dwellings, respects the surrounding context and is appropriate in terms of layout and appearance of buildings and landscaped areas. The dwellings are of the same scale, proportions and design as the existing, they face North onto the area of open space and back onto the rear of the dwellings in Roan Close.

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

No features of the archaeological /built heritage have been identified in the application site.

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

The settlement limit of Eglish lies to the North of the application site. The northern boundary is open to the rest of the housing in the site including the area of open space directly to the north. The southern boundary which backs onto Roan Close is defined by the existing row of mature trees and will be further bolstered by the addition of the new fence line to the east.

(d) adequate provision is made for necessary local neighbourhood facilities, to be

provided by the developer as an integral part of the development;

The agent has submitted a proposal which includes a separate sewerage treatment plant. This has been seen, considered and agreed by both NIW and EHO.

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

A footpath runs along site frontage towards Eglish village, the proposal also involves the improvements at the junction of the Killyliss road and the main Eglish Road.

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

Transport NI have been consulted and have no concerns as each unit has been provided with two number in curtilage parking spaces.

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

The design of the dwellings is largely the same as the first phase which were previously approved under planning reference M/2014/0412/F. In my view the design is of a high quality and respects local traditions. See below image.

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

The surrounding land uses are primarily residential with a primary school, a local shop and a church just slightly further afield. This residential development will not conflict with those land uses with careful consideration given to dwellings south of the site in Roan Close to avoid any loss of amenity/overlooking.

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

The development would appear to be designed to deter crime and promote personal safety in that open areas are 'policed' in that nearby dwellings all front said areas and provide no alley ways or other areas for congregation and potential crime.

#### Other considerations

NIW have indicated that sewage capacity within Eglish waste water treatment plant is not capable of accepting waste from this development. The agent has provided a private treatment plant to cater for this proposal along with technical specifications.

Environmental Health have provided comment on the package treatment plant and raise no objection subject to certain noise and odour levels being maintained, which I find



reasonable to attach as planning conditions so as to protect existing and proposed amenity in this area.

As the proposal complies with the relevant policy for this type of development in the settlement, Transport NI have no objection and all other consultees are satisfied I recommend this application be approved.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### Condition 1

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

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

#### Condition 2

#### Condition 3

No other development hereby permitted shall be commenced until the junction improvement works have been completed as under approved planning application LA09/2022/0417/F.

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

#### Condition 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.

#### Condition 5

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

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

Condition 6

The dwellings hereby approved shall not be occupied until the road junction improvement works have been carried out in accordance with planning application LA09/2022/0417/F or as agreed in writing with the Council.

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

**Case Officer:** Peter Hughes

**Date:** 21 March 2023

ANNEX	
<b>Date Valid</b>	21 May 2018
<b>Date First Advertised</b>	7 June 2018
<b>Date Last Advertised</b>	6 June 2018
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 1A , Roan Close, Dungannon, Tyrone, BT70 1NE, The Owner / Occupier 21 Killyliss Manor, Eglish, Tyrone, BT70 1UP, The Owner / Occupier 20 Killyliss Manor, Eglish, Tyrone, BT70 1UP, The Owner / Occupier 23 Killyliss Manor, Eglish, Tyrone, BT70 1UP, The Owner / Occupier 2 Roan Close, Dungannon, Tyrone, BT70 1NE,  The Owner / Occupier 3 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 11 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 10 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 8 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 6 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 5 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 12 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 3-20 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 4 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 14 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 15 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 16 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 2 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier	

18 Killyliss Manor Eglish Tyrone BT70 1UP  
The Owner / Occupier  
7 Killyliss Manor Eglish Tyrone BT70 1UP  
The Owner / Occupier  
19 Killyliss Manor Eglish Tyrone BT70 1UP  
The Owner / Occupier  
3 Roan Close Dungannon Tyrone BT70 1NE  
The Owner / Occupier  
4 Roan Close Dungannon Tyrone BT70 1NE  
The Owner / Occupier  
5 Roan Close Dungannon Tyrone BT70 1NE  
The Owner / Occupier  
5B Roan Close Dungannon Tyrone BT70 1NE

The Owner / Occupier  
104 Killyliss Road Dungannon Tyrone BT70 1LE  
The Owner / Occupier  
17 Killyliss Manor Eglish Tyrone BT70 1UP  
The Owner / Occupier  
1 Killyliss Manor Eglish Tyrone BT70 1UP  
The Owner / Occupier  
9 Killyliss Manor Eglish Tyrone BT70 1UP  
The Owner / Occupier  
103 Killyliss Road, Dungannon, Tyrone, BT70 1LE,  
The Owner / Occupier  
1 Roan Close, Dungannon, Tyrone, BT70 1NE,

<b>Date of Last Neighbour Notification</b>	31 May 2018
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	<events screen>
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### **Planning History**

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: TBCResponseType: FR  
NI Water - Multiple Units West-Substantive: TBCResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
Rivers Agency-Substantive: TBCResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR  
DFI Roads - Enniskillen Office-12-01-2023.pdf  
DFI Roads - Enniskillen Office-Previously answered  
DFI Roads - Enniskillen Office-Conditions 13-03-2023.docx  
DFI Roads - Enniskillen Office-Previously answered

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

Site Location Plan Plan Ref: 01  
Block/Site Survey Plans Plan Ref: 06  
Levels and Cross Sections Plan Ref: 05  
Proposed Plans Plan Ref: 04  
Site Layout or Block Plan Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02A  
Cross Sections Plan Ref: 07  
Proposed Plans Plan Ref: 13B  
Cross Sections Plan Ref: 14A  
Proposed Plans Plan Ref: 15A

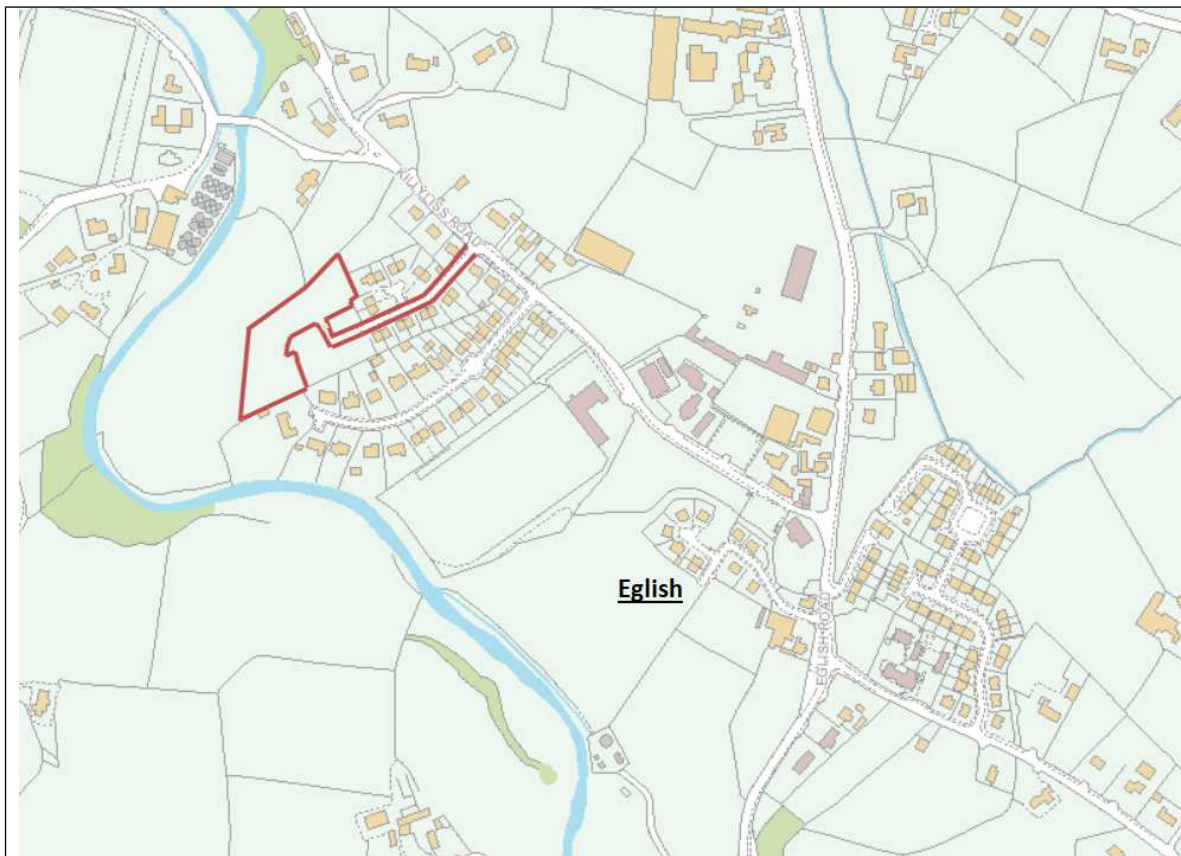
#### **Notification to Department (if relevant)**

Not Applicable

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.2
<b>Application ID:</b> LA09/2019/1065/F	<b>Target Date:</b> 4 October 2019
<b>Proposal:</b> Proposed 12 No. Semi-Detached two storey houses and associated site works.	<b>Location:</b> Sites 21 23 25 27 29 31 32 33 34 35 36 & 38 Killyliss Manor Eglish Dungannon.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> MSJ Contracts Ltd 7 Killyliss Manor Eglish Dungannon BT70 1UP	<b>Agent Name and Address:</b> J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

Case Officer Report		
<b>Site Location Plan</b>		
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<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
Statutory Consultee	DFI Roads - Enniskillen Office	12 01-2023.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Previously answered
Statutory Consultee	DFI Roads - Enniskillen Office	Conditions 13-03-2023.docx
<b>Representations:</b>		
Letters of Support	0	
Letters of Objection	1	
Letters Non Committal	0	
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>		
<p>The site lies within the settlement limits of Eglis on the upper north west outskirts and outside all others areas of constraint as depicted by the Dungannon and South Tyrone area Plan 2010. The site is accessed off the main Killyliss road and cuts through the first part of the Killyliss Manor development. This development consists of 8 pairs of semi detached dwellings all of the same size and design.</p>		



The red line then opens to the rear portion of the site which is an agricultural field, part of which is bare soil and the remainder grassed over. There is a mature hedgerow all along the north and east boundaries, there is a mix of hedgerow and fencing along the southern boundary, and the eastern boundary will be connected on to the rest of the development.

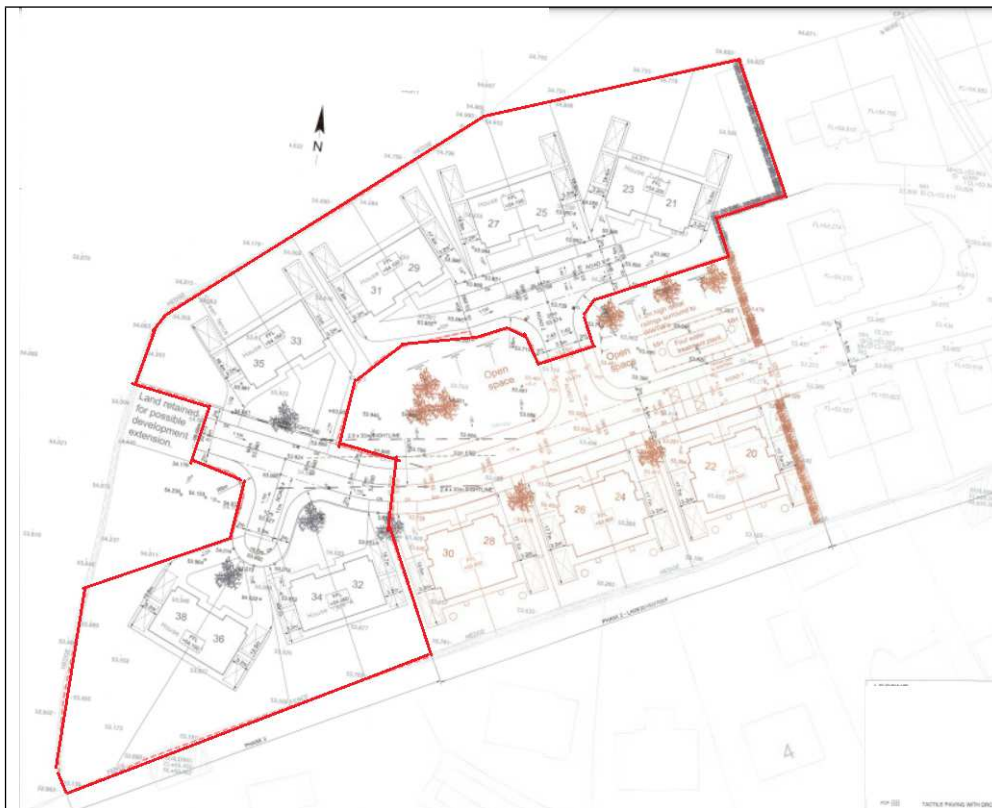




To the North and west, the site is surrounded by agricultural fields, to the east is the Killyliss Manor houses and to the south the site backs on to the rear of the dwellings in Roan park. Further to the rear is Eglis GAC grounds as well as the local primary school, with a local shop and st Patricks church at the junction with the Eglis Road.

### **Description of Proposal**

The proposal seeks full planning permission for 12 No. semi-detached two storey houses and associated site works



- Loss of privacy
- And loss of character

### **Assessment of objections**

With regards to the first concern over the proximity of the dwellings to the existing dwellings in Roan Close, the closest dwelling is site number 36, which half sides and half backs onto number 9 Roan Close. The wall to wall separation distance is 20 metres at the closest point and 10 metres between the back wall of the proposed dwelling and the rear boundary. The remainder of the dwellings have a larger gap back to back, there is also a mature boundary along the property line and there is an additional fence line proposed.

With regards to the road safety aspect and the increased traffic congestion, since the time of the objection there has been a number of amended drawings, the final version of the PSD drawings has been stamped granted by DFI Roads and the new scheme involves an improved junction scheme at the junction of the Killyliss and Eglish Road. These extensive works will bring massive improvements to the road infrastructure and the general area, they will also improve rather than compromise the existing traffic congestion in the area. All the dwellings have two car parking spaces so there should be minimal on street parking.

With regards to the loss of light and privacy, the back to back distances to the dwellings in Roan close is not of concerns barring number 9 which is approx. 20 metres back to back with site number 36. The position of the existing boundary hedge which will be retained and the proposed fencing will reduce any concerns of overlooking and with the position of the existing dwellings to the south there will be minimal loss of sunlight as the shadow will be cast from the existing dwellings to the proposed.

Finally, the site lies within the settlement limits of Eglish and is an extension of the newly built Killyliss Manor. In terms of layout, scale, proportions, massing and appearance of the buildings, the dwellings will be of the same as the existing. There will no impact of the character of the area.

### **Planning History**

M/2005/0203/O – Housing development – Withdrawn

M2006/1618/F – 9 Dwellings - GRANTED – 22.10.2008

M/2007/0861/O – Housing development – GRANTED - 9.11.2007

M/2013/0449/F – 4 Dwellings – GRANTED – 15.6.2104

M/2014/0412/F – 16 Dwellings – GRANTED – 21.03.2016 (layout below)



LA09/2017/1099/F – change of house types – GRANTED 11.12.2017

LA09/2018/0703/F – 6 Dwellings – current application

### **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

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

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

This residential proposal lies within the settlement limit of Eglish and therefore **PPS 7, Quality Residential Environments** is the relevant policy consideration.





PPS 7 states the development should respect the surrounding context and be 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;

It is my opinion that the proposal layout purporting to 6 pairs of semi detached dwellings, respects the surrounding context and is appropriate in terms of layout and appearance of buildings and landscaped areas. The dwellings are of the same scale, proportions and design as the existing.

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

No features of the archaeological /built heritage have been identified in the application site.

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

The settlement limit of Eglsh lies to the North of the application site. The northern boundary is therefore of greater importance, the proposal involves the erection of a fence and a native species hawthorn hedge along its entirety. The southern boundary is open to the rest of the housing in the site. There are also two decent sized areas of open space adjoining the site between this red line and that of the proposed 6

dwellings to the south.

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

The agent has submitted a proposal which includes a separate sewerage treatment plant. This has been seen, considered and agreed by both NIW and EHO.

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

A footpath runs along site frontage towards English village, the proposal also involves the improvements at the junction of the Killyliss road and the main English Road.

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

Transport Ni have been consulted and have no concerns as each unit has been provided with two number in curtilage parking spaces.

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

The design of the dwellings is largely the same as the first phase which were previously approved under planning reference M/2014/0412/F. In my view the design is of a high quality and respects local traditions. See below image.



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

The surrounding land uses are primarily residential with a primary school, a local shop and a church just slightly further afield. This residential development will not conflict with those land uses with careful consideration given to dwellings south of the site in Roan Close to avoid any loss of amenity/overlooking..

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

The development would appear to be designed to deter crime and promote personal safety in that open areas are 'policed' in that nearby dwellings all front said areas and provide no alley ways or other areas for congregation and potential crime.

#### **Other considerations**

NIW have indicated that sewage capacity within Eglisish waste water treatment plant is not capable of accepting waste from this development. The agent has provided a private treatment plant to cater for this proposal along with technical specifications. Environmental Health have provided comment on the package treatment plant and raise no objection subject to certain noise and odour levels being maintained, which I find reasonable to attach as planning conditions so as to protect existing and proposed amenity in this area.

As the proposal complies with the relevant policy for this type of development in the settlement, Transport NI have no objection and all other consultees are satisfied I recommend this application be approved.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

#### **Condition 2**

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

The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 6A bearing date stamp 25 January 2032.

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

#### **Condition 3**

No other development hereby permitted shall be commenced until the junction improvement works have been completed as approved planning application LA09/2022/0417/F.

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

#### **Condition 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.



Condition 5

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

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

Condition 6

The dwellings hereby approved shall not be occupied until the road junction improvement works have been carried out in accordance with planning application LA09/2022/0417/F or as agreed in writing with the Council.

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

**Signature(s):** Peter Hughes

**Date:** 21 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	9 August 2019
<b>Date First Advertised</b>	29 August 2019
<b>Date Last Advertised</b>	27 August 2019
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 104 Killyliss Road Dungannon Tyrone BT70 1LE The Owner / Occupier 16 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 5 Roan Close Dungannon Tyrone BT70 1NE The Owner / Occupier 4 Roan Close Dungannon Tyrone BT70 1NE The Owner / Occupier 3 Roan Close Dungannon Tyrone BT70 1NE The Owner / Occupier 2 Roan Close Dungannon Tyrone BT70 1NE The Owner / Occupier 1A Roan Close Dungannon Tyrone BT70 1NE The Owner / Occupier Cois Abhann 91 Killyliss Road Dungannon Tyrone BT70 1LE The Owner / Occupier 19 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 18 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 17 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 6 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 15 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 1 Roan Close Dungannon Tyrone BT70 1NE The Owner / Occupier 1 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 5B Roan Close Dungannon Tyrone BT70 1NE The Owner / Occupier 2 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 3 Killyliss Manor Eglish Tyrone BT70 1UP The Owner / Occupier 4 Killyliss Manor Eglish Tyrone BT70 1UP	

The Owner / Occupier  
 5 Killyliss Manor Eglish Tyrone BT70 1UP  
 The Owner / Occupier  
 7 Killyliss Manor Eglish Tyrone BT70 1UP  
 The Owner / Occupier  
 8 Killyliss Manor Eglish Tyrone BT70 1UP  
 The Owner / Occupier  
 9 Killyliss Manor Eglish Tyrone BT70 1UP  
 The Owner / Occupier  
 10 Killyliss Manor Eglish Tyrone BT70 1UP  
 The Owner / Occupier  
 11 Killyliss Manor Eglish Tyrone BT70 1UP  
 The Owner / Occupier  
 12 Killyliss Manor Eglish Tyrone BT70 1UP  
 The Owner / Occupier  
 14 Killyliss Manor Eglish Tyrone BT70 1UP  
 The Owner / Occupier  
 6 Roan Close Dungannon Tyrone BT70 1NE  
 The Owner / Occupier  
 5 Oona Grove, Dungannon, Tyrone, BT70 1UB  
 The Owner / Occupier  
 14 Roan Park, Dungannon, Tyrone, BT70 1NB  
 The Owner / Occupier  
 11 Roan Park, Dungannon, Tyrone, BT70 1NB  
 The Owner / Occupier  
 4 Oona Grove, Dungannon, Tyrone, BT70 1UB  
 The Owner / Occupier  
 103 Killyliss Road, Dungannon, Tyrone, BT70 1LE  
 The Owner / Occupier  
 3-20 , Killyliss Manor, Eglish, Tyrone, BT70 1UP  
 The Owner / Occupier  
 23 Killyliss Manor, Eglish, Tyrone, BT70 1UP  
 The Owner / Occupier  
 20 Killyliss Manor, Eglish, Tyrone, BT70 1UP  
 The Owner / Occupier  
 13 Roan Park, Dungannon, Tyrone, BT70 1NB  
 The Owner / Occupier  
 21 Killyliss Manor, Eglish, Tyrone, BT70 1UP  
  
 The Owner / Occupier  
 12 Roan Park, Dungannon, Tyrone, BT70 1NB

<b>Date of Last Neighbour Notification</b>	21 August 2019
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR NI Water - Multiple Units West-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-12 01-2023.pdf DFI Roads - Enniskillen Office-Previously answered DFI Roads - Enniskillen Office-Conditions 13-03-2023.docx	
<b>Drawing Numbers and Title</b>  Proposed Plans      Plan Ref: 03 Site Layout or Block Plan   Plan Ref: 02 Site Location Plan   Plan Ref: 01 Proposed Plans      Plan Ref: 4A Cross Sections      Plan Ref: 5A Proposed Plans      Plan Ref: 6A	
<b>Notification to Department (if relevant)</b>  Not Applicable	

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.3
<b>Application ID:</b> LA09/2020/0966/F	<b>Target Date:</b> 5 October 2020
<b>Proposal:</b> Housing development of 26 No Two storey dwellings (20 No semi-detached dwellings, 5 No Townhouses and 1 No Detached dwelling), site road and associated site works	<b>Location:</b> Lands 20M West Of 180 Battery Road Moortown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Loughview Developments 76 Main Street Pomeroy	<b>Agent Name and Address:</b> Building Design Solutions 76 Main Street Pomeroy BT70 2QP
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

Consultation Type	Consultee	Response
	NIEA	Substantive: YResponseType: FR
	Shared Environmental Services	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster	Substantive:

	Council	TBCResponseType: PR
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Roads comments as per reply dated 14/11/2022. are still relevant.  gerry
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template - 7 dec 2022.docx
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	Rivers Agency	
Statutory Consultee	NI Water - Multiple Units West	
Statutory Consultee	Shared Environmental Services	
Statutory Consultee	NIEA	
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	DFI are awaiting revised PSD drawings. Please reconsult when drawings are received.  Gerry

#### **Representations:**

Letters of Support	0
Letters of Objection	2
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

#### **Summary of Issues**

##### Summary of Issues

Objections have been received to the planning application with the following issues of concern raised:

- Density of development is too high given the character of the area; The Cookstown Area Plan imposes a limit of 20 units on any new residential developments in Moortown; The scale of the proposal will undermine the settlement hierarchy in the District and main growth should be directed to main hubs;
- When considering the context of the settlement of Moortown, including two other housing developments c.160m from the application site, I do not consider the proposed

density is too high. Although the Cookstown Area Plan states that residential developments in excess of twenty units will not normally be permitted, this does not preclude developments in excess of 20 units; The density of development is considered acceptable at this location within the settlement limits of Moortown.

- The proposal is contrary to the addendum of PPS 7 in that it does not respect the character of an established residential area;

I will deal with this later in the assessment of planning policy, however to note briefly in response it is considered the application is not in contradiction with PPS 7

- There is a farm immediately to the west of the application site and an approval will prejudice the future farming operations that have been established;

There are other single dwellings in close proximity to the application site and there are no known complaints having been raised by the existing residents to the agricultural operations at this address.

- Air quality, including odour has not been considered on the proposed dwellings and could give rise to odour complaints;

An Air Quality Impact Assessment was submitted by the applicant in July 2021. It concluded the maximum ground level odour concentration is predicted to be primarily confined to the immediate environs of the existing cattle sheds. Under the proposed layout the maximum 98th percentile of 1-hour ground level odour concentration at the worst effected residential property with no interest in the operation of the farm, is in accordance with the target limit value of 3ouE/m<sup>3</sup> when taken as an average of the 5-year period or within any individual 1-year period. Having considered the report and the associated design of the dwellings, EHO offer no objection to the proposed application.

- Potential noise impact has not been fully considered and these could harm the residential amenity of the proposed dwellings;

Noise sources impacting the individual external amenity areas of each dwelling has been assessed in accordance with BS4142:2014. It was found that the predicted noise levels at these receptor locations were below the background noise level, and therefore as per BS4142, the impact was deemed to be low. Installing double glazing to each façade of the proposed dwellings and the implementation of a mechanical ventilation and heat recovery system will ensure that internal noise levels should not exceed those as stipulated within BS8233. Having reviewed the Noise Assessment, EHO have not offered any reasons for refusal.

- A 2m raised earth bund will not mitigate against the potential impact and the exact basal area is not indicated on the proposed plan and therefore cannot be properly considered. The proposed bund will interfere with the 5m wayleave required to access the culverted watercourse and therefore will not be delivered;

Having reviewed the plans, I do not find this to be the case. The 5m wayleave has been shown clear of the proposed bund and within the ownership of the applicant.

- An increase in flooding in the area arising as a result of an increase in hardstanding; Rivers Agency have not raised this as a concern.



- Impact on residential amenity of the residents of no 178b Battery Road;  
Having considered both odour and noise previously, I do not consider this is to a warranted concern.
- Possible increase in flooding from the proposed development;  
Rivers Agency have not raised this as a concern.
- The proposal is contrary to PED 8 of PPS 4 as the objector considers it is incompatible with the adjacent agricultural use;  
I will address this in detail later in the report, however it is not consider this is the case.
- A Noise Assessment, Air Quality/Odour Assessment and Traffic Assessment should be submitted to address any potential conflicts with adjacent land uses.  
A Noise Assessment and Air Quality Impact Assessment were both submitted and considered by EHO. A Transport Assessment Form was submitted with the application.
- Storm drainage runs through the site;  
This has not been identified by Rivers Agency. The Drainage Assessment, subject to a Sch 6 consent was accepted by Rivers Agency. The DA addresses how the proposed surface water attenuation design has demonstrated that the required storage for a 100 year exceedance storm event could be installed within the site without having to revise the layout of the proposed development.
- The proposal constitutes backland development and will harm the residents of no 178b Battery Road, Coagh  
This is not true. The application site fronts onto Battery Road and extends the entirety of the field within the settlement limits. There are two dwellings to the immediate rear of the application site, both are within the settlement limits of Moortown and both are accessed off a separate laneway along with a number of other dwellings.

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

The application site is located within the development limits of Moortown as identified in the Cookstown Area Plan. The site is a large agricultural field and is relatively flat. To the immediate west of the site is an operational farm, of which there is a small petrol filling station on the opposite side of the Battery Road. To the north is a single dwelling and there are a number of single dwellings along the eastern boundary. The site fronts onto the Battery Road to the south with a single dwelling and an agricultural field on the opposite side of the road.

### **Description of Proposal**

This is an application for a housing development of 26 No Two storey dwellings (20 No semi-detached dwellings, 5 No Townhouses and 1 No Detached dwelling), site road and associated site works.

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

### **Policy Consideration**

Strategic Planning Policy Statement  
Cookstown Area Plan 2010

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 4 - Planning and Economic Development

Planning Policy Statement 7 - Quality Residential Environments

Planning Policy Statement 15 - Planning and Flood Risk

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

The application is situated on white lands as identified in the Cookstown Area Plan 2010. In the CAP it states that local demand for housing within the village is likely to be high. Comprehensive development will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement. Accordingly, residential developments in excess of twenty units will not normally be permitted. However, this does not preclude developments in excess of 20 units and I will turn to PPS 7 for more direction on this issue. PPS 7 is clear when it states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. There is a list of criteria that all proposals for residential development will be expected to conform with.

The development is located within the development limits of Moortown and is situated on a relatively flat site that falls gently away from south to north. The layout is comprised of one detached dwelling, 20 semidetached dwellings, some of which are dual frontage dwellings on corner sites and 5 townhouses situated to the rear of the application site. The design of the dwellings are considered acceptable in the context of the area. With an operational farm to the west of the application site there has been an agreement the area of open space can be located in the south western portion of the application site to allow a greater distance between the farm buildings and the new dwellings. This will benefit from informal surveillance from a number of dwellings in the development and the internal road network that runs alongside the area of open space.

There are 4 dwellings which do not have 70 square metres of private garden space, however all are in excess of 40 square metres and the average of the overall layout is well in excess of 70 square metres. Along the western boundary with the operational farm is a stream and a 5 metre working strip has been shown along this boundary as

required by DfI Rivers. There is also a wide strip of landscaping proposed to soften and eventually mitigate any adverse visual impact of the agricultural buildings. PPS 7 requires the provision of a minimum of 10% open space and the proposed area of open space is slightly in excess of this. There are no features of archaeological or built heritage or landscape features to be incorporated into the layout. Given the number of units and the location in the limits of Moortown I do not consider it necessary for the provision to be made for local neighbourhood facilities.

Following the submission of a number of amended drawings, at the request of DfI Roads, the layout is now considered acceptable in terms of parking and road layout. There are no public rights of way across the site and the site is close to identified. The local area is poorly served by public transport and there is a transport service to the surrounding secondary schools.

With regards to any potential conflict with adjacent land uses a concern has been raised by the owner of the operational farm. There are a number of residential properties in close proximity to the existing agricultural buildings. To date there are no known complaints of odour or noise by those residents to our Environmental Health Department. Given the intervening vegetation, the additional landscaping and earth bund, together with the separation distances this is not considered to be a concern.

Environmental Health were consulted during the course of the application. An Odour Impact Assessment has been received and on the basis of dwellings having been moved further away from the operational farm, I do not consider there to be any unacceptable adverse effect on existing properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

Consultations were issued as part of the application process.

Roads - No concerns with amended layout subject to a number of conditions

Rivers - No concerns subject to a Sch 6 consent being conditioned

NIW - Confirmed there is available capacity

SES - No concerns subject to a condition

NIEA - No concerns raised.

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

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

Condition 1

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

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

Condition 2

The existing natural screenings as shown along the western boundary on drawing no 04/2, date stamp received 26 October 2022, shall be retained unless necessary to prevent danger to the public in which case a full expansion along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: : To safeguard the amenities of the new occupiers and in the interests of visual amenity.

Condition 3

The development hereby permitted shall not commence until the developer has received a written agreement from Rivers Agency for consent to discharge under Schedule 6 of the Drainage (NI) Order 1973.

Reason: In the interests of public safety.

Condition 4

A suitable buffer of at least 10 metres must be maintained between the locations of all construction refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoli etc and adjacent partially culverted watercourse.

Reason: To protect the hydrologically connected features of Lough Neagh and Lough BEg SPA/Ramsar from potential construction pollution.

Condition 5

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 10/4 bearing the date stamp 26 October 2022.

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

Condition 6

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

No part of the development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with details outlined in blue on Drawing No 10/4 bearing the date stamp 26 October 2022. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C) and Article 32.

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

Condition 7

The visibility splays of 4.5m x 90m to the east and 4.5m x 80m to the west at the junction of the proposed access road with the public road shall be provided in accordance with Drawing No 10/4 bearing the date stamp 26 October 2022 prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 8

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

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

Condition 9

No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

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

Condition 10

Prior to the commencement of any part of the development hereby approved the developer shall submit to the Council and receive approval in writing a landscape scheme for the overall layout. The landscape scheme shall comprise planting details including species, size at time of planting, siting and planting distances with a programme of planting. The scheme shall also include a Management and Maintenance schedule which includes the long-term objectives, performance indicators and management responsibilities for all landscaped areas.

Reason: To ensure there is a satisfactory standard of open space provided and maintained in perpetuity in accordance with the provisions of Policy OS 2 of Planning Policy Statement 8.

Condition 11

All hard and soft landscape works 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 in accordance with a programme to be agreed with the Council which should be approved prior to the commencement of any part of the development hereby approved.

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

**Condition 12**

No dwelling hereby approved shall be occupied until the Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with an appropriate management company for all areas of public open space and landscaping. These areas shall be permanently retained as landscaped areas/open space.

Reason: To ensure that open space is provided, maintained and managed in accordance with Planning Policy Statement 7 and Planning Policy Statement 8.

**Informative 1**

The occupants of the new dwellings should be aware of a potential loss of amenity on occasion from noise, dust, odour and potentially vermin on occasion as a result of being located in close proximity to a working farm.

**Case Officer:** Karen Doyle

**Date:** 21 March 2023

ANNEX	
<b>Date Valid</b>	10 August 2020
<b>Date First Advertised</b>	17 January 2023
<b>Date Last Advertised</b>	25 August 2020
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 175 Battery Road, Cookstown, Tyrone, BT80 0HS  The Owner / Occupier 178B Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 178A Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 176A Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 174 Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 171 Battery Road, Cookstown, Tyrone, BT80 0HS	
<b>Date of Last Neighbour Notification</b>	13 April 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  NIEA-Substantive: YResponseType: FR Shared Environmental Services-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR NI Water - Multiple Units West-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR Rivers Agency-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR NIEA-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR	

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: PR  
DFI Roads - Enniskillen Office-Response Template.docx  
DFI Roads - Enniskillen Office-DFI Roads comments as per reply dated 14/11/2022. are still relevant.

gerry

DFI Roads - Enniskillen Office-  
DFI Roads - Enniskillen Office-Response Template - 7 dec 2022.docx  
DFI Roads - Enniskillen Office-  
Rivers Agency-  
NI Water - Multiple Units West-  
Shared Environmental Services-  
NIEA-  
Environmental Health Mid Ulster Council-  
DFI Roads - Enniskillen Office-DFI are awaiting revised PSD drawings. Please reconsult when drawings are received.

Gerry

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

Site Layout or Block Plan Plan Ref: 2549-d-014 A  
Site Layout or Block Plan Plan Ref: 10 REV 1  
Elevations and Floor PlansPlan Ref: 12  
Road Access Plan Plan Ref: 2549-D-014(B)  
Site Location Plan Plan Ref: 01  
Proposed Plans Plan Ref: 05  
Proposed Plans Plan Ref: 06  
Proposed Plans Plan Ref: 07  
Site Appraisal or Analysis Plan Ref: 02  
Site Layout or Block Plan Plan Ref: 03  
Proposed Plans Plan Ref: 04  
Site Layout or Block Plan Plan Ref: 10  
Road Access Plan Plan Ref: 11

#### **Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2022/0230/O	<b>Target Date:</b> 20 April 2022
<b>Proposal:</b> Proposed site for dwelling and garage	<b>Location:</b> Lands Approx. 30M South East Of 99 Mullaghboy Road Bellaghy
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Hugh Glackin 99 Mullaghboy Road Bellaghy	<b>Agent Name and Address:</b> Cmi Planners Ltd 38 Airfield Road Toomebridge
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DAERA - Coleraine	Substantive: TBCResponseType: FR
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-0230-O (No. 2).DOCX

### Representations:

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

### Summary of Issues

Proposal is contrary to policy

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

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan. The red line of the application site is the roadside portion of a larger agricultural field which is a flat agricultural field with some scrub hedges located within the field. The north eastern and south eastern boundaries are currently undefined. The south west and north western boundaries are defined by a low level hedge and post and wire fence with a shared laneway running between dwelling No.99 Mullaghboy and the application site. The surrounding area is a mix of land uses, with residential dwellings, business sheds and agricultural lands.

### **Representations**

No third party written representations have been received.

### **Description of Proposal**

This is an outline planning application for a proposed site for a dwelling and garage.

### **Relevant Site History**

LA09/2021/1583/O- Proposed site for dwelling and garage. Lands Approx. 30M South East Of 99 Mullaghboy Road Bellaghy. Application withdrawn.

LA09/2021/0213/F- Retrospective application for existing storage unit & associated works to include car parking. 55M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2021/0214/F- Part retrospective application for existing offices, storage and associated works to include car park. 30M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2021/0330/LDE- Existing offices and existing storage unit. 25M Ne Of 99A Mullaghboy Road Bellaghy. Permission Granted.

LA09/2022/0627/F- Application for storage unit and associated works. 25M North Of 99A Mullaghboy Road, Bellaghy. Permission Granted.

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

### **Policy Consideration**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

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

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

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

(a) the farm business is currently active and has been established for at least 6 years;  
(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and  
(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.  
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

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

The agent originally completed the application form in which they provided a farm business No. for a Ms. Kathleen Glackin and a consultation was issued to DAERA on this business ID who confirmed the business has been in existence for more than 6 years but that no claims have been made on the farm business in any of the last 6 years, No further evidence of farming/business activity was provided. It was then brought to the attention of the planning department that the business ID holder had passed away prior to this application being made, therefore we needed further information regarding the farm business. The agent then submitted further info with a new farm business ID assigned to Hugh Glackin of 6 Bells Terrace, Castledawson. (It should be noted that this is the same name as the applicant but a different address as provided in the application form.) DAERA were then reconsulted on this new business ID and confirmed it was

assigned on October 2022 as a category 3 and no payments have been claimed in any of the last 6 years. As it was only assigned in the last 6 months, the farm business has not been established for at least 6 years and no further information has been provided to indicate otherwise. Therefore, the proposal is contrary to CTY 10.

No dwellings or development opportunities have been sold off from the farm holding within the last 10 years. The farm business has only been established since October 2022.

With regards criteria C the agent has identified existing farm sheds at the rear of 99 Mullaghboy Road. However, there is extensive planning history for these buildings and surrounding which relate to the business identified as FG Plumbing & Heating. LA09/2021/0330/LDE sought a certificate of lawfulness for the existing business and subsequent applications were submitted and approved for the business here. As such from this there are no existing farm buildings which the proposed dwelling can visually link with or cluster with. Therefore, the proposal fails to meet criteria C of CTY 10.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, I am content a dwelling with a maximum ridge height of 6m above finished floor level would not be a prominent feature in the landscape. A dwelling of this size would integrate into the landscape and the existing dwellings adjacent and the business to the rear of these dwellings provide a backdrop when travelling north west. Additional planting would be required but the site would not primarily rely on new landscaping for integration. As previously mentioned the dwelling is not visually linked or sited to cluster with an established group of buildings on a farm and fails Policy CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As previously mentioned a dwelling with a ridge height of no more than 6m would ensure it is not a prominent feature. However, criteria (d) refers to creating or adding to a ribbon of development which I feel if a dwelling was approved here it would extend a ribbon of development along the Mullaghboy Road. Therefore, the proposal fails to comply with CTY 8 and CTY 14 of PPS 21.

### **Other Material Considerations**

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

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm business ID provided has not been established for at least 6 years and, the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

#### **Reason 3**

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along the Mullaghboy Road

**Signature(s):** Ciaran Devlin

**Date:** 21 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	23 February 2022
<b>Date First Advertised</b>	8 March 2022
<b>Date Last Advertised</b>	8 March 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 101B Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 101A Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 101 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 99A Mullaghboy Road Bellaghy Londonderry BT45 8JH	
<b>Date of Last Neighbour Notification</b>	9 March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2003/1173/O Proposals: Site of replacement dwelling and garage. Decision: PG Decision Date: 23-MAR-04 Ref: H/2005/0370/O Proposals: Site of Dwelling and Garage Decision: PG Decision Date: 05-OCT-06 Ref: H/1986/0426 Proposals: SITE OF BUNGALOW MULLAGHBOY ROAD, MULLAGHBOY, BELLAGHY. Decision: HISAPP Decision Date: Ref: LA09/2021/0204/F Proposals: Existing offices & existing storage unit associated with established business. Decision: Decision Date: Ref: LA09/2021/0213/F Proposals: Retrospective application for existing storage unit & associated works to include car parking.	



Decision: PG  
 Decision Date: 31-MAR-22  
 Ref: H/2004/0463/O  
 Proposals: Site of New Dwelling and Garage.  
 Decision: PR  
 Decision Date: 24-NOV-05  
 Ref: LA09/2021/0214/F  
 Proposals: Part retrospective application for existing offices, storage and associated works to include car park.  
 Decision: PG  
 Decision Date: 31-MAR-22  
 Ref: LA09/2022/0230/O  
 Proposals: Proposed site for dwelling and garage  
 Decision:  
 Decision Date:  
 Ref: H/2004/0160/O  
 Proposals: Site of dwelling and garage.  
 Decision: PR  
 Decision Date: 28-NOV-05  
 Ref: H/2005/0107/F  
 Proposals: Dwelling and garage (amended house type from that approved under H/2002/0565/F)  
 Decision: PG  
 Decision Date: 05-JUL-05  
 Ref: LA09/2021/0725/F  
 Proposals: Change of house type & garage to previously approved site H/2009/0535/F with small extension of site curtilage.  
 Decision: PG  
 Decision Date: 17-AUG-21  
 Ref: LA09/2021/1583/O  
 Proposals: Proposed farm dwelling and Garage  
 Decision: PG  
 Decision Date: 02-FEB-22  
 Ref: H/2007/0220/RM  
 Proposals: Proposed replacement dwelling.  
 Decision: PG  
 Decision Date: 24-AUG-07  
 Ref: H/1998/0164  
 Proposals: EXTENSION TO DWELLING  
 Decision: PG  
 Decision Date:  
 Ref: H/2009/0535/F  
 Proposals: Re-positioning of replacement dwelling approved under H/2003/1173/O and H/2007/0220/RM and removal of foundations and re-instatement of land and proposed detached domestic garage  
 Decision: PG

Decision Date: 12-OCT-09  
 Ref: H/1979/0285  
 Proposals: BUNGALOW  
 Decision: PG  
 Decision Date:  
 Ref: LA09/2021/0330/LDE  
 Proposals: Existing offices and existing storage unit  
 Decision: PG  
 Decision Date: 03-MAR-22  
 Ref: H/2011/0550/F  
 Proposals: Proposed dwelling and garage for residential purposes  
 Decision: PG  
 Decision Date: 05-JUL-12  
 Ref: H/1993/0258  
 Proposals: SITE OF BUNGALOW  
 Decision: PR  
 Decision Date:  
 Ref: H/1989/0302  
 Proposals: DWELLING  
 Decision: PR  
 Decision Date:  
 Ref: H/2002/0565/F  
 Proposals: Dwelling and Garage  
 Decision: PG  
 Decision Date: 16-SEP-02

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR  
 DAERA - Coleraine-Substantive: TBCResponseType: FR  
 DAERA - Coleraine-Consultee Response LA09-2022-0230-O (No. 2).DOCX

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

### **Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.5
<b>Application ID:</b> LA09/2022/0314/F	<b>Target Date:</b> 5 May 2022
<b>Proposal:</b> Retention of 2 additional fun farm buildings with the reconfiguration of parking and turning areas approved under LA09/2017/1704/F and the proposed utilisation of the existing access lane, with improvements to the existing access, to serve the business (lane approved under LA09/2017/1704/F not to be built)	<b>Location:</b> 250M Ne Of 260 Drum Road Cookstown
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Martin McDonald 395 Crockaboy Road Creggan Omagh	<b>Agent Name and Address:</b> C.McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	Historic Environment Division (HED)	Substantive: YResponseType: FR
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx

**Representations:**

Letters of Support	0
Letters of Objection	4
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

**Summary of Issues**

Issues raised

Four representations have been received in relation to this planning application and relate to the following:-

- o Traffic turning into the proposed entrance;

DfL Roads did not raise any concerns regarding the proposed access. If the proposed development were to be approved and conditioned that the access is widened to 6m for the first 20m as per the proposed site plan, then a car turning into the access meeting a lorry exiting the laneway, would have adequate space to safely stop clear off the public road without prejudicing the free flow of traffic and/or road safety.

- o Estimated vehicle usage;

DfL Roads did not raise any objections to the levels of traffic estimated to be attending the site as per Q25 on the application form.

- o Visitors to the fun farm turning to entrance to a private dwelling;

Council nor DfL Roads have any control over traffic stopping to turn at a private entrance. Therefore this is not an issue which can be addressed via this planning application.

- o The use of the existing lane to serve the fun farm business as it already serves a quarry and two separate agricultural holdings;

As discussed above, if the access to the laneway were to be widened as per the site plan, this would provide an area for vehicles to pass safely clear of the public road.

- o Full access has not been able to be viewed via the planning portal;

I viewed the application via Mid Ulster Council's public access system and am able to view all documents in connection with this proposed development.

- o Public safety in terms of the fun farm operating in the immediate vicinity of an active quarry;

Public safety within the perimeter of the quarry is a matter of concern for the owners/operators of that quarry. In my opinion, it would be incumbent on the owners/operators of the quarry to ensure that the quarry is secure and that it cannot, and is, not accessed by children.

- o The application is for a fun farm in the immediate vicinity of, and alongside the commercial quarry;

This is incorrect as the fun farm has already been approved under planning application La09/2017/1704/F. This application is for an extension to that with alterations to the approved access.

- o The objector and their planning advisors have concerns as to how the proposed development could comply with PPS3.

This is detailed in the report below.

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

The site is located within an undulating landscape in the rural area and is accessed via an existing laneway. The lane accesses off the Drum Road which is a protected route with wide verges and a right turn lane in place. The laneway, which is a single track laneway, also provides access to a former sand and gravel pit which appears to be redundant in addition to third party farmlands. There are no passing bays on the laneway and this is bounded by mature trees to the south east and a semi-mature woodland/former landfill site to the north west. There is a steep drop of approximately 6m-8m from the laneway into the field to the south east which is the line of the previously approved laneway. The previously approved visibility splays would appear to be in place, however, at the time of site inspection, these were covered by tall uncut grass.

There is a modest 3 bay portal framed shed on the site with a small extension to the rear already in place. The shed has a roller shutter door at the gable end with a double

pedestrian doorway on the southern elevation which leads into a café/ice cream parlour area. This café ice cream parlour area accounts for approximately a third of the floorspace of the shed, with the remainder being used by inflatable bouncy castles etc. The café area has picnic type tables and chairs with a service area/counter with kitchen facilities and customer toilets.

There are two additional small buildings on site and are located to the south east of the main building towards the end of the car park. Both of these buildings are used as animal shelter for pigs, rabbits and hamsters with hay and a quad bike and other accessories are also parked in the buildings. A hardcored pathway extends southwards from the car park to provide access to animal pens on either side of the path. The path extends to the mature hedge along the southern boundary from where there is an access into the adjoining field. A large poly tunnel measuring 12m x 8m exists in the adjoining field to the south west of the animal pens and is used for storage of quad trailers, wheel barrows etc. in association with the fun farm. There are limited critical views of the poly tunnel from the main Drum Road, however the main fun farm buildings are more well screened by the intervening hedgerow.

The laneway previously approved under LA09/2017/1704/F has not been provided and sits approximately 6m - 8m below the level of the existing access laneway. The reception building as approved under LA09/2017/1704/F has also not been provided. The access works as required under LA09/2017/1704/F, which included the widening of the first 20m to a width of 8.0m as per Condition 05, have not been provided.

### **Description of Proposal**

Proposed alterations and additions to fun farm approved under LA09/2017/1704/F. Proposed utilisation of existing access lane to serve business (lane approved under LA09/2017/1704/F not to be built). Reconfiguration of parking and turning areas approved under LA09/2017/1704/F. Retention of two additional fun farm buildings.

The two buildings proposed measure 6.1m x 6.0m with 4.0m ridge height and a 3.2m eaves height and 5.6m x 4.6m with a mono-pitched roof falling from 3.1m to 2.3m. The external finishes of the sheds are concrete blockwork with corrugated/profiled iron cladding and timber boards spaced.

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

#### **Policy Consideration**

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

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing

planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The proposal accords with the Cookstown Area Plan 2010 insofar as it is linked to a farm diversification scheme for a registered a farm business. The farm diversification business was approved under LA09/2017/1704/F.

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

PPS 3 - Access, Movement and Parking;

Transport NI were consulted and advised that PPS 3 Policy AMP 3: Access to protected routes and its consequential amendment under PPS 21 is a material consideration for this planning application in addition to PPS 3 Policy AMP 2 Access to Public Roads. In the event that PPS 21 being considered applicable it is proposed to make use of an existing access onto a protected route.

In the event that Council consider this application to be compliant with PPS 3 Policy AMP 3 then the suggested conditions would be appropriate.

PPS 21 CTY 11 - Farm Diversification has a presumption in favour of farm or forestry diversification projects where it has been demonstrated that the proposal will be run in conjunction with the agricultural operations on the farm. The following criteria need to be addressed:-

- o The farm business is currently active and is established;
- o It is appropriate in terms of character and scale;
- o It will not have a detrimental impact on nearby residential properties by way of noise, smell and pollution.

However, proposals will only be acceptable where they involve the reuse or adaptation of existing farm buildings. Although a new building may be acceptable where there are no existing buildings available either because they are required for the existing farm enterprise, are unsuitable for adaptation or reuse or other agency requirements render them unsuitable. Any new building must achieve a suitable degree of integration with existing farm buildings.

The proposal is for an extension to an approved farm diversification project. The original diversification scheme was approved as it was linked to the farm business and was to supplement the income of the applicant, who is the farmers son and who is involved in the existing farm business. He proposed to take over the running of the farm business from his father who was retiring. Given the distance the site is located off the public road and the existing mature vegetation, it is acceptable in terms of the visual impact as the site is well screened when viewed from the public road. Furthermore, the mature hedgerows between the road and the site effectively screen the site from public view and so there is little perception of the existing building and/or the proposed buildings.

PPS 3 - Access, Movement and Parking

Policy AMP 2 - Access to Public Roads

States that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:



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

This proposal involves the intensification of an existing access onto a protected route and is therefore subject to the tests in policy AMP 3. The existing access appears to be used to access a sand and gravel quarry, approved under I/1998/0436, and also to serve the surrounding farmland.

Policy AMP 3 advises that the Department will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes as follows:-

On other protected routes outside settlement limits planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access for some categories of development other than dwellings. In such cases approval may be justified for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road.

DfI Roads advised that in the event of Planning considering the proposal to be compliant with Policy AMP 3 then the suggested condition would be appropriate.

The proposal is to use an existing access point onto a protected route. That access point is the same access point which the initial diversification project was approved to use. There is no alternative road which the existing fun farm business can access onto. Therefore the proposal is compliant with PPS 3 Policies AMP 2 and AMP 3.

#### Consideration

Therefore on balance it is my considered opinion that, the proposal is considered to be acceptable and the application should be approved subject to the conditions listed below:-

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

Approve is recommended

#### **Approval Conditions**

##### Condition 1

This approval is effective from the date of this decision notice and is issued under Article 55 of the Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

##### Condition 2

The use of the buildings hereby approved shall be used only for Use Class B1: Business, in connection with the applicant's farm diversification project and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order.

**Condition 3**

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02/1 bearing the date stamp 24th October 2022 within 3 months of the date of this decision. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Case Officer:** Malachy McCrystal

**Date:** 21 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	10 March 2022
<b>Date First Advertised</b>	22 March 2022
<b>Date Last Advertised</b>	22 March 2022
<b>Details of Neighbour Notification</b> (all addresses)	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Substantive: TBC Historic Environment Division (HED)-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Roads Consultation full approval.docx	
<b>Drawing Numbers and Title</b>	
Site Layout or Block Plan Plan Ref: 02 Site Layout or Block Plan Plan Ref: 02/1 Site Location Plan Plan Ref: 01 Proposed Plans Plan Ref: 03	
<b>Notification to Department (if relevant)</b>	
Not Applicable	

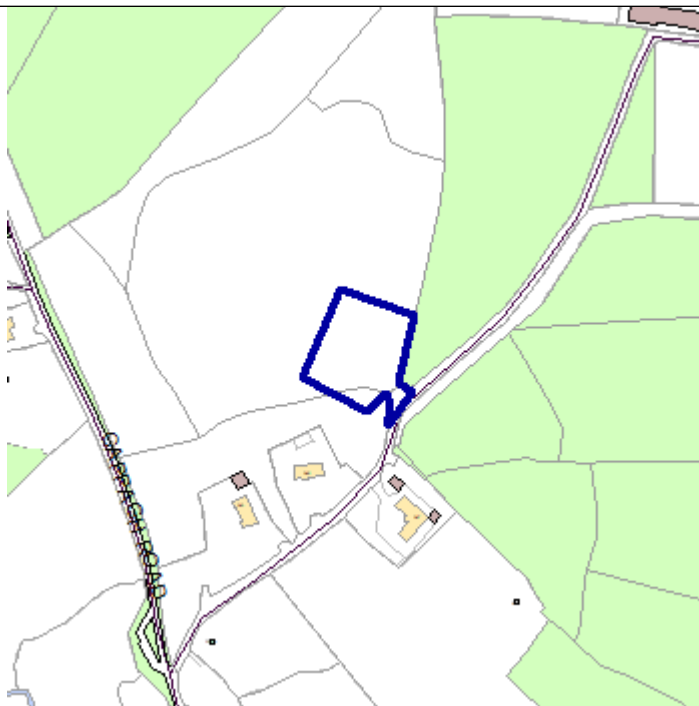


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.6
<b>Application ID:</b> LA09/2022/0385/F	<b>Target Date:</b> 18 May 2022
<b>Proposal:</b> Proposed retention of garage and container units for the safe storage of plant machinery	<b>Location:</b> Entrance To Quarry Site Located Off The Lurgylea Road (South West Of The Church Of The Immaculate Conception) 100M N.E. Of 141 Cappagh Road Galbally Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Terry Donnelly 66 Gortindarragh Road Dungannon	<b>Agent Name and Address:</b> MC Keown And Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
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### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside approx. 1.2km northwest of Cappagh settlement limits as defined within the Dungannon and South Tyrone Area Plan 2010.



Fig 1: Site outlined red



Fig 2: Site outlined red



Fig 3: Site outlined red

The site is a relatively small irregular shaped gravel plot cut from the frontage of a much larger unauthorised quarry covered in piles of stone and aggregate. The entrance to the site, and wider quarry that runs to its north and west, is via a gated access off the Lurgylea Road.

The site contains a large garage and container unit, both the subject of this application. The garage has a rectangular shaped floor plan and low-pitched roof construction. The container unit, which sits immediately adjacent the southwest gable of the garage, has a rectangular shaped floor plan and a flat roof construction. Both the garage and the container unit have a corrugated metal finish.

Whilst there is a short distant view into the site, and of the garage and container unit on it, when passing along its access off Lurgylea Road the wider host quarry is largely screened to views by mature corpuses of trees bounding it.

The wider area surrounding the site is rural in character comprising undulating agricultural lands interspersed with detached dwelling, ancillary buildings, and farm groups. In the immediate vicinity two detached roadside dwellings are located at the same side of the Lurgylea Road directly southwest of the site and one further detached roadside dwelling on the opposite side of the Lurgylea Road just south the site.

### **Description of Proposal**

This is a full planning application for the retention of a garage and container unit for the safe storage of plant machinery located at the entrance to a quarry site located off the Lurgylea Road (SW of The Church of the Immaculate Conception) 100m NE of 141 Cappagh Road Galbally Dungannon.





Fig 4: Site plan and site location plan of garage and container unit to be retained

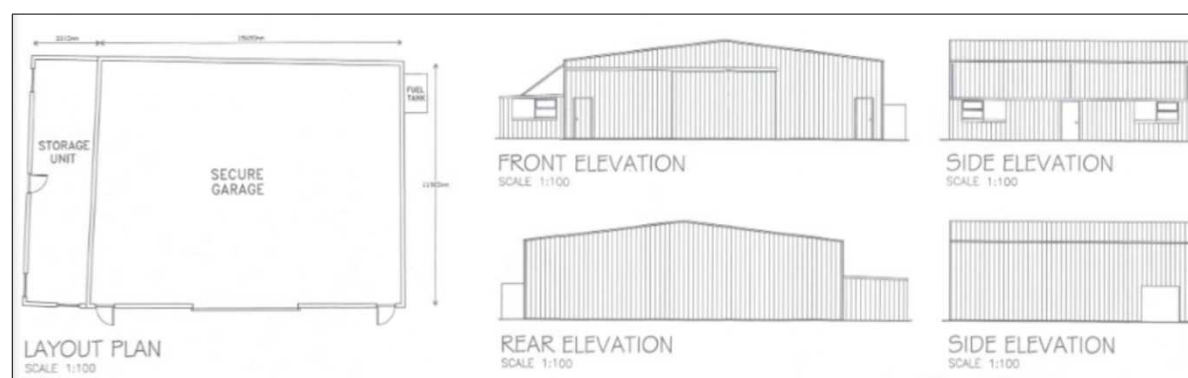


Fig 5: Floor plan and elevations of garage and container unit to be retained

The garage to be retained has a rectangular shaped floor plan and low-pitched roof construction. It measures approx. 16m (gable frontage length) x 12m (depth) x 4.9m (height above EGL).

The container unit to be retained sits immediately adjacent the southwest gable of the garage. It has a rectangular shaped floor plan and a flat roof construction. It measures approx. 3.3m (frontage length) x 12m (depth) x 2m (height above EGL).

Both the garage and the container unit have a corrugated metal finish.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

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 and guidance for the determination of this application:**

Regional Development Strategy 2030

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

Planning Policy Statement 15: (Revised) Planning and Flood Risk

Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside

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

**Planning History**

- M/1998/0149 - Excavation of rock and removal of chattel and surplus mineral material and the formation of 3 public road intervisible passing bays - Cappagh Road Altmore Dungannon - Granted 9<sup>th</sup> February 1998 subject to conditions.
- LA09/2016/1728/DETEI - Reinstatement of disturbed lands - north of Barracktown House Cappagh Road - Environmental Statement Not Required letter issued 22<sup>nd</sup> June 2017
- LA09/2016/0003/CA - Unauthorised working and winning of Minerals (quarrying operations) - Land North of Barracktown House Cappagh Road Cappagh Co Tyrone - Ongoing
- LA09/2020/0136/CA - Unauthorised Building - Off the Lurgylea Road Cappagh (South West Of The Church Of The Immaculate Conception) Tyrone - Ongoing

LA09/2016/0003/CA above relates to enforcement action on the

unauthorised quarry hosting the garage and container unit sought to be retained under the current application. LA09/2020/0136/CA above relates to enforcement action on the garage and container unit sought to be retained under the current application.

### **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.

**Dungannon and South Tyrone Area Plan 2010** – the Plan identifies the site as being located in the rural countryside approx. 1.2km northwest of Cappagh settlement limits.

**Strategic Planning Policy Statement (SPPS) for Northern Ireland** – the SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. That any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

The aim of the 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. 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. It outlines that alongside farm diversification and the re-use of rural buildings that redevelopment and expansion proposals for industrial and business purposes normally offer the greatest scope for sustainable economic development in the countryside. And that such proposals may occasionally involve the construction of new buildings, where they can be integrated in a satisfactory manner.

The SPPS retains the policy provisions of the following key Planning Policy Statements (PPS's) relevant to this proposal detailed below.

**Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside** – Policy CTY 1 of PPS 21 'Development in the Countryside',

outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.

One type of development outlined in PPS21 which in principle is considered acceptable in the countryside and that will contribute to the aims of sustainable development: is industry and business uses in accordance with Planning Policy Statement (PPS) 4: Planning and Economic Development.

#### **Planning Policy Statement (PPS) 4: Planning and Economic**

**Development** – Policy PED 2 of PPS 4 - Economic Development in the Countryside states proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:

- The Expansion of an Established Economic Development Use - Policy PED 3
- The Redevelopment of an Established Economic Development Use - Policy PED 4
- Major Industrial Development - Policy PED 5
- Small Rural Projects - Policy 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.

Having carried out a site visit and planning history check on site as detailed above (see 'Planning History') and based on the information submitted at the outset I did not regard this proposal as satisfying any of the types of development outlined in Policy PED 2 of PPS 4 - Economic Development in the Countryside as there was no established economic development use on site to expand or redevelop, this is not a major industrial development or a small rural project.

To fully assess this proposal against the provisions of PPS 4 as detailed above the agent was contacted via email on the 8<sup>th</sup> February 2023 and advised Planning requires the following additional information to be submitted on a without prejudice basis within 14 days from the date of the email.

- Is this development associated with an active and approved quarry? What policy context is it to be considered against?

The agent subsequently emailed on the 28<sup>th</sup> February 2023 to advise that the adjacent quarry is currently the subject of an Enforcement Notice which has resulted in the cessation of all activities on this site for the present time. It's the intention of the same applicant to lodge a new planning application to deal with all the issues associated with the quarrying operation in the very near future. However, "in the meantime," he is seeking permission for the retention of the garage and portable container unit for the safe storage of some of his plant, tools and equipment associated with his former quarry business. Given the recent upsurge in robberies from farmyards, building sites and quarries etc., he needs some secure building to safely store his valuable equipment in. The applicant doesn't own any other land or buildings anywhere that would be suitable for this particular purpose.

Whilst I have taken into consideration the additional information submitted by the agent in support of the retention of the garage and portable container on site, I still do not consider this proposal satisfies any of the types of development listed within PPS 4. The garage and portable container to be retained is to be used for storage in connection with an unauthorised quarry that is the subject of enforcement action. The garage and portable container to be retained is also the subject of enforcement action. Whilst the agent has advised it is the intention of the same applicant to lodge a new planning application to deal with all the issues associated with the quarrying operation in the very near future to date no application has been received.

### **Additional consideration**

No consultation was carried out with DfI Roads upon clarification of the uses of the garage and container unit as the principle of the development has not been accepted.

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

Flood Maps NI identified no flooding on site.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

Reason 1

This proposal is contrary to the Strategic Planning Policy Statement for NI, Planning Policy Statement 21 Sustainable Development in the Countryside and Planning Policy Statement 4 Planning and Economic Development in that the proposed development fails to accord with any of the exceptions to development in Planning Policy Statement 4 and promotes a standalone storage building in the countryside.

**Signature(s):** Emma Richardson

**Date:** 22 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	23 March 2022
<b>Date First Advertised</b>	5 April 2022
<b>Date Last Advertised</b>	5 April 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2022/0385/F Proposals: Proposed retention of garage and container units for the safe storage of plant machinery Decision: Decision Date: Ref: LA09/2016/1728/DETEI Proposals: Reinstatement of Disturbed Lands North of Barracktown House, Cappagh Road, Co Tyrone Decision: ESNR Decision Date: 22-JUN-17 Ref: M/1998/0149 Proposals: Excavation of Rock and Removal of Chattel and Surplus Mineral Material, and the formation of 3 public road intervisible passing bays Decision: PG Decision Date:	
<b>Summary of Consultee Responses</b>  -	

**Drawing Numbers and Title**

Proposed Plans      Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2022/1145/F	<b>Target Date:</b> 2 November 2022
<b>Proposal:</b> Erection of an office building with associated access, vehicle and cycle parking, drainage infrastructure, hard & soft landscaping and bin storage & external plant within fenced enclosure.	<b>Location:</b> Lands At Tobermore Road, Opposite 15-17 Cherry Hill And Approximately 50M South Of 58 Largantogher Park, Largantogher, Maghera
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> BSG Civil Engineering Ltd 6 Bank Square Maghera BT46 5AZ	<b>Agent Name and Address:</b> Mr KIERAN CARLIN The Courtyard 380C Belmont Road Belfast BT4 2NF
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NI Water - Strategic Applications	Consulted in Error. Resend to NI Water - Strategic Applications.
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval 2.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2022 1145 F Office Tobermore Road Maghera.doc
Non Statutory Consultee	Shared Environmental Services	
Non Statutory Consultee	NI Water - Strategic Applications	
Statutory Consultee	NI Water - Strategic Applications	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx Roads Consultation full approval.docx DC Checklist.doc

Non Statutory Consultee	Environmental Health Mid Ulster Council	response attached
Statutory Consultee	Rivers Agency	686797- Final Response.pdf
Statutory Consultee	NIEA	PRT LA09-2022-1145- F.PDFPRT LA09.pdf
Non Statutory Consultee	Shared Environmental Services	Holding Response.pdf
Non Statutory Consultee	NI Water - Strategic Applications	Holding response - An assessment of the sewerage network is currently being conducted by NI Water to determine whether the site can be served.
	NI Water - Strategic Applications	
Statutory Consultee	NI Water - Strategic Applications	
Statutory Consultee	NI Water - Strategic Applications	
Statutory Consultee	NI Water - Multiple Units West	Not Multi Units West. Resend to Strategic Applications.
Statutory Consultee	NI Water - Strategic Applications	

#### **Representations:**

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

#### **Summary of Issues**

No representations have been received in respect of the proposed development.

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

The site comprises a large rough field of approximately 0.9ha and sited adjacent to the former High School site which is now a brownfield site since the former school buildings have been demolished. The site sits below the level of the Tobermore Road with a steep embankment along the rear of the public footpath and access via a farm lane leading

along the south western boundary to additional farm lands. The site slopes gradually from the West towards the East.

The site is bounded by the Tobermore Road to the West, Largentogher Park housing estate to the North, the former High School site and an industrial facility to the South, with agricultural lands to the East.

The north western portion of the site is covered by overgrown shrubbery, while the central portion of the site is very wet underfoot and previously contained more shrubbery which has been cleared. There is a paved pathway extending through the site, from the adjacent Largentogher Wood and joining onto the farm lane at the south west. This path would have extended through the former school site but for the existence of a security fence. There are a number of mature beech trees and a low stone wall along this path, however a number of these trees have sustained fire damage and are in a poor state. There is a band of mature trees along the western/south western boundary, while the south eastern boundary is undefined as it extends through the area of cleared ground. There is a copse of mature trees close to the south eastern corner. A small stream/water course runs along the north eastern boundary before turning southwards just beyond the sites southern boundary.

The site is designated as a committed housing site MA 03/05 in the Magherafelt Area Plan 2015 which in turn is set within the much larger LLPA South of Maghera. The site is located around 300m from Maghera Town Centre as defined within the Magherafelt Area Plan 2015.

### **Description of Proposal**

Erection of an office building with associated access, vehicle and cycle parking, drainage infrastructure, hard & soft landscaping and bin storage & external plant within fenced enclosure.

The proposed building is a two storey building with a double pitched roof with an eaves height of 7.9m and a ridge height 11.51m of above ground level. The footprint of the building measures approximately 44.3m x 17.8m, providing in excess of 1500 sqm of floorspace over the two floors and has the following external finishes:-

Walls – Ground floor – facing brick

First floor – render finish

Roof – Roofing tiles with PV panels

Windows – PPC aluminium window system

Doors – PPC aluminium sliding door entrance door system with metal cladding

PPC aluminium door system

PPC louvre panel over to secondary doors and selected windows

PPC louvre cladding to bin and external plant store

PPC aluminium rainwater downpipes

The proposed building is sited closer to the southern end of the north-eastern boundary and backs onto an area of mature trees along the north eastern boundary located between the site and Largantogher Park. A large car park is positioned to the front of the building with accommodation for 48 vehicles and served by a loop road. The site is to be secured by a paladin fence along the north east, north west and south east, with the south western boundary already secured by a similar fence along the boundary with the former High School site.

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

### **Policy Consideration**

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

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

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

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS. The SPPS gives provision for Economic Development, Industry and Commerce subject to a number policy provisions. It does not present any change in policy direction with regards to industrial development in settlements. As such, existing policy will be applied (ie) Policies PED 1 and PED 9 of PPS 4.

Magherafelt Area Plan 2015

PPS 3 - Access, Movement and Parking

PPS 4 - Planning and Economic Development

Magherafelt Area Plan 2015

The site is within the urban area and is located within the settlement development limits of Maghera. The site is part of a larger designated housing zoning MA 03/05 known as Lands south of Largantogher Park, which extends further south-east than the site boundary and covers 1.85ha. The Area Plan recognises that the site is a committed site

with approval or potential for over 10 dwellings. The plan does not however stipulate key site requirements for this site.

The site has an extant outline planning approval for 33 dwellings granted under LA09/2017/1303/O and renewed under LA09/2022/0377/O. However, the site remains undeveloped at present.

Policy SETT 2 states that ‘planning permission will only be granted on zoned sites for development proposals that comply with the specified use’.

Favourable consideration will only be given to development proposals within settlement development limits, including zoned sites within towns provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials.

The Plan does not set out specific policies for employment uses proposed to be located outside of town centres.

Given the above policy tests, the proposal would appear to be contrary to policy. However, the applicant has stated that although they acknowledge that the proposed development is not in accordance with the Magherafelt Area Plan, there are important material considerations which need to be taken into account. Consequently they have presented the following which they feel justify the alternative use on this site;

1. Over supply of land zoned for housing in Maghera; and
2. Physical constraints that do not lend this site to housing development – illustrated by the lack of development over the last 10 years.

There is a significant quantum of land zoned for housing within the Magherafelt Area Plan

2015. A review of the zoned sites shows that approximately 70% of the sites zoned for housing within Maghera remain undeveloped, this is supported by the figures contained within the Housing Allocation Position Paper, which is considered in further detail below.

The Draft Plan Strategy advises that the major focus of housing development will be located in Cookstown, Dungannon and Magherafelt, supported by Maghera and Coalisland. The Regional Development Strategy set a target that 60% of all housing should be within urban centres of 5,000 or more. The housing growth indicators show that Mid-Ulster require 10,300 new homes over the plan period. The existing housing commitments and zonings within the District accounts for 57% of the required homes. The Housing Allocations Paper (July 2015) that accompanies the draft Plan Strategy advises that Maghera will be allocated a 3.15% share which equates to 325 dwellings.

The applicant also suggested that there are 555 committed units which are still to be developed and therefore there is no need for additional housing land. However, the most recent Housing Monitor Report 2019-2020 indicates that as of 1<sup>st</sup> April 2020 there is the remaining potential of 425 units on monitorable sites. Therefore whilst these figures may differ from those presented by the applicant, they still indicate that there is more land available within the settlement of Maghera that what is required to accommodate the need over the plan period. In my opinion there is a justifiable reason for allowing the

release of the subject lands from the housing zoning and to allow it to be developed for the proposed use.

#### **PPS 4 – Planning and Economic Development.**

Policy PED 1 deals with Economic Development in Settlements. This is the relevant policy as the site is located within the settlement of Maghera. PED 1 states that; A development proposal for a Class B1 business use will be permitted in a city or town centre (having regard to any specified provisions of a development plan) and in other locations that may be specified for such use in a development plan, such as a district or local centre.

The policy goes on to state that Class B1(a) office use will only be permitted in an industrial/ employment area when specified in a development plan. Elsewhere in cities and towns a development proposal for a Class B1 business use will only be permitted where all the following criteria are met:

1. there is no suitable site within the city or town centre or other location specified for such use in the development plan;

The applicant has undertaken a review of available sites/buildings within Maghera, as required by planning policy. The result of the review is that there are no sites or buildings which could accommodate or provide the required floorspace of 1500m<sup>2</sup> and the review states that this has been the position for the past 4-5 years. All the premises considered have been ruled out as being unsuitable as they are either too small, have no car parking or the existing use enhances the vitality of the town centre.

The applicant considers that there are no suitable commercial properties to purchase or to let within the town centre or on the periphery. Two additional sites, both of which are within the wider settlement of Maghera, were considered. Both sites lie between 150m and 275m from the town centre boundary, are significantly smaller in area than the proposed site and do not offer direct access onto an A Class Road (within the settlement development limits). Both of those sites are predominantly surrounded by residential dwellings, which has the potential to result in amenity issues.

The Magherafelt Area Plan also identifies three opportunity sites within Maghera Town Centre. All three have been discounted as a review of the sites indicate that MA17 (0.18ha) and MA19 (0.04ha) were too small and MA18 is not available. MA18 (0.31ha) was also discounted as the proposed building/access/parking/bin storage/cycle storage and circulation space will require a minimum area of 0.35ha. The suitability of a site is also dependent on its shape, orientation and ability to provide a suitable vehicular access in accordance with DCAN 15. MA18 accesses directly onto St Lurach's Road which is heavily congested and does not benefit from direct access onto an A Class Road. It is located in close proximity to residential dwellings which could result in amenity issues. The adjacent Council owned public

car park is the only public car park in Maghera, therefore it would be detrimental to the retailers in the Town Centre to have office workers parking there all day. The car park is very much needed for shoppers and visitors to the town. Searches and enquiries have confirmed that the site is not available.

2. it is a firm rather than a speculative development proposal for business use;

This is a firm proposal for a local business which has been located in Maghera for over 30 years, is presently located within the town centre of Maghera and employs over 70 staff. The applicant's current office arrangement is fragmented and is no longer fit for purpose which has the knock on effect of hindering the current operations and the further growth of the company.

The company is seeking to develop new office accommodation (inc. storage and ancillary space) within its home town of Maghera as the only alternative would be to relocate to another settlement outside of Maghera or possibly outside Mid-Ulster District.

3. the proposal would make a substantial contribution to the economy of the urban area.

As discussed above, the applicants business is committed to its home town of Maghera where it has been based for in excess of 30 years. During the past three years, staffing levels have increased by 40% and it is envisaged that over the next five years that the workforce will continue to grow by around 10% per year. The current levels of employment have undoubtedly been a benefit to the local area and will continue to be so with the knock-on effects of increased spending in the local economy and improving the vitality of Maghera Town centre. The company has a turnover in excess of £30m which is significant in the context of the local economy.

Where a development proposal for Class B1 business use satisfies the above criteria, applicants will be expected to demonstrate that an edge of town centre location is not available before a location elsewhere in the urban area is considered.

The proposed site has had planning approval since planning application H/2004/1134/O was approved for a site for 25 dwellings in 2006 and still has extant planning approval under LA09/2022/0377/O for 33 dwellings as this was a renewal of LA09/2017/1303/O. The site was zoned for housing development as a result of the extant planning approval at the time of the Magherafelt Area Plans adoption. The site was on the market in 2012 but failed to sell. The applicant is of the opinion that as the site has remained undeveloped and the limited demand for housing within the Maghera area, supports the development for an alternative use with more suitable sites being zoned for housing in the future.

PED 9 of PPS 4 sets out general criteria for Economic Development and states that a proposal, in addition to other policy provisions of this PPS, will be required to meet a range of criteria which are addressed below.



(a) it is compatible with surrounding land uses;

This proposal is compatible with surrounding land uses, namely;

1. to the south - the vacant site of the former High School which is currently the subject of a planning application LA09/2017/0024/O for 'Outline planning application to support future mixed use and enterprise centre/ business units which will be subject to Reserved Matters Planning Applications submitted by purchasers of plots from Mid Ulster District Council';
2. woodland with pedestrian pathway to the north;
3. residential dwellings to the north west, on the opposite side of the Tobermore Road; and
4. the remainder of the zoned lands to the south east and extending to the settlement development limits with agricultural lands beyond.

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

The proposed building will be in excess of 50m from the existing dwellings in Largantogher Park and over 100m from the proposed dwellings fronting onto Tobermore Road or the existing dwellings within Cherry Hill. It is my view that the separation distance is adequate to ensure that the proposal does not impact on neighbouring amenity by reason of loss of light, overshadowing or visual intrusion.

(c) it does not adversely affect features of the natural or built heritage

The site abuts designation MA13, a Local Landscape Policy Area South of Maghera which extends along much of the southern boundary of the settlement limit.

Development within a Local Landscape Policy area is assessed under Policy CON 2 of the Magherafelt Area Plan below.

NIEA, Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommended conditions. There are no built heritage features in the immediate vicinity.

(d) it is not located in an area at flood risk and will not cause or exacerbate flooding;

The proposal is not located in an area at flood risk nor will it cause or exacerbate flooding elsewhere.

(e) it does not create a noise nuisance;

Environmental Health did not raise any issues of concern relating to noise nuisance.

Therefore noise emanating from the proposed development is not deemed to be an issue.

(f) it is capable of dealing satisfactorily with any emission or effluent

The proposal is for a new office block which will not produce emissions or effluent. No concerns regarding emissions or effluent have been raised by Environmental Health. Therefore the proposed development is acceptable in this regard.

(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 advised that they have no objection to the proposal;

(h) adequate access arrangements, parking and manoeuvring areas are provided  
DfI Roads suggested that the applicant may wish to consider/relocating the access further north to maximise stagger distance with any future pedestrian island crossing as proposed and indicated under the live applications for the Maghera High School site to facilitate easier right turn movements into the site. A relocation slightly northwards would be more consistent with the proposed access location for the housing application on the same site.

The applicant considered DfI Roads suggestion to move the access further north, however, considers that this is not ideal due to the site levels. The proposed site access utilises the levels at the southern end of the site and moving the access further north will require a substantial earth embankment given site levels. It is also considered that the pedestrian island (as indicated under the former Maghera High School application) is not serving any pedestrian desire line and that the island would be better relocated closer to and slightly north of the new Largantogher Walkway. This will make safer provision for any pedestrians coming from Craigadick Road or the Fairhill wishing to cross the A29 to access the Largantogher Walkway or the High School Site. Overall, the applicant feels that the proposed access is in the most appropriate location.

I would concur with this assessment of the access issue as the differing levels would require not only substantial infilling at the access point but would also require the removal of a large section of the mature tree lined boundary along the site frontage.

The proposed layout also provides for adequate car parking with 48 spaces being provided to the front of the building. An access loop road is proposed which will provide acceptable access and exit from the site.

Consequently, DfI Roads recommended that the applicant should be content that right turning movements into the site and left turning movements out of the site can be facilitated by the largest vehicles expected to the site with the presence of the crossing island as proposed under LA09/19/0025. Suggested approval conditions were provided without any further objections.

(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  
As the site is located within the existing settlement, provisions are already in place to enable walking and cycling to the site along the public road/footpath.

(j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;

The site layout and building design are appropriate for the proposed use and are considered acceptable. Landscaping in the form of planting native species tree is proposed and will help to soften the impact of the proposed building, and assist in the promotion of sustainability and biodiversity.

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

The site already benefits from mature tree planting and screening along both the northern and southern boundaries in addition to a mature tree lined hedge along the rear of the public footpath at the site frontage. The existing trees/hedgerows along the northern and southern boundaries should be conditioned to be retained as should the hedgerow along the site frontage unless it is required to be removed for access purposes. The only outside storage proposed is the bin and plant enclosure which is positioned to the eastern side of the building and will not be visible to the public.

(l) is designed to deter crime and promote personal safety;

It is in the applicant's interest to guard against crime and with the provision of the proposed paladin security fence in addition to the existing palisade fence along the southern boundary, the site should be secure.

(m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.

The site is located within an urban area and therefore the issue of integration is not a consideration.

### PPS 3 - Access, Movement and Parking

DFI Roads were consulted and their advice is discussed at bullet point (h) above.

In light of the above, it is my considered opinion, that whilst DfI Roads have suggested a preferred location for the access, they did not suggest that the position of the proposed access is unacceptable and have provided suggested conditions should MUDC recommend approval of the proposed development. Therefore the location of the proposed access is acceptable.

### Consultees

DFI Roads – although an alternative access point was suggested, the proposed access location was not considered unacceptable and appropriate conditions were suggested.

Environmental Health – Concerns were initially raised by EHD with regard to potential odour impact from the nearby WWTW on the earlier housing application on the subject site (LA09/2017/1303/O). EHD recommended that Planning Department obtain the view of Northern Ireland Water (NIW) regarding the cordon sanitaire around the works and the necessity of any odour impact assessment. Planning permission was granted further to consultation with NIW. Given that odour has been previously considered and deemed acceptable for the subject site, EHD have no objections to the proposed development.

DfI Rivers requested that the working strip is protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or any future development by way of a planning condition. Access to and from the maintenance strip should be available at all times. The requested maintenance strip has been shown on the site plan and is clear of all impediments. Rivers also advised that as the drainage assessment

states that this is a preliminary drainage design, therefore Rivers requests that the planning authority conditions the submission of a final drainage assessment be submitted prior to the construction of the drainage network.

NIEA's Water Management Unit is concerned that the sewage loading associated with the proposal has the potential to cause an environmental impact if transferred to Maghera Waste Water Treatment Works (WWTW). Water Management Unit would therefore recommend that the Case Officer consult with Northern Ireland Water Limited (NIW) to determine if both the WWTW and associated sewer network will be able to cope with the additional load or whether they would need to be upgraded. If NIW indicate that the WWTW and associated sewer network is able to accept the additional load, with no adverse effect on the WWTW or sewer network's ability to comply with their Water Order Consents, then Water Management Unit would have no objection to this aspect of the proposal. If NIW advise it is not possible to connect the proposed development to mains sewer then alternative arrangements will be required and a Discharge Consent issued under the terms of the Water (NI) Order 1999 will be required for the discharge of sewage effluent from the proposed development.

NIW were consulted on 23<sup>rd</sup> September 2022 regarding the proposed development and on 7<sup>th</sup> November 2022 provided a holding response advising that an assessment of the sewerage network is currently being conducted by NI Water to determine whether the site can be served. NIW were reconsulted and asked if they have considered the fact that the proposed site has extant planning approval (LA09/2017/1303/O) for 33 dwellings. NIW's consultation response on LA09/2017/1303/O advised that there is a 150mm diameter public foul sewer within Tobermore Road which can serve this proposal. NIW have yet to advise on this fact.

As the proposed site has extant approval for 33 dwellings which if occupied by the Mid-Ulster average family of 2.6 persons would have a capacity of 86 persons as opposed to the proposed building which is designed for 35 employees and 5 visitors daily. Therefore the proposed building would have a lesser loading on the public foul sewerage network than the 33 dwellings approved.

Therefore, given the above scenario, it is my opinion that the proposed development could be approved with the condition requiring the submission of a satisfactory method for sewage disposal to be submitted to and agreed with Mid Ulster District Council in consultation with NI Water, prior to the building hereby approved becoming operational.

Recommendation – Approve subject to the conditions listed below:-

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

Approve is recommended

## **Approval Conditions**

### **Condition 1**

As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

### **Condition 2**

The finished floor levels of the building hereby approved shall be as indicated on drawing no.BSG-TOD-ZZ-ZZ-DR-A-4002 Revision P01.

Reason: In the interest of residential amenity, to prevent over-looking and to ensure a satisfactory form of development.

### **Condition 3**

The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

Reason: In the interest of visual amenity and to ensure the proposed building does not detract from the setting of the Local Landscape Policy Area.

### **Condition 4**

All proposed planting as indicated on the stamped approved drawing no. BSG-TOD-ZZ-ZZ-DR-A-1003 Revision P03 shall be undertaken during the first available planting season following occupation of the building hereby approved.

Reason: To ensure a high standard of landscaping and in the interests of visual amenity.

### **Condition 5**

The existing natural screenings along the north eastern, north western and south western boundaries of this site, shall be permanently retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

Reason: To ensure a high standard of landscaping and in the interests of visual amenity.

### **Condition 6**

If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

Condition 7

The vehicular access including 4.5 x 90 metre visibility splays shall be provided in accordance with the approved drawing (C106-BSG-ZZ-XX-DR-Z-0500 Dated 18/11/2022) prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 8

The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

Condition 9

No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved Site Plan BSG-TOD-ZZ-ZZ-DR-A-1003 P03 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

Condition10

A 5m wide maintenance strip shall be provided along the watercourse on the north eastern boundary and shall be protected from impediments (including new tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development and access to and from the maintenance strip should be available at all times.

Reason: To ensure that access is available to the watercourse for maintenance purposes.

Condition11

Prior to the construction of the drainage network, the applicant shall submit a Final

Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, in a 1 in 100 year event.

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

**Condition12**

The building hereby approved shall be occupied until a satisfactory method for sewage disposal has been submitted to and agreed with Mid Ulster District Council in consultation with NI Water.

Reason: In the interests of residential amenity and to ensure there is a satisfactory means of sewage disposal.

**Condition13**

Prior to works commencing on site, all existing trees as mentioned in the PEA as being retained shall be protected by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority.

Reason: To protect the biodiversity value of the site, including protected species.

**Condition14**

During construction, a buffer of at least 10m must be established and maintained between any drainage ditches and the location of all refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. Storage must be on an impermeable surface to catch spills. Any construction work carried out at the site must demonstrate adherence to the precepts contained in the relevant Pollution Prevention Guidelines (PPGs) and Guidance for Pollution Prevention (GPPs).

Reason: To protect the aquatic environment of Lough Neagh & Lough Beg designated sites.

**Signature(s):** Malachy McCrystal

**Date:** 22 March 2023

ANNEX	
Date Valid	20 July 2022
Date First Advertised	2 August 2022
Date Last Advertised	2 August 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 4 Cherry Hill Maghera Londonderry BT46 5LS The Owner / Occupier 28 Tobermore Road Maghera Londonderry BT46 5DR The Owner / Occupier 15 Cherry Hill Maghera Londonderry BT46 5LS The Owner / Occupier 17 Cherry Hill Maghera Londonderry BT46 5LS	
Date of Last Neighbour Notification	23 September 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2021/0957/F Proposals: Proposed development of existing brown field site for development of new internal access road/footpaths, improved access include right hand turning lane, alteration of existing levels to provide platforms for future development, installation of utilities, installation of site fencing, clearance of undergrowth vegetation and associated site works to support future mixed use and enterprise centre/business units Decision: Decision Date: Ref: LA09/2022/1145/F Proposals: Erection of an office building with associated access, vehicle and cycle parking, drainage infrastructure, hard & soft landscaping and bin storage & external plant within fenced enclosure. Decision: Decision Date: Ref: LA09/2018/0796/PAN Proposals: Proposed development of existing brown field site for development of new access road and associated site works, to support future mixed - use and enterprise - centre units. Decision: PANACC Decision Date: 15-DEC-20	



Ref: LA09/2017/1783/PAD

Proposals: Proposed development of existing brown field site to industrial units with development of access road and associated works

Decision: PAD

Decision Date: 01-JAN-18

Ref: H/2006/0630/F

Proposals: Provision of Hypochlorite Storage Area (detached, flat roofed store with roller shutter door)

Decision: PG

Decision Date: 27-NOV-06

Ref: LA09/2018/0795/PAD

Proposals: Proposed development of existing brown field site for development of new road access and associated site works, to support future mixed-use and enterprise-centre units.

Decision:

Decision Date:

Ref: H/2006/0206/F

Proposals: Proposed Installation of 3no.Solar Panels.

Decision: PG

Decision Date: 26-JUN-06

Ref: LA09/2021/1753/PAD

Proposals: Development plans for lands at Tobermore Road, Maghera.

Decision:

Decision Date:

Ref: LA09/2022/0377/O

Proposals: Housing development- the erection of 33 units- Renewal of planning permission LA09/2017/1303/O

Decision: PG

Decision Date: 24-AUG-22

Ref: LA09/2017/1303/O

Proposals: Housing Development (33 units)

Decision: PG

Decision Date: 17-APR-19

Ref: H/2009/0513/O

Proposals: Site of new housing development with alteration of existing entrance onto Tobermore Road (previously approved under H/2004/1134/O)

Decision: PG

Decision Date: 15-DEC-09

Ref: H/2004/1134/O

Proposals: 25 units with mix of detached, semi-detached and townhouse

Proposed mixed private housing development with alteration of existing entrance onto Tobermore Road.

Decision: PG

Decision Date: 27-SEP-06

## Summary of Consultee Responses

NI Water - Strategic Applications-Consulted in Error. Resend to NI Water - Strategic Applications.

DFI Roads - Enniskillen Office-Roads Consultation full approval 2.docx

Environmental Health Mid Ulster Council-LA09 2022 1145 F Office Tobermore Road Maghera.doc

Shared Environmental Services-

NI Water - Strategic Applications-

NI Water - Strategic Applications-

DFI Roads - Enniskillen Office-Roads Consultation full approval.docxRoads Consultation full approval.docxDC Checklist.doc

Environmental Health Mid Ulster Council-response attached

Rivers Agency-686797- Final Response.pdf

NIEA-PRT LA09-2022-1145-F.PDFPRT LA09.pdf

Shared Environmental Services-Holding Response.pdf

NI Water - Strategic Applications-Holding response - An assessment of the sewerage network is currently being conducted by NI Water to determine whether the site can be served.

NI Water - Strategic Applications-

NI Water - Strategic Applications-

NI Water - Strategic Applications-

NI Water - Multiple Units West-Not Multi Units West. Resend to Strategic Applications.

NI Water - Strategic Applications-

## Drawing Numbers and Title

## Notification to Department (if relevant)

Not Applicable

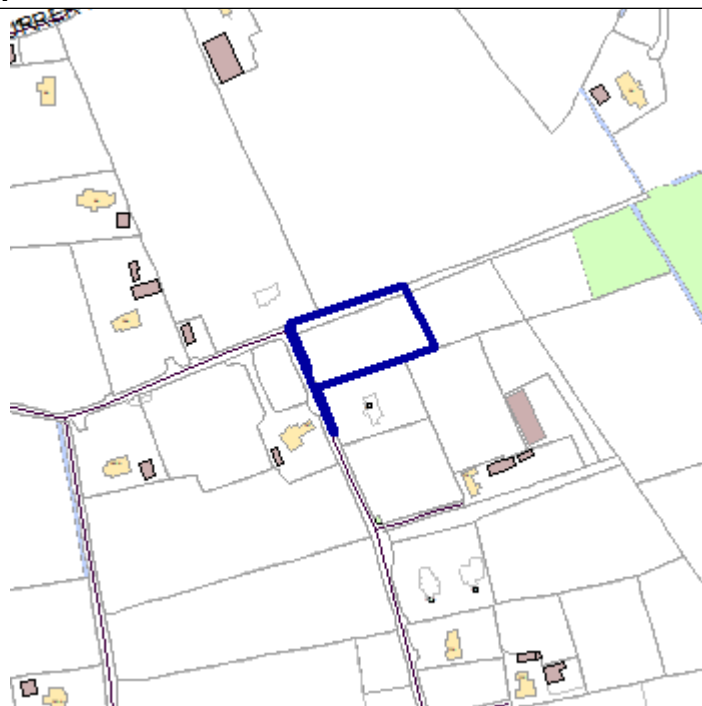


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2022/1408/O	<b>Target Date:</b> 4 January 2023
<b>Proposal:</b> Proposed infill dwelling and domestic garage as policy cty8	<b>Location:</b> 70M NE of 107 Drummerrer Lane Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr JOHN MC CABE 97 DRUMMERRER LANE COALISLAND BT71 4QJ	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docRoads outline.docx
Non Statutory Consultee	Geological Survey NI (DfE)	3248 MUDC Planning. 70m West Of 107 Drummerr Lane Coalisland.doc

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as defined by the Dungannon and South Tyrone Area Plan 2010, approx. 1.2 mile west of Lough Neagh and 1.3 miles east of Annaghmore village.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a relatively flat rectangular shaped plot comprising the eastern half and roadside frontage of a large agricultural field situated adjacent a right-angled bend in, and accessed off, a minor road known as Drummurre Lane. The site is bound to the north by a mix of mature hedgerow and trees. The roadside boundary is defined by some light vegetation but largely open onto Drummurer Lane. The southern boundary is defined by post and wire fencing and low hedging enclosing the curtilage of a neighbouring 1 ½ storey dwelling of bungalow appearance. The eastern boundary is open onto the host field. An agricultural access and lane run along the inside of the northern boundary of the site.

The site is located just outside of a right-angled bend in Drummurrer Lane. It is bound by a large, detached garage to the northwest and the detached 1 ½ storey dwelling with ancillary double detached garage, no. 108 Drummurrer Lane to the south.

Views of a dwelling on this site would be on the western and southern approach along Drummurrer Lane and passing along its roadside frontage. From these views the mature vegetation bounding the site alongside topography, vegetation and development in the wider vicinity would help to enclose and provide a dwelling on it with a backdrop.

Whilst the surrounding area is rural in character with the site's host field backing onto a small copse of trees it has come under some development pressure in recent years with a number of dwellings with ancillary buildings located adjacent and set back from the Drummurrer Lane in the immediate vicinity.

### **Description of Proposal**

This is an outline planning application for a dwelling and domestic garage to be located on lands 70m northeast of 107 Drummurrer Lane Coalisland. The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

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

#### **Policy Consideration**

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 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Representations**

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

### **Planning History**

- M/2003/0634/O - Proposed dwelling - 146m South West of 86 Drummurrer Lane Coalisland - Granted June 2003
- M/2006/1433/RM- Proposed dwelling and garage - 146m South West of 86 Drummurrer Lane Coalisland - Granted 14<sup>th</sup> August 2007

The above applications relate to lands immediately northwest of the current site. These lands contain a large, detached garage and the foundations of a dwelling (see Fig 3, below). Whilst the foundations of the dwelling appear generally in the location approved under M/2003/0634/O and M/2006/1433/RM the pre-commencement access arrangements do not appear to have been carried out and the garage on site is not the garage approved, nor is it in the location approved nor can my own checks of historical orthophotography confirm it has been in place for 5 years and therefore immune to enforcement. See drawings approved under M/2006/1433/RM further below (Figs 4, 5 & 6)



Fig 3: Lands immediately northwest of the current site circled yellow containing a large, detached garage and the foundations of a dwelling.



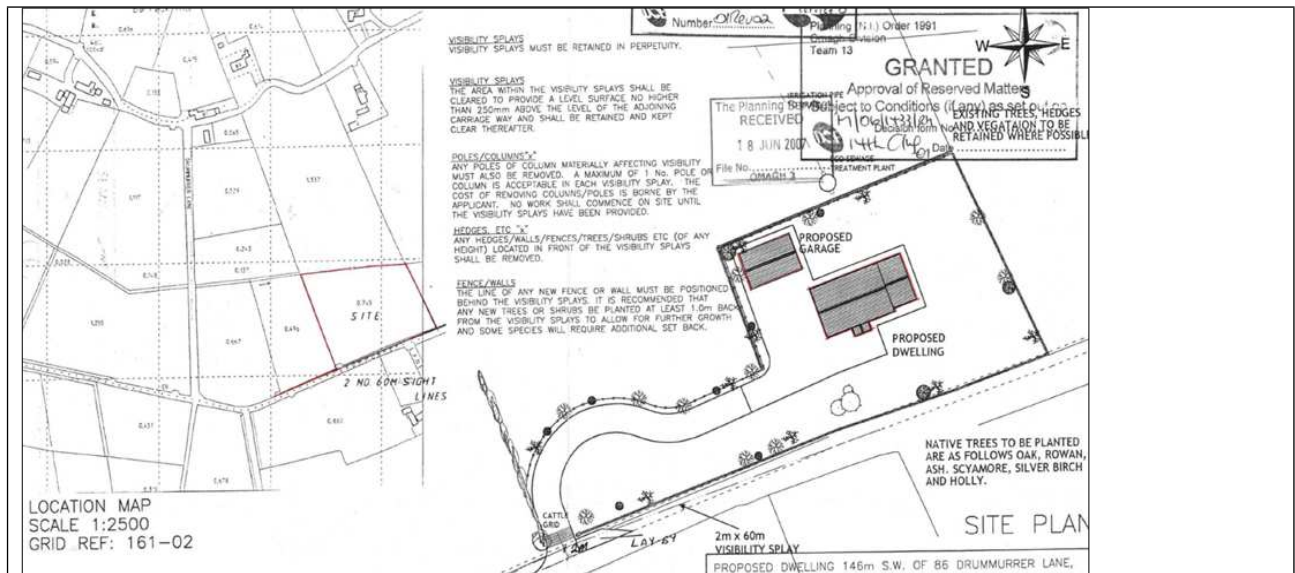


Fig 4: Site location and block plan approved under M/2006/1433/RM



Fig 4: Floor plan and elevations of dwelling approved under M/2006/1433/RM



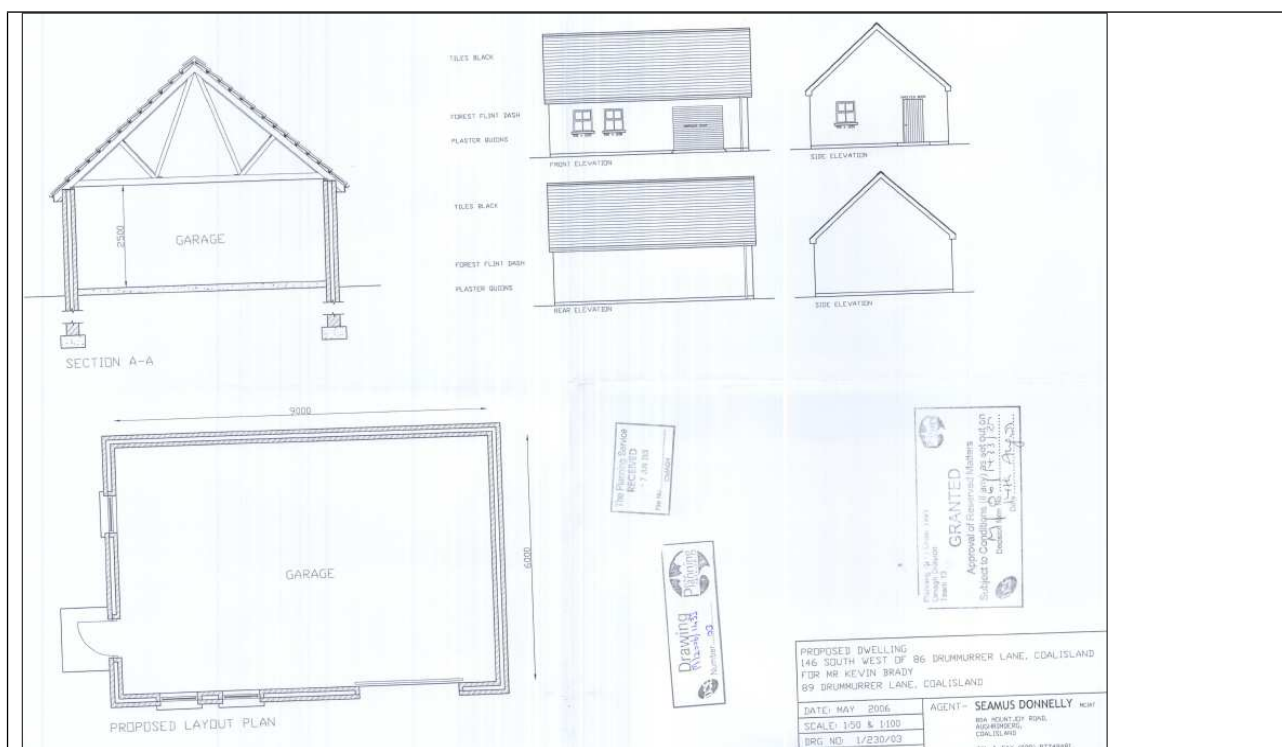


Fig 5: Floor plan and elevations of garage approved under M/2006/1433/RM

LA09/2023/0032/CA - Unauthorised garage / possibly a small dwelling - Adjacent and East of the foundations of 106 Drummurrer Lane Coalisland Tyrone - Under investigation

### Consultees

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject to standard conditions and informatives, which could be applied to any subsequent decision notice to comply with the requirements of Planning Policy Statement 3: Access, Movement and Parking.
2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines. GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI's "Shafts and Adits Database" indicates that the proposed site is not in an area of known abandoned mine working.

### Consideration

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 outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21. It has been submitted the current proposal falls under one of these instances, the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

I do not consider this application in principle acceptable under CTY8. It is my opinion that the current site does constitute a small gap site suitable to accommodate a dwelling within an otherwise substantial and continuously built-up frontage. Whilst at face value it could be considered on balance that it is located within a line of 3 buildings with a common frontage and similar plot size onto Drummurrer Lane given the dwelling and double detached garage located on lands to the south and the large garage (and foundations of a dwelling) on lands to the northwest I am not content the garage (and foundations of a dwelling) to the northwest are lawful and can be considered for the purposes of Policy CTY 8. The garage (and foundations of a dwelling) is currently the subject of investigation by Planning's Enforcement Team. See 'Planning History further above.'

This proposal is contrary to Policy CTY 8 of PPS 21 in that when read in conjunction with the dwelling and double detached garage located on lands to the south it will result in the extension of ribbon development north along Drummurrer Lane leading to a further erosion of the areas rural character.

#### **Additional considerations**

I consider that had the garage to the northwest of the site benefitted from planning permission or being immune to enforcement action the site would have on balance been acceptable under policy CTY8 of PPS21 and a suitably designed scheme would not have had any unreasonable impact on the neighbouring properties amenities in terms of overlooking or overshadowing given the existing vegetation bounding the site and substantial separations distances that can be retained.

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

Flood Maps NI identified no flooding on site.

**Recommendation:** Refuse

<b>Summary of Recommendation:</b>
Refuse is recommended
<b>Refusal Reasons</b>
Reason 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
Reason 2 The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along Drummurrer Lane leading to a further erosion of the areas rural character.
<b>Signature(s):</b> Emma Richardson
<b>Date:</b> 22 March 2023

Refuse is recommended

**Refusal Reasons**

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along Drummurrer Lane leading to a further erosion of the areas rural character.

**Signature(s):** Emma Richardson

**Date:** 22 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	21 September 2022
<b>Date First Advertised</b>	28 February 2023
<b>Date Last Advertised</b>	4 October 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 108 Drummurrer Lane Coalisland Tyrone BT71 4QJ The Owner / Occupier 107 Drummurrer Lane Coalisland Tyrone BT71 4QJ The Owner / Occupier 106 Drummurrer Lane Coalisland Tyrone BT71 4QJ	
<b>Date of Last Neighbour Notification</b>	20 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/2003/1623/O Proposals: Proposed Dwelling - Renewal of Outline Permission M/2000/0758/O Decision: PG Decision Date: 02-MAR-04 Ref: M/2006/1433/RM Proposals: Proposed dwelling and garage Decision: PG Decision Date: 17-AUG-07 Ref: M/1994/4050 Proposals: Extension to Dwelling Decision: PDNOAP Decision Date: Ref: M/2009/1043/F Proposals: Proposed two storey extension to side of dwelling including new entrance to public road Decision: PG Decision Date: 07-JUL-10 Ref: M/2003/0634/O Proposals: Proposed dwelling Decision: PG Decision Date: 10-JUN-03	

Ref: LA09/2022/1408/O  
 Proposals: Proposed infill dwelling and domestic garage as policy cty8  
 Decision:  
 Decision Date:  
 Ref: M/1975/0110  
 Proposals: IMPROVEMENTS TO DWELLING HOUSE  
 Decision: PG  
 Decision Date:  
 Ref: M/1975/0069  
 Proposals: 11 KV O/H LINE  
 Decision: PG  
 Decision Date:  
 Ref: M/2001/1054/O  
 Proposals: Site for dwelling.  
 Decision:  
 Decision Date:  
 Ref: M/2007/0202/RM  
 Proposals: Proposed dwelling  
 Decision: PG  
 Decision Date: 05-APR-07  
 Ref: M/2000/0758/O  
 Proposals: Site for dwelling  
 Decision: PG  
 Decision Date: 11-JAN-01

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.doc  
 Roads outline.docx  
 Geological Survey NI (DfE)-3248 MUDC Planning. 70m West Of 107 Drummerr Lane  
 Coalisland.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: L01

### **Notification to Department (if relevant)**

Not Applicable





### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2022/1473/O	<b>Target Date:</b> 20 January 2023
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 60M NW Of 55 Annaghmore Road Castledawson
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Alvin McMullan Esq 55 Annaghmore Road Castledawson BT45 8DU	<b>Agent Name and Address:</b> Russell Finlay 350 Hillhead Road Knockcloghrim Magherafelt BT45 8QT
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NIEA	PRT LA09-2022-1473-O.PDF

### Representations:

Letters of Support	0
Letters of Objection	3
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

4 letters of objection have been received. All points made within these objections have been considered as part of this planning application.

### Characteristics of the Site and Area



The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan. The site has no other designations. It is located within part of a larger agricultural field at the rear of 53a Annaghmore Road. The site is accessed by an existing laneway where a dwelling is currently under construction nearing completion which has the address registered as 55A. Views from the site are limited from a public point of view with the eastern boundary defined by newly planted trees and the dwellings 53 & 53a screening the site from the road. The southern boundary is currently defined by the building site where 55A is being constructed and the northern boundary undefined. The western boundary is defined by a mixture of trees and hedges. The land of the application site rises and sits at a level above the road and those dwellings adjacent to the roadside. The surrounding area is mainly residential in nature with a large number of dwellings surrounding the site and beyond.

### **Description of Proposal**

This is an outline planning application for a dwelling and garage.

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

#### **Policy Consideration**

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

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

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

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

within an existing cluster of buildings in accordance with Policy CTY 2a.

Significant consideration has been given to application LA09/2018/1128/O which was recommended as a refusal by planners but subsequently overturned by members at a planning committee where they were content Policy CTY2a was complied with.

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

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

I am content there is a cluster of development which consists of more than four dwellings. These consist of Nos. 59, 57, 55, 55A, 53A, 53 & 51 Annaghmore Road.

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

I am content that whilst travelling along the Annaghmore Road in both directions this cluster appears as a visual entity in the local landscape. Objectors have raised the point with regarding the above two criteria that the development style in the area is 'roadside development' The policy does not specify what style of development is considered in a cluster and as such, I am content there is a cluster and it is a visual entity in the local landscape.

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

The agent has identified a community hall located approximately 140m North East of the application site. This can be considered a focal point in which the cluster is associated with. Objectors have raised concerns regarding this and believe it is not associated with the development in the area. However, following discussion with the service director the community hall is an appropriate focal point. Application LA09/2018/1128/O which was approved directly south and adjacent to the site was approved by the planning committee after being assessed as a cluster where it was deemed to have met the criteria of CTY2a. As this site is slightly closer to the community hall and there is a limited view of the community hall from the site I am content the cluster is associated with this focal point and complies with the policy.

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

The site is bounded to the south by the recently constructed dwelling at 55a (LA09/2018/1128/O) and to the east by dwellings 53 and 53A. Objectors claim the site is not bounded but I am content the site is bound on at least two sides and a suitable degree of enclosure is achieved at this site given the build up of development.

- *Development of the site can be absorbed into the existing cluster through*

*rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As the development is bounded on two sides, I am content this site can be absorbed into the existing cluster, and it will not visually intrude into the open countryside. There is an existing laneway which accesses the site to the south. A number of objections relate to the impact the development would have on the character of the area. It was agreed when the application LA09/2018/1128/O (No.55a) that as the site is well screened by existing dwellings that it would not negatively impact the character of the area. I am content this is the same in this case as the dwellings along the road would screen the site and ensure it does not visually intrude into the open countryside. As per the previous approval LA09/2018/1128/O the principle of the cluster was acceptable and as that dwelling has now been built, the cluster of development is existing, and this proposal respects the existing character of the immediate area.

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

Objections raised concerns regarding the development and the potential overlooking of the new dwelling on existing properties. As this is an outline, detailed plans were not provided however a concept plan was requested from the agent to address these concerns. Having reviewed these and discussed with the service director, I am content that a single storey dwelling would not adversely impact on residential amenity. This can be assessed further at Reserved Matters stage when detailed plans are submitted.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape with additional planting along the western boundary to aid integration. A ridge height condition of 5.5m above finished floor level should be applied to any approval.

Policy CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated, the proposed dwelling would not appear unduly prominent in the landscape if kept to a restricted ridge height. As mentioned I do not believe a dwelling here would erode the rural character of the area. The proposed dwelling is located within an existing and established cluster of development and is screened by existing development within this cluster, so the impact on the rural character would be minimal. In terms of the traditional pattern of settlement exhibited in the area, it has been raised by objectors that it is mainly roadside dwellings with no development to the rear. However, No.55a was approved and subsequently built to the rear of No.55 and whilst travelling along the Annaghmore Road there are different styles of development within the area including development to the rear of roadside dwellings. I am content the proposed size of the dwelling and curtilage is in keeping with those within the area.

PPS 3: Access, Movement and Parking

DfI Roads were consulted on the proposal and offered no objection subject to access being provided in accordance with the RS1 form attached. Concerns were raised by objectors relating to road safety but as DfI Roads have not raised any concerns regarding this I am content.

### **Other Material Considerations**

Objectors raised concerns regarding impact on wildlife and nature. A biodiversity checklist was completed and an ecological statement was submitted in which it found no protected sites or no protected habitats are present and no further ecological survey work is required. NIEA were consulted and offered no further comment on the application.

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

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

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

#### **Condition 2**

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from Mid Ulster District 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 Mid Ulster District Council.

**Condition 3**

The dwelling hereby permitted shall have a ridge height of not greater than 5.5 metres above finished floor level, designed and landscaped in accordance with the Department of Environment Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

**Condition 4**

The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

**Condition 5**

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

Reason: To ensure the dwelling integrates into the landform.

**Condition 6**

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

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

**Condition 7**

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.

**Condition 8**

The dwelling should be sited in general accordance with approved plan drawing No 2.

Reason: To ensure the dwelling is integrated into the landscape

**Signature(s):** Ciaran Devlin

**Date:** 21 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	7 October 2022
<b>Date First Advertised</b>	18 October 2022
<b>Date Last Advertised</b>	18 October 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 52 Annaghmore Road Castledawson Londonderry BT45 8DU The Owner / Occupier 58 Annaghmore Road Castledawson Londonderry BT45 8DU The Owner / Occupier 59 Annaghmore Road Castledawson Londonderry BT45 8DU The Owner / Occupier 57 Annaghmore Road Castledawson Londonderry BT45 8DU The Owner / Occupier 53 Annaghmore Road Castledawson Londonderry BT45 8DU The Owner / Occupier 51 Annaghmore Road Castledawson BT45 8DU The Owner / Occupier 53A Annaghmore Road Castledawson Londonderry BT45 8DU The Owner / Occupier 55 Annaghmore Road Castledawson Londonderry BT45 8DU	
<b>Date of Last Neighbour Notification</b>	1 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/1984/0409 Proposals: HOUSE AND GARAGE Decision: PG Decision Date: Ref: H/2014/0091/F Proposals: Proposed 2no. Infill Dwellings Decision: PG Decision Date: 22-SEP-14 Ref: LA09/2017/1517/F Proposals: Proposed change of house type for 2 dwellings and detached garages from that approved under H/2014/0091/F	

Decision: PG  
Decision Date: 05-FEB-18  
Ref: H/2014/0406/F  
Proposals: Proposed new dwelling and garage as part of an existing cluster  
Decision: PR  
Decision Date: 24-APR-15  
Ref: LA09/2020/1221/RM  
Proposals: Dwelling and garage  
Decision: PG  
Decision Date: 15-JAN-21  
Ref: LA09/2018/1128/O  
Proposals: Dwelling and garage  
Decision: PG  
Decision Date: 07-NOV-18  
Ref: LA09/2022/1473/O  
Proposals: Dwelling and garage  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
NIEA-PRT LA09-2022-1473-O.PDF

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

### **Notification to Department (if relevant)**

Not Applicable

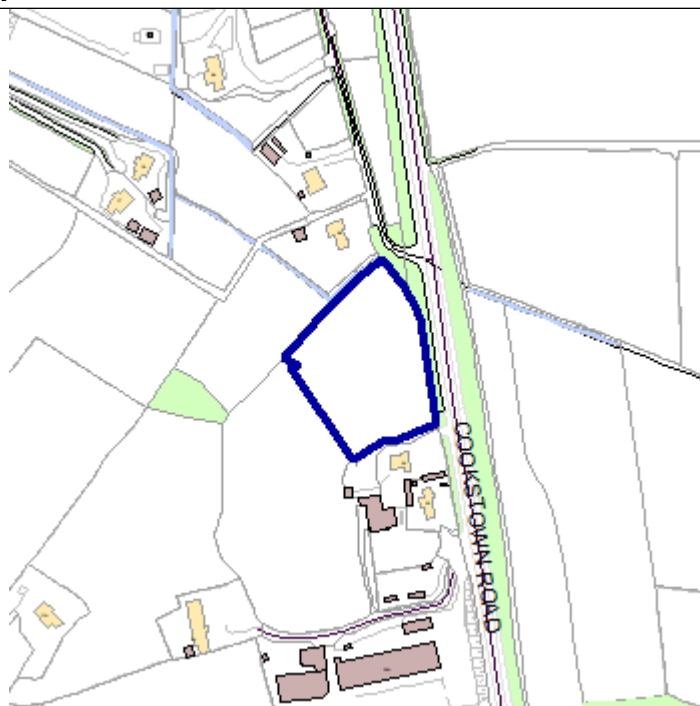


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.10
<b>Application ID:</b> LA09/2022/1563/O	<b>Target Date:</b> 17 February 2023
<b>Proposal:</b> Dwelling and domestic garage on infill site (Planning Policy CTY8)	<b>Location:</b> Lands 68M South Of 90 Cookstown Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Darryl Rafferty 97 Augherainey Road Dungannon BT70 3NF	<b>Agent Name and Address:</b> Mr Chris Mullan 11 Dunnamore Rd Cookstown Belfast BT80 9NR
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	24-02-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	Already responded to.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside outside any settlement defined under the Cookstown Area Plan 2010. It sits adjacent and to the west of the Cookstown Road / A29, a heavily trafficked protected route between Cookstown and Dungannon. It also

sits adjacent and south of a narrow slip road junction, the Drumconnor Road junction, adjoining the Cookstown Road.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a large relatively rectangular shaped plot comprising the eastern half and roadside frontage of a large agricultural field. It sits at a lower level to the Cookstown Road and Drumconnor Rd located to its east and north respectively. A mix of post and wire fencing and d-rail fencing bounds the site to the north, east and south with some mature hedging also running along the northern boundary. The site is open to the west onto the host field.

Two detached single storey roadside dwellings, nos. 90 & 92 Cookstown Road, respectively extend along the Drumconnor Road (the slip road) immediately to the north



of the site; and two detached single storey roadside dwellings, nos. 88 & 86 Cookstown Road, respectively extend along the Cookstown Road immediately to the south of the site. Nos. 88 & 86 are largely screened to view by mature vegetation. Extending further along the Cookstown Road to the south of nos. 88 & 86 are a number of buildings in association with two businesses, 'Construction Fasteners' and 'McQuaid Engineering'. Views into this site are open from the Cookstown Road over a short distance on the south approach to it and over a longer distance of approx. 100m on the northern approach to it and passing along its roadside frontage. Views into this site are also open from the Drumconnor Rd just before and at its junction with the Cookstown Road.



Fig 3: Google street view of site on south approach just before passing its roadside frontage and whilst passing the access to no. 88 Cookstown Road.



Fig 4: Google street view of site on north approach just before passing its roadside frontage. Nos. 90 & 92 Cookstown Road can be seen to the right of the view, respectively extending along the Drumconnor Road (the slip road) immediately to the north of the site.

Whilst the surrounding area is largely rural in character with the site backing onto agricultural lands and overlooking agricultural lands to the opposite side of the Cookstown Road the area has come under some development pressure in recent years with a number of dwellings with ancillary buildings and a garden centre located to the

north of the site and a couple of dwellings and number of buildings in association with two businesses, 'Construction Fasteners' and 'McQuaid Engineering', located to the south of the site.

### **Description of Proposal**

This is an outline planning application for a dwelling and domestic garage to be located on lands 68m South of 90 Cookstown Road. The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

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

#### **Policy Consideration**

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 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside

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

#### **Representations**

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

#### **Planning History**

N/A

#### **Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and advised the site access is off a minor road and in close proximity with the junction onto the A29 Cookstown Road which is a Protected Route. DfI Roads recommend refusal for the following reasons:
  - The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
  - 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 adequate forward sight distance of 45 metres is not available in a northerly direction, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.

Further to DfI Roads response above the agent suggested three options for the access to this site directly to Roads via email on the 24<sup>th</sup> February 2023 DfI Roads advised the agent directly via email on the 27<sup>th</sup> February 2023 that options 2 & 3 are out onto the A29 Cookstown Road and are not acceptable as they are onto a Protected Route. Option 1 is onto the minor road (Drumconnor slip road) but needs to be twice the radius distance from the junction with the A29, as per "Creating Places" page 124 para 16.25 and 16.26. As these three options were not viable the agent emailed option 4 to Planning on the 27<sup>th</sup> February 2023, to access the dwelling off the A29 Cookstown Road via an existing access to the south side of, and new lane looping around the rear of, nos. 86 & 88 Cookstown Rd.

As the principal of this proposal has not been accepted DfI Roads were not re-consulted for formal comment on options 1-3 above or option 4 however I would note that whilst this is not a new access like options 2 & 3 out onto the A29 Cookstown Road, it is still the intensification of an existing access onto a Protected Route.

### **Consideration**

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 outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21. It has been submitted the current proposal falls under one of these instances, the

development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

I do not consider this application in principle acceptable under Policy CTY8. Whilst I acknowledge there is development to both the north and south of the site as detailed in 'Characteristics of the Site and Area' the gap is too large and is a visual break that helps retain the rural character of the area and should be protected. It could accommodate more than 2 dwellings taking account of the pattern of development including plot sizes to both its north and south.

The agent was advised of the above opinion via a telephone conversation on the 17<sup>th</sup> February 2023 and asked if any other opportunities for a dwelling existed i.e. if the applicant had a farm case.

The agent subsequently on the 8<sup>th</sup> March 2023 submitted a Design Statement to supplement the Design and Access Statement provided at the outset of the application and to justify that the site is suitable for an infill dwelling and domestic garage under Policy CTY8. As part of the justification the agent analysed the frontage lengths of development to the north and south of the site and concluded the site could accommodate 2 dwellings, one now and one in the future, with similar frontages lengths (see Figs 5 and 6); and identified a number approved planning applications within Mid Ulster deemed suitable infill sites, which he considered had comparable frontages to the current proposal.



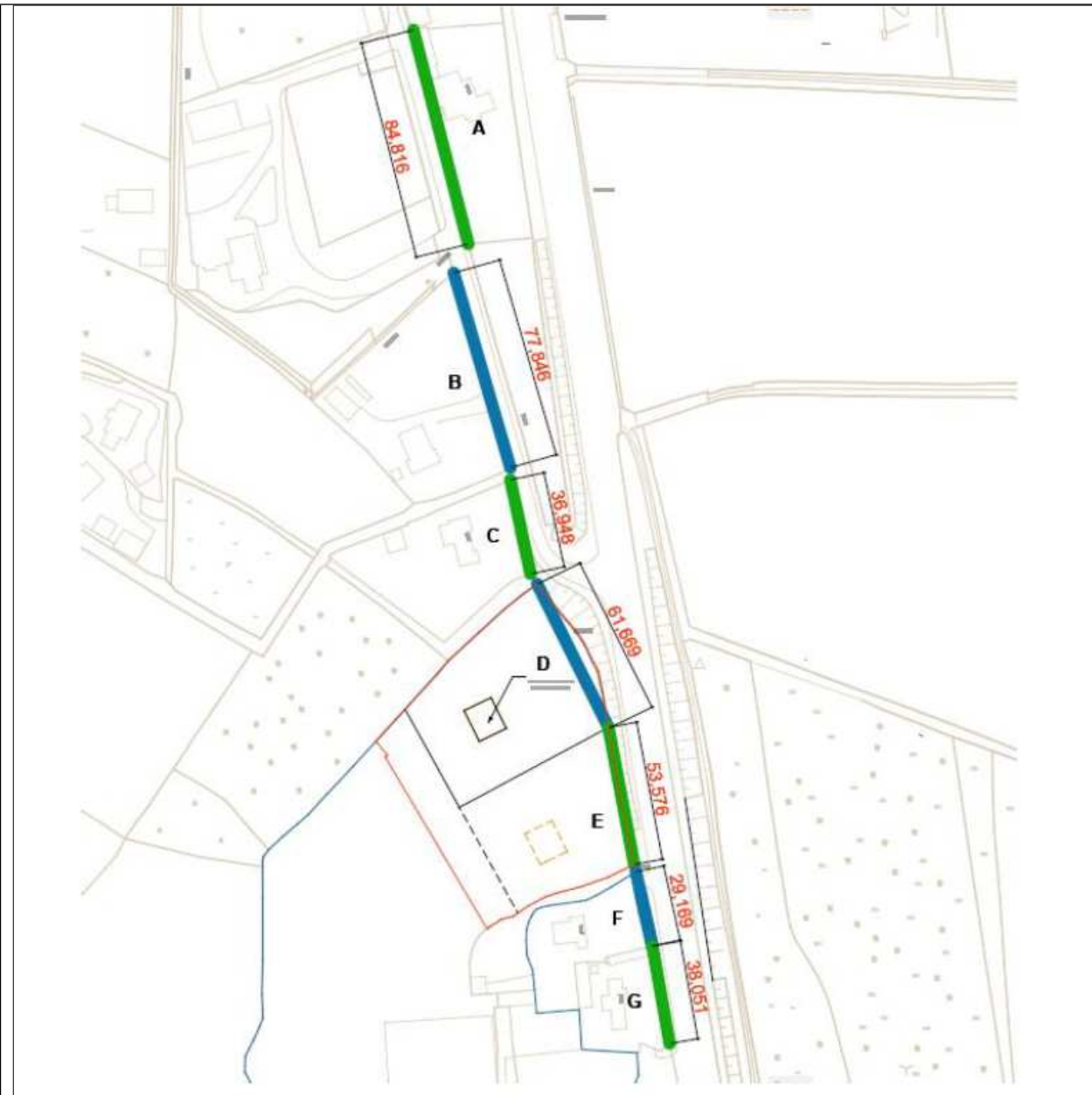


Fig 5: Frontage analysis plan 'Fig 1' within supplementary Design Statement provided by agent

## **2. Existing Frontages**

Figure 01 indicates the following approx. existing frontages to 5 neighbouring dwellings on the Cookstown Road,

- Dwelling A (93 Cookstown Road) – approx. 85m
- Dwelling B (92 Cookstown Road) – approx. 78m
- Dwelling C (90 Cookstown Road) – approx. 37m
- Dwelling F (88 Cookstown Road) – approx. 29m
- Dwelling F (86 Cookstown Road) – approx. 38m
- 

## **3. Proposed Frontages**

Figure 01 indicates the following approx. proposed frontages to

- Dwelling D (Proposed Dwelling) – approx. 62m
- Dwelling E (Proposed 'Future' Dwelling) – approx. 54m

The average (mean) frontage of the 5 no. existing dwellings to the road is approx. 53m. The above analysis confirms that the proposed frontage to dwellings D & E are comparable to the neighbouring context.

Fig 5: Frontage analysis details corresponding to 'Fig 1' (as seen above in Fig 4) within supplementary Design Statement provided by agent

I have considered the justification provided within the Design Statement provided by the agent however my opinion remains that in this instance the gap is too large and is a visual break that helps retain the rural character of the area and should be protected. I would disagree that the average mean frontage of the existing dwellings extending to the north and south of the site along the west side of the Drumconnor Road and Cookstown Road is approx. 53m. Dwelling A (93 Cookstown Road) within the analysis with a frontage of approx. 85m is located to the opposite side of the Drumconnor Road to the line of development the site is within as such should not be included in the analysis and agricultural lands to the north and outside of Dwelling B's (92 Cookstown Road) curtilage has been included in its frontage of approx. 78m provided when it should be approx. 37m. These adjustments would make the average mean frontage of the existing dwellings extending to the north and south of the site along the west side of the Drumconnor Road and Cookstown Road approx. 35m. As such the site with a frontage of 116m could comfortably accommodate 3 dwellings. 3 dwellings with a 35m frontage each would have an entire frontage length of 105m.

This proposal is contrary to Policy CTY 8 and CTY 14 of PPS 21 in that when read in conjunction with existing development located on lands to its north and south it will result in the extension of ribbon development along the Drumconnor Road and / or Cookstown Road leading to a further erosion of the areas rural character.

## **Additional considerations**

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

Flood Maps NI identified no flooding on site.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along the Drumconnor Road and / or Cookstown Road leading to a further erosion of the areas rural character.

**Reason 3**

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is located in close proximity to a road junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.

**Reason 4**

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance of 45 metres is not available in a northerly direction, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.

<b>Signature(s):</b> Emma Richardson
<b>Date:</b> 22 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	4 November 2022
<b>Date First Advertised</b>	15 November 2022
<b>Date Last Advertised</b>	15 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 88 Cookstown Road Dungannon Tyrone BT71 4BS The Owner / Occupier 90 Cookstown Road Dungannon Tyrone BT71 4BS	
<b>Date of Last Neighbour Notification</b>	16 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/1996/0268 Proposals: 11 kv Rural Spur Decision: PG Decision Date: Ref: M/1979/0802 Proposals: EXTENSION TO DWELLING Decision: PG Decision Date: Ref: M/2007/0633/F Proposals: Proposed front extensions to bedroom and livingroom (including bay window) Decision: PG Decision Date: 17-AUG-07 Ref: LA09/2022/1563/O Proposals: Dwelling and domestic garage on infill site (Planning Policy CTY8) Decision: Decision Date: Ref: M/2006/1598/F Proposals: Conversion of garage to bedroom with en-suite and new domestic garage Decision: PG Decision Date: 16-NOV-06 Ref: M/2005/0543/F Proposals: 11 KV domestic	

(04/05914)

Decision: PG

Decision Date: 10-JUN-05

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-24-02-2023.docx

DFI Roads - Enniskillen Office-

DFI Roads - Enniskillen Office-Already responded to.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

### **Notification to Department (if relevant)**

Not Applicable



### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2022/1568/O	<b>Target Date:</b> 17 February 2023
<b>Proposal:</b> site for dwelling & garage	<b>Location:</b> Lands Approx 140 Mts South East Of No 84 Lisacclare Road Stewartstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr EDWARD COYLE LOWER HOUSE - TROUT STREAM WAY LOUDWATER , RICKMNSWORTH WD3 4JN	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation outline approval.docxRS1 Form a (1).doc
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	DAERA - Omagh	LA09-2022-1568-O.docx
Non Statutory Consultee	DAERA - Omagh	LA09-2022-1568-O - (2).docx

### Representations:

Letters of Support	0
Letters of Objection	1
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues



## Characteristics of the Site and Area

The site is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. ½ way between Stewartstown to the northwest and Killeen to the southeast.

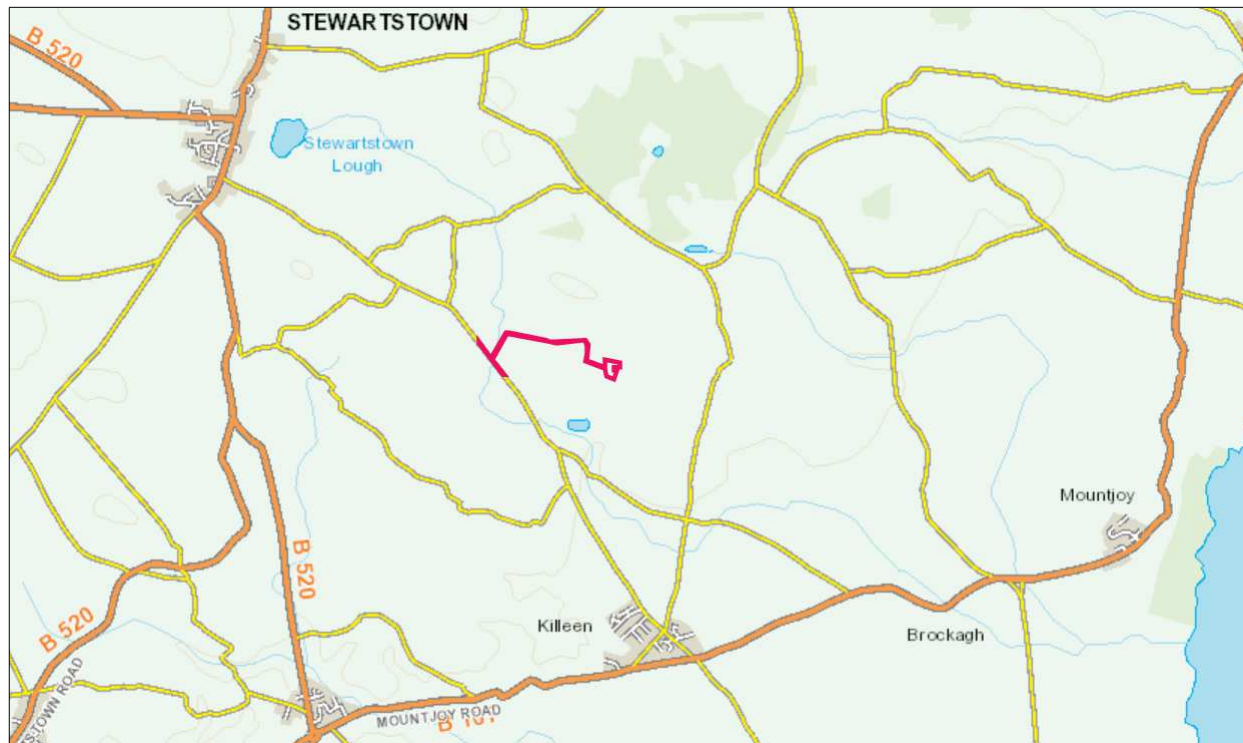


Fig 1: Site outlined red

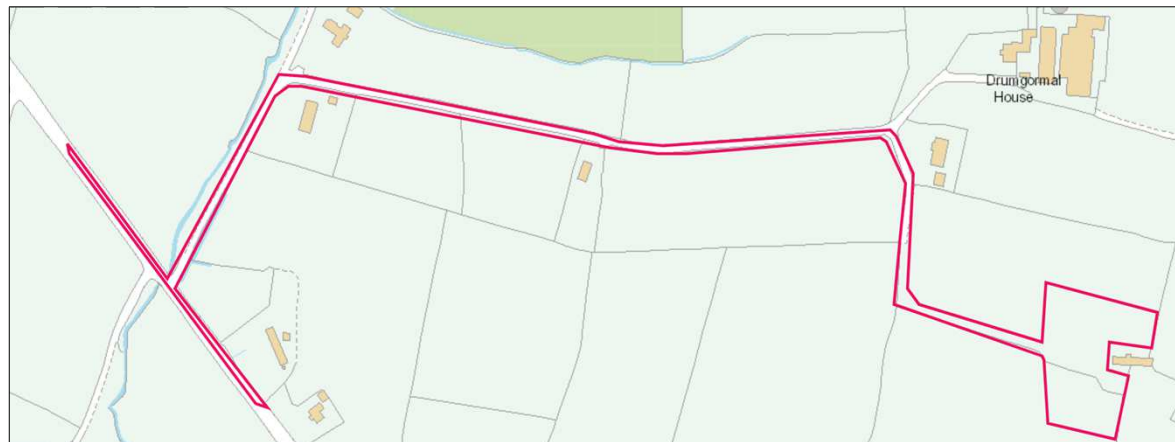


Fig 2: Site outlined red

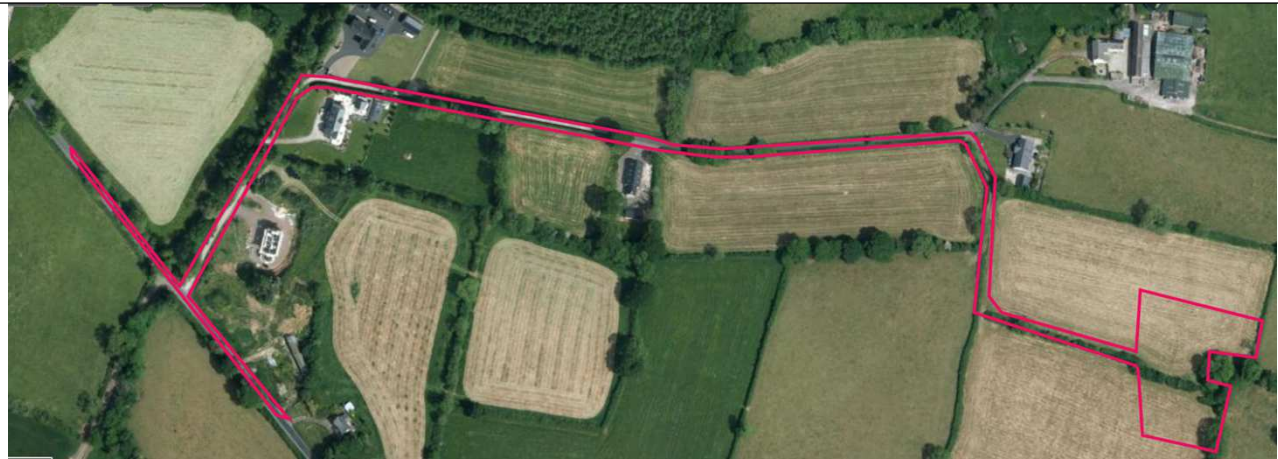


Fig 3: Site outlined red

The site is a relatively rectangular shaped plot cut from the eastern side of two neighbouring fields sited one above the other. Its sits just west of what appears to be the remains of a derelict house with adjoining outbuilding overgrown with vegetation.

The site is set well back from and accessed off the Lisaclare Rd, via an existing concrete lane serving a small no. of dwellings, approx. 7 in total. At the entrance to the last properties at the end of the lane, nos. 84 and 86 Lisaclared Road located just north of the site, an agricultural lane continues south towards the site breaking into the north host field and following it party hedgerow boundary with the south host field.

The lane serving the site is bound by a mix of vegetation and fences. The main body of the site is defined to the east by mature vegetation bounding the host fields. A lines of mature hedging, the party boundary of the host fields also runs horizontally through the middle if the site. The remaining boundaries of the site are open to the north, south and east onto the host fields.

Whilst the site is elevated, with lands falling away relatively towards the Lisaclare Rd, critical views of a dwelling on this site are limited from the Lisaclare Rd and surrounding road network to a glimpse from elevated lands on the northwest approach to its access point off the road. This is due to the sense of enclosure, screening and backdrop provided by the site's substantial set back from the public Lisaclare Road and surrounding road network; the mature vegetation on site; and the topography, vegetation and development in the wider vicinity providing it with a sense of enclosure and back drop.

The surrounding area is characterised primarily by agricultural lands interspersed with detached dwellings, ancillary buildings and farm groups.

### **Description of Proposal**

This is an outline planning application for a dwelling and garage on a farm. The site is located on lands approx. 140m Southeast of no. 84 Lisaclare Road Stewartstown.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6: Planning, Archaeology and the Built Heritage

Planning Policy Statement 21: Sustainable Development in the Countryside

Development Control Advice Note 15: Vehicular Standards

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

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

### **Relevant Planning History**

N/A

### **Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject to standard conditions and informatives, which will be applied to any subsequent decision notice to comply with the requirements of PPS 3 Access, Movement and Parking.
2. Historic Environment Division (HED) were consulted as the site is located within the buffer zone of 2 archaeological sites and monuments (TYR047:004 and TYR047:004). HED Historic Monuments assessed the application and were content that the proposal is satisfactory to SPPS and PPS6 archaeological policy requirements.
3. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with a P1C Form and Farm maps submitted alongside the application.

DAERA advised the farm business identified on the updated P1C Forms received 20<sup>th</sup> December 2022 and Farm maps was established on the 22<sup>nd</sup> November 2022 and no farm business has claimed payments through the Basic Payment Scheme or Agri Environment scheme on this site.

### **Cookstown Area Plan 2010**

The site lies in the rural countryside outside any designated settlement with the Plan.

### **The Strategic Planning Policy Statement for Northern Ireland (SPPS)**

The SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

### **Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside**

PPS 21 is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. These include dwellings on farms in accordance with Policy CTY 10 of PPS 21.

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

- the farm business is currently active and has been established for at least 6 years,

DAERA advised the farm business identified on the updated P1C Forms received 20<sup>th</sup> December 2022 and Farm maps was established on the 22<sup>nd</sup> November 2022 and no farm business has claimed payments through the Basic Payment Scheme or Agri Environment scheme on this site.

Whilst consultation with DEARA was unable to confirm the applicant's farm business was established at least 6 years and is currently active, I am reasonably content that it has been established at least 6 years and is currently active. This is based on the farm maps submitted alongside this application which show 2 fields the applicant has stated he owns; the lands on the date of site visit were in good agricultural condition; DAERA confirming his business was registered in 2022; a con acre agreement and no. of invoices submitted to show activity for a 6 year period. The invoices included but were not limited for the supply of fertiliser on the 4<sup>th</sup> April 2016; 1 for works to install water piping and drinking trough in two fields on the 10<sup>th</sup> August 2017; 1 for ploughing, cultivating and seeding grass pasture on the 14<sup>th</sup> March 2018; 1 to supply and sow fertiliser, mow, 2 turns, row and bale on the 17<sup>th</sup> July 2019; 1 to supply and sow fertiliser on the 19<sup>th</sup> March 2020; 1 to trim and flail hedges on the 17<sup>th</sup> September 2020; 1 for new barbed wire fencing on the 16<sup>th</sup> March 2021. As such, I am content Criterion (31) of CTY 10 has been met.

- 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 or

since PPS 21 was introduced on 25th November 2008,

There is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from Mr Coyle's farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

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

The new dwelling will be located immediately west of what appears to be the remains of a derelict house with adjoining outbuilding overgrown with vegetation on the applicant's farm lands as such I am content the proposed dwelling and garage will visually link and cluster with these established buildings and Criterion (3) of CTY 10 has been met.

Policy CTY 10 also states 'planning permission granted under this policy will only be forthcoming once every 10 years' and I am content checks have not identified any previous such permissions for Mr Coyle or this farm holding.

I believe a dwelling of an appropriate size, scale and design should integrate into this site with minimal disruption to the rural character of the area. As detailed in the 'Characteristics of the Site and Area' whilst the site is elevated, with lands falling away relatively towards the Lisaclore Rd, critical views of a dwelling on this site are limited from the Lisaclore Rd and surrounding road network to a glimpse from elevated lands on the northwest approach to its access point off the road. This is due to the sense of enclosure, screening and backdrop provided by the site's substantial set back from the public Lisaclore Road and surrounding road network; the mature vegetation on site; and the topography, vegetation and development in the wider vicinity providing it with a sense of enclosure and back drop.

As this is an outline application the details of the siting, size, scale and design of the dwelling can be considered further under any subsequent reserved matter application. I believe a suitably designed scheme should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the substantial separation distances that will be retained.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 1 objection had been received from Mr McGuckin the owner / occupier of no 82 Lisaclore Road, a dwelling located approx. halfway and to the south side of the lane proposed to serve the site. The objector outlined the site is to be served via a single lane that already serves the houses on the lane, will serve another house to be built and has enough traffic as it stands and raised the following issues: inadequate access; inadequate parking provision; increase in traffic; loss of privacy; noise nuisance; and over development.

The objection raised above has been taken into consideration however the opinion remains to recommend the approval of this proposal, which complies with the relevant policy provisions, for the reasons detailed above in the main body of this report. Whilst

concerns have been raised regarding the access lane serving the site DFI Roads were consulted and raised no concerns regarding the proposal subject to standard conditions accordingly I am content it should not prejudice road safety or significantly inconvenience the flow of traffic. As detailed above a dwelling on this site should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the substantial separation distances that will be retained. Whilst there may be some noise during construction the nature of this proposal would not give rise to any significant noise concerns.

### **Additional considerations**

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

Flood Maps NI indicate some pluvial and fluvial flooding along the initial stretch of the already developed concrete lane serving the site off the Lisacclare Road it would appear emanating from an adjacent watercourse running to the west side of the lane.

**Recommendation:** Approve

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### Condition 1

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

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

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

#### Condition 2

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

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

Condition 3

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

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

Condition 4

The proposed dwelling and its curtilage shall be sited in the area shaded brown on Drawing No. 01 bearing the date stamp received 04 Nov 2022.

Reason: In the interests of visual amenity.

Condition 5

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.35 metres at any point.

Reason: In the interest of visual amenity.

Condition 6

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

Reason: In the interest of residential amenity.

Condition 7

The existing natural screenings of this site, as indicated in yellow on Drawing No. 01 bearing the date stamp received 04 Nov 2022, shall be permanently retained except where it is required to provide access and / or sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual and residential amenity.

Condition 8

A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development hereby approved at the Reserved Matters stage. The scheme shall include a native species hedgerow to be planted along all new boundaries as indicated in green on Drawing No. 01 bearing the date stamp received 04 Nov 2022. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the

commencement of the development.

Reason: In the interests of visual and residential amenity.

**Condition 9**

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 and shall include sight splays of 2.4m x 110m in both directions onto the public road and a 110m forward sight distance. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

**Signature(s):** Emma Richardson

**Date:** 23 March 2023



<b>ANNEX</b>	
<b>Date Valid</b>	4 November 2022
<b>Date First Advertised</b>	15 November 2022
<b>Date Last Advertised</b>	15 November 2022
<b>Details of Neighbour Notification</b> (all addresses)  The Owner / Occupier 92 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 80 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 90 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 86 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 78 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 92 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 88 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 82 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 82 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 84 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 94 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 74 Lisaclore Road Stewartstown Tyrone BT71 5QH The Owner / Occupier 76 Lisaclore Road Stewartstown Tyrone BT71 5QH	
<b>Date of Last Neighbour Notification</b>	2 December 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>

## **Planning History**

Ref: LA09/2020/0067/F

Proposals: Proposed Dwelling and Garage and an amendment to a previously approved access under LA09/2016/1707/O

Decision: PG

Decision Date: 01-JUN-20

Ref: I/1996/4037

Proposals: Extension to Dwelling

Decision: PDNOAP

Decision Date:

Ref: LA09/2020/0671/F

Proposals: Proposed replacement dwelling and garage

Decision: PG

Decision Date: 05-NOV-20

Ref: I/1993/0209

Proposals: Bungalow and Garage

Decision: PG

Decision Date:

Ref: I/2007/0121/RM

Proposals: Proposed dwelling House

Decision: PG

Decision Date: 16-MAY-07

Ref: I/2000/0697/O

Proposals: Site for Dwelling

Decision: PG

Decision Date: 20-NOV-00

Ref: I/2006/1260/RM

Proposals: Site for dwelling and garage with 1st floor loft storage

Decision: PG

Decision Date: 18-JUN-07

Ref: I/2004/1405/O

Proposals: Proposed dwelling house

Decision: PG

Decision Date: 12-JAN-05

Ref: LA09/2021/1298/F

Proposals: Proposed infill dwelling and domestic double garage as policy CTY8

Decision: PG

Decision Date: 01-DEC-21

Ref: I/2003/0964/O

Proposals: Renewal of Outline planning permission I/2000/0697/O

Decision: PG

Decision Date: 16-DEC-03

Ref: I/2013/0034/F

Proposals: Proposed replacement dwelling previously approved under I/2007/0641/F and

domestic garage  
Decision: PG  
Decision Date: 28-MAY-13  
Ref: I/2007/0641/F  
Proposals: Proposed replacement dwelling house  
Decision: PG  
Decision Date: 18-FEB-08  
Ref: LA09/2021/1302/F  
Proposals: Proposed replacement dwelling and domestic double garage  
Decision:  
Decision Date:  
Ref: LA09/2021/0780/F  
Proposals: Change of house type from that approved under LA09/2020/0067/F.  
Decision: PG  
Decision Date: 05-AUG-21  
Ref: LA09/2016/1707/O  
Proposals: Site for Farm Dwelling and Garage  
Decision: PG  
Decision Date: 20-MAR-17  
Ref: I/2005/0201/O  
Proposals: Proposed dwelling house  
Decision: PG  
Decision Date: 28-APR-05  
Ref: I/2009/0004/F  
Proposals: Replacement dwelling house and garage with first floor loft  
Decision: PG  
Decision Date: 15-FEB-10  
Ref: I/2005/1226/O  
Proposals: Replacement dwelling house.  
Decision: PG  
Decision Date: 10-JAN-06  
Ref: I/2008/0320/RM  
Proposals: Proposed dwelling house & twin garage with first floor loft storage area  
Decision: PG  
Decision Date: 21-OCT-08  
Ref: LA09/2022/1568/O  
Proposals: site for dwelling & garage  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation outline approval.docxRS1 Form a (1).doc  
Historic Environment Division (HED)-  
DAERA - Omagh-LA09-2022-1568-O.docx  
DAERA - Omagh-LA09-2022-1568-O - (2).docx

<b>Drawing Numbers and Title</b> Site Location Plan   Plan Ref: 01
<b>Notification to Department (if relevant)</b> Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2022/1692/O	<b>Target Date:</b> 21 March 2023
<b>Proposal:</b> Dwelling and garage under policy Cty 2A	<b>Location:</b> Lands 50M West of 160B Washingbay Road, Coalisland
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr COLIN MCCUSKEY 10A FERRY ROAD COALISLAND BT71 4QT	<b>Agent Name and Address:</b> CMI Ltd 38 Airfield Road 38B AIRFIELD ROAD toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

Letters of Support	0
Letters of Objection	1
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The red line of the site includes a roadside portion of a larger agricultural field, located to the West of 160B Washingbay Road, Coalisland. The lands to the north and west are outlined in blue, indicating ownership. The lands rise from the roadside towards the north of the site and the boundaries are made up with post and wire fencing along the roadside, hedging between the site and the adjacent property to the east with the

remainder of boundaries currently undefined. The surrounding area includes a number of roadside residential properties and there is Derrytresk playing fields approx 400m SE of the site where the crow flies. Beyond that lands are rural in nature scattered with single dwellings and their associated outbuildings.

### **Description of Proposal**

Outline planning permission is sought for dwelling and garage under policy CTY 2A.

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

#### **Policy Consideration**

##### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 160b, 153, 159, 161, 163, 160c and 162b Washingbay Road.

At the time of writing, one objection was received. The main issues raised within the objection include:

- Close to adjoining properties
- Increase in traffic
- Overdevelopment

The objection notes they are concerned about both exits being used at the same time, noting there is a brow on the hill and a bend in the road. DfI Roads are the competent authority for ensuring there is a safe means of access to and from the site. I have consulted with them and they have raised no concerns, subject to condition. In relation to the closeness of properties, no information relating to the proposed siting has been provided. At RM stage, if permission is to be forthcoming, these details can be looked at in more depth however I am content that a dwelling could be sited within the red line appropriately without causing concern for neighbouring properties.

##### Planning History

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

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

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

The Dungannon and South Tyrone 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in

assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwelling. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. The cluster appears easily as a visual entity in the local landscape. Derrytresk Football fields is located approx. 400m South East of the application site and although not directly associated with the site, it is our view that the application site is in line with the spirit of the policy. The identified site is bounded on two sides by development and it is my consideration that the proposed development could be absorbed into the existing cluster without significantly altering the existing character or adversely impacting on the residential amenity. I am content a dwelling could be designed within the red line of the site which would avoid issues such as privacy or overlooking concerns with neighbouring properties. Figure 1 below shows the site in relation to the playing fields.



***Figure 1 – Site in relation to playing fields***

It is also necessary for the proposal to be considered against the requirements of CTY 13 and CTY 14 of PPS 21, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This proposal is for an outline application thus no design has been stipulated at this time however given the character of the area



and noting that the dwellings in the surrounding area are generally two storey, I don't feel a ridge height restriction is needed at this site. The existing hedging will be conditioned to be retained where possible with full details of proposed landscaping along the remainder of the boundaries to also be included with the RM application.

Having considered all of the above and noting that the proposal site is within an identifiable cluster of development an approval should be recommended with suitable conditions.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

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

#### **Condition 2**

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

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

#### **Condition 3**

Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 100m in both directions and a 100m forward sight line and other details as set out in the attached form RS1, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. 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.

**Condition 4**

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

Reason: In the interests of visual and residential amenity.

**Condition 5**

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

Reason: To ensure the dwelling integrates into the landform.

**Signature(s):** Sarah Duggan

**Date:** 20 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	6 December 2022
<b>Date First Advertised</b>	20 December 2022
<b>Date Last Advertised</b>	20 December 2022
<b>Details of Neighbour Notification</b> (all addresses)  The Owner / Occupier 153 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 159 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 161 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 163 Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 160C Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 162B Washingbay Road Coalisland Tyrone BT71 4QE The Owner / Occupier 160B Washingbay Road Coalisland Tyrone BT71 4QE	
<b>Date of Last Neighbour Notification</b>	14 December 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Outline resp.docx	

**Drawing Numbers and Title**

Site Location Plan   Plan Ref: 01

**Notification to Department (if relevant)**

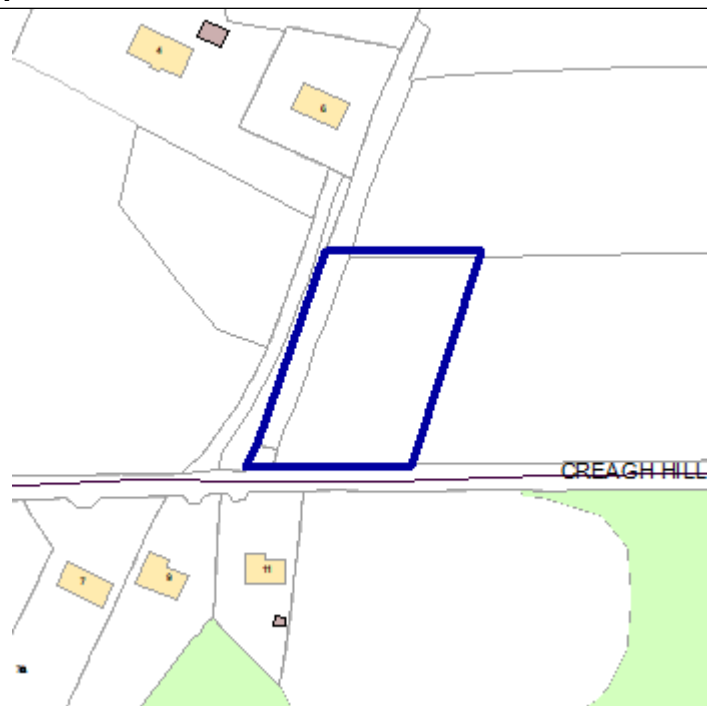
Not Applicable

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2022/1697/O	<b>Target Date:</b> 21 March 2023
<b>Proposal:</b> Dwelling and garage under CTY 2A	<b>Location:</b> 60 m NE of 11 Creagh Hill Castledawson
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mrs ANNE MCGROGAN 154 Creagh Road Castledawson BT45 8EY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>  The current application is presented as a refusal, having failed to meet the requirements of policy CTY 2A - New Dwellings in Existing Clusters.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The application site is located at lands 60m north-east of No. 11 Creagh Hill, Castledawson. The site occupies a roadside corner portion of a larger agricultural field. The front (southern) and western boundaries are defined by an established hedgerow with scattered trees. As the application site is part of a larger field, the remaining

boundaries are undefined.

Lands to the north and east of the site are agricultural in nature. There is a laneway running along the western boundary providing access to two houses set back from the roadside. Lands west of the application site have been approved under LA09/2021/1204/O for a dwelling and garage within a cluster site. A subsequent full application was approved under LA09/2021/1810/F as it did not comply with all conditions set at outline stage. During the site visit on 17/02/2023, it was noted that works on this site had not commenced. To the south, there is a row consisting of five detached dwellings.

### **Representations**

Two neighbour notification letters were issued in relation to this application however, no objections have been received to date.

### **Consultations**

- DfI Roads were consulted in relation to this application and responded on 30/12/2022 advising they had no objection subject to compliance with conditions.

### **Planning History**

- LA09/2019/0760/O - 65MTS Northeast of No.11 Creagh Hill  
Castledawson - Proposed site for a dwelling and domestic garage/store under policy CTY 2A – Permission Refused 07.11.2019

### **Description of Proposal**

This is an outline application for a dwelling and garage under policy CTY 2A at lands 60m north-east of No. 11 Creagh Hill, Castledawson.

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

#### **Policy Consideration**

#### **Magherafelt Area Plan 2015**

The site falls within the open countryside, approximately 1.8km east of the settlement limits of Castledawson and 1.3km northwest of the settlement limits of Creagh as defined in the Magherafelt Area Plan 2015. There are no other specific designations or zonings on this site.

#### **Strategic Planning Policy Statement for Northern Ireland (SPPS)**

The Strategic Planning Policy Statement provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local

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

### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. The application to be considered is for a dwelling and garage under the provisions of policy CTY 2a – New Dwellings in Existing Clusters.

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

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

The application site lies outside of a farm with no development to the north or east. To the west, a dwelling has been approved, however as development has not yet commenced, this does not count as a building. There is a detached dwelling across the road from the application site to the south. I am not content that the proposal meets this criterion.

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

The existing group of five detached dwellings on the opposite side of the road from the application site can be read together as a cluster. The proposed site does not read with this existing line of residential development as it is located on the opposite side of the road and forms part of a larger agricultural field. The proposal therefore does not meet this criterion.

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

The application site is not located close to any focal points and therefore does not meet this criterion. It should be noted that under application reference LA09/2019/0760/O which was refused, the agent had proposed ‘The Thatch Inn’ as the focal point however it was deemed to be too far removed from the application site (approximately 313m) to be considered acceptable.

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

There is no development to the north or east of the site. Whilst planning permission has



been granted for a dwelling to the west of the application site, development has not yet commenced therefore cannot be considered under this application. There is a bungalow across the road, to the south however as this is only along one boundary, the proposal does not meet this criterion.

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

As the proposal site would be breaking into a larger agricultural field with no existing development to the north, east or west, I am of the opinion that a dwelling in this location would alter the existing character of the area and visually intrude into the open countryside therefore the proposal does not meet this criterion.

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

I am content that the proposal would not adversely impact on residential amenity should an approval be granted in this location.

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

*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.*

*A new building will be unacceptable where;*

- (a) It is a prominent feature in the landscape; or*
- (b) The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) It relies primarily on the use of new landscaping for integration; or*
- (d) Ancillary works do not integrate with their surroundings; or*
- (e) The design of the building is inappropriate for the site and its locality; or*
- (f) It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) In the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

A dwelling could be accommodated on the proposed site however, it lacks the long-established boundaries suitable to provide a degree of enclosure for the building to integrate into the landscape. The site would rely primarily on new landscaping for integration and therefore fails to meet the criteria of CTY 13.

### **CTY 14 – Rural Character**

*Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*

*A new building will be unacceptable where:*

- (a) It is unduly prominent in the landscape; or*
- (b) It results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) It does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) It creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

I am not content that the proposed site is within the existing cluster and feel that the approval of this application would result in a suburban style build up and therefore erode rural character. The proposal fails to meet the criteria of CTY 14.

It is evident that there has been no change to the proposed development which was refused under LA09/2019/0760/O.

For the above reasons, the proposal fails under policy CTY 2A, CTY 13 and CTY 14 and I would therefore recommend refusal for this application.

### **Mid Ulster Local Development Plan 2030 – Draft Plan Strategy**

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

### **Habitats Regulations Assessment**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

Reason 1

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

**Reason 2**

The proposal is contrary to Policy CTY 2A of Planning Policy Statement 21 - New Dwellings in Existing Clusters in that the cluster is not associated with a focal point, 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.

**Reason 3**

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21 - Sustainable Development in the Countryside, in that the proposed site lacks long-established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.

**Reason 4**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21 - Sustainable Development in the Countryside, in that the proposal will erode rural character and result in a suburban style build up of development when viewed alongside the existing.

**Signature(s):** Zoe Douglas

**Date:** 21 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	6 December 2022
<b>Date First Advertised</b>	20 December 2022
<b>Date Last Advertised</b>	20 December 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 9 Creagh Hill Castledawson Londonderry BT45 8EU The Owner / Occupier 11 Creagh Hill Castledawson Londonderry BT45 8EU	
<b>Date of Last Neighbour Notification</b>	13 December 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2003/0797/F Proposals: New 33kv Overhead Electric Line and alterations to existing lines. Decision: Decision Date: Ref: H/2012/0003/F Proposals: Proposed infill dwelling Decision: PR Decision Date: 17-OCT-12 Ref: LA09/2022/1697/O Proposals: Dwelling and garage under CTY 2A Decision: Decision Date: Ref: H/1982/0315 Proposals: SITE OF DWELLING HOUSE Decision: PG Decision Date: Ref: H/2013/0450/O Proposals: Single Dwelling Decision: PG Decision Date: 20-JAN-15 Ref: LA09/2019/1409/F Proposals: Proposed 2 storey dwelling garage and domestic equestrian facilities including sand	

arena and stables  
Decision: PG  
Decision Date: 11-FEB-20  
Ref: H/1981/0223  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:  
Ref: H/1984/0418  
Proposals: SITE OF DWELLING  
Decision: PG  
Decision Date:  
Ref: H/1986/0034  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:  
Ref: LA09/2020/1032/F  
Proposals: Dwelling and garage within a cluster  
Decision: PG  
Decision Date: 15-DEC-20  
Ref: LA09/2020/0001/O  
Proposals: Outline planning permission for dwelling within a cluster.  
Decision: PG  
Decision Date: 13-MAY-20  
Ref: H/2008/0519/F  
Proposals: Proposed replacement dwelling.  
Decision: PG  
Decision Date: 12-DEC-08  
Ref: H/1993/0296  
Proposals: EXTENSION TO DWELLING AND GARAGE  
Decision: PG  
Decision Date:  
Ref: H/2006/0838/F  
Proposals: Extension to rear of dwelling and detached garage  
Decision: PG  
Decision Date: 28-DEC-06  
Ref: H/1978/0058  
Proposals: SITE OF DWELLING  
Decision: PR  
Decision Date:  
Ref: H/1976/0291  
Proposals: SITE OF FARM DWELLING  
Decision: PR  
Decision Date:  
Ref: H/2004/0683/F  
Proposals: New dwelling and garage.

Decision: PG  
 Decision Date: 18-FEB-05  
 Ref: H/2005/0071/Q  
 Proposals: dwelling  
 Decision: ELR  
 Decision Date: 22-FEB-05  
 Ref: H/2001/0653/O  
 Proposals: Site Of Dwelling & Garage.  
 Decision: PG  
 Decision Date: 17-OCT-01  
 Ref: H/1998/0015  
 Proposals: DWELLING AND GARAGE  
 Decision: PG  
 Decision Date:  
 Ref: H/1998/0677  
 Proposals: NEW ACCESS TO APPROVED DWELLING  
 Decision: PG  
 Decision Date: 08-DEC-99  
 Ref: H/1973/0172  
 Proposals: SITE OF BUNGALOW  
 Decision: PR  
 Decision Date:  
 Ref: H/1991/0388  
 Proposals: UNDERGROUND SEWAGE PUMPING STATION WITH CONTROL KIOSK  
 AND SURROUNDING FENCE  
 Decision: PG  
 Decision Date:  
 Ref: LA09/2021/1810/F  
 Proposals: Proposed one and a half storey dwelling and garage within a cluster site  
 Decision: PG  
 Decision Date: 09-MAR-22  
 Ref: LA09/2021/1204/O  
 Proposals: Proposed dwelling and garage within a cluster site  
 Decision: PG  
 Decision Date: 17-NOV-21  
 Ref: H/1994/0457  
 Proposals: UNDERGROUND PUMPING STATION WITH CONTROL KIOSK AND  
 SURROUNDING FENCE  
 Decision: PG  
 Decision Date: 15-DEC-94  
 Ref: LA09/2019/0760/O  
 Proposals: Proposed site for a dwelling and domestic garage/store under policy CTY 2A  
 Decision: PR  
 Decision Date: 07-NOV-19  
 Ref: H/1983/0215

Proposals: HV O/H LINE (BM 5888)  
Decision: PG  
Decision Date:  
Ref: H/1997/0528  
Proposals: SITE OF DWELLING AND GARAGE  
Decision: PG  
Decision Date:  
Ref: H/2014/0431/O  
Proposals: Site for Infill Dwelling  
Decision: PR  
Decision Date: 13-MAR-15  
Ref: H/1974/0413  
Proposals: SUBSIDY BUNGALOW  
Decision: PG  
Decision Date:  
Ref: H/1996/0050  
Proposals: EXTENSION TO DWELLING  
Decision: PG  
Decision Date:

#### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

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

Site Location Plan Plan Ref: 01

#### **Notification to Department (if relevant)**

Not Applicable

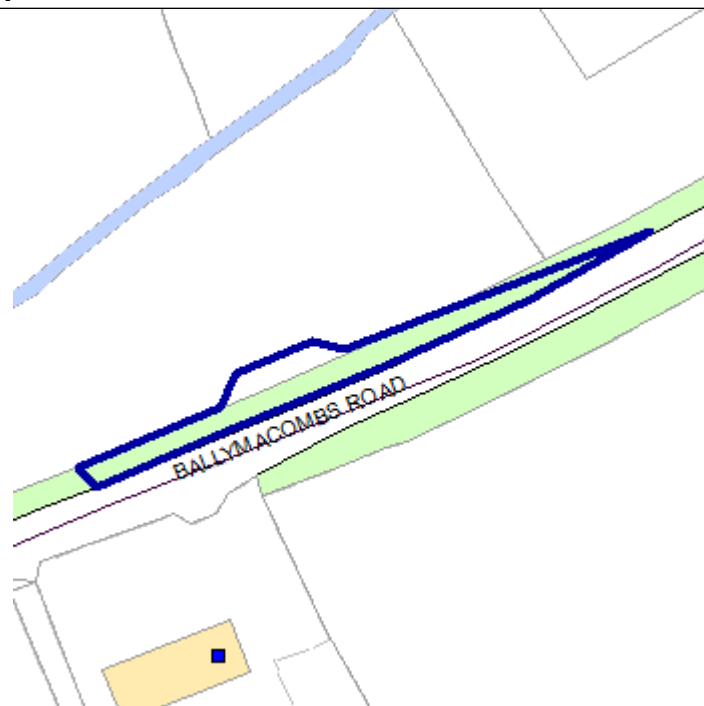
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.14
<b>Application ID:</b> LA09/2022/1699/F	<b>Target Date:</b> 22 March 2023
<b>Proposal:</b> New Access	<b>Location:</b> 23 Ballymacombs Road Portglenone BT44 8NQ
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr JAMES DONNELLY & SONS 23A BALLYMACOMBS ROAD PORTGLENONE BT44 8NQ	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Executive Summary:</b>  <p>This application is brought to the planning committee with a recommendation for approval. Two no. objection letters have been received which point to road safety concerns and also a drainage concern. Both DfI Roads and DfI Rivers have been consulted and provided no objections to the proposed. The proposed access complies with Policy AMP 2 of PPS 3: Access, Movement and Parking.</p>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	138234 - Final Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Dfi Roads responded on 27/01/2023, No revisions attached?
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

Letters of Support	0
Letters of Objection	3
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

This application is brought to the planning committee with a recommendation for approval. Two no. objection letters have been received which point to road safety

concerns and also a drainage concern. Both DfI Roads and DfI Rivers have been consulted and provided no objections to the proposed. The proposed access complies with Policy AMP 2 of PPS 3: Access, Movement and Parking.

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

The application site is located in the rural countryside, 0.5 miles south east and outside of the Clady settlement limit, as defined in the Magherafelt Area Plan 2015. The site is located along the Ballymacombs road (with access via the same), not far from Portglenone. The site consists of a storage and distribution centre with a number of large units all fronting onto the Ballymacombs Road and enclosed by security fencing. The primary access consists of a large gated entrance leading to a concrete yard which provides for parking, turning, loading and off-loading. The proposed is for a new access which serves the same distribution centre. The site has a flat topography and neighbours include nos. 25 and 28 Ballymacombs Road.

### **Description of Proposal**

This is a full application for a new access.

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

#### **Policy Consideration**

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 as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Magherafelt Area Plan 2015**

The application site is located in the rural countryside, 0.5 miles south east and outside of the Clady settlement limit, as defined in the Magherafelt Area Plan 2015.

#### **Relevant Histories**

LA09/2020/1519/F – 23 Ballymacombs Road Portglenone – Proposed storage and distribution centre for finished electrical products – Permission Granted – 19/02/2021.

#### **Other Constraints**

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

This site is not located within or adjacent to any listed buildings / structures.

The site lies within the strategic fluvial flood plain of the Lower Bann, which is a controlled river. See Consideration of PPS 15: Planning and Flood Risk, below.

#### **Representations**

Three no. objection letters have been received against the application proposal. Many of the issues raised in the three letters relate to a previous planning approval for a storage and distribution centre at the site in the form of a new industrial shed unit (planning ref. LA09/2020/1519/F). One comment provides that the shed is allegedly not built in accordance with the approved plans, while another provides that the landscaping has not been implemented as approved. It is advised that such issues are a matter for planning enforcement and are not a material consideration in this application for the new access.

With regard to the issues in the objection letters pertaining to road safety and drainage, these comments are considered below against PPS 3 and PPS 15 respectively.

#### Mid Ulster District Council Draft Plan Strategy 2030

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

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

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

#### Planning Policy Statement 3: Access, Movement and Parking

LA09/2020/1519/F granted approval for a proposed storage and distribution centre for finished electrical products. The access was approved through the existing access which serves the existing industrial units at the site. This proposal is for a new access. This access does not adjoin a protected route so there are no concerns with this policy.

The new access will consist of splays of 4.5m x 120m in both directions, relocating the acoustic barrier behind these splays, with proposed hedgerow to be planted in front of the acoustic fence and behind the line of the visibility splays. The agent has shown additional landscaping of trees around the roadside of the access which will over time block direct views of the access. I am content another access at this site is necessary given the recent approval of the new industrial unit (Unit D). It is taken that a new access at this location would not change the existing character of the area. The proposed landscaping will assist in integrating the access at this site.

DfI Roads were consulted as the statutory authority, who have provided no objection to the proposed access, subject to condition. DfI Roads were also asked to provide comment on the matters raised in the objection letters related to road safety. DfI Roads have emphasized that the proposed visibility splays can be achieved and that this is within the guidelines in DCAN 15 for a

safe access onto Ballymacombs Road Portglenone. The issue of ‘security lighting’ and ‘noise pollution’ was raised in the objection letters. It is worth noting that the proposed includes acoustic solutions and the existing streetlights at the site are to be moved to the rear of the newly created visibility splays. This is also acknowledged by DfI Roads.

In light of the above, I am content that the issues relating to road safety, light and noise pollution, have been considered. I am satisfied that the proposed complies with Policy AMP 2 of PPS 3: Access, Movement and Parking.

#### Planning Policy Statement 15: Planning and Flood Risk

The Flood Hazard Map (NI) indicates that the site lies within the strategic fluvial flood plain of the Lower Bann, which is a controlled river. One of the issues raised in the objections letters relates to a drainage. A consultation was issued to DfI Rivers and in their response it is provided that a topographic survey was submitted for the previous planning approval at the site (planning ref. LA09/2020/1519/F), which provides that the site does not lie within the 1 in 100 year fluvial flood plain and that ground levels at the site give an appropriate freeboard. DfI Rivers have therefore provided no objections to the proposed development.

In light of the above, I am content that the proposed complies with Policy FLD 1 of PPS 15.

#### Planning Policy Statement 21: Sustainable Development in the Countryside

As the proposed access will run alongside an existing boundary I am content the proposal will integrate into the landscape. The applicant has also proposed new hedgerow along the roadside boundary which will assist in integration. Overall, I am content the proposal meets all the criteria in CTY 13 and CTY 14 in PPS 21.

#### Recommendation

Having assessed the proposed I am content that it satisfies the relevant policy criteria under PPS 3, PPS 15 and PPS 21. I have considered the issues raised in the letters of objection and consulted both DfI Roads and DfI Rivers on these matters. With the findings before me, I am content to recommend to the planning committee that this application be approved.

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

Approve is recommended

#### **Approval Conditions**

##### Condition 1

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

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

Condition 2

The vehicular access including visibility splays 4.5 x 120 metres and a 120 metre forward sight distance, shall be provided in accordance with Drawing No. 01 & 02 bearing the date Nov 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

All landscaping comprised in the approved details of landscaping on Drawing No. 02 bearing the date Nov 2022, shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside.

**Signature(s):** Benjamin Porter

**Date:** 16 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	7 December 2022
<b>Date First Advertised</b>	20 December 2022
<b>Date Last Advertised</b>	20 December 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 23 Ballymacombs Road Portglenone Londonderry BT44 8NQ The Owner / Occupier Unit 5 23 Ballymacombs Road Portglenone Londonderry BT44 8NQ The Owner / Occupier Unit B 23C Ballymacombs Road Portglenone Londonderry BT44 8NQ The Owner / Occupier 25 Ballymacombs Road Portglenone Londonderry BT44 8NQ The Owner / Occupier 28 Ballymacombs Road Portglenone Londonderry BT44 8NQ	
<b>Date of Last Neighbour Notification</b>	14 December 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2010/0426/F Proposals: Proposed extension to existing industrial yard to provide 2no additional units with parking and turning area Decision: PR Decision Date: 10-MAR-11 Ref: H/2013/0272/F Proposals: Construction of a carpark in connection with an established business Decision: PR Decision Date: 15-MAY-14 Ref: LA09/2018/1375/F Proposals: Retention of inert material deposited on agricultural land for the purposes of improved drainage Decision: PG Decision Date: 12-AUG-19	

Ref: LA09/2022/1699/F

Proposals: New Access

Decision:

Decision Date:

Ref: LA09/2015/0549/F

Proposals: Proposed shed extension to supersede previously approved unit ref H/2012/0168/F

Decision: PG

Decision Date: 20-APR-17

Ref: LA09/2017/0572/F

Proposals: Proposed extension to existing Kindercraft Buisness to provide storage for raw materials, packaging and finished products

Decision: PG

Decision Date: 08-NOV-17

Ref: H/2008/0494/F

Proposals: Retention of hardcore area used for turning area, parking and storage area to existing industrial units

Decision: PG

Decision Date: 28-MAY-09

Ref: LA09/2020/1519/F

Proposals: Proposed storage & distribution centre for finished electrical products

Decision: PG

Decision Date: 19-JAN-22

Ref: LA09/2018/1209/F

Proposals: Extension to existing Kindercraft business to provide storage for raw materials, packaging and finished products

Decision: PG

Decision Date: 12-AUG-19

Ref: LA09/2016/1755/F

Proposals:

Replacement of toilet / changing block and relocation of lorry wash at 23 Ballymacombs Road, Portglenone

Decision: PG

Decision Date: 08-NOV-17

### **Summary of Consultee Responses**

Rivers Agency-138234 - Final Response.pdf

DFI Roads - Enniskillen Office-Full Resp.docx

DFI Roads - Enniskillen Office-Dfi Roads responded on 27/01/2023, No revisions attached?

DFI Roads - Enniskillen Office-Full Resp.docx

<b>Drawing Numbers and Title</b>
Site Location Plan   Plan Ref: 01 Site Layout or Block Plan   Plan Ref: 02
<b>Notification to Department (if relevant)</b>
Not Applicable



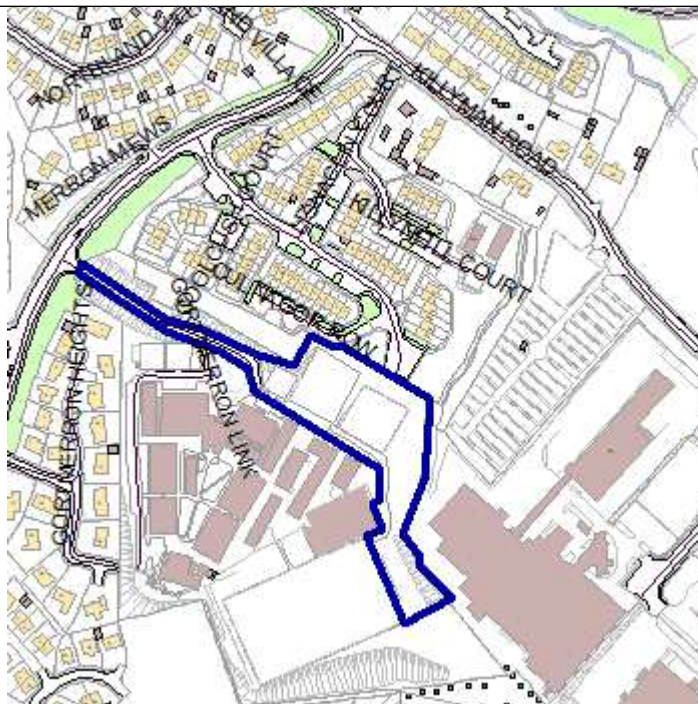


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.15
<b>Application ID:</b> LA09/2022/1702/F	<b>Target Date:</b> 5 July 2023
<b>Proposal:</b> Temporary mobile classroom and school meals accommodation, hard play area, LPG gas compound, substation, retaining walls, underground drainage system and all associated ground work required for the operation of IC Dungannon during the construction and redevelopment of the College. Temporary permission is required until the new college becomes operational	<b>Location:</b> Integrated College Dungannon 21 Gortmerron Link Road Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Board of Governors of Integrated College 21 Gortmerron Link Road Dungannon BT71 6LS	<b>Agent Name and Address:</b> Resolve Planning Forthriver Business Park 385 Springfield Road Belfast BT12 7DG
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation.docxDC Checklist.doc
Statutory Consultee	NI Water - Strategic Applications	
Statutory Consultee	Rivers Agency	20554 - Final reply.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-22-1702 F Intergrated College Dungannon 21 Gortmerron Link Road Dungannon.doc
Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1702-F.xlsm
Statutory Consultee	NIEA	PRT LA09-2022-1702-F.PDF
Statutory Consultee	Health And Safety Executive For NI	CN202302-0008 - Integrated College, 21 Gortmerron Link, Dungannon BT71 6LS.pdf

### Representations:

Letters of Support	0
Letters of Objection	0
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<b>Summary of Issues</b>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site is located within the settlement limit of Dungannon as per the Dungannon and South Tyrone Area Plan 2010 (DSTAP).</p> <p>Access is taken from the Gortmerron Link Road and leads upwards of the road to the existing campus of Dungannon Integrated College. The main campus consists of a reception building, single storey temporary buildings which house the classrooms, associated car parking and hard cored playing areas. To the south of the site, there is a large 3g pitch.</p> <p>The site is elevated above the Gortmerron Link Road and falls away considerably to the south towards the aforementioned 3g pitch.</p> <p>The surrounding land use is predominantly residential with high density housing located immediately adjacent to the NW boundary. There is a large area of industrial land immediately to the south east with Grenier Packaging located adjacent to the site.</p> <p>The southern and south eastern parts of the site towards the 3g pitch are zoned as Existing Recreation and Open Space with the remainder of the site having no designation / zoning (white land).</p>	
<p><b>Description of Proposal</b></p> <p>Temporary mobile classroom and school meals accommodation, hard play area, LPG gas compound, substation, retaining walls, underground drainage system and all associated ground work required for the operation of IC Dungannon during the construction and redevelopment of the College. Temporary permission is required until the new college becomes operational, following a redevelopment project.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b><u>Policy Consideration</u></b></p> <p>The larger site is currently in use as a school and this is clearly an established use on this site. The principle of the development therefore is well established and not subject of</p>	

debate as part of this application. The main discussion points in relation to this application are general planning principles such as impact on nearby amenity, traffic / parking implications, any impact on biodiversity. It is also important to assess the loss of zoned open space which will result from this application.

The following policy documents / Plans are relevant;

- o Dungannon and South Tyrone Area Plan 2010
- o SPPS (Strategic Planning Policy Statement
- o PPS 8 - Open Space, Sport and Outdoor Recreation
- o PPS 1 - General Principles
- o PPS 3 - Access, Movement and Parking

#### DUNGANNON AND SOUTH TYRONE AREA PLAN

The southern half of the site is designated as Recreation and Open Space as per map no. 61a of the DSTAP. The proposal will therefore have to be assessed against PPS 8 - Outdoor Space and Recreation and this assessment is included below.

#### STRATEGIC PLANNING POLICY STATEMENT (SPPS)

Para 6.201 states that existing open space should be safeguarded and that when bringing forward Local Development Plans, these must operate a policy assumption which is against the loss of open space to competing land uses.

#### PPS 8 - OPEN SPACE OUTDOOR SPORT AND RECREATION

Policy OS 1 of PPS 8 states that development that would result in the loss of existing open space or land zoned for the provision of open space. The presumption against the loss of open space will apply irrespective of its physical condition or appearance. The policy goes on to state that where the proposal in question is capable of delivering substantial community benefits that outweigh the impacts of the loss of open space, then this may be treated as an exception to the presumption against the loss of open space. The J&A of OS 1 states that where the proposal will deliver community benefits that outweigh the loss of open space, the agent or the developer must demonstrate that this proposal has public support. In their Design and Access Statement, the agent has shown that despite 74 engagements with the PAN process, no written objections were received and they argue that this demonstrates a level of community support for, or at the very least a lack of opposition to, the proposal.

In this case, the proposal will undoubtedly deliver community benefits in that it will enable the long term re development of an existing school which is a central part of the local community. Like a lot of integrated school sites, this campus is characterised by temporary classroom buildings and is in need of redevelopment in the longer term.

In addition, the part of the open space zoning which is to be used for temporary classroom provision consists of hard cored tennis court / cage type areas which are used by pupils at break time (in use during my site visit) but which are not typical of the type of open space which is used by the wider community outside of the school community / school opening hours. The main part of the open space zoning is unmistakably, the large 3g football pitch which is used by the school but also by the wider community and this facility will still be accessible as normal.

Additionally, the areas of hard play which will be lost to this proposal will be compensated by the provision of new hard play area near to the 3g Pitch.

It is therefore my view that this policy is not contrary to policy OS1 for the following reasons;

- o The proposal will deliver community benefits which outweigh the minimal loss of open space
- o The open space which will be lost is not critical to the reason for zoning this area as an area of open space. The main element of the zoning is the large 3g pitch which will not be lost or affected by this proposal.
- o The area of hard play which will be lost to the temporary classrooms will be compensated by the provision of new areas of hard play.

#### PPS 1 - General Principles

Environment Health were consulted due to the proximity of nearby houses and also the proximity of nearby industry which could impact the amenity of the school. They have no objections to this proposal in relation to impact on residential amenity either to the nearby houses or in relation to the impacts on the school from the existing business. HSENI have also been consulted in relation to the LPG compound and its close proximity to the COMAH site near Moy Park Factory, part of the nearby area of zoned existing industrial land. HSENI offer no objection in terms of health and safety.

NI WATER have been consulted on the proposal and have no objections subject to conditions.

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

DFI roads have been consulted and have no objections to the proposed access

arrangements. They expressed concern at the level of parking available during construction phase and the agent has assuaged these concerns by providing additional parking near the new hard play area, which will mitigate the displacement of parking spaces as a result of the construction phase of the development.

DFI therefore, have no objections to this proposal.

#### Other Material Considerations

No third party objections received in relation to this proposal.

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

Approve is recommended

Given all of the above, I recommend that this proposal is approved, subject to the following conditions;

#### **Approval Conditions**

##### Condition 1

The development hereby approved is temporary and, in the event that application LA09/2023/0164/F is granted planning permission, shall be removed completely from the site within 6 weeks of the new permanent school development becoming operational.

REASON: To ensure the temporary nature of this development.

##### Condition 2

During the construction works hereby permitted, hard surfaced areas shall be provided to provide adequate facilities for parking, servicing and circulating within the site, in accordance with drawing 04 rev 1. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

##### Condition 3

During construction a buffer of at least 10m must be established and maintained between the drainage ditch east of the site and the location of all refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. Storage must be on an impermeable surface to catch spills.

Reason: to protect the aquatic environment

<b>Signature(s):</b> Colin McKeown
<b>Date:</b> 20 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	7 December 2022
<b>Date First Advertised</b>	22 December 2022
<b>Date Last Advertised</b>	22 December 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 6 Coolcush Court Dungannon Tyrone BT71 6BW The Owner / Occupier 7 Coolcush Court Dungannon Tyrone BT71 6BW The Owner / Occupier 8 Coolcush Court Dungannon Tyrone BT71 6BW The Owner / Occupier 9 Coolcush Court Dungannon Tyrone BT71 6BW The Owner / Occupier 10 Coolcush Court Dungannon Tyrone BT71 6BW The Owner / Occupier 11 Coolcush Court Dungannon Tyrone BT71 6BW The Owner / Occupier 1 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 2 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 3 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 4 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 5 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 6 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 7 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 8 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 9 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 10 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 11 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 21 Culnagor Row Dungannon Tyrone BT71 6EN The Owner / Occupier 1 Gortmerron Heights Dungannon Tyrone BT71 6LT	



The Owner / Occupier  
Grenier Packaging, Killyman Road Industrial Estate, Killyman Rd, Dungannon BT71 6LN

<b>Date of Last Neighbour Notification</b>	17 January 2023
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	<events screen>
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**Planning History**

Ref: M/1995/0155

Proposals: Housing Development

Decision: PG

Decision Date:

Ref: M/1992/0545

Proposals: Erection of Dwelling

Decision: PG

Decision Date:

Ref: M/1994/0006

Proposals: Erection of Dwelling

Decision: PG

Decision Date:

Ref: M/1977/0310

Proposals: 11KV O/H LINE

Decision: PG

Decision Date:

Ref: M/1981/0221

Proposals: HOUSING SCHEME

Decision: PG

Decision Date:

Ref: M/1988/0653

Proposals: Housing Development

Decision: PG

Decision Date:

Ref: M/1998/0585

Proposals: Erection of detached domestic garage including utility and store rooms

Decision: PG

Decision Date:

Ref: M/1996/0143

Proposals: Access to Proposed School

Decision: PG

Decision Date:  
 Ref: M/2008/1170/F  
 Proposals: Proposed fencing to part of site boundary  
 Decision: PG  
 Decision Date: 15-DEC-08  
 Ref: M/2003/0838/F  
 Proposals: Canopy covered walkways  
 Decision: PG  
 Decision Date: 03-SEP-03  
 Ref: M/1994/0543  
 Proposals: Provision of 2 no access roads  
 Decision: PG  
 Decision Date:  
 Ref: LA09/2018/0856/F  
 Proposals: Sunroom to Rear of Dwelling and Detached Garage  
 Decision: PG  
 Decision Date: 19-SEP-18  
 Ref: M/2000/1019/F  
 Proposals: Domestic garage  
 Decision: PG  
 Decision Date: 28-NOV-00  
 Ref: M/2004/0931/RM  
 Proposals: Pair of semi-detached dwellings  
 Decision: PG  
 Decision Date: 13-APR-06  
 Ref: M/2003/1038/A41  
 Proposals: Rear ground floor shower room extension to dwelling  
 Decision: 205  
 Decision Date: 02-SEP-03  
 Ref: LA09/2018/1641/F  
 Proposals: Provision of prefabricated accommodation to provide 2 classrooms and associated ancillary spaces  
 Decision: PG  
 Decision Date: 08-FEB-19  
 Ref: M/2006/1246/F  
 Proposals: Proposed 4No apartments and alterations to existing carpark for 10 carparking space  
 Decision: PG  
 Decision Date: 01-JUN-07  
 Ref: M/2008/0313/F  
 Proposals: Proposed 4 no.apartments to existing carpark for 10 carparking spaces.  
 Decision: PG  
 Decision Date: 21-JUL-08  
 Ref: M/2010/0547/F  
 Proposals: Proposed 2 no terrace dwellings  
 Decision: PG

Decision Date: 18-OCT-10

Ref: LA09/2015/0716/F

Proposals: Proposed two terrace dwellings

Decision: PG

Decision Date: 07-DEC-15

Ref: M/2005/1659

Proposals: Proposed housing development

Decision: 461

Decision Date: 22-SEP-05

Ref: M/2005/1969/F

Proposals: 10 no. additional dwellings and change of house types to sites 64, 65, 86, 90, 93, 94 and 112 to recently approved housing development M/2002/1026/F.

Decision: PG

Decision Date: 19-DEC-06

Ref: M/2012/0013/F

Proposals: Proposed change of house type on site 2, 109 and 112 from detached HT3 to semi detached HT33 at housing development off Gortmerron Link Road, Dungannon

Decision: PG

Decision Date: 22-AUG-12

Ref: M/2007/0508/F

Proposals: 10 no. additional dwellings to phase 4&5 to recently approved housing development and change of house types to sites now numbered, 117-123, 134-145, 151-153, 161-168, 176-187 and 187.

Decision: PR

Decision Date: 24-JAN-08

Ref: M/2002/1026/F

Proposals: Proposed Housing Development

Decision: PG

Decision Date: 22-DEC-04

Ref: M/2003/0663

Proposals: Proposed housing development

Decision: 461

Decision Date: 05-AUG-03

Ref: M/1976/010901

Proposals: HOUSING DEVELOPMENT FOR 104 HOUSES

Decision: PG

Decision Date:

Ref: M/1976/0109

Proposals: HOUSING DEVELOPMENT FOR 104 HOUSES

Decision: PG

Decision Date:

Ref: M/1993/0120

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: M/1993/0217

Proposals: Dwelling House

Decision: PG

Decision Date:

Ref: M/2005/1852/F

Proposals: Consisting of 44 no. apartments including 3 and 4 storey blocks, and 18 no. 3 storey townhouses and associated site works and right hand turning lane.

Decision: PG

Decision Date: 02-APR-08

Ref: M/1986/0508

Proposals: ERECTION OF SINGLE DWELLING AND ACCESS ROAD

Decision: PG

Decision Date:

Ref: M/2012/0056/F

Proposals: Change of house type sites 19 - 62 inclusive to previously approved planning ref: M/2005/1852/f

Decision: PG

Decision Date: 22-OCT-13

Ref: M/2007/0173/F

Proposals: Extension to dwelling- providing bedroom & ensuite over existing roof and providing dormers to front & rear.

Decision: PG

Decision Date: 05-APR-07

Ref: M/1988/0345

Proposals: 3 NO STOREY DWELLINGS

Decision: PG

Decision Date:

Ref: M/1986/0428

Proposals: EXTENSION AND ALTERATION TO DWELLING

Decision: PG

Decision Date:

Ref: M/2011/0576/F

Proposals: Replacement of existing two storey dwelling with a new two storey semi detached residential unit with associated site works

Decision: PG

Decision Date: 14-MAR-12

Ref: M/1978/0383

Proposals: HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: M/1976/0183

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: M/1980/0415

Proposals: GARAGE EXTENSION TO EXISTING DWELLING

Decision: PG

Decision Date:

Ref: M/2008/1081/F

Proposals: Change of house type site 1 to 18 inclusive to previously approved planning Ref: M/2005/1852/F

Decision: PG

Decision Date: 19-MAY-09

Ref: M/2008/0480/F

Proposals: Change of use from dwelling to 2no. apartments including galvanised staircase gable end of building

Decision:

Decision Date:

Ref: M/2011/0370/F

Proposals: Sunroom and utility extension to rear and provision of carport to side

Decision: PG

Decision Date: 04-JUL-11

Ref: M/1991/6001

Proposals: Superstore Gortmerron Heights Dungannon

Decision: QL

Decision Date:

Ref: M/1994/6049

Proposals: Surplus properties Nortland Terrace and Coolhill Dungannon.

Decision: QL

Decision Date:

Ref: M/1986/0334

Proposals: 2 NO DWELLINGS (SEMI-DETACHED)

Decision: PG

Decision Date:

Ref: M/1999/0410

Proposals: Domestic Garage

Decision: PG

Decision Date:

Ref: M/1987/0653

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: LA09/2022/1025/PAN

Proposals: Temporary mobile classroom accommodation, hard play area and all associated work for use during future construction of new redeveloped college.

Decision: PANACC

Decision Date: 22-JUL-22

Ref: LA09/2022/1702/F

Proposals: Temporary mobile classroom and school meals accommodation, hard play area, LPG gas compound, substation, retaining walls, underground drainage system and all associated

ground work required for the operation of IC Dungannon during the construction and redevelopment of the College. Temporary permission is required until the new college becomes operational

Decision:

Decision Date:

Ref: LA09/2022/1506/PAN

Proposals: Redevelopment of Dungannon Integrated College to provide a new integrated post primary school to accommodate circa. 700 pupils (as existing). Proposed works to include demolition of existing buildings, phase construction of

new school accommodation and extension to existing sports block. Other works include new grass pitches, tennis

courts, hard play areas, cycle and car parking areas, landscaping and all associated site works.

Vehicular and

pedestrian access to the main school site will be maintained off Gortmerron Link Road. In addition to this a new

access point is proposed through to Stevenson Park Rugby grounds, to facilitate pedestrian and vehicular access

to the southern pitches.

Decision: PY

Decision Date: 02-NOV-22

Ref: M/1983/0527

Proposals: ESTATE LOCATION SIGNS

Decision: CROWN

Decision Date:

Ref: M/2013/0157/HSC

Proposals: Amended Proposal - Application for Hazardous Substance Consent for the storage of 120 tonnes of Part A, Entry 18. Part and Entry refer to The Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 as amended by S.R. 2009/399 at Moy Park

Decision: CG

Decision Date: 03-NOV-14

Ref: M/2005/0134/F

Proposals: Water chiller plant structure

Decision: PG

Decision Date: 17-MAY-05

Ref: M/2009/0774/F

Proposals: Proposed energy reclaim scheme involving installation of 5 no external cooling plant units on galvanised steel framed platforms and new rear boundary fencing

Decision: PG

Decision Date: 10-FEB-10

Ref: M/2007/0156/F

Proposals: Demolition of existing warehouse and proposed new high bay pallet store and link extension and associated site works.

Decision: PG

Decision Date: 05-JUN-07

Ref: M/2003/1020/F

Proposals: Proposed 2 No new. silos

Decision: PG

Decision Date: 16-OCT-03

Ref: M/2001/0274/F

Proposals: Proposed extension to factory store (Phase 1)

Decision: PG

Decision Date: 22-MAY-01

Ref: M/2007/0583/F

Proposals: Proposed 3no. stainless steel cylindrical storage silos

Decision: PG

Decision Date: 18-SEP-07

Ref: M/1997/0488

Proposals: Extension to Factory to provide Office Accommodation

Decision: PG

Decision Date:

Ref: M/1988/0543

Proposals: EXTENSION TO FACTORY

Decision: PG

Decision Date:

Ref: M/1996/0407

Proposals: Extension to factory to provide toilets and canteen

Decision: PG

Decision Date:

Ref: M/2006/1532/F

Proposals: New high bay pallet storage extension linking existing factory buildings and  
demolishment of existing front office building to create new arrival/dispatch loading bays.

Decision: PG

Decision Date: 28-NOV-06

Ref: M/1974/0437

Proposals: ERECTION OF FACTORY FOR PLASTICS MOULDING

Decision: PG

Decision Date:

Ref: M/1985/0187

Proposals: ERECTION OF 10 FT ELECTRIC OVERHEAD TRAVELLING CRANE AND SUPPORTING GANTRY

Decision: PG

Decision Date:

Ref: M/1981/0191

Proposals: EXTENSION TO FACTORY

Decision: PG

Decision Date:

Ref: M/1978/0751

Proposals: PROPOSED STORE

Decision: PG

Decision Date:

Ref: M/1995/0052

Proposals: Erection of first floor offices and link corridor

Decision: PG

Decision Date:

Ref: M/2002/1355/F

Proposals: Proposed 2 No. new Silos

Decision: PG

Decision Date: 12-MAR-03

Ref: M/2005/0133/F

Proposals: Proposed extension to store

Decision: PG

Decision Date: 06-APR-05

Ref: M/2005/0143/F

Proposals: 2 No new silos

Decision: PG

Decision Date: 23-APR-05

Ref: M/1995/0011

Proposals: Extension to processing plant

Decision: PG

Decision Date:

Ref: M/1990/4107

Proposals: Extension to industrial building

Decision: PDNOAP

Decision Date:

Ref: M/1994/0223

Proposals: Erection of cooling tower and associated equipment

Decision: PG

Decision Date:

Ref: M/1993/0490

Proposals: Extension To Factory To Create New Digest Room

Decision: PG

Decision Date:

Ref: M/1975/053501

Proposals: FACTORY FOR PHARMACEUTICAL GLAND PREPARATION FOR MEDICINAL EXTRACTION

Decision: PG

Decision Date:

Ref: M/1994/0392

Proposals: Erection of effluent treatment plant building

Decision: PG

Decision Date:

Ref: M/1975/0535

Proposals: FACTORY FOR PHARMACEUTICAL GLAND PREPARATUON FOR MEDICINAL EXTRACTION

Decision: PG

Decision Date:



Ref: LA09/2019/0286/F

Proposals: Proposed change of house type of semi detached dwelling (part of approval M/2012/0013/F) to house type 20

Decision: PG

Decision Date: 02-MAY-19

Ref: M/1974/0265

Proposals: 33KV, 11KV AND KV O/H LINES

Decision: PG

Decision Date:

Ref: M/1976/0253

Proposals: PUBLIC AUTHORITY HOUSING

Decision: PG

Decision Date:

Ref: M/2008/0155/F

Proposals: Proposed emergency exit ramp

Decision: PG

Decision Date: 23-APR-08

Ref: M/1995/0225

Proposals: Erection of New Integrated College

Decision: PG

Decision Date:

Ref: M/1997/0142

Proposals: Erection of new 500 pupil integrated college on vacant site

Decision: PG

Decision Date:

Ref: M/2000/0038/F

Proposals: New school meals accommodation and amendment (reduction) to classroom Block 1 previously approved under Application No; M/97/0142, retention of temporary accommodation associated hard landscape works to playground.

Decision: PG

Decision Date: 24-MAR-01

Ref: M/2011/0729/F

Proposals: It is proposed to provide 2.4m Weld Mesh (Powder Coated Green) fencing along southern , south western and south eastern boundaries

Decision: PG

Decision Date: 05-JAN-12

Ref: LA09/2022/0577/PAD

Proposals: Redevelopment of Dungannon Integrated College to provide a new Integrated post Primary School to accommodate circa 700 pupils (As Existing)

Decision: PAD

Decision Date: 09-NOV-22

Ref: M/2014/0514/F

Proposals: New sports hall, changing rooms, office, drama studio, storage and new 3G pitch with surrounding fence and floodlighting

Decision: PG  
 Decision Date: 24-FEB-15  
 Ref: LA09/2020/0999/PAD  
 Proposals: Option 1 - Redevelopment of Dungannon Integrated College  
 Decision: PAD  
 Decision Date: 01-FEB-21  
 Ref: LA09/2018/1407/PAD  
 Proposals: New classroom accommodation to the rear and additional bus parking at the entrance of the site  
 Decision: PAD  
 Decision Date: 16-JAN-19  
 Ref: M/1982/038601  
 Proposals: PHASE 2 OF HOUSING DEVELOPMENT  
 Decision: PG  
 Decision Date:  
 Ref: M/1982/0386  
 Proposals: PHASE 2 OF HOUSING DEVELOPMENT  
 Decision: PG  
 Decision Date:  
 Ref: M/1991/0273  
 Proposals: 11KV Line  
 Decision: PG  
 Decision Date:  
 Ref: LA09/2020/1279/F  
 Proposals: Renewal of planning application LA09/2015/0716/F (2 no terraced dwellings)  
 Decision: PG  
 Decision Date: 01-MAR-21  
 Ref: M/1990/0430  
 Proposals: Domestic garage  
 Decision: PG  
 Decision Date:  
 Ref: M/1982/0303  
 Proposals: WIDENING EXISTING ACCESS ROAD AND PROVISION OF TURNING HEAD  
 Decision: PG  
 Decision Date:  
 Ref: LA09/2018/0921/F  
 Proposals: The Provision of prefabricated accommodation to provide two science classrooms ,a technology classroom and a general classroom and associated ancillary spaces  
 Decision: PG  
 Decision Date: 10-AUG-18  
 Ref: M/1995/6116  
 Proposals: Integrated College Temp Accommodation Gortmerron Link Dungannon  
 Decision: QL  
 Decision Date:  
 Ref: M/2000/0784/F

Proposals: Extension to dwelling  
Decision: PG  
Decision Date: 26-SEP-00  
Ref: M/1991/0098  
Proposals: Erection of switchroom  
Decision: PG  
Decision Date:  
Ref: M/1973/0092  
Proposals: ERECTION OF 7,000 SQ FT FACTORY  
Decision: PG  
Decision Date:  
Ref: M/1984/0428  
Proposals: EXTENSION TO EXISTING FACTORY  
Decision: PG  
Decision Date:  
Ref: M/1987/0521  
Proposals: EXTENSION TO FACTORY  
Decision: PG  
Decision Date:  
Ref: M/2013/0075/F  
Proposals: Erection of a metal boundary fence on perimeter of property  
Decision: PG  
Decision Date: 28-MAY-13  
Ref: M/1980/0438  
Proposals: GROUNDS MAINTENANCE DEPOT  
Decision: PG  
Decision Date:  
Ref: M/1997/0233  
Proposals: Proposed change of use from N.I.H.E Depot to 2 No  
Industrial Units and Firing Range  
Decision: PG  
Decision Date:  
Ref: M/1975/0453  
Proposals: PUBLIC AUTHORITY HOUSING  
Decision: PG  
Decision Date:  
Ref: M/1975/045301  
Proposals: PUBLIC AUTHORITY DWELLINGS  
Decision: PG  
Decision Date:  
Ref: M/1992/0621  
Proposals: Erection of Dwelling  
Decision: PG  
Decision Date:  
Ref: M/1993/0143

Proposals: New Dwelling  
Decision: PG  
Decision Date:

### Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Consultation.docxDC Checklist.doc  
NI Water - Strategic Applications-  
Rivers Agency-20554 - Final reply.pdf  
Environmental Health Mid Ulster Council-LA09-22-1702 F Intergrated College  
Dungannon 21 Gortmerron Link Road Dungannon.doc  
NI Water - Strategic Applications-LA09-2022-1702-F.xlsm  
NIEA-PRT LA09-2022-1702-F.PDF  
Health And Safety Executive For NI-CN202302-0008 - Integrated College, 21  
Gortmerron Link, Dungannon BT71 6LS.pdf

### Drawing Numbers and Title

Site Location Plan Plan Ref: 01  
Site Location Plan Plan Ref: 02  
Site Layout or Block Plan Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 04  
Site Layout or Block Plan Plan Ref: 05  
Site Layout or Block Plan Plan Ref: 06  
Site Layout or Block Plan Plan Ref: 07  
Site Layout or Block Plan Plan Ref: 08  
Site Layout or Block Plan Plan Ref: 09  
Proposed Plans Plan Ref: 10  
Existing Plans Plan Ref: 11  
Site Layout or Block Plan Plan Ref: 12  
Site Layout or Block Plan Plan Ref: 13  
Proposed Floor Plans Plan Ref: 15  
Proposed Elevations Plan Ref: 16  
Proposed Plans Plan Ref: 17  
Proposed Plans Plan Ref: 18  
Cross Sections Plan Ref: 19  
Existing Plans Plan Ref: 20  
Existing Plans Plan Ref: 21  
Existing Plans Plan Ref: 22

### Notification to Department (if relevant)

Not Applicable

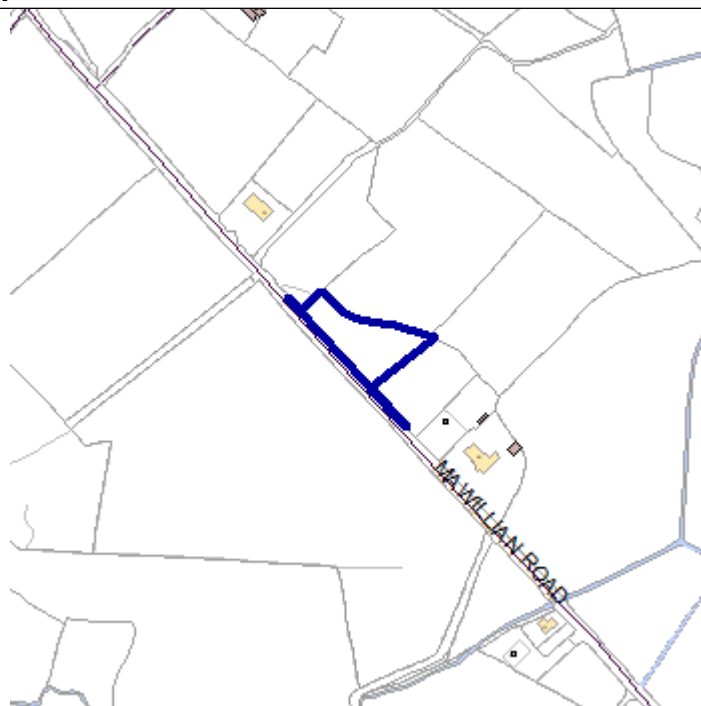


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2022/1761/F	<b>Target Date:</b> 5 April 2023
<b>Proposal:</b> (infill / gap) sites for 2 no. dwellings and domestic garages as policy CTY 8	<b>Location:</b> 90M NW of 28 Mawillian Road Moneymore
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr PADDY CAMPBELL 28 MAWILLIAN ROAD MONEYMORE BT45 7XM	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Executive Summary:</b>  This application is brought before the planning committee with a recommendation for refusal. The proposed is contrary to Policies CTY 8 and CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-1761-F.pdf
Non Statutory Consultee	Rivers Agency	14391 - Final Response.pdf

### Representations:

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

### Summary of Issues

This application is brought before the planning committee with a recommendation for refusal. The proposed is contrary to Policies CTY 8 and CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development.

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

The site is located in the rural countryside approximately 2 miles south east and outside of the Moneymore settlement limit as defined in the Cookstown Area Plan 2010. The site is a 0.23 hectare area agricultural field sited adjacent to the Mawillian Road, with a field gate providing the current access to the site along the same road. The field is sited next to no. 26 Mawillian Road. The site has a flat topography and is irregular in shape. The principle roadside boundary is marked by mature hedgerow, picket fencing and scatterings of trees. The rear boundary provides a backdrop of mature trees and is also marked by picket fencing. The south eastern boundary is marked by picket fencing without any vegetation and the north western boundary is defined by a thick line of mature trees. There is a small corrugated iron shed sited at this end of the field which is not visible from the road, within the curtilage of this proposal. The application site as a whole is well screened from the road, most notably from the north western approach. The field is most viewable from the road when approaching from the south east adjacent to no. 26. Other nearby dwellings include no. 28 south east and adjacent to no. 26, and no. 22 which is sited 50m north west of the application site. The wider surrounding environment consists mostly of agricultural fields and a low and dispersed pattern of development dotted along the Mawillian Road.

## **Description of Proposal**

This is a full application for a proposed (infill / gap) site for 2 no. dwellings and domestic garages under policy CTY 8.

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

### **Policy Consideration**

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 as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

### **Relevant Histories**

I/2014/0009/O – Dwelling on family land for member of landowners family under Policy CTY10 of PPS21 – 120m north west of 28 Mawillian Road Moneymore Magherafelt BT 45 7XH – Application withdrawn

I/2006/0252/O – Proposed site for new dwelling and garage – approximately 100m north west of 28 Mawillian Road, Moneymore – Permission Refused

I/2003/0948/O – New dwelling – 270m south east of no 20 Mawillian Road, Coagh – Application withdrawn



## Representations

To date no third party representations have been received.

## Cookstown Area Plan 2010

The site is located in the rural countryside approximately 2 miles south east and outside of the Moneymore settlement limit as defined in the Cookstown Area Plan 2010.

## Mid Ulster District Council Draft Plan Strategy 2030

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

## SPPS – Strategic Planning Policy Statement for Northern Ireland

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

## Planning 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. The proposal involves the creation of a new access onto the public road. A consultation was made to DfI Roads who provided no objection to the proposed. In light of this, I am content that the proposed complies with PPS 3.

## PPS 21 – Sustainable Development in the Countryside

PPS 21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 states that planning permission will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. This application is therefore considered under CTY 8 – Ribbon

## Development.

In terms of the plot size, I am content that the site would be able to accommodate the two dwellings that are proposed. For the purposes of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. I am satisfied that nos. 26 and 28 Mawillian Road to the south east of the site are buildings which provide a substantial and built up frontage along the road. This application relies on the shed at the other side of the application site as being the third building along the road frontage. It is my view that the shed does not amount to a building that is substantial, nor does it lend itself to the built up frontage provided by nos. 26 and 28. The shed in question is small and not visible from the public road, and therefore provides no meaningful visual presence which could merit a gap site opportunity between it and the two dwellings to the south east. The shed does not appear as a permanent structure and it is questionable as to whether the shed is even a building. It is not known how long this shed has been at the site as it is screened from view and therefore cannot be confirmed with google street view / historical ortho imagery. There is no record of any planning permission / CLUD for the shed to demonstrate its lawfulness. Given the above, it is my view that the proposal adds to a ribbon of development and therefore fails to meet Policy CTY 8 of PPS 21.

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. The two proposed dwellings for the site are like-for-like. Both dwellings have a principal ridge height of 6 metres from finished floor levels, which is in keeping with the ridge heights of nos. 26 and 28 Mawillian Road. Finished materials include white smooth render and natural stone elements to the walls and blue / black slates to the roofs. It is considered that the design of the proposed dwellings are appropriate for the site and its locality and they would not be prominent features in the landscape. Site boundaries are strong in the form of hedging along the roadside edge and scatterings of trees throughout, most notably along the north western and rear boundaries, providing a suitable backdrop for the proposed dwellings. The existing trees should be retained and new landscaping implemented. From this I am content that the application is able to comply with Policy CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As provided above, the proposed dwellings would not appear prominent in the landscape. However, given the proposal creates a ribbon of development, the proposed does not comply with Policy CTY 14.

## PPS 15 – Planning and Flood Risk

Dfl Flood Maps(NI) indicate that the site lies within an area of predicted pluvial flooding. Dfl Rivers were consulted and in their response provide that a drainage assessment is required for new buildings and /or hard surfacing exceeding 1000sqm, as per Policy FLD3 of PPS 15. In this instance, the 2 no. proposed dwellings and hardstanding measure 1040sqm. A drainage assessment is required for this application. However, given that the proposal fails to meet Policies CTY 8 and CTY 14 of PPS 21, the drainage

assessment is not requested at this time.

#### Other Constraints

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

#### Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application is refused on the grounds that it does meet Policies CTY 8 and CTY 14 of PPS 2 in that it would create a ribbon of development if approved.

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

Refuse is recommended

#### **Refusal Reasons**

##### Reason 1

The proposal is contrary to Policy CTY 8 and Policy CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development.

**Signature(s):** Benjamin Porter

**Date:** 16 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	21 December 2022
<b>Date First Advertised</b>	10 January 2023
<b>Date Last Advertised</b>	10 January 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 26 Mawillian Road Moneymore Londonderry The Owner / Occupier 22 Mawillian Road Moneymore Londonderry BT45 7XH	
<b>Date of Last Neighbour Notification</b>	9 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: I/2002/0181/F Proposals: Bungalow and Garage Decision: PG Decision Date: 22-FEB-03 Ref: I/2003/0030/O Proposals: Site for dwelling and garage (2 storey) Decision: PG Decision Date: 15-MAR-03 Ref: I/2004/1415/O Proposals: Dwelling & Garage Decision: Decision Date: Ref: I/2008/0792/F Proposals: Erection of dwelling and garage (full permission in Substitution for Reserved Matters on outline per I/2005/1300/0) Decision: PG Decision Date: 19-MAY-09 Ref: I/2005/1300/O Proposals: Proposed dwelling house Decision: PG Decision Date: 10-JAN-06 Ref: I/1997/0096	

Proposals: Site for Dwelling  
 Decision: PG  
 Decision Date:  
 Ref: I/1997/0096B  
 Proposals: Erection of Dwelling  
 Decision: PG  
 Decision Date:  
 Ref: I/2003/0948/O  
 Proposals: New Dwelling  
 Decision:  
 Decision Date:  
 Ref: LA09/2019/0291/RM  
 Proposals: Proposed new dwelling and garage  
 Decision: PG  
 Decision Date: 10-MAY-19  
 Ref: LA09/2017/1336/O  
 Proposals: Proposed new dwelling and garage  
 Decision: PG  
 Decision Date: 17-OCT-18  
 Ref: I/2006/0252/O  
 Proposals: Proposed Site for New Dwelling & Garage  
 Decision: PR  
 Decision Date: 18-DEC-06  
 Ref: I/2014/0009/O  
 Proposals: Dwelling on Family Land for member of landowners family under Policy CTY10 of PPS21.  
 Decision:  
 Decision Date:  
 Ref: I/2002/0726/O  
 Proposals: Site of dwelling and garage  
 Decision: PG  
 Decision Date: 30-DEC-02  
 Ref: I/1982/0080  
 Proposals: ERECTION OF BUNGALOW  
 Decision: PG  
 Decision Date:  
 Ref: I/1999/0570/F  
 Proposals: Garage and alterations dwelling  
 Decision: PG  
 Decision Date: 08-JAN-00  
 Ref: LA09/2022/1761/F  
 Proposals: (infill / gap) sites for 2 no. dwellings and domestic garages as policy CTY 8  
 Decision:  
 Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-  
NI Water - Single Units West-LA09-2022-1761-F.pdf  
Rivers Agency-14391 - Final Response.pdf

**Drawing Numbers and Title**

Site Location Plan    Plan Ref: 01  
Site Layout or Block Plan    Plan Ref: 02  
Proposed Floor Plans        Plan Ref: 03  
Proposed Elevations        Plan Ref: 04  
Garage Plans                Plan Ref: 05

**Notification to Department (if relevant)**

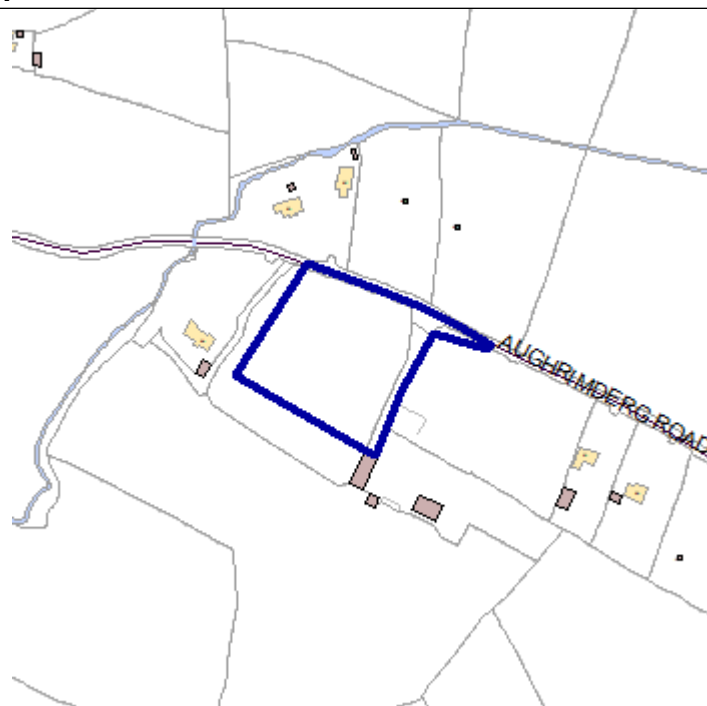
Not Applicable

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2023/0036/O	<b>Target Date:</b> 5 May 2023
<b>Proposal:</b> Two storey dwelling and garage	<b>Location:</b> 40M East of 98 Mountjoy Road Coalisland
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mrs David and Marissa Canavan 98 Mountjoy Road Coalisland BT71 5EF	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>  This application is presented to Committee as the applicant, Mrs Marissa Canavan, is Strategic Director of Organisation Development, Strategy and Performance within Mid Ulster Council.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0036-O.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approx. 0.5km northeast of the small settlement of Killeen and 2.5km west of the



shores of Lough Neagh.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a large rectangular shaped roadside field. It is located immediately east of the applicant's home, no. 98 Mountjoy Rd, a hipped roof bungalow with ancillary garage set back from the Mountjoy Road. Two existing lanes off the Mountjoy Road, serving agricultural lands and buildings within the applicant's ownership, bound the site to either side. One lane runs along the inside of the site's western boundary and the other lane along the inside of the site's eastern boundary. A mix of mature hedging defines the north (roadside), west and east boundaries of the

site. Post and wire fencing defines the south (rear) boundary of the site.

Whilst the area surrounding the site is largely characterised by agricultural land, a dispersed settlement pattern and farm holdings the area has come under some development pressure in recent times. A line of four detached dwellings, two single and two 2-storey, run along the north side of the Mountjoy Rd immediately opposite the site. Two substantial lines of dwellings also run along both sides of the Mountjoy Rd just a short distance southeast of the site.

Views of a dwelling and garage on this site would be limited until passing along its roadside frontage due to the topography of the area which alongside existing vegetation and development bounding it and within the wider vicinity help enclose and screen it from view. From the limited views the same vegetation and development would provide it with a backdrop.

### **Description of Proposal**

This is an outline planning application for a two storey dwelling and garage on a farm. The site is located on lands approx. 40m East of 98 Mountjoy Road Coalisland.

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

#### **Policy Consideration**

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 3: Access, Movement and Parking

Planning Policy Statement 21: Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

## **Representations**

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

## **Planning History**

- M/1981/0323 - Erection of 2 dwellings - Aughminderg Mountjoy Coalisland - Granted
- M/1990/0142 - Site for Dwelling - Approx. 300m East of Ballygittle Rd Aughrimderg Stewartstown - Withdrawn
- M/1993/0454 - 11 KV Rural Spur - Townland of Aughrimderg in the District of Dungannon - Granted
- M/2001/1162/O - Site for dwelling & domestic garage - Land east of and adjacent to 98 Mountjoy Rd Aughrimderg Coalisland - Refused

## **Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject to standard conditions and informatives, which will be applied to any subsequent decision notice to comply with the requirements of PPS 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with a P1C Form and Farm maps submitted alongside the application. DAERA advised the farm business identified on the P1C Forms and Farm maps was established on the 15<sup>th</sup> April 2008 however the site is located on land that is not under the control of the farm business identified on the P1 and the land was claimed by another business in 2022.

## **Consideration**

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 is the overarching policy for development in the countryside. Policy CTY1 of PPS21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. These include dwellings on farms in accordance with Policy CTY 10 of PPS21.

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

- the farm business is currently active and has been established for at least 6 years,

DAERA advised the farm business identified on the P1C Forms and Farm maps was established on the 15th April 2008 however the site is located on land that is not under the control of the farm business identified on the P1 and the land was claimed by another business in 2022.

Whilst consultation with DEARA confirmed the applicant's farm business has been established in excess of 6 years it was not able to establish that it is currently active. I am reasonably content that it is currently active as on the date of my inspection the applicants farmlands appeared to be in good agricultural condition and additional info was submitted by the applicant including a letter dated the 10<sup>th</sup> January 2023 addressed to the applicant at 98 Mountjoy Road outlining conformity with the Northern Ireland Farm Quality Assurance Scheme; and an invoice from Capper Trading dated 21<sup>st</sup> November 2022 addressed to the applicant at 98 Mountjoy Road for calf grower. As such, I am content Criterion (a) of CTY 10 has been met.

- 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 or since PPS 21 was introduced on 25th November 2008,

There is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the applicants' farm holding within the last 10 years from the date of the application. I carried out a history check on the applicant's farmlands and maps submitted and whilst there was dwelling granted to the immediate north of the site to the opposite side of the Mountjoy Rd under planning application M/2004/0167/O and M/2007/0699/RM respectively, a land registry check confirmed these lands were not on or sold off the applicants holding within 10 years of the date of this application. I note that another planning and land registry check identified that that the applicant had bought a site with planning permission on it for a dwelling under planning application M/2006/0487/O, got a reserved matters approval on it under M/2009/0507/RM then sold it on 28<sup>th</sup> May 2014. Whilst this site was sold within 10 years of the date of this application it was bought with planning permission for a dwelling, was not located on the applicant's farm holding at Mountjoy Road but some 16km west of it along the Gortindarragh Road as such is not considered a sell off from the farm holding. Criterion (2) of CTY 10 has been met.

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

I am content a new dwelling and garage located in the western half of the site would visually link and cluster with an established group of buildings on the farm. The dwelling in the western half of the site would visually link and cluster with the applicant's house and garage located immediately west of the site. Criterion (3) of CTY 10 has been met. I also note there is an existing laneway along the boundary of the applicants dwelling which can be used to access this proposed dwelling.

Policy CTY 10 also states 'planning permission granted under this policy will only be forthcoming once every 10 years' and I am content checks have not identified any previous such permissions for the applicants or this farm holding.

I believe a dwelling of an appropriate size, scale and design located to the western half of the site visually link with the applicants dwelling and garage on the farm holding should integrate into this site with minimal disruption to the rural character of the area. As detailed in the 'Characteristics of the Site and Area' critical views of a dwelling and garage on this site would be limited until passing along its roadside frontage due to the topography of the area which alongside existing vegetation and development bounding it and within the wider vicinity help enclose and screen it from view. From the limited views the same vegetation and development would provide it with a backdrop.

As this is an outline application the details of the siting, size, scale and design of the dwelling can be considered further under any subsequent reserved matter application. I believe a suitably designed scheme should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the substantial separation distances that will be retained and vegetation bounding the site.

#### **Additional considerations**

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED), map viewers available online have been checked and identified no built heritage assets of interest or natural heritage features of significance on site.

Flood Maps NI indicate the site is not subject to Flooding.

**Recommendation:** Approve

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

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

##### **Condition 2**

Approval of the details of the siting, design and external appearance of the buildings, the

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

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

**Condition 3**

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

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

**Condition 4**

The proposed dwelling and its curtilage shall be sited in the area shaded brown on Drawing No. 01 Rev 02 bearing the date stamp received 20 MAR 2023.

Reason: In the interests of visual amenity.

**Condition 5**

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.35 metres at any point.

Reason: In the interest of visual amenity.

**Condition 6**

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

Reason: In the interest of visual amenity.

**Condition 7**

The existing natural screenings of this site, as indicated in yellow on Drawing No. 01 Rev 02 bearing the date stamp received 20 MAR 2023, shall be permanently retained except where it is required to provide access and / or sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual and residential amenity.

**Condition 8**

A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development hereby approved at the Reserved Matters stage. The scheme shall include a native species hedgerow to be planted to the rear of the site splays and along all new curtilage boundaries. Any trees or shrubs which may be damaged or die within a

period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the occupation of the development.

Reason: In the interests of visual and residential amenity.

**Condition 9**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access off the existing lane to be constructed in accordance with the attached form RS1 and shall include sight splays of 2.4m x 60m in both directions onto the public road and a 60m forward sight distance. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

**Signature(s):** Emma Richardson

**Date:** 23 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	20 January 2023
<b>Date First Advertised</b>	31 January 2023
<b>Date Last Advertised</b>	31 January 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 96 Mountjoy Road Coalisland Tyrone BT71 5EF The Owner / Occupier 96A Mountjoy Road Coalisland Tyrone BT71 5EF The Owner / Occupier 94 Mountjoy Road Coalisland Tyrone BT71 5EF The Owner / Occupier 96B Mountjoy Road Stewartstown Tyrone BT71 5EF The Owner / Occupier 98 Mountjoy Road Coalisland Tyrone BT71 5EF	
<b>Date of Last Neighbour Notification</b>	31 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2015/0618/F Proposals: Proposed domestic dwelling and garage Decision: PG Decision Date: 13-OCT-15 Ref: M/2000/0615/O Proposals: Site for dwelling Decision: PG Decision Date: 16-JAN-01 Ref: M/2004/0041/RM Proposals: Dwelling House Decision: PG Decision Date: 23-JUN-04 Ref: M/2003/0903/O Proposals: Dwelling House Decision: PG Decision Date: 16-OCT-03 Ref: M/2001/0859/F	



Proposals: Proposed Dwelling House

Decision: PG

Decision Date: 15-NOV-01

Ref: LA09/2023/0036/O

Proposals: Two storey dwelling and garage

Decision:

Decision Date:

Ref: M/2003/0002

Proposals: Proposed Extension to Waste Management Yard with Temporary Office  
Accommodation & New Weighbridge

Decision:

Decision Date:

Ref: M/2001/0996/O

Proposals: Proposed dwelling

Decision:

Decision Date:

Ref: M/1992/0573

Proposals: Erection of Dwelling

Decision: WITHDR

Decision Date:

Ref: M/2004/0887/O

Proposals: Proposed Dwelling - Living Accommodation

Decision: PR

Decision Date: 27-OCT-04

Ref: M/1993/0454

Proposals: 11 KV Rural Spur

Decision: PG

Decision Date:

Ref: M/2001/1162/O

Proposals: Site for dwelling & domestic garage.

Decision: PR

Decision Date: 28-FEB-02

Ref: M/1990/0142

Proposals: Site for Dwelling

Decision: WITHDR

Decision Date:

Ref: M/1981/0323

Proposals: ERECTION OF 2 NO DWELLINGS

Decision: PG

Decision Date:

Ref: M/2004/0167/O

Proposals: proposed dwelling

Decision: PG

Decision Date: 04-JUN-04

Ref: M/2007/0699/RM

Proposals: Proposed dwelling.

Decision: PG

Decision Date: 17-AUG-07

Ref: M/2013/0252/O

Proposals: One dwelling house and a domestic garage

Decision: PG

Decision Date: 27-AUG-13

Ref: M/2012/0227/PREAPP

Proposals: Proposed site for 1 or 2 houses

Decision: ELR

Decision Date: 28-MAY-12

Ref: LA09/2021/0070/F

Proposals: Proposed single storey DDA bathroom extension

Decision: PG

Decision Date: 25-FEB-21

Ref: M/2013/0123/PREAPP

Proposals: Proposed site for 1 or 2 houses

Decision: PREA

Decision Date: 02-MAY-13

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

DAERA - Omagh-LA09-2023-0036-O.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Location Plan Plan Ref: 01 Rev 01

Site Location Plan Plan Ref: 01 Rev 02

### **Notification to Department (if relevant)**

Not Applicable

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2023/0105/O	<b>Target Date:</b> 17 May 2023
<b>Proposal:</b> Proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm	<b>Location:</b> 60M East of 32 Drummuck Road Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Grainne and Tommy Quigley 19 Tullynure Road Lissan Cookstown BT80 9XH	<b>Agent Name and Address:</b> Austin Mullan 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0105-O.DOCX
Non Statutory Consultee	DAERA - Omagh	DAERA response already issued on 03/03/2023
	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to policy

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

The site is located within the open countryside, outside any defined settlement limits or any other designations as per the Magherafelt Area Plan. The red line of the application site is a front portion of a larger agricultural field which extends further north. This portion is a roadside piece of the field, with existing mature boundaries on the roadside and west. The eastern boundary is partly bounded by sparsely populated trees which provide some screening to the site with the northern boundary currently undefined with the land rising in this direction. The surrounding area is mainly agricultural lands with a third party dwelling located west and adjacent to the red line.

## **Description of Proposal**

This is an outline planning application for a proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm.

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

### **Policy Consideration**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

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

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

PPS 21.

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

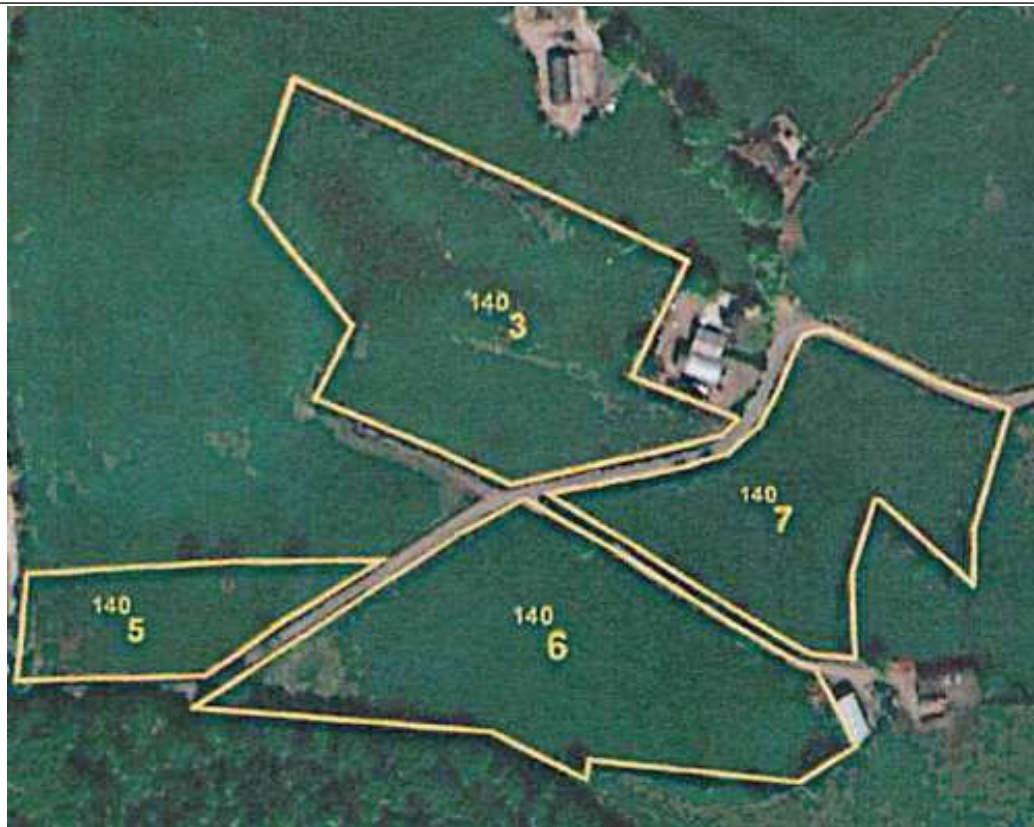
- (a) the farm business is currently active and has been established for at least 6 years;
  - (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
  - (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.
- Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

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

The agent provided farm details which were sent to DAERA who confirmed the farm business ID has been established for more than 6 years and that single farm payments have been claimed in each of the last 6 years. From this I am content the farm business is currently active and established.

Following a search on the MUDC Planning Portal I am content that no dwellings or development opportunities have been sold off within 10 years of the date of the application.

The new building is not visually linked or sited to cluster with an established group of buildings on the farm. The policy allows for consideration to be given to a site located away from the farm complex where there are no other sites available on the holding. Having reviewed the farm provided by the agent it showed farm lands surrounding a dwelling and associated farm buildings located at 21 Tullynure Road, Lissan. A land registry search was carried out on this address and the owner is listed as Thomas Quigley who is the applicant in this case.



From this, it would appear another site is available on the holding. The agent was asked to provide a statement of case to justify the proposed siting away from the existing holding in which they responded;

“The applicant here has his main farm in Lissan and an outlying farm in Gulladuff. The Gulladuff lands extend to 25 acres and were once owned by Grainne’s family. There is 14 miles between these farms and no buildings at the Gulladuff location. On purchasing these lands, it shows a clear intent to expand their holding and it is the intention their son will live here and look after the holding. The chosen site is well enclosed with mature trees to provide a suitable amount of integration.”

No demonstrable health and safety reasons have been provided or any plans shown on the expansion of the farm at the holding. Although the agent contends it is an expansion of the holding at the proposed application site there are no approved farm buildings associated near this site, and as such the proposal fails to comply with criteria C of CTY 10.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, I am content a dwelling with a maximum ridge height of 6m above finished floor level would not be a prominent feature in the landscape. A dwelling of this size would integrate into the landscape and the existing dwelling adjacent and the mature trees which should be retained will provide a backdrop. As previously mentioned the dwelling is not visually linked or sited to cluster with an established group of buildings

on a farm and fails Policy CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As previously mentioned, a dwelling with a ridge height of no more than 6m would ensure it is not a prominent feature. However, criteria (d) refers to creating or adding to a ribbon of development which I feel if a dwelling was approved here it would create a ribbon of development along the Drummuck Road. Therefore, the proposal fails to comply with CTY 8 and CTY 14 of PPS 21.

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

DfI Roads were consulted on the application and offered no objection subject to the access being provided in accordance with the RS1 form.

#### **Other Material Considerations**

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

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

Refuse is recommended

#### **Refusal Reasons**

##### Reason 1

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

##### Reason 2

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

##### Reason 3

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would create a ribbon of development along the Drummuck Road.



<b>Signature(s):</b> Ciaran Devlin
<b>Date:</b> 21 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	1 February 2023
<b>Date First Advertised</b>	14 February 2023
<b>Date Last Advertised</b>	14 February 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 32 Drummuck Road Maghera Londonderry BT46 5ES	
<b>Date of Last Neighbour Notification</b>	6 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2014/0195/RM Proposals: Replacement dwelling and garage Decision: PG Decision Date: 26-SEP-14 Ref: H/2011/0349/O Proposals: Replacement single dwelling and garage Decision: PG Decision Date: 14-DEC-11 Ref: LA09/2023/0105/O Proposals: Proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DAERA - Coleraine-Consultee Response LA09-2023-0105-O.DOCX DAERA - Omagh-DAERA response already issued on 03/03/2023 DFI Roads - Enniskillen Office-Outline resp.docx	

<b>Drawing Numbers and Title</b>
Site Location Plan   Plan Ref: 01
<b>Notification to Department (if relevant)</b>
Not Applicable





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

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

## Deferred Consideration Report

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

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

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

#### **Description of Proposal**

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

#### **Deferred Consideration:**

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

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



Photo 1 – dwelling from west



Photo 2 – dwelling from road in front



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

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

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





Photo 4 – foundations exposed 09.03.2023



Photo 5 – foundations exposed 09.03.2023





Photo 6 – foundations exposed 09.03.2023



Photo 7 – foundations exposed 09.03.2023

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

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

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



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



View of the access from the east



View from the access looking east

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

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

22 March 2021

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

21 June 2021

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

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



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

18 January 2023

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

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

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

**Conditions/Reasons for Refusal:**

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

Reason: This is a retrospective application.

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

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

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

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

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

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

**Signature(s):**

**Date**



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

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

## Deferred Consideration Report

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



## **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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

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

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

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

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

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

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

**Signature(s):**

**Date**



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

## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

### Representations:

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

### Summary of Issues

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

### Characteristics of the Site and Area

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

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

### Description of Proposal

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

### Planning Assessment of Policy and Other Material Considerations

#### Relevant Planning/Enforcement History

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

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

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

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

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

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

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

The previous approval was for a small dwelling with a 6 metre ridge height and a 170m<sup>2</sup> footprint. This application seeks retention of a much larger dwelling with a 9.5 metre ridge height and a sandstone front elevation.



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

#### Key facts

The three previous permissions were granted for a different applicant.



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

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

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

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

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

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

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



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

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

The following policies will be considered in this assessment:

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

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

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

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

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

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

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

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

Recommendation Refusal.

**Neighbour Notification Checked**

**Yes**



**Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the applicant is unable to demolish the original replacement dwelling resulting in the creation of two dwellings in this rural location.

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

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

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

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

### **Drawing Numbers and Title**

Drawing No. 03  
 Type: Proposed Plans  
 Status: Submitted

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

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

### **Notification to Department (if relevant)**

Date of Notification to Department:  
 Response of Department:



## Deferred Consideration Report

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

**Deferred Consideration:**

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

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

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

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

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

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

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

Condition 1

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

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

**Condition 2**

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

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

**Condition 3**

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

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

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

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

**Condition 4**

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

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

**Condition 5**

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

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

**Signature(s):**Karen Doyle

**Date:** 21 March 2023



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

## Development Management Officer Report Committee Application

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



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

All material considerations have been addressed within the determination below

### Characteristics of the Site and Area

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

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



## Description of Proposal

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

## Planning Assessment of Policy and Other Material Considerations

### Planning Assessment of Policy and Other Material Considerations

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

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

### Planning History

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

## Representations

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

## Assessment

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

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

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

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

#### Access

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

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

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

#### Conclusion

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

**Neighbour Notification Checked**

**Yes**

#### Summary of Recommendation:

Refuse

#### Reasons for Refusal:

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

**Signature(s)**

**Date:**

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

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

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

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

Ref ID: LA09/2020/0052/A

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

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

Decision: CG

Decision Date: 21.02.2020

Ref ID: H/1994/0538

Proposal: MIX BATCHING PLANT FOR PRODUCTION OF CONCRETE BLOCKS

Address: 58-60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0154

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

Address: 58/60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0366

Proposal: BUILDING FOR THE MANUFACTURE OF PRECAST CONCRETE FLOORING

Address: 58 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1995/0204

Proposal: EXTENSION TO OFFICES

Address: 58-60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1990/0159

Proposal: TWO STOREY OFFICE BUILDING

Address: BALLYRONAN ROAD, MAGHERAFELT.

Decision:

Decision Date:

### **Summary of Consultee Responses**



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

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
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Status: Submitted

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Status: Submitted

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Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 01  
Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:

## Deferred Consideration Report

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

Rivers, Roads, SES and HED have no objections.

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

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

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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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

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

**Conditions/Reasons for Refusal:**

**Approval Conditions**

Condition 1

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

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

**Signature(s):**Karen Doyle

**Date:** 14 March 2023



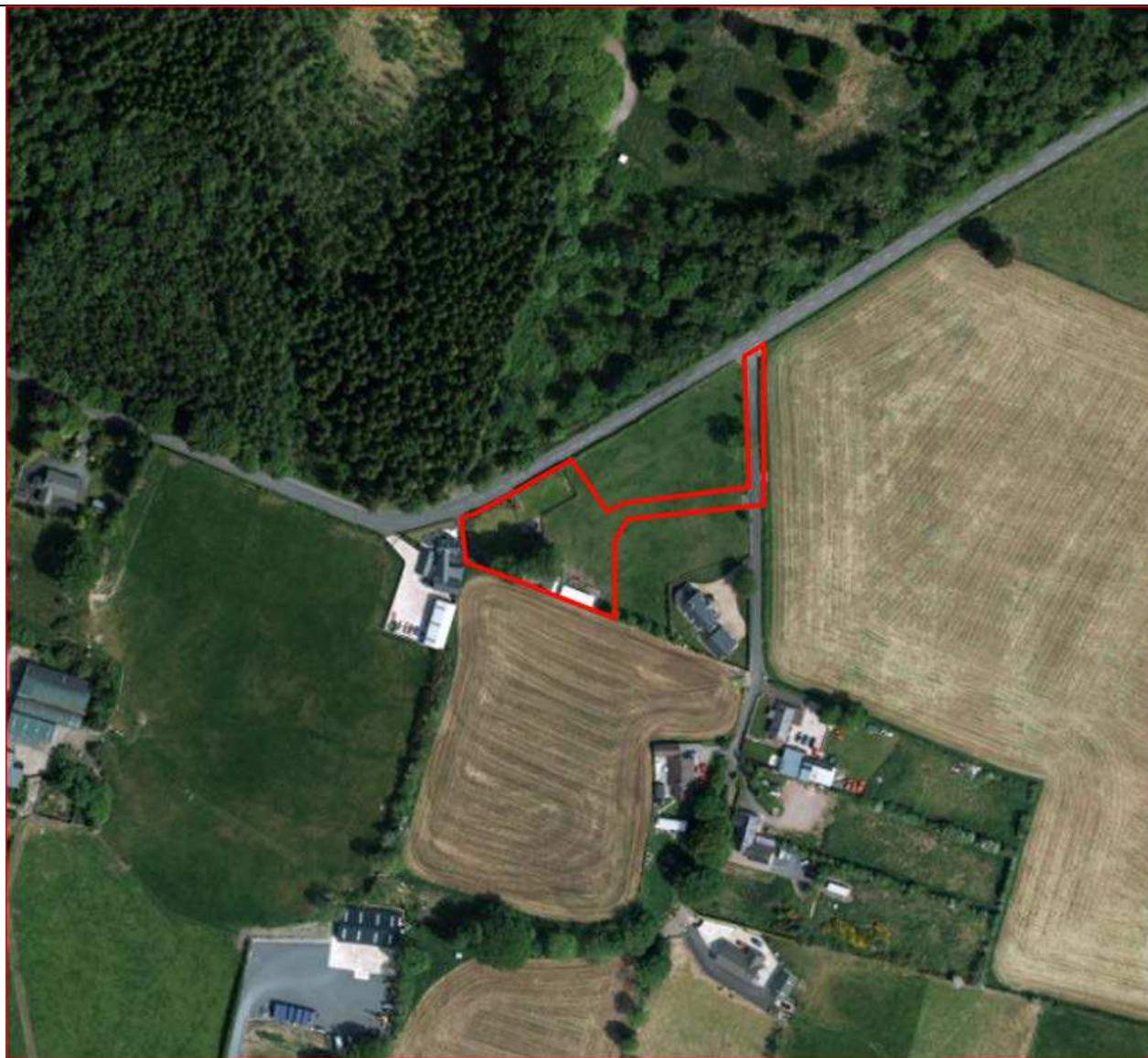
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

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

## Case Officer Report

## Site Location Plan



## Consultations:

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



Statutory	Historic Environment Division (HED)	Content
Statutory	Rivers Agency	Advice
Statutory	DFI Roads - Enniskillen Office	
Non Statutory	DAERA - Omagh	Substantive Response Received
Representations:		
Letters of Support	None Received	
Letters of Objection	1	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues including Representations		
<p>Two representations have been received in respect of this proposed development and relate to the following issues:-</p> <ul style="list-style-type: none"><li>- Increase in traffic on the shared laneway;</li></ul> <p>Dfi Roads considered the proposed access and did not raise any issues regarding the increase in traffic on what is a private laneway. Dfi further advised that they have no objection to the use of the proposed access, subject to the suggested conditions;</p> <ul style="list-style-type: none"><li>- Maintenance and widening of the lane;</li></ul> <p>The upkeep of and/or the widening of the private laneway is a civil matter between those parties concerned and is not a planning matter.</p>		
Characteristics of the Site and Area		
<p>The site is located in a rural area approximately 1.5Km south east of Pomeroy. The site is at a sharp bend in the Tandragee Road and is opposite Pomeroy Forest. The land is gently undulating and is characterised by dwellings and associated buildings sited along the roadside and set back from the road.</p> <p>There is a small single storey building on the site which is used as shelter for donkeys in addition to a wood pellet burner. The building has four pedestrian doors in the northern elevation in addition to a single roller shutter door in the north western gable. The building has a mono-pitch roof with a small canopy overhanging the pedestrian doors. There are a number of small holding pens outside the front of the building which open into the adjoining field. At the time of inspection there were three donkeys grazing in the field.</p>		
Description of Proposal		
<p>Proposed erection of farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway &amp; alterations to public road access.</p> <p>The proposed shed measures 18.173m x 9.364m with a ridge height rising from 4.3m at the western gable of the shed and with falling ground levels, the ridge measures 6.8m at the eastern gable. The shed provides three donkey stables, an animal feed store, a drop-off area, a plant room and a farm office of the lower ground floor level, with one large area of storage on the upper floor level for machinery, fodder and wood chips.</p>		

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

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

## Planning Assessment of Policy and Other Material Considerations

### Relevant planning history

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

### Development Plan and key policy considerations

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

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

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

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

The proposal must also meet all the following criteria;

- It is necessary for the businesses efficient use;

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

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

- it is appropriate in terms of character and scale;

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

- it visually integrates;

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

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

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

- there will be no detrimental impact on residential amenity;

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

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

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

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

#### Recommendations

In my opinion the applicant has failed to satisfactorily demonstrate;

How the existing farm business is active;

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

Why the existing building cannot be utilised for the proposed use; How the scale of the building is appropriate for its location; How the building will integrate into the surrounding landscape; How the building will not result in a detrimental impact on residential amenity.	
Therefore planning approval should be refused for the reasons listed below:-	
Neighbour Notification Checked	Yes
Summary of Recommendation:	
Refuse for the reasons stated below:-	
Refusal Reasons	
<p>1. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:</p> <ul style="list-style-type: none"> <li>the applicant has failed to satisfactorily demonstrate how the existing agricultural holding is currently active;</li> <li>it is not necessary for the efficient use of the active and established agricultural holding;</li> <li>it is not appropriate to this location due to the unacceptable character and scale of the development;</li> <li>the development, if permitted, would not visually integrate into the local landscape without the provision of additional landscaping;</li> <li>the development, if permitted, would result in a detrimental impact on the amenity of residential dwellings outside the holding by reason of noise, smell and pests.</li> </ul> <p>The proposal is also contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used.</p> <p>2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:</p> <ul style="list-style-type: none"> <li>the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;</li> <li>the proposed building relies primarily on the use of new landscaping for integration;</li> <li>the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.</li> </ul> <p>3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:</p> <ul style="list-style-type: none"> <li>the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings;</li> <li>the building would, if permitted create or add to a ribbon of development;</li> <li>and would therefore result in a detrimental change to further erode the rural character of the countryside.</li> </ul>	
Signature(s)	
Date:	

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

Decision Date:

Ref ID: I/1996/4042

Proposal: Domestic Garage

Address: 50M SOUTH OF 37 TANDERAGEE ROAD POMEROY

Decision:

Decision Date:

Ref ID: I/2006/1071/F

Proposal: Proposed extension & improvements to dwelling

Address: 37 Tandragee Road, Pomeroy, Dungannon

Decision:

Decision Date: 20.12.2006

Ref ID: I/2013/0317/O

Proposal: Site for dwelling under policy CTY 8 PPS 21

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

Decision: PG

Decision Date: 16.04.2014

Ref ID: I/2003/0304/RM

Proposal: Erection of dwelling and garage

Address: 80 Metres East of 21 Tanderagee Road, Pomeroy

Decision:

Decision Date: 21.11.2003

Ref ID: I/2003/1027/F

Proposal: New Dwelling

(RE-ADVERTISEMENT)

Address: Approx 80m East of 21 Tanderagee Road Pomeroy

Decision:

Decision Date: 11.02.2004

Ref ID: I/1994/0129

Proposal: Dwelling

Address: 130M EAST OF 21 TANDERAGEE ROAD POMEROY

Decision:

Decision Date:

Ref ID: I/2002/0663/O

Proposal: New Dwelling

Address: 80 Metres East of 21 Tanderagee Road, Pomeroy

Decision:

Decision Date: 30.12.2002

Ref ID: I/2007/0497/F

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

Address: 21 Tandragee Road, Pomeroy

Decision:

Decision Date: 23.06.2008

<p>Ref ID: I/1980/0198</p> <p>Proposal: EXTENSION TO DWELLING HOUSE</p> <p>Address: THE GATE LODGE, POMEROY, DUNGANNON</p> <p>Decision:</p> <p>Decision Date:</p>
<p>Ref ID: LA09/2020/1590/F</p> <p>Proposal: Proposed erection of farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway &amp; alterations to public road access</p> <p>Address: 50metres South east of 21 Tandragee Road, Pomeroy, Dungannon,</p> <p>Decision:</p> <p>Decision Date:</p>
<p><b>Summary of Consultee Responses</b></p> <p>Environmental Health advised that they could not support the proposed development due to the potential impact on of odour, noise and pests on third party dwellings located around 30m from the building.</p> <p>DAERA advised that the farm business has not been active withi`n the past 6 years.</p> <p>Rivers, Roads, SES and HED have no objections.</p>
<p><b>Drawing Numbers and Title</b></p>
<p>Drawing No. 03</p> <p>Type: Farm Boundary Map</p> <p>Status: Submitted</p> <p>Drawing No. 04</p> <p>Type: Farm Boundary Map</p> <p>Status: Submitted</p> <p>Drawing No. 02</p> <p>Type: Elevations and Floor Plans</p> <p>Status: Submitted</p> <p>Drawing No. 01</p> <p>Type: Site Location Plan</p> <p>Status: Submitted</p>
<p><b>Notification to Department (if relevant)</b></p> <p>Date of Notification to Department:</p> <p>Response of Department:</p>

## Deferred Consideration Report

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



## **Description of Proposal**

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

## **Deferred Consideration:**

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

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

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

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

## **Conditions/Reasons for Refusal:**

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

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

**Reason 3**

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

**Signature(s):**Karen Doyle

**Date:** 14 March 2023



## Deferred Consideration Report

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

**Reason 2**

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

**Signature(s):**Karen Doyle

**Date:** 20 January 2023



**Development Management Officer Report  
Committee Application**

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



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Two objections have been received

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

### Characteristics of the Site and Area

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

**Description of Proposal**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Other Material Considerations**

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



been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.	
<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
<b>Summary of Recommendation:</b>	
Refusal	
<b>Reasons for Refusal</b>	
<p>The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable development in the countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted would add to a ribbon of development resulting in a suburban style build-up and, as such would cause a detrimental change to the rural character of the countryside.</p>	
<b>Signature(s)</b>	
<b>Date:</b>	

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

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

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

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

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

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

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

### **Notification to Department (if relevant)**

Date of Notification to Department:  
 Response of Department:

## Deferred Consideration Report

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

**Deferred Consideration:**

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

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

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

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

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

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

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

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

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

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

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

**Reason 3**

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

**Reason 4**

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

**Reason 5**

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

**Signature(s):**Karen Doyle

**Date:** 14 March 2023



## Deferred Consideration Report

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



**Deferred Consideration:**

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

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

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

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

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

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

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

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

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

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

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



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

**Reason 2**

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

**Reason 3**

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

**Reason 4**

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

**Reason 5**

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

**Signature(s):**Karen Doyle

**Date:** 23 January 2023



## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

To Committee - Refusal

### Characteristics of the Site and Area

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

**Representations**

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

**Relevant Planning History**

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

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

**Description of Proposal**

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

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

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

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 - General Principles

PPS 3 - Access, Movement and Parking

PPS 21 - Sustainable Development in the Countryside

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

CTY 1 - Development in the Countryside

CTY 10 - Dwellings on the Farm

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I have no ecological or residential amenity concerns.

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

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

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

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

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

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

**Signature(s)**

**Date:**

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



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

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

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

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

## Deferred Consideration Report

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

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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

Members are asked to note the following:

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

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

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

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

**Conditions:**

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

**Signature(s):**

**Date**



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

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

## Deferred Consideration Report

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

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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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

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

*....*

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

*...'*

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



**Conditions:**

1. Within 2 weeks of the date of this decision the building shall be altered internally in accordance with the details shown on drawing No 01 Rev 1 received 8 DEC 2022.  
Reason: To prevent an unauthorised retailing use occurring on the site.
2. Only the area identified in blue on the proposed ground floor plan 1/50 shown on drawing No 01 Rev 1 received 8 DEC 2022 shall be used for the display of any goods and produce.  
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Reason: To ensure retail remains ancillary to the primary agricultural activity on the site

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



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## Deferred Consideration Report

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

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

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

Email on 17 January 2022

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

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

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

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

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

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

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

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

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

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

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

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

**Reasons for Refusal:**

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

**Signature(s):**

**Date**



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

### Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Contrary to PPS 21 and PPS 3.



**Characteristics of the Site and Area**

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

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

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



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

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

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

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

### **Planning History**

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

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

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

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

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

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

### **Description of Proposal**

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



2004





2007



2019

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

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

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

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

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

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

The agent claims,

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

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

The Oxford Dictionary defines a Farm Shop as,

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

and a Factory Shop as,

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

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

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

The agent goes on to say,

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

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

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

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

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

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

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

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

### **Consultations and Representations**

NI Water have no objection subject to standard conditions.

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

DfI Rivers have no objections

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

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

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

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



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

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

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

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

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

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

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

**Neighbour Notification Checked**

**Yes**

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

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

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

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

**Reasons for Refusal:**

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

**Signature(s)**

**Date:**

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

Decision Date: 19.07.2004

Ref ID: M/2006/1151/F

Proposal: 1no Steel Framed Poultry Shed

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

Decision:

Decision Date: 13.06.2006

Ref ID: M/2004/1950/F

Proposal: 2 No steel framed poultry sheds

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

Decision:

Decision Date: 07.05.2005

Ref ID: M/2005/0373/O

Proposal: Erection of new two storey dwelling and detached garage

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

Decision:

Decision Date: 23.08.2005

Ref ID: M/2001/0753/F

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

Address: Adjacent to 82 Dungannon Road Moy Co Tyrone

Decision:

Decision Date: 15.11.2001

Ref ID: M/1975/0312

Proposal: ERECTION OF BUNGALOW

Address: CULLKEERAN, MOY ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1994/6100

Proposal: Replacement Dwelling Dungannon Road Moy

Address: Dungannon Road Moy

Decision:

Decision Date:

Ref ID: M/1995/6076

Proposal: Dwelling 82 Drumgrannon Road Moy

Address: 82 Drumgrannon Road Moy

Decision:

Decision Date:

Ref ID: LA09/2015/0176/F

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

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

Decision: PG

Decision Date: 08.02.2016

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





## Deferred Consideration Report

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

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

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

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

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

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### **Condition 1**

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

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

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

##### **Condition 2**

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



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

**Condition 3**

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

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

**Condition 4**

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

Reason: To ensure the dwelling integrates into the landform.

**Condition 5**

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

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

**Condition 6**

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

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

**Signature(s):**Karla McKinless

**Date:** 9 March 2023

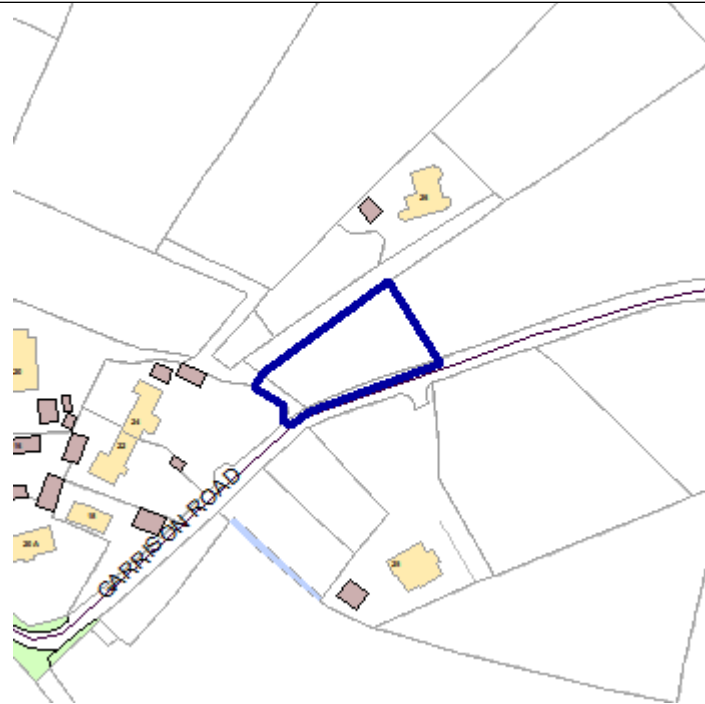


## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

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

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

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

## **Description of Proposal**

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

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

### **Policy Consideration**

#### **Representations**

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

#### **Assessment**

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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

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

#### **Planning History**

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

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

### Assessment

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

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

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

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

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

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

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

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

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





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

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

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

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

### Conclusion

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

### **Summary of Recommendation:**

Refuse is recommended

### Refusal Reasons

#### Reason 1

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

#### Reason 2

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

**Signature(s):** Siobhan Farrell

**Date:** 16 January 2023



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

**Notification to Department (if relevant)**

Not Applicable

## Deferred Consideration Report

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

**Deferred Consideration:**

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

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

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

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

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

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

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

**Condition 2**

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

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

**Condition 3**

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

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

**Condition 4**

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

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

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

**Condition 5**

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

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

**Signature(s):**Karen Doyle

**Date:** 14 March 2023



## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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

### Characteristics of the Site and Area

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

**Representations**

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

**Description of Proposal**

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

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

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

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

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

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

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



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

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

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

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

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

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

PPS 3 - Access, Movement and Parking;

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

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

I have no flooding, ecological or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

2.The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or it is not located at a cross-roads.

**Signature(s)**

**Date:**

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

Decision:  
Decision Date:

Ref ID: H/1991/0387

Proposal: UNDERGROUND SEWAGE PUMPING STATION WITH CONTROL KIOSK

Address: ADJ TO 121 CREAGH ROAD, ANNAHORISH CASTLEDAWSON

Decision:  
Decision Date:

Ref ID: H/1990/0356

Proposal: SITE OF BUNGALOW

Address: REAR OF 121 CREAGH ROAD CASTLEDAWSON

Decision:  
Decision Date:

Ref ID: H/1990/0273

Proposal: SITE OF BUNGALOW

Address: BESIDE 121 CREAGH ROAD CASTLEDAWSON

Decision:  
Decision Date:

Ref ID: H/1993/6146

Proposal: SITE OF DWELLING CREAGH ROAD CASTLEDAWSON

Address: CREAGH ROAD

Decision:  
Decision Date:

Ref ID: H/1995/0172

Proposal: DWELLING AND GARAGE

Address: BETWEEN 119 & 121 CREAGH ROAD CASTLEDAWSON

Decision:  
Decision Date:

Ref ID: H/1993/0158

Proposal: SITE OF DWELLING

Address: BETWEEN 119 AND 121 CREAGH ROAD CASTLEDAWSON

Decision:  
Decision Date:

Ref ID: H/2014/0435/F

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

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

Decision: PG  
Decision Date: 15.12.2016

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



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

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

## Deferred Consideration Report

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

in both nodes.

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

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

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

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

### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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



Fig 1 – aerial photo 2006





Fig 2 – aerial photo 2006 zoomed



Fig 3 – aerial photo 2020



Fig 4 – aerial photo 2020 zoomed

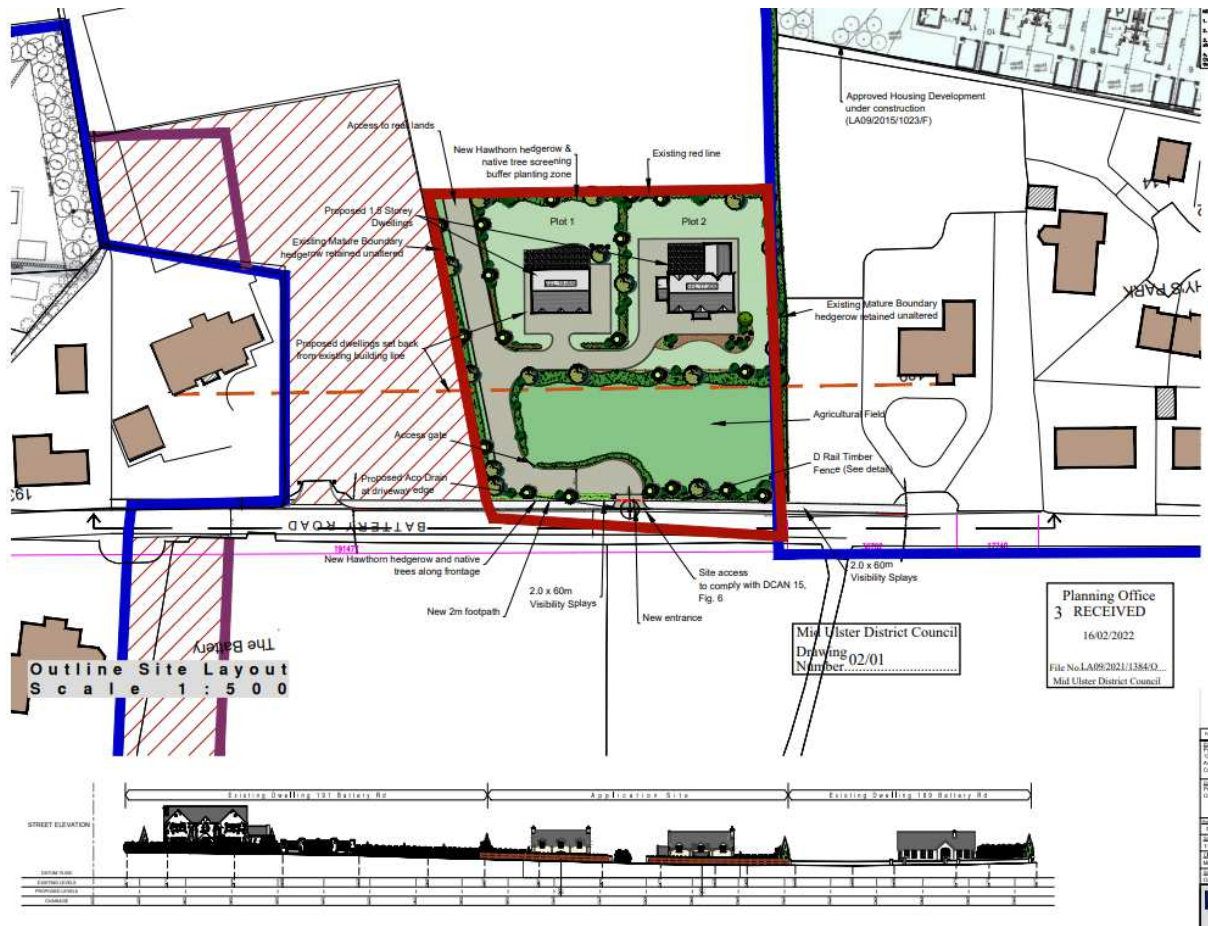
Members attention is drawn to how small the gap in the road frontage is now in comparison to 2006, as well as the in-depth development to the rear of the houses either side of the gap. It would be reasonable to consider the proposed development here is a natural coalescence of the 2 nodes and would not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

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

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



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



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

#### Conditions/Reasons for Refusal:

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

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

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

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

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

Reason: To ensure protection of lands for future development

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

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

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

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

**Signature(s)**

**Date:**



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

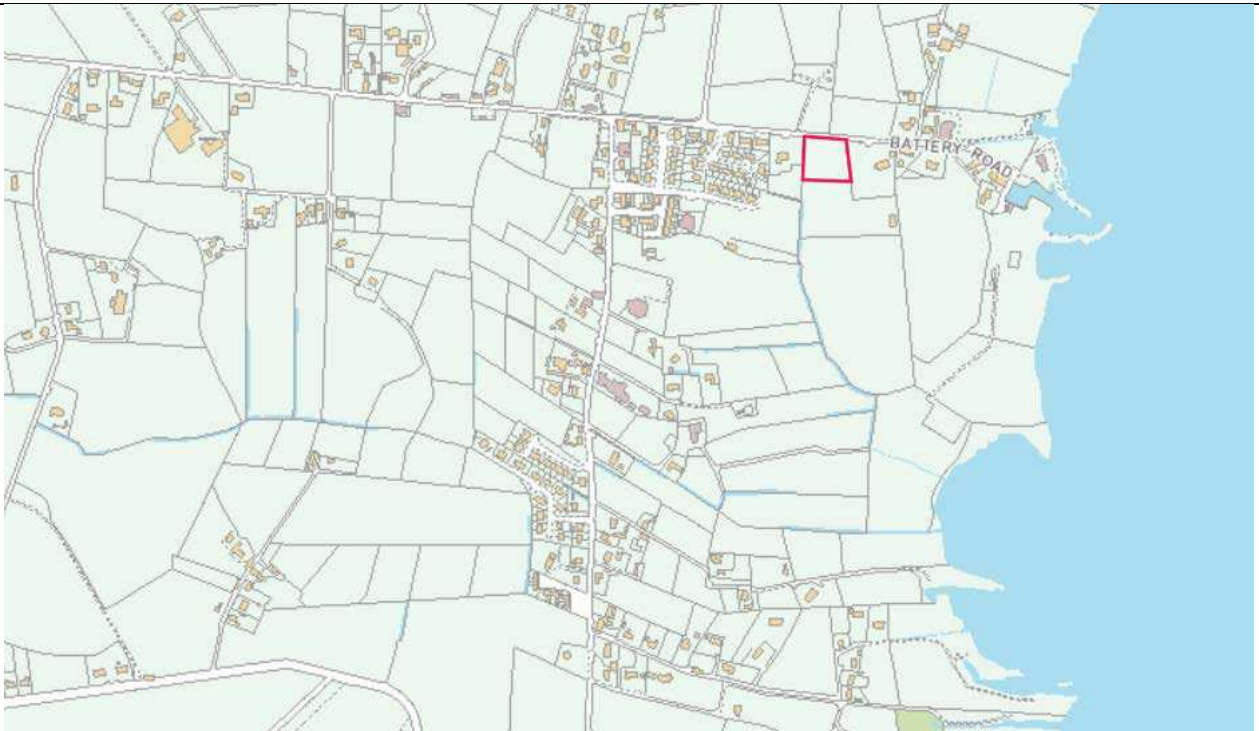
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

### Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Statutory	DFI Roads - Enniskillen Office	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
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**Description of Proposal**  
This is an outline application for 2 no. of dwellings and garages based on Policy CTY 8 of PPS21 to be located on vacant lands adjacent to and west of 191 Battery Rd Moortown.

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

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

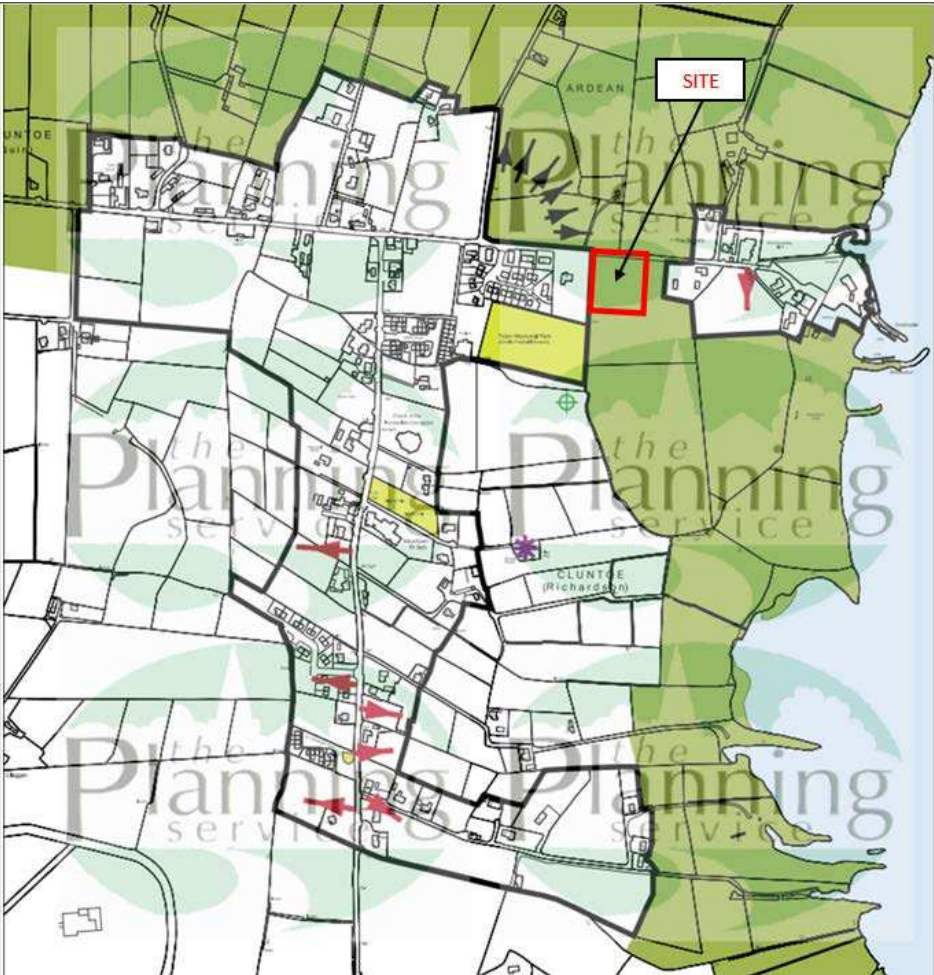


Fig 1: Moortown Settlement Limits

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

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

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

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

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

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

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

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

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



## **Representations**

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

## **Planning History on Site**

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

## **Consultees**

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

## **Key Policy Considerations/Assessment**

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

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

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

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

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

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

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

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



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



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

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

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

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

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

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



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

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

### Additional Considerations

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

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

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

**Recommendation:** Refuse

<b>Neighbour Notification Checked</b>	Yes
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<b>Summary of Recommendation:</b>	Refuse
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**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of PPS 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY15 of PPS 21, in that the development would if permitted mar the distinction between the defined settlement limit of Moortown and the surrounding countryside; and result in coalescence of Moortown's distinct nodes of development.

**Signature(s)**

**Date:**





## Deferred Consideration Report

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

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

Approval is recommended.

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

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

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

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



## Development Management Officer Report Committee Application

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



## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

## Summary of Issues

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

## Characteristics of the Site and Area

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

### Relevant planning history

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

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

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

### Representations

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

## Description of Proposal

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

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21 – Sustainable Development in the Countryside

PPS 3 – Access, Movement and Parking

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

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

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

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

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

AMP 3 of PPS 3.

I note that the ancillary works must also comply under CTY 13, with direct comparison with that of the approved access, I note that visually there is a minimal difference. I am content that the access will not conflict with CTY 13.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

I have no flooding, ecological or residential amenity concerns.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the creation of a new vehicular access Main Traffic Route/ Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

**Signature(s):** Peter Henry

**Date:** 18 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	21 September 2021
<b>Date First Advertised</b>	5 October 2021
<b>Date Last Advertised</b>	5 October 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 107A Moneysharvan Road, Maghera, Londonderry, BT46 5PT	
<b>Date of Last Neighbour Notification</b>	29 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office- DFI Roads - Enniskillen Office-Full & RM Resp.docx DFI Roads - Enniskillen Office-Refer to Consultee comments returned 15/08/2022. No additional information submitted since	
<b>Drawing Numbers and Title</b>  Site Layout or Block Plan Plan Ref: 02/1 Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/1773/F	<b>Target Date:</b> 2 February 2022
<b>Proposal:</b> Retention of coach yard and ramp for washing own coaches as an extension to established business.	<b>Location:</b> Lands Immediately To The Rear And North West Of 30B Killyneill Road Dungannon
<b>Applicant Name and Address:</b> Mr Stephen Davison 26 Wellington Road Dungannon	<b>Agent name and Address:</b> Oonagh Given 10 Carnan Park Omagh BT79 7XA
<b>Summary of Issues:</b>  The site lies in the rural countryside and outside any settlements limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is mainly single rural dwellings with a roadside frontage, dispersed groupings of farm buildings and agricultural fields.  The site as a whole is accessed off Killyneill Road which is a country road and the nearest dwelling is No.25 which is 40m south west. The road slopes downwards steeply from the west to the east.  The red line of the site comprises a narrow lane which leads to a large concrete yard to the rear of the wider site within the blue line which comprises three buildings, all of which have the appearance of agricultural buildings and are finished in concrete walls and tin sheeting on the roof and upper walls. Surrounding the buildings is a concrete yard. To the north and behind these buildings is the main body significant for this application and is now a concrete yard for the storage of coaches and buses.  The buildings all have a long rectangular form and are currently being used as an office, car repair workshop and stores. Within the concrete yard facing Killyneill Road are a number of	

parked cars, vans and coaches associated with the sheds.

The red line of the site includes the access to the west which slopes down away from the road edge, it runs parallel to the existing buildings and opens into the large concrete yard to the rear, due to its position behind the existing buildings there are minimal views of this area from the roadside.

#### **Summary of Consultee Responses:**

#### **Characteristics of the Site and Area**

The site lies in the rural countryside and outside any settlements limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is mainly single rural dwellings with a roadside frontage, dispersed groupings of farm buildings and agricultural fields.

The site as a whole is accessed off Killyneill Road which is a country road and the nearest dwelling is No.25 which is 40m south west. The road slopes downwards steeply from the west to the east.

The red line of the site comprises a narrow lane which leads to a large concrete yard to the rear of the wider site within the blue line which comprises three buildings, all of which have the appearance of agricultural buildings and are finished in concrete walls and tin sheeting on the roof and upper walls. Surrounding the buildings is a concrete yard. To the north and behind these buildings is the main body significant for this application and is now a concrete yard for the storage of coaches and buses.

The buildings all have a long rectangular form and are currently being used as an office, car repair workshop and stores. Within the concrete yard facing Killyneill Road are a number of parked cars, vans and coaches associated with the sheds.

The red line of the site includes the access to the west which slopes down away from the road edge, it runs parallel to the existing buildings and opens into the large concrete yard to the rear, due to its position behind the existing buildings there are minimal views of this area from the roadside.



**Description of Proposal**

The proposal seeks full planning permission for the retention of coach yard and ramp for washing own coaches as an extension to established business.

**Deferred Consideration:**

This application was before the Committee in October 2022 where it was deferred for a meeting with the Service Director for Planning. At the meeting there was discussion about the existing use of the site. It was confirmed the access and whether or not there was a need to improve it was the only issue that required further assessment. The previous report has assessed this application and concluded that it meets with the policy for expansion of a business in the countryside in all other regards.

Following the meeting, I visited the site and was of the view sight lines of 2.4m x 45.0m, as requested in DFI Roads comments on 28 January 2022, were in situ. A visit was arranged with a Roads Engineer on 2 March 2023 where, following measurement of the sight lines, it was confirmed 2.4m x 45.0m sight lines are currently in place and no further works are required to provide these. The Roads Engineer asked for a detail to be provided to show the splays in place and that a condition is added to require they are kept clear in perpetuity. As the sight lines are in place, it is not necessary to request they are provided and I consider a condition stipulating the sight lines that must be maintained is sufficient. I note the objectors issues in respect of land ownership and the access, however based on the current site characteristics, there is no requirement to provide any improvements and the access as currently provided meets the requirements of the Roads Authority.

It has been concluded the proposal meets with all the criteria in PED4 and PED9 of PPS4 for the expansion of an established economic development in the countryside as such I recommend that planning permission is granted.

**Conditions/Reasons for Refusal:****Approval Conditions****Condition 1**

This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

**Condition 2**

The area within the existing 2.4m x 45.0m visibility splays and any forward sight line shall be permanently clear of any obstructions higher than 250mm above the levels of the adjoining carriageway.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and

the convenience of road users.

**Condition 3**

All hard and soft landscape works shall be carried out in accordance with the approved details, as shown on drawing No 01 bearing the stamp dated 13 DEC 2021 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the next available planting season following this decision. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

**REASON:** To ensure the provision, establishment and maintenance of a high standard of landscape.

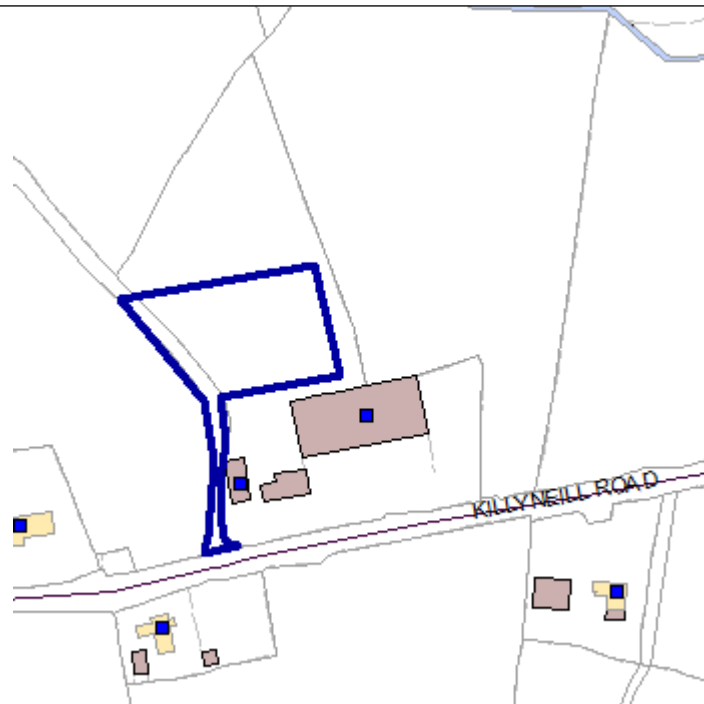
**Signature(s):** Phelim Marrion

**Date:** 22 March 2023



### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 October 2022	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2021/1773/F	<b>Target Date:</b> 2 February 2022
<b>Proposal:</b> Retention of coach yard and ramp for washing own coaches as an extension to established business.	<b>Location:</b> Lands Immediately To The Rear And North West Of 30B Killyneill Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Stephen Davison 26 Wellington Road Dungannon	<b>Agent Name and Address:</b> Oonagh Given 10 Carnan Park Omagh BT79 7XA
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC

**Representations:**

Letters of Support	0
Letters of Objection	0
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

**Summary of Issues**

The site lies in the rural countryside and outside any settlements limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in

character and is mainly single rural dwellings with a roadside frontage, dispersed groupings of farm buildings and agricultural fields.

The site as a whole is accessed off Killyneill Road which is a country road and the nearest dwelling is No.25 which is 40m south west. The road slopes downwards steeply from the west to the east.

The red line of the site comprises a narrow lane which leads to a large concrete yard to the rear of the wider site within the blue line which comprises three buildings, all of which have the appearance of agricultural buildings and are finished in concrete walls and tin sheeting on the roof and upper walls. Surrounding the buildings is a concrete yard. To the north and behind these buildings is the main body significant for this application and is now a concrete yard for the storage of coaches and buses.

The buildings all have a long rectangular form and are currently being used as an office, car repair workshop and stores. Within the concrete yard facing Killyneill Road are a number of parked cars, vans and coaches associated with the sheds.

The red line of the site includes the access to the west which slopes down away from the road edge, it runs parallel to the existing buildings and opens into the large concrete yard to the rear, due to its position behind the existing buildings there are minimal views of this area from the roadside.

### **Characteristics of the Site and Area**

The site lies in the rural countryside and outside any settlements limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and is mainly single rural dwellings with a roadside frontage, dispersed groupings of farm buildings and agricultural fields.

The site as a whole is accessed off Killyneill Road which is a country road and the nearest dwelling is No.25 which is 40m south west. The road slopes downwards steeply from the west to the east.

The red line of the site comprises a narrow lane which leads to a large concrete yard to the rear of the wider site within the blue line which comprises three buildings, all of which have the appearance of agricultural buildings and are finished in concrete walls and tin sheeting on the roof and upper walls. Surrounding the buildings is a concrete yard. To the north and behind these buildings is the main body significant for this application and is now a concrete yard for the storage of coaches and buses.

The buildings all have a long rectangular form and are currently being used as an office, car repair workshop and stores. Within the concrete yard facing Killyneill Road are a number of parked cars, vans and coaches associated with the sheds.

The red line of the site includes the access to the west which slopes down away from the road edge, it runs parallel to the existing buildings and opens into the large concrete yard to the rear, due to its position behind the existing buildings there are minimal views of this area from the roadside.

### **Description of Proposal**

The proposal seeks full planning permission for the retention of coach yard and ramp for washing own coaches as an extension to established business.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

##### **Representations**

There have been no official representations received, however there have a large amount of information received via email from a concerned member of the public.

The main concerns raised included;

- inability to obtain visibility splays
- increased vehicular use of the road causing road safety issues and road damage
- detrimental impact on ambience
- environmental issues
- land valuation
- disregard for planning regulations
- not suitable use for location

##### **History on Site**

M/2003/0816/F - Proposed change of use from existing quarry commercial building to coach, bus and taxi repair-storage area. Garage 1, 2 & 3 on accompanied drawings - 40 Metres North East of 25 Killyneil Road, Dungannon ? Permission Granted 14.10.2003

M/2005/1800/F - Retention of & change of use from Agricultural Store to vehicle repair garage - 240m N/W of 25 Killyneil Rd Dungannon ? Permission Granted 23.02.2007

LA09/2021/0329/LDE - Use of existing land & buildings by a Coach Hire Business comprising a coach yard, the use of a building for ancillary maintenance of coaches and use of a building as an ancillary office. - Clarkes Yard, Killyneill Road, Dungannon. –

Granted 22.06.2021

#### Background

The site is part of an established business for coach hire. This business acquired full planning permission in 2003 and a further CLUD in 2021 as the above history shows. This permission is made off the back of enforcement notice (LA09/2019/0161/CA) which was upheld and varied appeal (ref; 2020/E0051) with a small area of the site being declared as lawful.

In this case the applicant seeks to retain permission for a reduced area than that covered by the enforcement notice and otherwise intends to comply with the rest of the requirements of the enforcement notice.

The PAC upheld the councils refusal reasons relating to; size of extension, impact on visual amenity viewed from the east, lack of evidence on promotion of sustainability and road safety.

This new proposal seeks to alleviate the first two concerns by significantly reducing the size of the site area and by the provision of a planting bund along the east boundary. These two measures should reduce the visual impact when travelling along the Killyneill road from the east. The provision of the planting indigenous species also seeks to alleviate concerns surrounding sustainability and biodiversity.

With regards to the last issue of road safety the applicant is arguing that the general history of the use of the access has been significantly greater than it is currently. The lane also serves as access to a gravel pit to the rear of the site, this site to the rear houses a number of large sheds which were previously used in connection with quarrying at the gravel pit. Over the years the activities in these sheds has transitioned to other economic uses including Davidsons coaches, it first received permission in 2003 at which point Road service pointed out the access was substandard, however no conditions to improve were requested.

The sheds to the rear were granted permission for sandblasting in 2004 with the same note about substandard access added to the permission, but again no conditions to improve access were requested.

In 2007 a change of use was approved to allow a vehicle repair garage in one of the sheds to the rear, again there was no condition requiring access improvements. It can be assumed that this business would have had a relatively high number of vehicle movements.

In addition the agent submitted findings to show that vehicle movements to and from the site had not increased prior to the extension, in fact the test shower higher figures before the extension was carried out.

The agent is providing a case to suggest that vehicle movements associated with the

proposal do not amount to intensification on the laneway when compared to the usage when at its lawful busiest. In 2007 the lane was in use by the coach hire yard, the vehicle repair garage, and the sandblasting.

As a result of the demise of these businesses to the rear, it would follow that there are less vehicles in total using the lane, however, the agent would argue that it is unlikely that due to the yard extension that the volume of vehicles will match the previously permitted levels.

The condition of the access was known when the previous permission for the coach yard was approved and additional businesses were approved with no condition requiring improvements. The agent suggests that in this case they have shown that no additional vehicular movements are implied and it is unfair to expect access improvements when it hasn't been previously.

#### Assessment of Planning Issues/Material Considerations

The applicant seeks full planning permission for the retention of coach yard and ramp for washing own coaches as an extension to established business.

It is important to note that the use of this business has operated from the site since 1998 to present day.

The use benefits from planning permission since 14 October 2003, Planning approval M/2003/0816/F and the most recent permission being for 'Use of existing land & buildings by a Coach Hire Business comprising a coach yard, the use of a building for ancillary maintenance of coaches and use of a building as an ancillary office.' Which was granted permission 22.06.21, reference LA09/2021/0329/LDE.

The below images show the change in the site from 2016 to 2019.

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### Mid Ulster Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council



submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

#### Consultees

DfI Roads were formally consulted by the council and sought a scaled drawing showing the access to be constricted in accordance with the RS1 form. The agent however, has argued that it is not necessary to improve the access.

Environmental Health were also consulted and have no objection to the proposal subject to the site being restricted to storage only and a limit put on hours of operation. I find both conditions reasonable that meet the tests of a planning condition. While no hours of operation were placed on the 2007 permission, as this extension is now closer to surrounding residential development I find it important to restrict operations on this portion of the site.

#### Key Policy Considerations/Assessment

In the current Dungannon and South Tyrone Area Plan 2010, this application site is in un-zoned land located in the countryside therefore, the policy provisions of SPPS, PPS21 and PPS4 apply.

Policy CTY1 of PPS21 lists certain types of development that are considered acceptable in the countryside, including development for economic use in accordance with the policy provisions of PPS4 Planning and Economic Development. The SPPS introduced in September 2015 is a consolidation of some 20 Planning Policy Statements, and PPS4 is a retained policy until such time as a Plan Strategy for Mid Ulster is adopted. The SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal.

Policy PED 2 in PPS 4 Planning and Economic Development allows economic development in the countryside in accordance with certain policies. The relevant policy consideration for this development proposal is PED 3 - Expansion of an Existing Economic Development Use in the Countryside. It states that the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.

PED 3 will allow the expansion of an established economic development use in the countryside where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area.

The application does still propose to retain a certain portion of the extended yard area, however, a significantly reduced area. I am of the view this increase in the site area is necessary to allow parking of coaches and an area for washing the said coaches. It is clear from the site visit that the yard parking area was needed as it was almost fully in use.

In my opinion this reduced yard area does not represent a major expansion of an

established business use in the countryside. No new buildings are proposed. The proposed planting bund and landscaping along the eastern boundary is crucial as it will soften the visual impact of this extension in the landscape.

The scale and nature of the proposed extension is subordinate to the existing buildings and yard, with the established business providing a backdrop when viewed from the west, with the proposed bund along the east and therefore the impact upon the rural character or appearance of the rural area is limited. The size and scale of the proposed works respect the context set by the existing buildings on the site as well as the size of the overall site area. As the yard will be used for storage only this will reduce impacts of noise, nuisance or general disturbance to nearby residential properties, and in my view will not cause detriment to their amenity, a view shared by Environmental Health.

PED 9 sets out a list of General Criteria for Economic Development in PPS 4 which development proposals must satisfy.

- a) I am satisfied this proposal is compatible with the surrounding land use. The proposal represents an expansion to an established business in the countryside. This business has been established for over 10 years and the proposal is for parking/storage yard for coaches and a retention of a ramped coach washing area associated with this business.
- b) Due to the proposed reduction in yard area and the planting bund I have no concerns regarding any harm to the amenity of nearby residential properties by way of overshadowing, dominance or privacy concerns, or noise, nuisance or general disturbance. Environmental Health have no concerns in this regard.
- c) The site is not located in close proximity to any areas of built or natural heritage significance, therefore it would not have any impact upon built or natural heritage interests.
- d) Due to the topographical characteristics of this site, I have no concerns the proposal is within an area of flood risk or that it exacerbate flooding.
- e) This development proposal may not create any significant noise nuisance as it is for parking only. there will be minimal noise from the washing of the coaches. Environmental Health have no objections to the proposal subject to a condition limiting this area of the site to storage only and a limit put on hours of operation .
- f) This application does not involve the intensification of any emission or effluent from the site.
- g) The existing access presents a road safety issue, DfI roads have stated that the access is substandard and the access would need improvements, and the developer has not presented any suitable improvements to overcome the road problems identified.
- h) DfI Roads have ask for a scaled drawing showing the access to be constricted in accordance with the RS1 form which would require an improvement to the existing access, however, the applicant feels this is an unnecessary request. This issue has been discussed at length at group and the opinion is that the proposed access is unsafe and without improvements is unfit for approval. The council do not feel the argument provided by the agent is sufficient to side step DfI recommendation.
- i) Due to the nature of the business this application applies to, it would not require an extensive movement pattern.

j) There are no buildings to be constructed in this proposal. With the additional boundary treatment, I am content this proposal and the landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity.

K, l & m) The agent was requested to provide additional boundary treatment along the eastern boundary. The purpose of this was to reduce any views of the proposal, particularly when travelling from the East. This amendment of additional boundary treatment increased the enclosure of the proposal and thus will provide more screening of the proposal.

It is my opinion this proposal is satisfactorily integrated into the existing landscape. Given the existing topography I feel the creation of a bund also assists with integration into the landscape.

PPS 3 - Access, movement and parking.

Policy AMP2 of PPS3 states that 'Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic;'.

In this case the proposal would involve the usage of an already accepted substandard access. Visibility to the west is extremely poor with approx. 18 metres vision, DFI Roads have requested the access is improved and the applicant has failed to achieve this. It is my opinion that these requested visibility splays are necessary given the size of slow moving vehicles entering and leaving the site on the crest of a hill which will cause a road safety issue.

Recommendation Refusal

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

**Reason 2**

The proposal is contrary to Planning Policy Statement 4, Industrial Development, Policy PED 9, in that the development would, if permitted prejudice the safety and convenience of road users.

<b>Case Officer:</b> Peter Hughes
<b>Date:</b> 11 September 2022

ANNEX	
<b>Date Valid</b>	8 December 2021
<b>Date First Advertised</b>	6 January 2022
<b>Date Last Advertised</b>	4 January 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier Unit 3, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 4, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 2, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 1, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 5, 30B Clarkes Yard, Killyneill Road, Dungannon, Tyrone, BT71 6LL The Owner / Occupier Unit 6 30A Clarkes Yard Killyneill Road Dungannon Tyrone BT71 6LL	
<b>Date of Last Neighbour Notification</b>	13 January 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC	

<b>Drawing Numbers and Title</b>
Site Location Plan   Plan Ref: 01
<b>Notification to Department (if relevant)</b>
Not ApplicableNot ApplicableNot Applicable

## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/1808/O	<b>Target Date:</b> 15 February 2022
<b>Proposal:</b> Site of dwelling house and domestic garage on a farm.	<b>Location:</b> Rear Of 39 Gortahurk Road Desertmartin
<b>Applicant Name and Address:</b> Eoighan MC Guigan 39 Gortahurk Road Desertmartin BT45 5NN	<b>Agent name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Summary of Issues:</b>  Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21	
<b>Summary of Consultee Responses:</b>  	
<b>Characteristics of the Site and Area</b>  <p>The site is located within the open countryside, in an Area of Outstanding Natural Beauty as per the Magherafelt Area plan. The red line of the site includes a small narrow section along the roadside, and extends further south rising to a level above the road level and extends behind the dwelling 39 Gortahurk Road. The site is well screened with mature tree lines along both the eastern and western boundary and meets at a point at the southern point of the field. The surrounding area is a mixture of residential, agricultural and business land uses, with a build up of development to the north of the site. The lands raise steeply to the south.</p> <p>Representations No third party representations have been received.</p>	
<b>Description of Proposal</b>  <p>This is an outline planning application for a site of a dwelling house &amp; domestic garage CTY2A.</p>	

**Deferred Consideration:**

This application was presented before the Planning Committee in March 2022 with a recommendation to refuse whereupon Members agreed to defer the application for an office meeting with the Service Director. Following the office meeting additional information has been received and the applicant wishes for the application to be considered for a dwelling on a farm rather than in a cluster under CTY 2a of PPS 21.

For a dwelling on a farm to be considered acceptable it must be all the criteria of Policy CTY 10 of PPS 21. I will deal with each of these in turn.

(a) The applicant submitted a P1c form but does not have a Business ID number and the land is not being claimed by anyone else as confirmed by DARD. The applicant has also submitted a number of receipts and invoices.

- A signed declaration from Noel McGuigan who claims he is an active farmer, has a Business ID number and has taken the land from Kevin and Joseph McGuigan since November 2013 and has paid them a yearly fee.

- Sales receipts from Heron Bros for good, though the only two legible dates are in 2021

- A signed declaration from Jim Hegarty that states he has been carrying out annual hedge cutting on the lands since 1998 until the present day for Kevin and Josephine McGuigan.

It would appear the applicant is receiving an income from the lands by means of letting the land and is also maintaining it in good agricultural condition as confirmed by the document and is evidenced from a visit to the site.

(b) I have carried out a planning history search and do not see there have been any other approvals for the applicant or his parents and therefore this criteria is satisfied.

(c) A new dwelling on the farm must be sited to cluster or visually link with a group of buildings on the farm. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group(s).

From the information that has been submitted it is clear the application meets criteria (a) and (b). The application is proposed to be located beside a single building on the farm which is belongs to the applicants parents (Kevin and Josephine McGuigan), and in which they currently reside. The applicant has also served notice on Kevin and Josephine McGuigan under Certificate C of the P2 form. The parents have been generating an income from the lands, as is evidenced on the documents provided and have been keeping the land in good agricultural condition. Although the proposal is not proposed to be sited beside a group of buildings on the farm it is proposed beside a single building on the farm and it has been accepted by the Planning Committee on previous applications as an exception to CTY 10 to allow a new dwelling beside a building on the farm.

Initially this application was for a dwelling in a cluster and it was recommended as a refusal on the basis that it did not meet the tests of CTY 2a. However, I do not consider a new dwelling at this location would appear as being out of character given the current level of build up in the immediate vicinity of the site. In my opinion a new dwelling will read as part of the wider group



of buildings that exist and it will be sited to cluster with the single building on the farm.

I recommend the Committee consider this application as an exception to CTY 10 (c) and approve this application for a dwelling on the farm subject to the conditions listed below.

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### **Condition 1**

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

##### **Condition 2**

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

##### **Condition 3**

Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

Reason: To enable the Council to consider in detail the proposed development of the site.

##### **Condition 4**

The curtilage of the proposed dwelling shall be as indicated in yellow on the approved plan 01 date stamped 21 December 2021.

Reason: To ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside.

##### **Condition 5**

The proposed dwelling shall have a ridge height of less than 5.7 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and with the adjacent residential dwellings.

##### **Condition 6**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 form uploaded on the portal dated 15 February 2022.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Signature(s):**Karen Doyle

**Date:** 22 March 2023

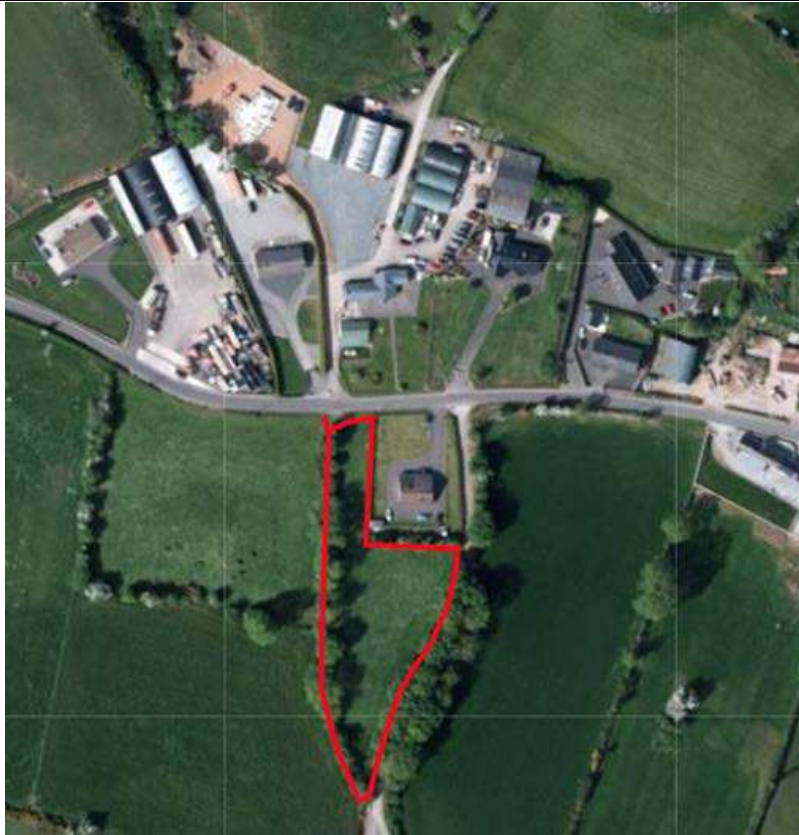


**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1808/O	<b>Target Date:</b>
<b>Proposal:</b> Site of dwelling house and domestic garage CTY2A	<b>Location:</b> Rear of 39 Gortahurk Road Desertmartin
<b>Referral Route:</b>  Refusal- Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Eoighan Mc Guigan 39 Gortahurk Road Des	<b>Agent Name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21

### Characteristics of the Site and Area

The site is located within the open countryside, in an Area of Outstanding Natural Beauty as per the Magherafelt Area plan. The red line of the site includes a small narrow section along the roadside, and extends further south rising to a level above the road level and extends behind the dwelling 39 Gortahurk Road. The site is well screened with mature tree lines along both the eastern and western boundary and meets at a point at the southern point of the field. The surrounding area is a mixture of residential, agricultural and business land uses, with a build-up of development to the north of the site. The lands raise steeply to the south.

<p><b>Representations</b></p> <p>No third party representations have been received.</p>
<p><b>Description of Proposal</b></p> <p>This is an outline planning application for a site of a dwelling house &amp; domestic garage CTY2A.</p>
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>Magherafelt Area Plan 2015 Strategic Planning Policy Statement (SPPS) PPS 21: Sustainable Development in the Countryside PPS 3: Access, Movement and Parking</p> <p>The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.</p> <p>Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.</p> <p>Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.</p> <p>Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:</p> <ul style="list-style-type: none"> <li>- <i>The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.</i></li> </ul> <p>I am content there is a cluster of development within the locality of the site that includes 8 dwellings as identified on the site location plan. As per the policy, the outbuildings and garages identified have been discounted.</p> <ul style="list-style-type: none"> <li>- <i>The cluster appears as a visual entity in the local landscape</i></li> </ul> <p>Whilst travelling along the Gortahurk Road, the cluster appears in a visual entity in the local landscape, with the main cluster of development appearing to the north of the application site.</p> <ul style="list-style-type: none"> <li>- <i>The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.</i></li> </ul> <p>The agent contends that the cluster of development is associated with a business premises highlighted in yellow on the site location. It is unclear what the business premises is operating at</p>

this location but at the time of the site visit and from ortho imagery there are a number of vehicles on and machinery on site. On balance, I am content that the business premises can be considered a focal point, which the cluster is associated with.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.*

The redline of the application site goes around the curtilage of the dwelling at 39 which is located in the corner of the field with the majority of the application site located south of this. The site provides a suitable degree of enclosure in terms of mature trees along the boundaries of the site. However, I would the site is only bounded on one side with other development in the cluster being No.39 on part of the northern boundary and is not bounded on another side with development in the cluster, therefore failing to comply with this policy criteria.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As mentioned, the site is not bounded on at least two sides so the site cannot be absorbed into the cluster and cannot be considered being rounding off; rather it extends outside of the cluster intruding into the open countryside.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape give the strong mature tree boundaries.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would therefore result in the erosion of the rural character of the area. A dwelling at this location would not respect the traditional pattern of settlement exhibited in the area as it would be extending outside the existing cluster of development visible, which are mainly roadside developments.

#### PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

#### **Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th

September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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.

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not bounded on at least two sides with other development within the cluster.

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would further erode the rural character of the area.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	21st December 2021
<b>Date First Advertised</b>	11th January 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 38 Gortahurk Road Desertmartin Londonderry The Owner/Occupier, 38a Gortahurk Road Desertmartin The Owner/Occupier, 39c Gortahurk Road Draperstown The Owner/Occupier, 40 Gortahurk Road Desertmartin Londonderry	
<b>Date of Last Neighbour Notification</b>	26th January 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: H/2001/0329/F Proposal: Replacement Dwelling Address: 7 Keenaught Road, Desertmartin, Magherafelt Decision: Decision Date: 19.06.2001  Ref ID: H/2003/1006/O Proposal: Site of new dwelling and garage. Address: 250m North of 39 Gortnahurk Road, Draperstown. Decision: Decision Date: 23.03.2004  Ref ID: H/2005/0412/F Proposal: Proposed dwelling and garage Address: 200m North of 39 Gortahurk Road Draperstown Decision: Decision Date: 03.07.2006  Ref ID: H/2004/0784/O Proposal: Site of dwelling and garage. Address: Site 200m North of number 39 Gortnahurk Road, Draperstown. Decision: Decision Date: 18.02.2005  Ref ID: H/1988/0528 Proposal: SITE OF DWELLING	



Address: OPPOSITE 38 GORTAHURK ROAD DESERTMARTIN

Decision:

Decision Date:

Ref ID: H/1989/0460

Proposal: DWELLING

Address: 29 GORTAHURK ROAD DESERTMARTIN

Decision:

Decision Date:

Ref ID: LA09/2017/1178/F

Proposal: Proposed extension to dwelling including roofspace conversion and detached double garage

Address: 41 Gortahurk Road, Desertmartin, Magherafelt,

Decision: PG

Decision Date: 23.10.2017

Ref ID: LA09/2020/0696/F

Proposal: Proposed retention of the existing general purpose / storage shed for machinery and vehicles and the extension of the existing site curtilage

Address: 55m South of No 39C Gortahurk Road, Draperstown,

Decision: PG

Decision Date: 02.09.2020

Ref ID: LA09/2020/0787/F

Proposal: Family room extension to side of dwelling with minor internal alterations

Address: 39c Gortahurk Road, Draperstown,

Decision: PG

Decision Date: 14.09.2020

Ref ID: LA09/2021/1808/O

Proposal: Site of dwelling house and domestic garage CTY2A

Address: Rear of 39 Gortahurk Road, Desertmartin,

Decision:

Decision Date:

### Summary of Consultee Responses

### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

### Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2022/0097/O	<b>Target Date:</b> 21 March 2022
<b>Proposal:</b> Proposed site for a dwelling and domestic garage based on Policy CTY10 (dwelling on a farm)	<b>Location:</b> Site 50M South Of 105 Culnady Road Maghera
<b>Applicant Name and Address:</b> Mr Thomas Patterson 105 Culnady Road Upperlands Maghera	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SG
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Description of Proposal</b>  This application seeks outline planning permission for a dwelling and detached domestic garage on lands approximately 50m south of 105 Culnady Road, Maghera. The dwelling is being applied for under PPS 21, Policy CTY 10 for a dwelling on a farm.	
<b>Deferred Consideration:</b>  This application was presented before the Planning Committee in July 2022 with a recommendation to refuse whereupon Members agreed to defer the application for an office meeting with the Service Director. This meeting has since taken place.  The application was presented with a recommendation to refuse as the applicant had failed to demonstrate the farm business is currently active and established for 6 years.  The applicant submitted a P1c form, however the Business ID was only allocated on 15/11/2021	

with no claims being made by the applicant. DARD have confirmed the proposed site is on lands associated with another farm business. As part of the deferred consideration the agent has submitted a copy of a 20-year lease agreement between the applicant and Jim Hyndman who is a registered farmer and who claims the lands as part of his farm business. The agent has confirmed the agreement requires the applicant to maintain the lands in good agricultural condition. I consider the evidence demonstrates the applicant is receiving an income for the fields he owns, he is maintaining the lands in good agricultural condition and there are receipts from 2016 to the present day which verify the expenses incurred for this purpose. The applicant's father did have a Business ID number before he passed away but DARD have confirmed the applicant's number is not a direct continuation of his father's business and this cannot be relied upon. I consider the additional information demonstrates criteria (a) is complied with.

Criteria (b) and (c) are also met. No records have identified that any dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of this application. The proposed dwelling will be sited adjacent to the applicant's dwelling and outbuilding and thus this constitutes a group of buildings on the farm. A new dwelling will have a visual linkage with the group of buildings and it is proposed to utilise an existing laneway.

The proposal meets the requirements of CTY 13 and 14 and DfI Roads have no issues of concern.

I recommend an approval of the application subject to the conditions listed below.

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### **Condition 1**

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

##### **Condition 2**

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

##### **Condition 3**

Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

Reason: To enable the Council to consider in detail the proposed development of the site.

**Condition 4**

The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and with the adjacent residential dwellings.

**Condition 5**

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting, as finally approved, shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

**Condition 6**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 form uploaded 3 March 2022.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Signature(s):**Karen Doyle

**Date:** 15 March 2023



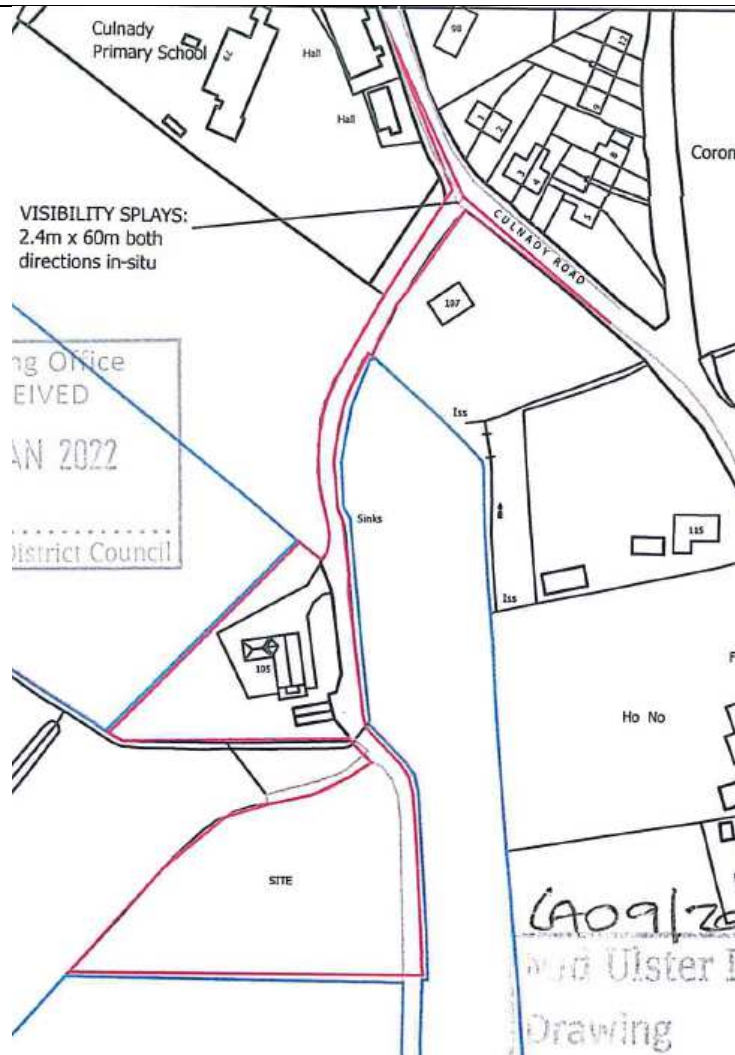
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0097/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and domestic garage based on Policy CTY10 (dwelling on a farm)	<b>Location:</b> Site 50m South of 105 Culnady Road Maghera
<b>Referral Route:</b>  Recommended refusal – contrary to PPS21 Policy CTY10	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Thomas Patterson 105 Culnady Road Upperlands Maghera	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge
<b>Executive Summary:</b> Proposal considered against prevailing planning policy - insufficient information has been provided to demonstrate the proposal complies with Policy CTY1 and CTY10 of PPS21. No objections received.	
<b>Signature(s):</b>  <div style="height: 40px; border: 1px solid black;"></div>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads – Enniskillen Office	Content
Statutory	DAERA	Advice

### Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Characteristics of the Site and Area

The application site is located approximately 120m south of the development limits of Culnady and as such the site is located in the open countryside as per the Magherafelt Area Plan 2015. The site comprises an agricultural field, access to the site is via an existing private laneway onto Culnady Road. The site is set back from the public road approx. 180m therefore public views of the site are minimal. The ground level falls when travelling on the private lane from the public road. There is an existing single storey

dwelling and small shed located immediately north of the site. The southern boundary of the site is undefined, whilst the remaining boundaries of the site are defined by trees and vegetation. The immediate area is rural in character dominated by agricultural land, with greater development pressure north of the site within the settlement of the Culnady.

### **Description of Proposal**

This application seeks outline planning permission for a dwelling and detached domestic garage on lands approximately 50m South of 105 Culnady Road, Maghera.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 10 Dwelling on a Farm.

### **Planning Assessment of Policy and Other Material Considerations**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

The following documents provide the primary policy context for the determination of this application:

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

### **History on Site**

H/2014/0180/O – Proposed dwelling and garage within an established cluster - Approx. 50 m north east of 105 Culnady Road Upperlands Maghera – Application Withdrawn 25/02/15

### **Key Policy Considerations/Assessment**

Magherafelt Area Plan 2015 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings. The settlement limits of Culnady are in close proximity to the North.



The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. The current proposal falls under one of these instances, the development of a dwelling on a farm in accordance with Policy CTY10 – Dwellings on Farms.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- a) the farm business is currently active and has been established for at least 6 years
- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008
- c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building groups(s)

With respect to (a) the applicant has provided details surrounding their farm business in the accompanying P1C form. DAERA have confirmed the business ID quoted on the P1C has not been in existence for more than 6 years, allocated 15/11/21, and advised no claims have been made on the lands. The agent advised that the farm business was owned by the applicants father (Mr William Hugh Patterson) and when he died his farm ID was closed and another allocated to the applicant. However, this was verified with DAERA and they have advised that Mr William Hugh Patterson's Farm Business is not closed and the applicant Mr Thomas Patterson was allocated a Farm Business ID in Nov 2021 to enable him to keep a pet lambs in the garden to the rear of his dwelling and this business is not a direct continuation of the fathers business. At this time, no other farm business ID has been provided and as the farm business being relied on has not been established for more than 6 years and has not been demonstrated to be active the proposal must fail on this criterion.

With respect to (b) the agent has provided the farm maps relating to the applicant's father Mr William Hugh Patterson farm business. From a review of these maps and a planning history check, no records have been identified which indicate that any dwellings or development opportunities out with the settlement limits have been sold off from this farm holding within 10 years of the date of this application. However, as stated above, DAERA have confirmed the applicant's farm business ID being relied on is not a direct continuation of the farm business which these farm maps relate. Clarification was sought from the agent on 23/05/22 whether the applicant owns the land included on the farm

maps and also clarification was the farm land divided when the applicant's father died however to date I have received no response. No development opportunities appear to be sold off within the land outlined in blue on the site location plan.

With respect to (c), the application site is adjacent to the applicants existing dwelling and outbuilding. It is considered the proposal will have a visual linkage with these existing buildings and the proposal will utilise the existing laneway. It is considered the proposal satisfies this criterion of CTY 10 policy.

This proposal should also be assessed against the requirements of Policy CTY 13 - Integration and Design of Buildings in the Countryside and Policy CTY14 Rural Character. , whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This is an outline application therefore there are no details regarding the size, scale and design of the proposed dwelling have been submitted. The proposal is located on an existing laneway set back from the public road therefore there will be minimal public views of the site. Given the surrounding built form, I consider a condition restricting the ridge height to 6 metres is appropriate to any forthcoming approval to ensure integration. Should members consider granting planning approval; additional landscaping should also be conditioned to be shown at Reserved Matters stage to aid with integration at this site. I do not consider the proposal would appear unduly prominent in the landscape and I do not consider the additional of a dwelling on the site would detrimentally change the rural character. As such the proposal adheres to the requirements of CTY13 and CTY 14 of PPS21.

Planning Policy Statement 3 (PPS 3 Revised Feb 2005) Access, Movement and Parking advises that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic; and the proposal does not conflict with Policy AMP 3 Access to Protected Routes. DfI Roads have been consulted and have no objection subject to standard conditions. I am content the proposal meets DfI Roads requirements and PPS3 Access, Movement and Parking.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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**Summary of Recommendation:**

The proposal is recommended for refusal, as it does not comply with the SPPS and CTY1 of Planning Policy Statement 21.

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside, and does not merit being considered as an exceptional case, in that it has not been demonstrated that the farm business is currently active and has been established for at least 6 years.

<b>Signature(s)</b>
<b>Date:</b>



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2022/0556/O	<b>Target Date:</b> 23 June 2022
<b>Proposal:</b> Domestic dwelling and garage.	<b>Location:</b> Adjacent To 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ.
<b>Applicant Name and Address:</b> Ciara McGrath 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ	<b>Agent Name and Address:</b> Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
<b>Summary of Issues:</b>  No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.	
<b>Summary of Consultee Responses:</b>	
<b>Description of Proposal</b>  This application seeks outline planning permission for a dwelling and garage.	
<b>Deferred Consideration:</b>  This application was presented before the Planning Committee in February 2023 where it was deferred for a site visit with Members. At the site visit Members were shown all the vantage points to the site and the surrounding development. Members were also advised, as they were at the Planning Committee, the agent did not initially advise under which policy the dwelling and	

garage is to be assessed and subsequently advised it can be considered as an infill opportunity.

It was clear from the site visit that the application site does not have a road frontage. It was also clear there is no substantial or built up frontage or a line of three or more buildings along a frontage at this location. There is one dwelling on the eastern side, No 37, and No 36 is located to the north of No 37. However, due to the siting and orientation of these dwellings, there is no substantial or continuously built up frontage or line of three or more buildings along a road frontage.

Accordingly, I recommend a continued refusal of this application for the reasons below.

### **Conditions/Reasons for Refusal:**

#### **Refusal Reasons**

##### **Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

##### **Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case

##### **Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Signature(s):**Karen Doyle

**Date:** 14 March 2023

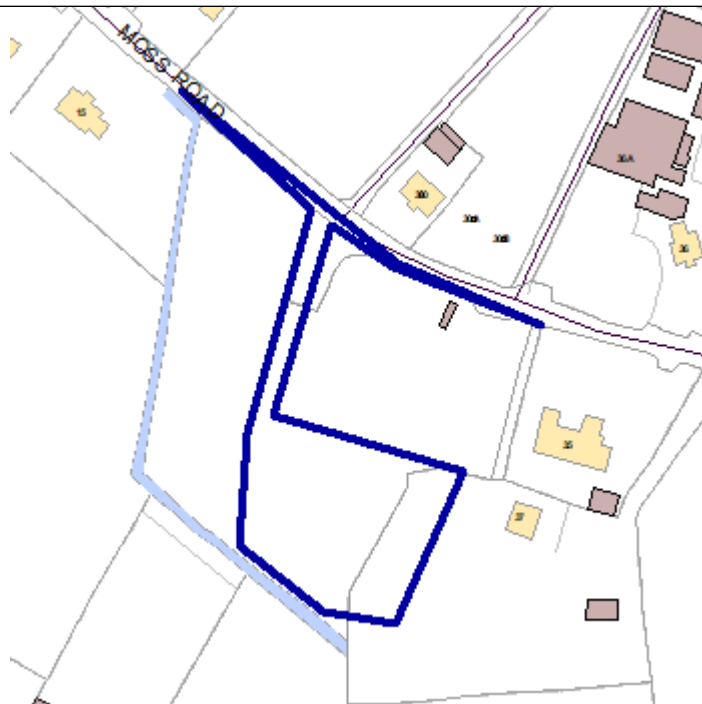


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2022/0556/O	<b>Target Date:</b> 23 June 2022
<b>Proposal:</b> Domestic dwelling and garage.	<b>Location:</b> Adjacent To 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ.
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ciara McGrath 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ	<b>Agent Name and Address:</b> Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-0556-O.pdf
Non Statutory Consultee	Rivers Agency	471191-06 Final Planning Authority reply.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

## **Characteristics of the Site and Area**

The site is located Adjacent To 37 Moss Road, Ballymaguigan, Magherafelt and is located outside the designated settlement limits of Ballymaguigan as identified in the Magherafelt Area Plan, 2015. The site is a small portion of an agricultural field and the boundaries of the site are comprised of mature vegetation and trees, which is quite dense. The eastern boundary abuts the dwelling at No 37 and the site is set back from the Moss Road. The surrounding area is predominantly rural.

## **Description of Proposal**

This application seeks outline planning permission for a dwelling and garage.

## **Planning Assessment of Policy and Other Material Considerations**

### **Policy Consideration**

### **Planning Assessment of Policy and Other Material Considerations**

The following policy documents provide the primary policy context for the determination of this application:

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan, 2015
- PPS21 -Sustainable Development in the Countryside
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 15 – Planning and Flood Risk

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

### **Planning History**

There is no planning history relevant to the determination of this application.

### **Representations**

Neighbour notification and press advertisement have been carried out in line with the Council's statutory duty. At the time of writing no third party objections were received.

### **Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the



Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).

No case was made to advise what policy the dwelling and garage was to be assessed under. I contacted the agent to enquire and he suggest possibly as an infill/gap site, no further case was presented.

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development but qualifies this by stating that “an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements”. A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.

The Policy further stipulates in paragraph 5.33 that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

This application site is considered against the existing pattern of development to determine if it complies with this policy. However, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and therefore this site is not believed to be suitable as an infill/gap site. There is one dwelling on the eastern side, No 37 Moss Road and No 36 is located to the North of No 37, however due to the siting and orientation of these dwellings, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal is for outline planning permission and details of design have not been submitted at this stage. However, the site is relatively well screened by the existing vegetation. A suitably designed dwelling house should integrate sufficiently into the landscape.

In terms of Policy CTY14 Planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. This application is not deemed acceptable under any of the policy headings in PPS 21 and it is therefore considered a new dwelling at this location will cause a detrimental change to the rural character of this area which is contrary to CTY 14 as it will result in a suburban style build up of development when viewed with existing buildings in the area.

Planning Policy Statement 3 - Access, Movement and Parking.

The P1 submitted with the application indicated that the proposal included the construction of a new access to the public road. DFI Roads were consulted on the application and responded to say they had no objection subject to conditions.

## Planning Policy Statement 15 – Planning and Flood Risk

DFI Rivers were consulted on the application and responded to say that :

### FLD2 - Protection of Flood Defence and Drainage Infrastructure

The proposal is affected by an undesignated watercourse, which flows along the southern

boundary of the site. Under 6.32 of the policy it is essential that a working strip of minimum width 5m is maintained. DFI Rivers recommends that the working strip is shown on a site layout drawing. It should be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising, permitted development rights or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times. The applicant should be aware that the riparian land owner is legally responsible to maintain the watercourse.

### FLD3 - Development and Surface Water

Flood Maps (NI) indicate that the outlined site lies within adjacent to a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment is not required by the policy the developer should still be advised to appoint a competent professional to carry out their own assessment of flood risk and to construct in a manner that minimises flood risk to the proposed development and elsewhere.

I contacted the agent in regards to the response from DFI Rivers and a drawing was submitted to address these 5m Maintenance strip as detailed above. (Ref: drawing No 02, dated 23.01.2022).

### Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

## Summary of Recommendation:

Refuse is recommended

## Refusal Reasons

### Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

**Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Signature(s):** Siobhan Farrell

**Date:** 20 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	28 April 2022
<b>Date First Advertised</b>	10 May 2022
<b>Date Last Advertised</b>	10 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 35 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 30 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 15 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 36A Moss Road Magherafelt Londonderry BT45 6LJ	
<b>Date of Last Neighbour Notification</b>	27 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2002/1117/O Type: O Status: APPRET  Ref: LA09/2017/0035/O Type: O Status: PG  Ref: LA09/2017/1006/F Type: F Status: PG  Ref: H/2004/1070/F Type: F Status: PG  Ref: LA09/2021/0704/F Type: F	

Status: PG

Ref: H/1992/0061

Type: F

Status: PCO

Ref: LA09/2017/0617/F

Type: F

Status: PG

Ref: H/2003/0365/F

Type: F

Status: PG

Ref: H/1997/0292

Type: O

Status: PCO

Ref: H/2004/1497/F

Type: F

Status: PG

Ref: H/1998/0679

Type: F

Status: PCO

Ref: H/2004/0669/O

Type: O

Status: PR

Ref: LA09/2022/0556/O

Type: O

Status: PCO

Ref: LA09/2017/1405/F

Type: F

Status: PCO

Ref: LA09/2016/0761/F

Type: F

Status: PR

Ref: H/2011/0360/O

Type: O

Status: PR

Ref: H/2009/0190/O  
Type: O  
Status: PG

Ref: H/2004/0708/O  
Type: O  
Status: PR

Ref: H/2006/0693/F  
Type: F  
Status: PG

Ref: LA09/2016/0197/F  
Type: F  
Status: PG

Ref: H/1999/0495  
Type: O  
Status: PCO

Ref: H/1989/0106  
Type: O  
Status: PCO

Ref: H/1999/0025  
Type: F  
Status: PCO

Ref: LA09/2018/0754/O  
Type: O  
Status: PDE

Ref: LA09/2015/0598/F  
Type: F  
Status: PR

Ref: H/2004/0714/O  
Type: O  
Status: PR

Ref: LA09/2021/0511/F  
Type: F  
Status: PCO

Ref: LA09/2017/1378/F  
Type: F

Status: PCO

Ref: LA09/2016/0635/LDE

Type: LDE

Status: PG

Ref: H/2004/0677/O

Type: O

Status: PR

Ref: H/1993/0120

Type: O

Status: PCO

Ref: H/2003/1437/O

Type: O

Status: PR

Ref: H/2002/1066/O

Type: O

Status: PR

Ref: H/2004/0354/O

Type: O

Status: PR

Ref: H/1995/0064

Type: F

Status: PCO

Ref: LA09/2017/0167/F

Type: F

Status: PG

Ref: LA09/2015/0483/F

Type: F

Status: PG

Ref: LA09/2021/0988/F

Type: F

Status: PG

Ref: H/2007/0592/F

Type: F

Status: PG

Ref: LA09/2017/1322/F

Type: F

Status: APPRET

Ref: H/1997/0583

Type: O

Status: PCO

Ref: H/1998/0004

Type: O

Status: PCO

Ref: H/1997/0036

Type: O

Status: PCO

Ref: H/1997/0414

Type: RM

Status: PCO

Ref: H/1996/0412

Type: O

Status: PCO

Ref: H/1999/0261

Type: F

Status: PCO

Ref: H/1997/0211

Type: O

Status: PCO

Ref: H/1998/0537

Type: RM

Status: PCO

Ref: H/1998/0278

Type: O

Status: PCO

Ref: H/2006/0338/F

Type: F

Status: PG

Ref: H/1985/0493

Type: RM



Status: PG

Ref: LA09/2017/1224/NMC

Type: NMC

Status: APPRET

Ref: H/2001/0140/F

Type: F

Status: PG

Ref: H/1985/0492

Type: RM

Status: PG

Ref: H/2002/0467/F

Type: F

Status: APPRET

Ref: LA09/2022/0458/O

Type: O

Status: PCO

Ref: LA09/2015/0347/LDE

Type: LDE

Status: PR

Ref: LA09/2018/1561/F

Type: F

Status: PG

Ref: LA09/2021/0912/F

Type: F

Status: PG

Ref: LA09/2021/1336/O

Type: O

Status: PCO

Ref: LA09/2022/0229/F

Type: F

Status: PCO

Ref: H/2001/0902/O

Type: O

Status: PG

Ref: LA09/2018/0007/F

Type: F

Status: PG

Ref: H/1988/0227

Type: RM

Status: PCO

Ref: H/1987/0348

Type: O

Status: PCO

Ref: LA09/2017/0399/F

Type: F

Status: PG

Ref: LA09/2021/1034/F

Type: F

Status: PG

Ref: H/2004/1380/F

Type: F

Status: PG

Ref: H/2006/0922/RM

Type: RM

Status: PG

Ref: H/2004/0791/O

Type: O

Status: PG

Ref: H/1992/0281

Type: O

Status: PCO

Ref: H/1995/0410

Type: F

Status: PCO

Ref: H/1988/0429

Type: O

Status: PCO

Ref: H/1995/6038

Type: PREAPP

Status: PCO

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
NI Water - Single Units West-LA09-2022-0556-O.pdf  
Rivers Agency-471191-06 Final Planning Authority reply.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1062/O	<b>Target Date:</b> 7 October 2022
<b>Proposal:</b> Proposed dwelling and garage within a cluster.	<b>Location:</b> 95M South Of No 4 Drumgarrell Road Cookstown BT80 8TA
<b>Applicant Name and Address:</b> Mr Ryan O'Neill 68 Drumconvis Road Coagh BT80 0HF	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application was presented to Members as a refusal at Feb 2023 Planning Committee as it was considered that the proposal failed to comply with policy CTY 2A - Dwellings in an existing cluster. The application was deferred for an office meeting with Dr Boomer and the Senior Planning Officer, which took place on the 16th Feb 2023. The proposal is being recommend for refusal again under CTY 2A and the justification for this is detailed further in this report.	
<b>Summary of Consultee Responses:</b>  The only consultee is DFI Roads who have not raised any objections but have advised Council that the required splay to the NE requires hedge removal which does not appear to be in the ownership of the applicant.	
<b>Description of Proposal</b>  Outline planning permission is sought for a proposed dwelling and garage within a cluster.	
<b>Deferred Consideration:</b>  The application is for a site for a dwelling under Policy CTY 2A, dwelling in an exiting cluster. At the deferred office meeting the potential for a farm dwelling was explored however the agent advised that this site is the only land the applicant owned so therefore a dwelling here would fail	

to meet the policy tests of CTY 10, dwelling on a farm. As there is no potential for a farm dwelling I have carried out a site inspection to reconsider the clustering case put forward to the Planning Department.

CTY 2A of PPS 21 states that permission will only be granted for a dwelling at an existing cluster of development provided the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings. This site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. Although there are a number of existing dwellings and associated outbuildings in the immediate locality, I am of the opinion that the cluster does not appear as a visual entity in the local landscape. There are too many visual gaps between dwellings in the area. There is very little visual appreciation of number 7, which is located down a laneway and number 8, which is well screened from the public road. There is also a substantial parcel of land between the application site and the dwellings at number 4 and number 4a. The third criterion notes that the cluster should be associated with a focal point such as a social/community building/facility or is located at a crossroads. I am not convinced that there is anything which would be considered as a focal point in close proximity to the site and thus the proposal fails on this criterion. The agent has referred to a shooting range on the site location plan, however I would contend that on the ground this is too far removed from the site and there is considerable distance between the two. The identified site is not bounded on any side by development and it is my consideration that the proposed development could not be absorbed into the existing landscape. There would be sufficient separation distance between the site and neighbouring properties to avoid any issues such as privacy or overlooking concerns.

I have also considered the proposal against the requirements of Policies CTY 13 and CTY 14 of PPS 21, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application I am not considering design. The proposed site has some degree of enclosure given the existing hedging which surrounds the site and therefore would not be relying solely on new landscaping. There will be critical views of this road side site from the public road on approach especially along the Killybearn Road. The proposed dwelling would extend the built form and will therefore extend a ribbon of development at this location when viewed in conjunction with number 6 and number 8 Killybearn Road, which is contrary to both CTY 8 and CTY 14.

There have been 2 objections to the proposal which have been considered in the previous case officers report.

It is recommended to Members that the application be refused as it fails to comply with CTY 1, CTY 2A, CTY 8, CTY 13 and CTY 14 of PPS 21.

#### **Conditions/Reasons for Refusal:**

##### **Refusal Reasons**

###### **Reason 1**

The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21,

Sustainable development in the countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

**Reason 4**

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Killybearn Road.

**Signature(s):**Karla McKinless

**Date:** 8 March 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2022/1062/O	<b>Target Date:</b> 7 October 2022
<b>Proposal:</b> Proposed dwelling and garage within a cluster.	<b>Location:</b> 95M South Of No 4 Drumgarrell Road Cookstown BT80 8TA
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Ryan O'Neill 68 Drumconuis Road Coagh BT80 0HF	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The proposal is considered to fail on Policy CTY 2a of PPS 21 and at the time of writing, two objections have been recieved. The details of these objections will be discussed later in the report.

### Characteristics of the Site and Area



The site is located at lands located approx 95m South of No.4 Drumgarrell Road, Cookstown. The red line of the site includes a triangular shed roadside site and the visibility splays. The site is located at the junction of Drumgarrell Road and fronts onto Killybearn Road also. The site is described as agricultural and appeared overgrown in parts at the site visit. There is existing hedging and mature trees along most of the site boundaries. The surrounding area has a number of existing dwellings within close proximity, mostly to the north of the site, however overall the area still appears rural in nature. There is a shooting range located approx 320m as the crow flies NE of the site as noted on the site location plan.

## **Description of Proposal**

Outline planning permission is sought for a proposed dwelling and garage within a cluster.

## **Planning Assessment of Policy and Other Material Considerations**

### **Policy Consideration**

#### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 8 Killybearn Road, 4 and 4a Drumgarrell Road. At the time of writing, two third party objections were received. The main issues raised within objections were:

- Filling of land/Contamination issues at site
- New access created
- Fails to meet with clustering policy and other policies within PPS 21
- Ownership of red line

Two objections have been received in relation to the proposal, the first being from Les Ross Planning on behalf of a local landowner and the second being from the owner of 4a Drumgarrell Road. With relation to the raising of ground levels by way of deposition and the access – there was a recent enforcement case (LA09/2022/0035/CA) which recently dealt with these matters. I am in agreement that the proposal fails to meet with clustering policy as held within PPS 21. The policies for CTY 2a, CTY 13 and CTY 14 are discussed later in this report alongside how we feel this proposal is contrary to a number of the criterion held within each of these policies. With regards to the red line, it was brought to our attention that the wrong certificate was filled in on the P1 form. The agent was made aware and noted that the applicants mother was in ownership of the lands. The agent was to provide an amended certificate clarifying this information, however this has not been received to date. Given that the principle of development at this site is not considered to have been met, I am content that the application is still presented to the committee at this time. If further discussions are to take place surrounding the application, this information should be received and further clarification surrounding the red line of the site may be requested.

#### **Planning History**

There is not considered to be any recent relevant planning history associated with this site, other than the recent enforcement case (LA09/2022/0035/CA) aforementioned in relation to the unauthorised access, filling of land and clearance of site.

#### Planning Assessment of Policy and Other Material Considerations

- o Cookstown Area Plan 2010
- o Strategic Planning Policy Statement (SPPS)
- o PPS 3: Access, Movement and Parking
- o PPS 21: Sustainable Development in the Countryside
- o Local Development Plan 2030 - Draft Plan Strategy

The Cookstown Area Plan 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

This proposal is for a new dwelling and garage. The agent has referred to the clustering policy on the site location plan, indicating a focal point and a cluster of development. A possible farming case was not explored given that this appeared to be the only lands within their ownership on the site location plan. The agent was emailed originally on 3/11/22 with a follow up email on 24/11/22 advising them of our group discussion, noting that we did not feel it met with the policy criterion of CTY 2a. No further justification was received from the agent. A further email was sent on 5/1/23, referring to the incorrect certificate which was filled in on the P1 form which was raised by our enforcement team who had carried out a land registry check on the lands. The agent has since clarified by email that the land has been transferred from the mother to the son (applicant). No further checks were carried out given that we do not feel the principle of development is met at this site.

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. Although there is a number of existing dwellings and associated outbuildings, we are not content that the cluster appears as a visual entity in the local landscape. The third criterion notes that the cluster should be associated with a focal point such as a social/community building/facility or is located at a crossroads. I am not convinced that there is anything which would be considered as a focal point in close proximity to the site and thus the proposal fails on this criterion. The agent has referred to a shooting range on the site location plan, however it is considered this is too far removed from the site and there is considerable distance between the two. The identified site is not bounded on any side by development and it is my consideration that the proposed development could not be absorbed into the existing cluster and would significantly altering the existing character or adversely impacting on the residential amenity. There would be sufficient separation distance between the site and neighbouring properties to avoid any issues such as privacy or overlooking concerns.

Assessing the proposal against CTY 8 – Ribbon development would also raise concern that allowing this proposal would extend an existing ribbon of development along Killybearn Road and as such would also be contrary to the policy criterion held within CTY 8.

It is also necessary for the proposal to be considered against the requirements of CTY 13 and

CTY 14 of PPS 21, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. The proposed site has some degree of enclosure given the existing hedging which surrounds the site and therefore would not be relying solely on new landscaping. Although the proposed dwelling may not be prominent due to being sited at road level, there will be critical views of the site from the public road on approach especially along the Killybearn Road. The proposed dwelling would extend the built form and will therefore extend a ribbon of development at this location, contrary to both CTY 8 and CTY 14. As such, the proposal is considered to be contrary to some of the policy criterion held within CTY 13 and CTY 14 and as such refusal is recommended.

Having considered all of the above and noting that the proposed site is not within an identifiable cluster of development and does not have a focal point relating to the site thus contrary to policy, it is my consideration that the application should be refused.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable development in the countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

#### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

#### **Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

#### **Reason 4**

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Killybearn Road.

**Signature(s):** Sarah Duggan

**Date:** 24 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	24 June 2022
<b>Date First Advertised</b>	5 July 2022
<b>Date Last Advertised</b>	5 July 2022
<b>Details of Neighbour Notification (all addresses)</b>  The Owner / Occupier 8 Killybearn Road Cookstown Londonderry BT80 8SZ The Owner / Occupier 4 Drumgarrell Road Cookstown Tyrone BT80 8TA	
<b>Date of Last Neighbour Notification</b>	1 August 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2019/0120/F Proposals: Retention of extension to dwelling to facilitate care of dependant relative Decision: PG Decision Date: 07-AUG-19  Ref: I/1974/0291 Proposals: ERECTION OF FARM SUBSIDY DWELLING Decision: PG Decision Date:  Ref: I/1977/0290 Proposals: RETIREMENT BUNGALOW Decision: PR Decision Date:  Ref: I/1974/029101 Proposals: ERECTION OF NON-SUBSIDY BUNGALOW Decision: PG Decision Date:	

Ref: I/1977/0119  
Proposals: ERECTION OF GARAGE AND STORE  
Decision: PG  
Decision Date:

Ref: LA09/2019/1076/F  
Proposals: Proposed side extension to dwelling  
Decision: PG  
Decision Date: 26-SEP-19

Ref: I/2003/0395/O  
Proposals: Proposed dwelling and garage  
Decision: PG  
Decision Date: 09-JUL-03

Ref: LA09/2022/1062/O  
Proposals: Proposed dwelling ☐ garage within a cluster.  
Decision:  
Decision Date:

Ref: I/2008/0223/F  
Proposals: Proposed General purpose farm shed & shelter for ponies.  
Decision:  
Decision Date:

Ref: I/1993/0112  
Proposals: Site of dwelling  
Decision: PR  
Decision Date:

Ref: I/1982/0001  
Proposals: DWELLING HOUSE  
Decision: PG  
Decision Date:

Ref: I/1996/0052  
Proposals: Dwelling  
Decision: PR  
Decision Date:

Ref: I/2002/0614/O  
Proposals: Dwelling  
Decision: PR  
Decision Date: 11-MAR-03

Ref: I/2003/0763/RM

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 15-OCT-03

Ref: I/2004/0896/O

Proposals: Construct a dwelling

Decision: PR

Decision Date: 19-DEC-05

Ref: I/1985/020401

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/1985/0204

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/1987/0345

Proposals: SITE OF DWELLING

Decision: PR

Decision Date:

Ref: I/2006/0044/O

Proposals: Proposed site for dwelling

Decision: PR

Decision Date: 25-SEP-06

Ref: I/1989/0099

Proposals: Improvements to Dwelling

Decision: PG

Decision Date:

Ref: I/1996/0136

Proposals: Extension to Dwelling

Decision: PG

Decision Date:

Ref: LA09/2019/0124/LDE

Proposals: Building, car parking and access and use of same for counselling rooms and training office

Decision: PG

Decision Date: 17-OCT-19

Ref: I/1999/0680/O

Proposals: Dwelling

Decision:

Decision Date:

Ref: I/2005/0555/F

Proposals: Proposed extension & improvements

Decision: PG

Decision Date: 22-OCT-05

Ref: I/1974/008201

Proposals: ERECTION OF FARM DWELLING

Decision: PG

Decision Date:

Ref: I/1974/0082

Proposals: ERECTION OF FARM BUNGALOW

Decision: PG

Decision Date:

Ref: I/2000/0443/F

Proposals: Dwelling

Decision: PG

Decision Date: 07-SEP-00

Ref: I/1987/0177

Proposals: DOMESTIC GENERAL PURPOSE STORE AND SNOOKER ROOM

Decision: PG

Decision Date:

Ref: I/1982/0307

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: I/1982/030701

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.doc  
FORM RS1 STANDARD.doc  
Roads outline.docx



**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1077/F	<b>Target Date:</b> 23 September 2022
<b>Proposal:</b> Proposed 2 storey dwelling and domestic garage	<b>Location:</b> 30M South West Of No. 55 Springhill Road Ballindrum, Moneymore BT45 7NH
<b>Applicant Name and Address:</b> Mr Mark Henry 3 Gallion Heights Moneymore BT45 7WE	<b>Agent Name and Address:</b> Lissan Design 45 Letteran Road Moneymore Magherafelt BT45 7UB
<b>Summary of Issues:</b>  This application was presented to Members as a refusal at Jan 2023 Planning Committee. It was considered that the proposal failed to comply with Policy CTY 13 of PPS21 in terms of design and integration. Members agreed to defer the application for an office meeting with Dr Boomer, which took place on the 19 <sup>th</sup> Jan 2023. The application is now being presented to Members with a recommendation to Approve and the justification is provided in detail further in this report.	
<b>Summary of Consultee Responses:</b>  DFI Roads were consulted with this application and requested a revised site plan to show a 2.4m x 120m Forward Site Distance. This has been provided and DFI Roads are now content with the access arrangements.	
<b>Description of Proposal</b>  This application seeks full planning permission for a 2 storey dwelling and domestic garage	

### **Deferred Consideration:**

This is an application for a dwelling on a farm. Compliance with Policy CTY 10 has been accepted, with the main issue being the design, scale and massing of the proposed dwelling along with the ability of the site to adequately integrate a dwelling.

It was agreed at the office meeting on the 19th January 2023 that I carry out a site inspection to assess the integration qualities of the site and to make a determination as to whether the proposed design was acceptable in the rural locality. The application site is a 0.26 hectare plot of agricultural land located to the rear (approx 30m SW) of a 2 storey farm dwelling and agricultural buildings at 55 Springhill Road. The proposed dwelling and garage will cluster with these existing buildings and this in itself provides a degree of integration.

When travelling in a NW direction along the Springhill Road towards Moneymore there are no long term critical views of the site due to the curvature of the road and the presence of a strong mature boundary in the adjacent field. There will only be short term views from this approach and given the set back position of the dwelling and its proximity to other buildings, including a 2 storey dwelling, the scale and massing will not appear excessive. When travelling in the opposite direction along the Springhill Road there is will be no visual appreciation of the dwelling.

The Springhill Road does sit at a higher level than the village of Moneymore and on the approach into Moneymore from Cookstown, when travelling downhill towards the village there are critical views of some developments along the Sprighill Road. In order to inform this assessment I did consider this vantage point and I am satisfied that propsed development will not be visible from this approach. Overall I am of the opinion that the site can accommodate the dwelling in terms of its scale and massing and it will not appear overly dominant or prominent from any vantage point. I do acknowledge that new planting will be necessary along the NW and SW boundaries to aid integration, however I am content that the adjacent buildings will go some way to provide a degree of integration.

Concern was previously raised about the design of the dwelling, in particular the hipped roof. I noted on the day of my site visit that the dwelling at opposite side of the road - number 58, has an element of a hipped roof as well as having a road side location. Given the lack of critical views of the site and its set back position, I am of the opinion that the hipped roof will not detract from the locality.

I recommend that this application now be approved subject to standard conditions in respect of time, access, retention of boundaries and planting.

### **Conditions/Reasons for Refusal:**

#### **Approval Condtions**

##### **Condition 1**

The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

**Condition 2**

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 2 bearing the date stamp 11th Oct 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Condition 3**

The access gradient(s) to the dwelling hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Condition 4**

The existing natural screenings of the site, as indicated on drawing 02 date stamped received 11th Oct 2022 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**Condition 5**

During the first available planting season after the occupation of the dwelling, native species trees and hedgerow shall be planted along the NW and SW boundaries of the site in accordance drawing number 02 date stamp received 11th Oct 2022.

Reason: To ensure the development integrates into the countryside.

**Signature(s):**Karla McKinless

**Date:** 8 March 2023

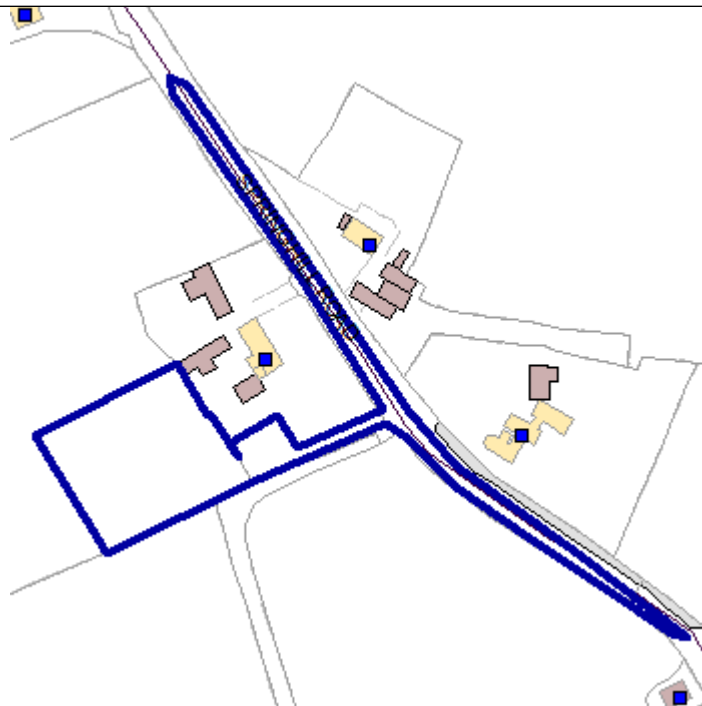


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 January 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2022/1077/F	<b>Target Date:</b> 23 September 2022
<b>Proposal:</b> Proposed 2 storey dwelling and domestic garage	<b>Location:</b> 30M South West Of No. 55 Springhill Road Ballindrum, Moneymore BT45 7NH
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Mark Henry 3 Gallion Heights Moneymore BT45 7WE	<b>Agent Name and Address:</b> Lissan Design 45 Letteran Road Moneymore Magherafelt BT45 7UB
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval - Recon response.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docxDC Checklist 1.doc
Non Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2022-1077-F.DOCX

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

No third party representations were received during the assessment of this application.

All material considerations have been addressed within the determination below.

### **Characteristics of the Site and Area**

The site is located approx. 30M South West Of No. 55 Springhill Road, Ballindrum, Moneymore, BT45 7NH and is located outside the designated settlement limits as defined in the Cookstown Area Plan, 2010. The site is a large irregular portion of an agricultural field. The elevations of the site falls away slightly from the Springhill road. The Southern boundary of the site is comprised of low level hedge rows and some scatter trees, the western and Northern boundaries are undefined and the Eastern boundary is comprised of low level hedge and some trees. The surrounding area is predominantly rural with scattered dwellings and farm holdings.

### **Description of Proposal**

This application seeks full planning permission for a 2 storey dwelling and domestic garage

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

The following policy documents provide the primary policy context for the determination of this application:

Strategic Planning Policy Statement (SPPS)

Cookstown Area Plan, 2010

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

#### **Planning History**

There is no planning history relevant to the determination of this application.

#### **Representations**

Neighbour notification and press advertisement have been carried out in line with the

Council's statutory duty. At the time of writing, no third party objections were received.

### Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is dwellings on a farm under Policy CTY 10.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

The Mid Ulster District Council Local Development Plan 2030; Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan

PPS 21, Policy CTY1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY 10. This establishes that the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - Demonstrable health and safety reasons or
  - Verifiable plans to expand the farm business at the existing building group(s)

With regard to (a) the applicant has provided details surrounding the farm business ID. DAERA were consulted and confirmed were consulted and confirmed that the farm business has been in existence and active for more than 6 years, therefore the application meets this test.



With regard to (b) there are no records indicating that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With respect to (c), the proposed development is located on a large portion of agricultural field and there farm buildings associated with the farm business located within the red line of the site, towards the south east, therefore the application meets this policy test.

The P1 form indicates that the proposal includes the construction of a new access to the public road. DFI Roads were consulted on the application and offered no objection providing that it is constructed and maintained to that detailed on drawing number 02, date stamped 11 Oct 2022 and conditions applied.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal is for full planning permission and details of design have been submitted. The proposed two storey dwelling, and domestic garage is designed with a hipped roof, the design is deemed to be out of keeping with the local character of the area and inappropriate for the site and its locality. There is a lack of established boundaries particularly along the western and Northern boundaries to provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. The proposal relies on new landscaping along these boundaries and does not have a sufficient backdrop, therefore fails to meet the criteria of Policy CTY 13.

In terms of Policy CTY14 Planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. The proposal may be unduly prominent on the site and the design does not respect the traditional pattern of settlement exhibited in the area and could cause detrimental change to the rural character of the area, therefore it fails to meet the criteria of CTY 14.

I contacted the agent to give them the opportunity to amend the design , however they responded to say that his client wanted him to continue with the proposed design and was not prepared to amend it.

#### **Summary of Recommendation:**

Refuse is recommended

#### **Refusal Reasons**

**Reason 1**

The proposal is contrary to CTY13 of PPS 21, in that the proposed design is deemed to be out of keeping with the local character of the area and inappropriate for the site and its locality. There is a lack of established boundaries particularly along the western and Northern boundaries to provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. The proposal relies on new landscaping along these boundaries and does not have a sufficient backdrop to provide sufficient screening of the site.

**Reason 2**

The proposal is contrary to CTY14 of PPS 21, as it has the potential to be unduly prominent on the site and the design does not respect the traditional pattern of settlement exhibited in the area and could cause detrimental change to the rural character of the area

**Signature(s):** Siobhan Farrell

**Date:** 20 December 2022

ANNEX	
Date Valid	10 June 2022
Date First Advertised	12 July 2022
Date Last Advertised	12 July 2022
<b>Details of Neighbour Notification</b> (all addresses)  The Owner / Occupier 64 Springhill Road Moneymore Londonderry BT45 7NH The Owner / Occupier 58 Springhill Road Moneymore Londonderry BT45 7NH	
Date of Last Neighbour Notification	2 August 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: I/1997/0500 Proposals: Extension to Dwelling Decision: PG Decision Date:  Ref: I/2002/0443/F Proposals: New repositioned access Decision: PG Decision Date: 19-SEP-02  Ref: I/1999/0054 Proposals: 33KV O/H Line Decision: PG Decision Date:  Ref: LA09/2020/0810/O Proposals: Proposed site for a "Dwelling on a farm" & domestic garage (based on Policy CTY 10) Amended Access Decision: PG Decision Date: 22-OCT-20	

Ref: I/2008/0479/F

Proposals: Removal of existing rear return and renovation of dwelling (re-slate, new windows & doors, new stair, replaster internally & externally, new ground floor re-build chimney, new storm goods)

Decision: PG

Decision Date: 17-SEP-08

Ref: LA09/2016/0375/O

Proposals: Gap site for dwelling and garage

Decision: PG

Decision Date: 19-AUG-16

Ref: LA09/2022/1077/F

Proposals: Proposed 2 storey dwelling and domestic garage

Decision:

Decision Date:

Ref: LA09/2022/0060/RM

Proposals: Proposed 2 storey dwelling and domestic garage

Decision:

Decision Date:

Ref: LA09/2018/1435/F

Proposals: 2 Farm sheds -1 for the storage of winter fodder and 1 for animal shelter

Decision: PG

Decision Date: 16-SEP-19

Ref: I/1993/0452

Proposals: Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1995/0086

Proposals: Erection of Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1980/0062

Proposals: EXTENSION AND REPAIRS TO EXISTING DWELLING

Decision: PG

Decision Date:

Ref: LA09/2021/1627/F

Proposals: Proposed rear extension, detached garage & alterations

Decision: PG

Decision Date: 09-MAR-22

Ref: I/2004/0148/F  
Proposals: Rough cast mobile home.  
Decision: PR  
Decision Date: 12-MAY-04

Ref: I/1998/0305  
Proposals: Extension to Dwelling  
Decision: PG  
Decision Date:

Ref: I/1986/0440  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:

Ref: I/2013/0004/O  
Proposals: Gap site dwelling and garage  
Decision: PG  
Decision Date: 20-MAR-13

Ref: LA09/2021/0940/O  
Proposals: Gap Site for Dwelling & Garage  
Decision: PG  
Decision Date: 26-AUG-21

Ref: I/1988/0462B  
Proposals: Sewage Treatment Works  
Decision: WITHDR  
Decision Date:

Ref: I/1997/0491  
Proposals: 2 no. dwellings  
Decision: PR  
Decision Date:

Ref: I/1983/0369  
Proposals: 4 NO DWELLINGS  
Decision: PR  
Decision Date:

Ref: I/1996/6018  
Proposals: Infill Site for 2 no. dwellings Springhill Road, Moneymore  
Decision: PRER  
Decision Date: 02-APR-96

Ref: I/1992/6010  
Proposals: Dwelling Springhill Road Moneymore  
Decision: PRER  
Decision Date: 16-JUN-92

Ref: I/1988/0462  
Proposals: Proposed Sewage Treatment Works  
Decision: PG  
Decision Date: 23-JAN-89

Ref: I/1995/6043  
Proposals: Site for Housing Ballindrum Road Moneymore  
Decision:  
Decision Date:

Ref: I/1991/6021  
Proposals: Surplus Land Springhill, Moneymore, Co Tyrone.  
Decision: QL  
Decision Date:

Ref: LA09/2021/0911/F  
Proposals: Gap site for dwelling with integral garage  
Decision: PG  
Decision Date: 10-JAN-22

Ref: I/2010/0259/F  
Proposals: Refurbishment of and extension to front and rear of existing Orange Hall  
Decision: PG  
Decision Date: 10-AUG-10

Ref: I/2003/0203/F  
Proposals: Extension to dwelling  
Decision: PG  
Decision Date: 14-APR-03

Ref: I/1993/0057  
Proposals: Domestic Garage  
Decision: PG  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation full approval - Recon response.docx  
DFI Roads - Enniskillen Office-Roads Consultation full approval.docxDC Checklist 1.doc  
DAERA - Coleraine-Consultee Response - LA09-2022-1077-F.DOCX

<b>Drawing Numbers and Title</b>
Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02 Elevations and Floor Plans Plan Ref: 03 Garage Plans Plan Ref: 04 Site Location Plan Site Layout or Block Plan
<b>Notification to Department (if relevant)</b>
Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1226/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage	<b>Location:</b> 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21. Following an office meeting with Dr Boomer, it was presented to Members again at February 2023 Planning Committee as a refusal with an additional CTY 8 refusal reason. Members agreed to a further deferral so that a site visit could be carried out. The Members site visit took place on the 24th Feb 2023 and the application is again being presented as a refusal under CTY 1, CTY 2A, CTY 8 and CTY 14 of PPS 21.	
<b>Summary of Consultee Responses:</b>  DFI Roads consulted and have no objections to the proposal.	
<b>Description of Proposal</b>  This is outline planning application for a proposed site for a dwelling and domestic garage.	



**Deferred Consideration:**

This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1230/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1230/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The overall gap in my opinion would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

As noted earlier in this report, it was agreed at February 2023 Planning Committee that a Members site visit take place. This took place on the 24th Feb. The site visit focused primarily on viewing the parcel of land adjacent to a dwelling at 25a Cloane Road so that a determination could be made as to whether the land was part of the curtilage of number 25a and as such, could be discounted from the "gap" when assessing the application under infill policy. Members were advised that this field, despite being used, in part, to locate a trampoline and climbing frame was not part of the lawful curtilage of number 25a. In order to be considered lawful domestic curtilage then a certificate of lawfulness would need to be approved. To date, no Certificate of Lawfulness has been submitted to the Planning Department so I therefore have no evidence to demonstrate that the field is lawfully part of domestic curtilage of 25a Cloane Road. I have liaised directly with the Department of Agriculture who have confirmed that this field is not land which is part of any Single Farm Payment claim.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill

development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

**Reason 1**

The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable development in the countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

**Reason 4**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

**Signature(s):**Karla McKinless

**Date:** 8 March 2023



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1226/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage	<b>Location:</b> 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21.	
<b>Summary of Consultee Responses:</b>  DFI Roads consulted and have no objections to the proposal.	
<b>Description of Proposal</b>  This is outline planning application for a proposed site for a dwelling and domestic garage.	
<b>Deferred Consideration:</b>  This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it	

was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1230/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1230/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The gap in my opinion creates a substantial visual break and would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

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Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

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**Signature(s):**Karla McKinless

**Date:** 23 January 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 1 November 2022	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2022/1226/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage	<b>Location:</b> 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The proposal is contrary to policy.

### Characteristics of the Site and Area

The site is located approximately 2km North of the development limits of Draperstown and is located within the open countryside outside any other designations as per the Magherafelt Area Plan 2015. The red line of the site is the northern corner of an existing

larger agricultural field which is relatively flat in nature with shrubs and grass within the field. The eastern boundary is defined by mature trees, with a mature hedge row defining the roadside boundary. The northern boundary is defined by a post and wire fence. The site is located adjacent to the crossroads of Cloane Lane to the north and Cloane Road to the west. The surrounding area is mainly agricultural in nature with single dwellings located throughout.

### **Representations**

No third party representations have been received.

### **Relevant Site History**

LA09/2022/1230/O- Proposed Site for Dwelling and Domestic Garage. 155m South of No.25A Cloane Road, Draperstown. Pending Consideration

LA09/2020/0970/O- Dwelling and garage. Approx. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 5th May 2021

LA09/2021/1532/RM- Dwelling and domestic garage. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 25th January 2022.

### **Description of Proposal**

This is outline planning application for a proposed site for a dwelling and domestic garage.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable



Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I do not believe there is a cluster of development which lies outside of a farm. The agent has shown on the site location plan they believe there are three plots to the north of the site which are shown as No.25 and an associated outbuilding, No.25a and an associated outbuilding and then plot 3 which appears to be an agricultural field and farm buildings to the north of this. However, having viewed these on the ground and reviewed ortho images it is clear the buildings in plot 3 are farm buildings with another farm building to the north of these at the rear of No.25. From this, there is no cluster as there are only three buildings identified as the outbuildings and garages have to be excluded.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above policy criteria, there is no existing cluster as per the policy definition so it fails to meet the above policy. It is noted that the site is located adjacent to a cross roads.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.*

The site is not bounded by development on any sides. The agent has identified plot three directly adjacent to the north (separated by the Cloane Lane) but this plot adjacent the site is an agricultural field.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As mentioned, the site is not bounded on at least two sides and there is not an existing cluster.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the mature tree boundaries which would provide a backdrop.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would result in the erosion of the rural character of the area.

#### PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

#### **Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons****Reason 1**

The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable development in the countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

**Signature(s):** Ciaran Devlin

**Date:** 17 October 2022

<b>ANNEX</b>	
<b>Date Valid</b>	4 August 2022
<b>Date First Advertised</b>	16 August 2022
<b>Date Last Advertised</b>	16 August 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2020/0970/O Proposals: Dwelling and garage Decision: PG Decision Date: 05-MAY-21  Ref: H/2003/1190/O Proposals: Site of one and a half storey dwelling and garage. Decision: PG Decision Date: 07-DEC-04  Ref: LA09/2022/1230/O Proposals: Proposed Site for Dwelling and Domestic Garage. Decision: Decision Date:  Ref: LA09/2022/1226/O Proposals: Proposed Site for Dwelling and Domestic Garage Decision: Decision Date:	

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: L01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1230/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage.	<b>Location:</b> 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
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<b>Summary of Consultee Responses:</b>  DFI Roads consulted and have no objections to the proposal.	
<b>Description of Proposal</b>  This is an outline planning application for a proposed site for a dwelling & domestic garage.	

### **Deferred Consideration:**

This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1226/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

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Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill

development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

### **Conditions/Reasons for Refusal:**

#### **Refusal Reasons**

##### **Reason 1**

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##### **Reason 2**

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##### **Reason 3**

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**Signature(s):**Karla McKinless

**Date:** 8 March 2023





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1230/O	<b>Target Date:</b> 17 November 2022
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**Signature(s):**Karla McKinless

**Date:** 23 January 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 1 November 2022	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2022/1230/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage.	<b>Location:</b> 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The proposal is contrary to policy.

### Characteristics of the Site and Area

The site is located approximately 2km North of the development limits of Draperstown and is located within the open countryside outside any other designations as per the Magherafelt Area Plan 2015. The red line of the site is the southern corner of an existing

larger agricultural field which is relatively flat in nature with shrubs and grass within the field. The eastern boundary is defined by mature trees, with a mature hedge row defining the roadside boundary. The northern boundary is currently undefined with a laneway running adjacent to the southern boundary separating the application site from a dwelling under construction to the south. The surrounding area is mainly agricultural in nature with single dwellings located throughout.

### **Representations**

No third party representations have been received.

### **Relevant Site History**

LA09/2022/1226/O- Proposed Site for Dwelling and Domestic Garage. 100m South of No.25A Cloane Road, Draperstown. Pending Consideration

LA09/2020/0970/O- Dwelling and garage. Approx. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 5th May 2021

LA09/2021/1532/RM- Dwelling and domestic garage. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 25th January 2022.

### **Description of Proposal**

This is an outline planning application for a proposed site for a dwelling & domestic garage.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS 3: Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable

Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I do not believe there is a cluster of development which lies outside of a farm. The agent has shown on the site location plan they believe there are three plots to the north of the site which are shown as No.25 and an associated outbuilding, No.25a and an associated outbuilding and then plot 3 which appears to be an agricultural field and farm buildings to the north of this. However, having viewed these on the ground and reviewed ortho images it is clear the buildings in plot 3 are farm buildings with another farm building to the north of these at the rear of No.25 as seen in the image below. From this, there is no cluster as there are only three buildings identified as the outbuildings and garages have to be excluded.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above two points, there is no existing cluster as per the policy so it fails to meet the above policy. It is noted that the site is located south of a cross roads.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.*

The site is bounded on the southern side by a dwelling currently under construction approved under applications LA09/2020/0970/O & LA09/2021/1532/RM. The site is not bounded on any other sides by development.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As mentioned, the site is not bounded on at least two sides and there is not an existing cluster.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the mature tree boundaries which would provide a backdrop.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would result in the erosion of the rural character of the area.

**PPS 3- Access, Movement and Parking:**

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, in light of this, the draft Plan Strategy does not yet carry determining weight.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable development in the countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a



settlement.

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

**Signature(s):** Ciaran Devlin

**Date:** 18 October 2022

<b>ANNEX</b>	
<b>Date Valid</b>	4 August 2022
<b>Date First Advertised</b>	16 August 2022
<b>Date Last Advertised</b>	16 August 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2022/1230/O Proposals: Proposed Site for Dwelling and Domestic Garage. Decision: Decision Date:  Ref: LA09/2020/0970/O Proposals: Dwelling and garage Decision: PG Decision Date: 05-MAY-21  Ref: LA09/2022/1226/O Proposals: Proposed Site for Dwelling and Domestic Garage Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Outline resp.docx	

**Drawing Numbers and Title**

Site Location Plan   Plan Ref: L01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1294/O	<b>Target Date:</b> 5 December 2022
<b>Proposal:</b> Site for dwelling & domestic garage	<b>Location:</b> On Lands Approx 35M North Of No 12 Drumard Road Kilrea BT51 5TJ
<b>Applicant Name and Address:</b> Mr COLM BRADLEY No 74 DRUMNAGARNER ROAD KILREA BT51 5TE	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38B AIRFIELD ROAD TOOME, ANTRIM BT41 3SG
<b>Summary of Issues:</b>  This application was presented to Members as a refusal at January 2023 Planning Committee. It was considered that the proposal failed to comply with policies CTY 10, CTY 13 and CTY 14 of PPS 21. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planning Officer. The application is now being recommended for Approval, with the justification detailed further in this report.	
<b>Summary of Consultee Responses:</b>  No consultations carried out as part of this deferred consideration	
<b>Description of Proposal</b>  This is an outline planning application for a site for dwelling & domestic garage	
<b>Deferred Consideration:</b>  This application for a farm dwelling was recommended for refusal based primarily on the site. It was considered by the previous case officer that a dwelling sited anywhere within the red line would fail to cluster nor would it be visually linked with the farm buildings associated with the	

farm business at 10 Drumard Road. It was also felt that site was too open and exposed and would fail to adequately integrate a dwelling. The farm business was considered to be established and active for the required period of time. No development opportunities have been sold of the holding in the last 10 years.

Following a deferred office meeting, I carried out a site inspection to assess the proposal. I would advise members that there are lands to immediate East of the application site which would be more policy compliant and if applied for, would adequately cluster a dwelling with the farm buildings. However, having viewed the application site on the ground I would be satisfied that a modest dwelling with a 5.5m ridge and sited in the extreme NW portion of the application site, would meet the visual linkage test contained within CTY 10. It would be obvious when travelling along the Drumard Road that a dwelling sited here was connected with the farm buildings at number 10. It would be necessary to condition the ridge height, floor space and siting of the dwelling to ensure that the dwelling would not appear prominent on this road side site, which does rise considerably in an Eastern direction. The applicants preferred location for siting a dwelling does not cluster with the farm buildings and in my opinion would fail to visually link with the farm buildings. It would result in a dwelling that would be too prominent on this site. The agent did provide a photomontage to show how a dwelling could sit in this preferred location, however this does not get over the visual linkage test and so in my opinion can not be considered acceptable.

Approval recommended subject to conditions

#### **Conditions/Reasons for Refusal:**

##### **Approval Conditions**

###### **Condition 1**

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

###### **Condition 2**

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

###### **Condition 3**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 Form available to view on Public Access.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and

the convenience of road users.

Condition 4

The proposed dwelling shall be sited in the area shaded green on drawing L01 uploaded on Public Access on 22 Aug 2022

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21

Condition 5

The proposed dwelling shall have a ridge height of no more than 5.5 metres above finished floor level

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21

Condition 6

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

Condition 7

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform

Condition 8

The proposed dwelling shall have a footprint of no more than 150m<sup>2</sup>, measured internally.

Reason: To ensure the dwelling does not negatively impact on the rural character of this area and integrates into the surrounding landscape.

Condition 9

No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been approved by the Council and all tree and shrub planting shall be carried out in accordance with those details and at those times.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

**Signature(s):**Karla McKinless

**Date:** 9 March 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 January 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2022/1294/O	<b>Target Date:</b> 5 December 2022
<b>Proposal:</b> Site for dwelling & domestic garage	<b>Location:</b> On Lands Approx 35M North Of No 12 Drumard Road Kilrea BT51 5TJ
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr COLM BRADLEY No 74 DRUMNAGARNER ROAD KILREA BT51 5TE	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38B AIRFIELD ROAD TOOME, ANTRIM BT41 3SG
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-1294-O (2).DOCX
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-1294-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The proposal is contrary to Criteria C of policy CTY 10, CTY 13 & CTY 14 of PPS 21.

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application site comprises of the front portion of a larger agricultural field. The site rises in an eastern direction from the road to the eastern boundary of the red line, which is currently undefined as the field extends further east and levels out. A low level hedge defines the northern and western boundary with mature trees and hedges defining the southern boundary. The surrounding area is a mix of agricultural and single dwellings, with a dwelling located directly north of the site with associated farm buildings and a third party dwelling and buildings located to the south.

### **Representations**

No third party written representations have been received.

### **Description of Proposal**

This is an outline planning application for a site for dwelling & domestic garage

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster' Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a

dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

(a) the farm business is currently active and has been established for at least 6 years;  
(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and  
(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.  
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

The agent originally completed the application form in which they provided a farm business No. for Mr. Michael Bradley who gave consent for the farm business ID to be used. Following further discussions with the agent an amended P1c form was submitted and Mrs. Mary McCloskey's farm business was used and DAERA were consulted who confirmed the business ID was allocated in 1991, that payments have only been claimed in 2016 & 2017 and the site is located on land associated with another farm business. The agent provided a lease agreement from May 2015 which runs until May 2030, from this I am content the farm is currently active and has been established for at least 6 years.

Following a search on the planning system, I am content the proposal complies with criteria B above in that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With regards criteria C, the agent has indicated the proposed siting within the red line being towards the south eastern corner of the site. It will be located approximately 80m south west of the established group of buildings on the farm, which are located to the rear (east) of 10 Drumard Road. I do not believe a dwelling sited here would visually link with these buildings nor be sited to cluster with these buildings given the clear separation between the site and the buildings. The development is also proposing a new access to the dwelling. The policy states 'where practicable access to the dwelling should be obtained from an existing lane.' As the proposed siting is not sited to cluster or visually link, and no reasoning has been given for this alternative site, I believe it is practicable to use the existing access and an alternative siting within the red line, closer to the established group of farm buildings would satisfy criteria C. However, an alternative site within the red line would also be required to comply with Policy CTY 13 & 14.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of

an appropriate design. As this is an outline application, no design details have been provided however, I do not believe a dwelling at this proposed siting would visually integrated in the landscape, and given the topography of the land, with the dwelling sited at the top of a hill it will be a prominent feature. There is some screening on the southern boundary which would aid integration however, it is felt that it would rely primarily on new landscaping for integration. As mentioned above the siting fails to visually link or be sited to cluster with an established group of buildings on a farm. It is felt that an alternative site within the red line would also fail to comply with this policy given it is an open and prominent site.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As stated, the proposed dwelling would be on an elevated site and would appear unduly prominent in the landscape. As such, the proposal is contrary to this policy.

**PPS 3 - Access, Movement and Parking:**

The proposal is to create a new access. Transport NI advised that they have no objection to the proposed development subject to conditions.

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 2**

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed building will be a prominent feature in the landscape and the site relies primarily on the use of new landscaping for integration.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape.

**Signature(s):** Ciaran Devlin

**Date:** 20 December 2022

ANNEX	
<b>Date Valid</b>	22 August 2022
<b>Date First Advertised</b>	6 September 2022
<b>Date Last Advertised</b>	6 September 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 12A Drumard Road Kilrea Londonderry BT51 5TJ The Owner / Occupier 10 Drumard Road Kilrea Londonderry BT51 5TJ	
<b>Date of Last Neighbour Notification</b>	16 September 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2017/0016/NMC Proposals: Proposed in line movement of Structure IMP73 (2 metres) West of previously approved location. Proposed in line movement of Structure IMP56 (1.5 metres) South West of previously approved location. All alterations are contained within the land ownership boundaries of the landowners who requested the movements. Decision: CG Decision Date: 17-JAN-17  Ref: LA09/2022/1294/O Proposals: Site for dwelling & domestic garage Decision: Decision Date:  Ref: LA09/2017/0002/DC Proposals: Discharge of conditions 11 and 12 on Planning Application LA09/2015/1294/O Decision: AL Decision Date: 13-JAN-17  Ref: LA09/2017/0017/NMC Proposals: Proposed in line movement of Structure IMP42 (11 metres) West of previous	

approved location.

Proposed in line movement of Structure IMP76 (3 metres) West of previously approved location.

Proposed in line movement of Structure IMP79 (30 metres) North to boundary hedge.

This will require a further movement to structures AM78 (10 metres) and AM81 (10 metres) to accommodate this new structure location.

All alterations are contained within the land ownership boundaries of the landowners who requested the movements.

Decision: CG

Decision Date: 17-JAN-17

### **Summary of Consultee Responses**

DAERA - Coleraine-Consultee Response LA09-2022-1294-O (2).DOCX

DAERA - Coleraine-Consultee Response LA09-2022-1294-O.DOCX

DFI Roads - Enniskillen Office-Outline resp.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: L01

### **Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1561/O	<b>Target Date:</b> 16 February 2023
<b>Proposal:</b> Proposed site for dwelling & domestic garage (based on policy CTY 2A - dwelling within an existing cluster)	<b>Location:</b> Approx 30M South Of No 26 Grillagh Hill Maghera
<b>Applicant Name and Address:</b> MR MALACHY SCULLIN No 10 CORLACKY HILL MAGHERA BT46 5NP	<b>Agent Name and Address:</b> MR BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
<b>Summary of Issues:</b>  The application was presented to Members as a refusal at January 2023 Planning Committee. The proposal was deemed to be contrary to policies CTY 1, CTY 2A, CTY 8, and CTY 14 of PPS 21 and policies FLD 1 & FLD 3 of PPS15. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planning Officer, which took place on the 19 <sup>th</sup> January 2023. The application is again being presented as a refusal, for the same reasons and the justification for this is detailed further in this report.	
<b>Summary of Consultee Responses:</b>  No new consultations carried out in my deferred consideration	
<b>Description of Proposal</b>  This is an outline planning application for a proposed site for dwelling & domestic garage (based on policy CTY2a - dwelling within an existing cluster).	



**Deferred Consideration:**

The site subject of this application was applied for under Policy CTY 2A - Dwelling in an existing cluster. It was considered that the proposal failed to meet 3 of the 6 criteria contained within the policy. It does not appear as a visual entity in the local landscape. It is not associated with a focal point or cross roads and it was not demonstrated that development would not adversely impact on residential amenity. It was also considered that a dwelling on this site would fail to comply with policies CTY 8 and CTY 14 in that, it would create a ribbon of development along Grillagh Hill Road. Furthermore, the site also lies within a Fluvial Flood Plain and a single dwelling does not meet any of the exceptions contained within policy FLD 1 of PPS15. Consultation was carried out with DFI Rivers, who advised that surface water run-off from the development may adversely impact upon other development. They recommended that a Drainage Assessment be carried out for further consideration. This was never submitted and so the proposal is also contrary to policy FLD 3 of PPS 15. An objection was raised in relation to surface water flooding and the impact this would have on the neighbouring property. Without any Drainage Assessment to show otherwise it was determined that the proposal would adversely impact the amenity of the neighbouring property.

At the deferred office meeting no new information was submitted to deal with any of the issues detailed above. The potential for a farm case was explored however the agent advised this was not achievable. Having carried out a site inspection I am of the opinion that the previous case officers assessment of the case was accurate and I would concur that the proposal fails to comply with Policies CTY 2A, CTY 8 and CTY 14 of PPS 21.

Refusal is recommended

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point such as a social / community building/facility, or is located at a cross-roads and the development would adversely impact on residential amenity.

**Reason 3**

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along Grillagh Hill.

**Reason 4**

The proposal is contrary to Policy FLD 1 and FLD 3 of Planning Policy Statement 15, Planning

and Flood Risk in that the site is located within the 1 in 100 year fluvial flood plain and not Drainage Assessment has been submitted to prove surface water run-off from the site development will not adversely impact on other development.

**Signature(s):**Karla McKinless

**Date:** 9 March 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 January 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2022/1561/O	<b>Target Date:</b> 16 February 2023
<b>Proposal:</b> proposed site for dwelling & domestic garage (based on policy cty 2a - dwelling within an existing cluster)	<b>Location:</b> Approx 30M South Of No 26 Grillagh Hill Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr MALACHY SCULLIN No 10 CORLACKY HILL MAGHERA BT46 5NP	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	Rivers Agency	818577 - Final Response.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The proposal is contrary to Policy CTY 1, 2A, 8, and 14 of PPS 21 and policy FLD 1 & FLD 3 of PPS15.

One objection has been received. The objection did not raise any issues with the principle of development rather highlighting issues relating to drainage issues and highlighting surface water flooding within the site. These issues have been assessed as

part of this report.

### **Characteristics of the Site and Area**

The site is located within the open countryside, outside any development limits of any other designations as per the Magherafelt Area Plan. The red line of the application site is comprised of the eastern, roadside portion of a larger agricultural field, which extends further west. The site is relatively flat, with a low level hedge defining the southern boundary, with the eastern and northern boundaries defined by post and wire fencing and wooden fencing separating the site from the adjacent dwelling to the north. The western boundary is currently undefined. The surrounding area is a mix of residential dwellings and agricultural land.

### **Description of Proposal**

This is an outline planning application for a proposed site for dwelling & domestic garage (based on policy CTY2a - dwelling within an existing cluster).

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS 3: Access, Movement and Parking  
PPS 15 (Revised): Planning and Flood Risk

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A

number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I am content there is a cluster of development which consists of four dwellings, three to the north of the site and one to the east.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above two points, it was agreed at an internal group meeting that the cluster does not appear as a visual entity in the local landscape. Furthermore, the agent is relying on a church in ruins and burial grounds approximately 250m north west of the site. Whilst this has been agreed as a focal point for other applications, these applications have been within the cluster associated with that focal point. While it is contended there is a cluster of development around the development site, this cluster is not associated with this focal point as it is too far removed, therefore failing to comply.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.*

The site is bounded to the north by No.26 Grilagh Hill and although the public road separates the site from No.23 to the east it is agreed this is considered being bound. Therefore, the development is bounded on two sides.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As the development is bounded on two sides, I am content this site can be absorbed into the existing cluster and it will not visually intrude into the open countryside. There is an existing laneway directly adjacent to the south which acts as an important boundary for the cluster, any development beyond this would appear as visually intrusive in the open countryside.

- *Development would not adversely impact on residential amenity.*

An objection was raised in relation to surface water flooding and the impact this would have of the neighbouring property. DfI Rivers were consulted who stated that surface water run-off from the development may adversely impact upon other development. As such, in its current form and without any assessment to show otherwise, I believe the

proposal would adversely impact the amenity on the neighbouring property.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape with additional planting along the western boundary to aid integration. A ridge height condition of 6m should be applied to any approval.

Policy CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated, the proposed dwelling would not appear unduly prominent in the landscape if kept to a restricted ridge height. However, a dwelling in this location my view, would extend a ribbon of development along the Grillagh Road and would be contrary to Policy CTY 8 and Policy CTY 14.

PPS 3 - Access, Movement and Parking;

The proposal is to create a new access. Transport NI advised that they have no objection to the proposed development subject to conditions.

PPS 15 (Revised): Planning and Flood Risk

DfI Rivers were consulted and responded to state that the Strategic Flood Map (NI) indicates that the site lies within the 1 in 100 year fluvial flood plain. DfI Rivers would consider that this proposal is contrary to PPS 15, Planning and Flood Risk, FLD 1. I do not consider the application to be an exception to this nor of overriding regional importance. A Flood Risk Assessment has not been received or requested and as such the proposal is contrary to FLD 1.

DfI Rivers stated further that surface water run-off from the development may adversely impact upon other development. Therefore, DfI Rivers would recommend that a Drainage Assessment is carried out for our consideration. As the principle of development has not been agreed or established a Drainage Assessment was not request and as such the proposal is contrary to FLD 3.

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Summary of Recommendation:**

Refuse is recommended

## Refusal Reasons

### Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

### Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point such as a social / community building/facility, or is located at a cross-roads and the development would adversely impact on residential amenity.

### Reason 3

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along Grillagh Hill.

### Reason 4

The proposal is contrary to Policy FLD 1 and FLD 3 of Planning Policy Statement 15, Planning and Flood Risk in that the site is located within the 1 in 100 year fluvial flood plain and not Drainage Assessment has been submitted to prove surface water run-off from the site development will not adversely impact on other development.

**Signature(s):** Ciaran Devlin

**Date:** 20 December 2022



ANNEX	
<b>Date Valid</b>	3 November 2022
<b>Date First Advertised</b>	15 November 2022
<b>Date Last Advertised</b>	15 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 23 Grillagh Hill Maghera Londonderry BT46 5PR The Owner / Occupier 26 Grillagh Hill Maghera Londonderry BT46 5PR	
<b>Date of Last Neighbour Notification</b>	25 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2009/0068/F Proposals: Proposed farm dwelling. Decision: PG Decision Date: 09-APR-09  Ref: LA09/2022/1561/O Proposals: proposed site for dwelling & domestic garage (based on policy cty 2a - dwelling within an existing cluster) Decision: Decision Date:  Ref: H/1979/0515 Proposals: SITE OF BUNGALOW INCLUDING GUEST HOUSE ACCOMMODATION Decision: PR Decision Date:  Ref: H/2002/1113/F Proposals: Two storey dwelling and garage. Decision: PG Decision Date: 17-JAN-03  Ref: H/2008/0645/F	

Proposals: Retrospective relocation of access approved under H/2002/1113/F, erection of pillars and wing walls. Proposed adjacent farm shed and new access.

Decision: PG

Decision Date: 28-JUL-09

Ref: H/2002/0224/O

Proposals: Site For Two-Storey Dwelling & Garage

Decision: PG

Decision Date: 24-MAY-02

Ref: H/2012/0155/F

Proposals: Proposed extension and alterations to provide additional creche/day care facilities and first floor living accommodation to supersede planning approval

H/2008/0638/F

Decision: PG

Decision Date: 12-SEP-12

Ref: H/2001/1037/F

Proposals: Dwelling & Garage

Decision: PG

Decision Date: 14-MAR-02

Ref: H/2003/1052/O

Proposals: Site of dwelling and garage.

Decision: PG

Decision Date: 04-AUG-04

Ref: H/2004/1364/F

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 08-JUL-05

Ref: H/2008/0638/F

Proposals: Proposed incorporation of creche facilities into existing dwelling.

Decision: PG

Decision Date: 16-JUN-09

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

Rivers Agency-818577 - Final Response.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 March 2023 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

<b>Members Present</b>	Councillor Mallaghan, Chair  Councillors Bell, Black*, Brown, Clarke, Colvin*, Corry, Cuthbertson, Glasgow, Martin*, McFlynn, McKinney, D McPeake, S McPeake, Quinn*, Robinson
<b>Officers in Attendance</b>	Dr Boomer, Service Director of Planning (SD: PI) Ms Doyle, Head of Local Planning (HLP) Ms Donnelly, Council Solicitor Mr Marrion, Senior Planning Officer (SPO) Ms McKinless, Senior Planning Officer (SPO) Mr McClean, Senior Planning Officer (SPO)** Mrs Grogan, Committee and Member Services Officer
<b>Others in Attendance</b>	Councillor Gildernew*** Councillor S McGuigan''''''

LA09/2020/0771/F	Liam Currie***
LA09/2020/1372/F	Kevin Loughran***
LA09/2020/1529/F	Kevin Loughran***
LA09/2021/0233/F	Oonagh Given***
LA09/2021/0233/F	Chris Tinsley***
LA09/2022/0476/F	Helen Hamill
LA09/2022/0689/O	Nicholson Boyd***
LA09/2022/1451/O	Ryan Dougan
LA09/2022/1625/F	Ryan Dougan
LA09/2020/1380/F	Toirlach Gourley
LA09/2021/1547/F	Chris Tinsley

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

\*\*\* Denotes others present by remote means

The meeting commenced at 7.00 pm

**P023/23 Notice of Recording**

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

**P024/23      Apologies**

None.

**P025/23      Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

**P026/23      Chair's Business**

The Service Director of Planning (SD: PI) wished to bring to members attention matters which were raised in the press across Northern Ireland and all the local papers regarding the new planning portal causing a lot of problems and complaints. The SD: PI stated that he noticed that quite a lot of the Councils had indicated that they were building up quite a large backlog because they were unable to process applications. He sympathised with the other Councils as this Council also went through the same process launching our own new planning system which also included quite a backlog. The committee may recall earlier in the year where it was stated that it may be difficult to meet performance targets this incoming year in terms of the time it took to process planning applications as the priority needed to be keeping planning applications moving forward and cases which are being held so Officers can become more efficient.

The SD: PI thought it would be useful to bring members attention up until September, planning was still increasing the number of applications which were being held, but could see from October onwards, Officers were not able to get out the door more applications than what was being received. However, we can see that this is now changing i.e. January 73 applications received with 135 decisions being sent out; December 85 applications received and 118 decisions issued. We received 973 applications to date but have made and got out the door 1043 decisions. If this momentum is kept going and come the new financial year, would envisage being back to our best again. He referred to the timeframe for local applications being processed and advised that this was now approximately 21 weeks.

The SD: PI advised that in terms of major applications it was very interesting as Mid Ulster continues to buck the trend and what was supposed to be a downturn, we have received a huge number of major applications and from the year to date we have received 16. To date 10 major applications have been out the door which is good as it shows there is still investment taking place and this Council is responding to this investment. He stated that there were issues relating to enforcement, primarily due to the fact that there was only one Officer working on these at the time, which caused delays and quite a backlog of enforcement cases. With all these things it was down to resources which needed to be sorted out and was pleased to inform members that there has been an increase of 3 new members of staff which was RJ McAleer, Ellen Gilbert and Daniel O'Neill. These members of staff have been brought in as it was part of Mid Ulster Council's strategy to bring in people straight from college or school and train them up the Mid Ulster way of doing things and obviously these are all graduate trainees which were at the start of their career and

moved around and hoped over the years, they prove to be an excellent asset for Mid Ulster.

The SD: PI in referring to an excellent asset, was pleased to announce that Roisin McAllister which is an officer within Development Plan has received a doctorate which demonstrated the expertise within planning department.

The Chair passed on his congratulations on behalf of the Planning Committee to Ms McAllister on her recent achievement.

The Chair, Councillor Mallaghan referred to the below applications which were on the agenda for determination and sought approval to have the following applications withdrawn and deferred from tonight's meeting schedule for an office meeting –

Agenda Item 5.1 – LA09/2020/0771/F – Retention of spray workshop, mobile office building, generator, concrete retaining wall and extension of curtilage at 73 Derryvale Road, Coalisland

Agenda Item 5.2 – LA09/2020/1313/F – Change of use from disused Convent and National School of 15 apartments at St Brigid's Convent & National School, Convent Road, Cookstown

Agenda Item 5.3 – LA09/2020/1318/LBC – Change of use from disused Convent & National School to apartments. Existing structures to be retained & restored at St Brigid's Convent & National School, Convent Road, Cookstown

Agenda Item 5.9 – LA09/2022/0126/O - Industrial Unit at 20m N of Unit 5K Shivers Business Park, 21 Hillhead Road, Toomebridge

Agenda Item 5.10 – LA09/2022/0476/F – Agricultural building above existing tank/slatted floor (to be retained) and associated site works at lands approx. 15m NW of 29 Thornhill Road, Dungannon

Agenda Item 5.12 – LA09/2022/0654/O – Dwelling and garage at lands 40m SW of 50 Battery Road, Coagh

Agenda Item 5.13 – LA09/2022/0670/F – Dwelling and garage on a farm at 151m N of 36 Keady Road, Swatragh

Agenda Item 5.15 – LA09/2022/0687/O - Dwelling on a farm adjacent to 28 Syerla Road, Dungannon (*Withdrawn*)

Agenda Item 5.16 – LA09/2022/0689/O – Dwelling on a farm at 350m W of 5 Corick Road, Clogher

Agenda Item 5.17 – LA09/2022/0714/O – Dwelling and domestic garage at 120m SW of 119 Mullaghboy Road, Bellaghy

Agenda Item 5.18 – LA09/2022/1065/O – Dwelling and garage at 50m S of 37 Moor Road, Coalisland

Agenda Item 5.19 – LA09/2022/1095/F – Relocation of previously approved dwelling and domestic double garage at approx. 75m NW of 42 Drummurrer Lane, Coalisland

Agenda Item 5.24 – LA09/2022/1571/F – Dwelling on a farm with detached domestic garage at site 150m NW of 10 Fallylea Lane, Maghera

Agenda Item 5.25 – LA09/2022/1582/O – Dwelling and garage on a farm at 60m NE of 28 Cloughfin Road, Killeenan, Cookstown

Agenda Item 5.27 – Dwelling at lands approx. 30m W of 1 Tobin Drive, Moortown  
(*Withdrawn*)

The Chair brought to members attention two deferrals below which were received late and advised that there did seem to be some sort of confusion regarding the submission of the forms. He said that the benefit of the doubt would be given on this occasion, but would liaise with Agent to make sure that the proper process was followed in the future:

Agenda Item 5.14 – LA09/2022/0681/O – Dwelling on infill site at lands between 31 and 35 Reclain Road, Galbally Dungannon

Agenda Item 5.20 – LA09/2022/1288/O – Dwelling (infill gap site) at 15 Finulagh Road, Castlecaulfield

Proposed by Councillor Bell  
Seconded by Councillor Corry and

**Resolved** That the planning applications listed above be withdrawn/deferred for an office meeting.

## **Matters for Decision**

### **P027/23 Planning Applications for Determination**

The Chair drew Members attention to the undernoted planning applications for determination.

**LA09/2020/0771/F Retention of spray workshop, mobile office building, generator, concrete retaining wall and extension of curtilage at 73 Derryvale Road, Coalisland for Stephen Halligan and Sons**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/1313/F Change of use from disused convent and national school to 15 apartments at St Brigid's Convent & National School, Convent Road, Cookstown for Fr. L Boyle**

Agreed that application be deferred for an office meeting earlier in meeting.



**LA09/2020/1318/LBC Change of use from disused convent & national school to apartments. Existing structures to be retained & restored at St Brigid's Convent & National School, Convent Road, Cookstown for Fr. L Boyle**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/1372/F Stockpile storage of aggregate on a temporary basis at 25 Crancussy Road, Evishacrancussy Road, Cookstown for Core Aggregates**

Members considered previously circulated report on planning application LA09/2020/1372/F which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2020/1372/F be approved subject to conditions as per the officer's reports.

**LA09/2020/1529/F Application to vary condition No 11. of approval I/1977/0072 at Core Aggregates, 25 Crancussy Road, Cookstown for Core Aggregates**

Members considered previously circulated report on planning application LA09/2020/1529/F which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2020/1529/F be approved subject to conditions as per the officer's reports.

**LA09/2021/0233/F Winning and working of minerals (Psammite and overlaying sand and gravel) to include a North Easterly lateral extension and deepening from existing, permitted floor level with restoration to biodiverse habitats at lands at Corvanaghan Quarry, 29 Corvanaghan Road, Cookstown for P Keenan Quarries**

The Service Director of Planning (SD: PI) said that before Mr Bowman (SPO) provided his summary of the application, he wished to provide an update to committee which would save a lot of debate going backwards and forwards between both parties.

The SD: PI advised that there was an issue which centred around the address where it reads 29 Corvanaghan Road, there is also a residential property which is also 29 Corvanaghan Road and a claim being made that this is wrongly advertised. The Quarry has also an address of 29 Corvanaghan Road and Officers has carried out a series of checks on the website and also with Building Control who also have both

recorded as No. 29 and would be his understanding that it would be reasonable for this application to move forward as it stands. If it was proven that one was No. 27 or No.29, in this case it would not prejudice the determination of the application due to the fact of objector at No. 29 raising these issues and clearly aware of the application. The SD: PI felt that rather than rehearsing this debate as legal advice has already been taken on other things in the past, although would appreciate that there was a dispute, also felt that if the committee were minded, they could determine this application tonight.

Mr Bowman presented previously circulated report on planning application LA09/2021/0233/F which had a recommendation for approval. He wished to clarify that 8 letters of objection had been received and also referred to circulated addendum where a late letter of objection had been received from Mr Oliver McKenna regarding late night noise coming from the quarry.

The Chair advised that a request to speak against the application had been received and invited Ms Given to address the committee.

Ms Given thanked members for allowing her the opportunity to address the committee tonight. She advised that she was in attendance tonight to represent Mr Oliver McKenna and his concerns regarding the impact this proposal would have on his farm and on the recently approved replacement dwelling. She felt that the application was invalid and could be subject to judicial review if the committee proceeds with the Planner's recommendation.

Ms Given advised that the proposal included screening bunds up to the boundary of Mr McKenna's farmlands and was difficult to see how these bunds could be constructed and maintained without trespass on his land. If there was no prospect of the applicant accessing third party lands in order to maintain or build those bunds, then condition 3 cannot be complied with and believed that the solution would be for the red line to be pulled back, therefore allowing access by the developer and no interference with Mr McKenna's farming operations. As for the replacement dwelling, planning permission was granted subject to a siting condition in order to protect it against the existing quarry and if this was the case, surely it would allow to extend the quarry towards the replacement dwelling would equally undermine residential amenity. Ms Given referred to blasting guidelines where it states that a separation distance would not be less than 100m between blasting operations and neighbouring properties is acceptable. She advised that the neighbouring dwelling is within 100m with an area identified where removal of Psammite, removed via drill and blast was an attempt to limit where blasting may occur in use by a planning condition, in her view was unreasonable and the most appropriate solution would be to amend the scheme.

Ms Given referred to the validity of the application and advised that the site location was given as 29 Corvanaghan Road and if the committee looked at the overhead map there was a property labelled as No. 29 which was clearly not part of the land to be developed and in fact was 200m away. No. 29 is owned and occupied as a domestic dwelling and not related to the quarry and is identified by a sign on the ground as No. 29 in directing members of the public and not just the owner of the property, to an address which is well outside the application boundary, resulting in

the description the proposal as misleading. The pre application consultation process was also invalid for the same reasons and rather to defend the inaccurate description of the location, felt that Council should return it to the applicant and if Council proceeds to approve the decision it could be open to judicial review. Ms Given said that she would be happy to take any questions that the committee may have.

The Chair advised that a request to speak in support of the application had been received and invited Mr Tinsley to address the committee.

Mr Tinsley advised that he was a planning consultant with Quarryplan who were the planning agents for P Keenan. In terms of the issues in which Ms Given has raised especially the number of validity issues, felt that a number of these had been covered and addressed in terms of the PAN process by Mr Bowman (SPO) and Dr Boomer (SD: PI). He referred to the screening bunds as previously discussed by Mr Bowman (SPO) and stated that this was a private issue and that the bunds had been designed by Quarry Design Ltd who had assessed whether they were technically viable to build and agreed that they were technically viable.

Mr Tinsley stated that P Keenan were the main contractor for DfI Roads for asphalt resurfacing in Mid Ulster and recently carried out a major resurfacing scheme on the Cookstown dual carriageway. The proposed development would sustain secure employment for staff employed at the quarry and for the road surfacing teams. It would also ensure that the existing asphalt quarry would continue to serve the needs of DfI Roads by having a central location within Mid Ulster. He felt that all of the procedural and planning matters has been fully covered within the committee report but would be happy to answer any queries in which committee may have.

The Service Director of Planning (SD: PI) wished to clarify some points and felt that members were well aware of his points in relation to No. 29.

Mr Tinsley confirmed to SD: PI that his client's address was No. 29.

The SD: PI said from the outset there seemed to be two addresses being No. 29 and that Building Control which administers addresses seemed to verify this.

Mr Bowman (SPO) said that the advice that he had within his report was that Building Control did come back after some contact with the occupant of No. 29 (dwelling) and having investigated the issue it would appear that this may be correct with the quarry being No. 27 not No. 29. In referring to a Building Control application being made in 1998 for a replacement roof, the address of the dwelling was given as No. 29 and this is also the number that Land & Property Services hold for the dwelling and refer to No. 27 as the quarry. He said that this is depending on where you seek the information and if you look at Royal Mail's website today it stated the postal address of the quarry, which is the legislative requirement and at the time of him writing his report, was given as No. 29 Corvanaghan Road. He advised that different sources provided different messages.

In response to query from SD: PI, Ms Given advised that she was not representing the resident at No. 29 and was only representing Mr Oliver McKenna which lived at No. 15 Corvanaghan Road.

The SD: PI enquired if Ms Given's client had the opportunity to make representation.

Ms Given advised that her client previously made representation and that was why she was in attendance tonight.

The SD: PI said he wanted to make sure that the client was able to make representation. He said that he was also aware that the person at No. 29 is also aware of the application and felt that there was no prejudice.

The SD: PI referred to Condition 3 which was raised by the objector and enquired if the bunds could be built on the site without going on his land.

Mr Tinsley agreed that this could be accommodated.

The SD: PI enquired if Condition 3 was negative and whether this required this to be done before the extension of blasting takes place.

Mr Bowman (SPO) advised that Condition 3 in its entirety reads:

*All works as shown and referred to on Drawing No 03/2 date stamped 27th Aug 2021 shall be completed in accordance with this plan including the erection of all advanced screening bunds where identified along the perimeter of the proposed extraction.*

*Reason: In the interests of visual and neighbouring amenity.*

The SD: PI said his feeling on the reasons from all parties is that the objector is saying that they have to come on his land and obviously it would be an onus on the committee to take this into account. He stated that the developer is saying that they did not need to go on the objector's land, and it was not his job to verify one way or another. The Director agreed that the Condition was negative and even if the developer needed to go on the objector's land during construction, then the objector would hold the right to refuse access, the result of that because of the negative Condition would be that the expansion of the quarry could not take place as it was negative by nature.

The SD: PI referred to the blasting in the 100m zone where it was alleged that there was a permission and taking into account Health & Safety concerns being adhered to during planning approval.

Mr Bowman (SPO) referred to his presentation and advised that HSENI was specifically consulted with on his application and also the replacement dwelling. He wished to make it clear again in relation to the quarry, HSENI's opening comment is that they had no objections to the application. HSENI was asked to comment on the replacement dwelling and was aware of the location, they indicated that if the application was approved by Mid Ulster District Council i.e. replacement dwelling

application, then they would request that a Condition was applied to the approval for application LA09/2021/0233/F that no blasting takes places within 100m of the replacement dwelling once it has been constructed and occupied. Mr Bowman (SPO) said that in his view he would see the Condition as reasonable and enforceable.

The SD: PI said that continuing on from Mr Bowman's comments, it would suggest that the Condition comes into play on occupation of the dwelling.

Mr Bowman (SPO) confirmed that it finishes by stating "*within 100m of the dwelling once it has been constructed and is occupied*".

The SD: PI stated that the last time the debate related to this house on whether it was replaceable, where discussions ensued, and different views aired. The view which was put to the applicant was had the existing dwelling been abandoned i.e. was there anything to stop the person actually moving into the house and the answer to that concluded that someone could move into that house with works carried out internally. The SD: PI felt that it would be very important that the Condition is absolute, that there be no blasting within 100m of the dwelling site or the existing dwelling.

The SD: PI suggested that the Condition be changed to make it absolute in itself and not relate to occupation.

Councillor Martin wanted to clarify that she had been contacted in relation to the No. 29 issue and asked if this was something she would need to declare an interest in to keep herself right.

The SD: PI said that members face this all the time and was certain that members had been contacted at some time by an applicant or an objector. Whether a member has an interest depends on what has been done while they were contacted, for instance if someone makes contact and the member states that they will raise at planning committee on their behalf, then it is perceived that representation is being made on the applicant's/objector's behalf which would indicate the best way forward would be to declare an interest and not to get involved in voting. If a member is a member of the planning committee it may be suggested that it be referred to a different member to raise the issue, this then results in the planning member having no interest. He advised that it was up to each individual member to decide for themselves whether they have an interest or not.

Councillor Martin advised that she had sent an email on behalf of the complainant but did not go into specifics or anything but felt that in the interest of transparency would be better to declare it.

*Councillor Martin declared an interest in LA09/2021/0233/F.*

Councillor McKinney said that he would be happy to propose the officer's recommendation of approval, but to include the extra Condition suggested by Dr Boomer.

Councillor Clarke agreed with the additional Condition suggested by Dr Boomer as it was worthwhile and was his understanding that the house is there and could be renovated.

Councillor Clarke referred to the two No. 29's and felt that this confusion needed to be cleared up and stated that there were two dwellings within in district beside each other with no house numbers for them, Land & Property unaware of any information about them even though they pay rates. Building Control has no records and in this instance, we have the same number for two different sites – one a dwelling and the other a quarry. He felt that this issue needed to be resolved as a matter of urgency and enquired if you head North of No. 29 the numbers increase i.e. No. 31 etc. and when you head South the numbers decrease, which would suggest that the quarry has a lower site number. The member felt that this needed to be investigated as there seemed to be not good will between the parties involved and not a good outcome.

The SD: PI stated that advice from Building Control was to involve both parties and they would sort it out, but it could be the case that both parties could be fighting over the same number i.e. No. 29. He said that it struck him that it would be in the best interest of both parties to have separate numbers, particularly if you were running a business as controversial financial information could go elsewhere to the other address of the same number. The SD: PI would be confident that Building Control would assist in accommodating the situation if both parties were willing to come to some sort of agreement.

Councillor Clarke enquired who would have the authority to decide the site number.

Ms Doyle (SPO) advised that she received a complaint that she was currently dealing with at the moment which she had researched. The complainant has indicated that they have went to Land & Property Services, postal address of dwelling is No. 27 and postal address of the quarry is No. 29, but the rates for No. 27 are the rates for No. 29 and vice-versa, so Land & Property Services have indicated that their hands were tied. The complainant went to Royal Mail and they have indicated that their hands were tied also as they cannot change the address. The complainant has contacted Building Control and it was her understanding that the applicant has been approached by a member of the Building Control team enquiring whether they would be willing to change their business address from No. 29 to No. 27 and the applicant has come back to say that they were unwilling to do that as there was a financial consideration. Ms Doyle (SPO) advised for the number to change, the Council does have the authority to rename a road and renumber the properties, but it was her understanding for that to happen 50% of the residents along the road has to make the request to Council and 100% of the residents has to agree on the renaming of the road and what that name would be. She said that this was not straight forward and a long-drawn-out process and if it was a requirement to have 100% of the residents to rename the road, she felt that this would be very tricky.

Councillor Clarke stated that there would be no requirement to change the road name.

The SD: PI said as a Planning Officer he was not going to resolve whose address was what as he did not have that authority. He felt that the key question in his mind was the identification of the address, in terms of advertising it was referred to Corvanaghan Quarry.

Councillor Brown seconded the recommendation to include the amendment.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2021/0233/F be approved subject to conditions as per the officer's reports.

**LA09/2021/1758/O Extension of existing sporting, social and educational facilities to create an enhanced recreational hub and lifelong centre of learning to include new vehicular access, additional car-parking, extended green space and associated ancillary works at lands adjacent and E of Galbally Pearses GAA grounds and community centre 36 Lurgylea Road, Galbally, Dungannon for Galbally Pearses GAC and Galbally Youth**

Members considered previously circulated report on planning application LA09/2021/1758/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/1758/F be approved subject to conditions as per the officer's reports.

**LA09/2021/1791/F Retrospective application for the retention of 4 containers for storage purposes, a covered area and the retention of the extended site curtilage at 20m SW of 137 Lisaclare Road, Stewartstown for Mr Sean Campbell**

Members considered previously circulated report on planning application LA09/2021/1791/F which had a recommendation for approval.

Proposed by Councillor Quinn  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2021/1791/F be approved subject to conditions as per the officer's reports.

*Councillor Glasgow left the meeting at 7.53 pm.*

**LA09/2022/0126/O Industrial Unit at 20m N of Unit 5K Shivers Business Park, 21 Hillhead Road, Toomebridge for James Alexander**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0476/F Agricultural building above existing tank/ slatted floor (to be retained) and associated site works at lands approx. 15m NW of 29 Thornhill Road, Dungannon for Cyril Montgomery**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0612/F Erection of 32 business/storage units, required car parking and commercial spaces and associated site works at Kilcronagh Business Park, Cookstown, for Coleman Construction**

Members considered previously circulated report on planning application LA09/2022/0612/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2022/0612/F be approved subject to conditions as per the officer's reports.

**LA09/2022/0654/O Dwelling and garage at lands 40m SW of 50 Battery Road, Coagh for Joanne Devlin**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0670/F Dwelling and garage on a farm at 151m N of 36 Keady Road, Swatragh, for Declan McNicholl**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0681/O Dwelling on infill site at lands between 31 and 35 Reclaim Road, Galbally, Dungannon for Plunkett McCrory**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0687/O Dwelling on a farm adjacent to 28 Syerla Road, Dungannon, for Andrew Haydock**

Withdrawn.

**LA09/2022/0689/O Dwelling on a farm at 350m W of 5 Corick Road, Clogher, for Mr Edwin Boyd**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0714/O Dwelling and domestic garage at 120m SW of 119 Mullaghboy Road, Bellaghy, for Mr Peter Doherty**



Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1065/O Dwelling and garage at 50m S of 37 Moor Road, Coalisland for Niall and Mary Kilpatrick**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1095/F Relocation of previously approved dwelling and domestic double garage at approx. 75m NW of 42 Drummurrer Lane, Coalisland, for Mr Declan McShane**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1288/O Dwelling (infill gap site) at 15 Finulagh Road, Castlecaulfield for Ryan McGurk**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1340/O Site for dwelling and garage between 65 & 67 (adjacent and NE of 67) Killygullib Road, Swatragh for Mr Damien McAtamney**

Members considered previously circulated report on planning application LA09/2022/1340/O which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/1340/O be approved subject to conditions as per the officer's reports.

**LA09/2022/1451/O Dwelling & garage at 1 Sycamore Drive, Maghera, for Mrs Claire Patterson**

Members considered previously circulated report on planning application LA09/2022/1451/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2022/1451/O be approved subject to conditions as per the officer's reports.

*Councillor Glasgow returned to the meeting at 7.55 pm.*

**LA09/2022/1513/O Portal framed storage facility for Agricultural and Engineering Machinery at land 80m SE of 100 Trewmount Road, Killyman, Dungannon for Mrs Briege O'Donnell**

Mr Marrion (SPO) presented a report on planning application LA09/2022/1513/O advising that it was recommended for refusal.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2022/1513/O be refused.

**LA09/2022/1571/F Dwelling on farm with detached domestic garage at site 150m NW of 10 Fallylea Lane, Maghera for S Kelly**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1582/O Dwelling and garage on a farm. at 60m NE of 28 Cloughfin Road, Killeenan, Cookstown for Mr Patrick Hegarty**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1625/F Alteration to previously approved egress point (LA09/2018/0777/F) to include for access to existing factory. at 116 Deerpark Road, Toomebridge, for Neil Savage**

Ms McKinless (SPO) presented previously circulated report on planning application LA09/2022/1625/F which had a recommendation for approval.

The Chair referred to the previously circulated addendum where a letter of concern has been submitted from Mr Danny Quinn, Principal of Anahorish Primary School.

The Chair advised that a request to speak in support of the application had been received and invited Mr Dougan to address the committee.

Mr Dougan said that he welcomed the recommendation and summary by the Officer and said that he was mindful not to labour the relevant matters and keen to set out the following points.

The recommendation before committee this evening was for the alteration to previously approved egress point for SDC Trailers Ltd, who were a major employer in the area and currently employ approximately 400 people on the Deerpark Road site. The application presented was to alterations to 2018 permission which is still valid, access was previously approved in 2018 as an exit only but the proposal before committee tonight is also used to enter the site, the access is for HGV traffic only, retaining the original site access for cars. As stated by the Officer, the driver for this change is the relocation of the A6, changing the approach to the site along Deerpark Road where previously the dominate direction was "right in – left out" which is now vice-versa "right out – left in". DfI the sole consultee responded on 14 February with no objections to the proposals. Objections have been noted from the school adjacent to the site and would comment as follows: The proposal will effectively reduce the HGV traffic passing by the school as the dominant routes for the HGV will be via the A6 bypass. He said that no representation was submitted from the school to the 2018 application and the objection states that the school has

plans for a new entrance. Any proposal by the school in this nature will require planning permission and will be subject to a separate assessment independent of this application. The objections states that the proposed layout intends to use splays which encroach upon the school's entrance, this is factually incorrect and misleading as the splays were in the 2018 permission which is consistent and wholly contained on the roadside verge. In conclusion the key consultee of DfI Roads have no objection to the proposal and would respectfully request that members support the recommendation in front of them this evening.

Councillor McFlynn stated that this was a very busy road and enquired if Anahorish school entrance was opposite to SDC.

Mr Dougan advised that the proposed entrance was on the same side as Anahorish school. He said that the key driver here is that traffic from the new A6 bypass when it approaches the current entrance, it has to pull out to the far side of the carriageway to turn in and the proposal is 12m wide which allows HGV vehicles to turn into the site without opposing onto the carriageway, there has been quite a few near misses to the entrance to the site and this is obviously where the applicant wishes to apply a much safer entrance. Mr Dougan said that it was their view that this will promote HGV's not passing by the school and understands that although the A6 bypass has been in existence for some time, the HGV's continue to pass by the school because they are entering the existing access from the opposing carriageway making it easier to turn right, whereas if they were coming into the new entrance, it would be clearly much wider and make it much easier to turn in and that is the rationale for the proposal.

Councillor McFlynn sought clarification on whether the exit and entrance enters through the same site in and out.

Mr Dougan confirmed that this would be the case.

Councillor McFlynn enquired if this application merited a site visit.

The SD: PI said he understood the concerns around the safety of school children as this is the key issue but was conscious and would agree that there were things that appear obvious, but expert advice has been taken in relation to this matter from the Roads authority.

Ms McKinless drew members attention to the initial consultation where DfI Roads had come back and asked for a Transport Assessment Form to be submitted which was submitted by the applicant. Their concluding comment was that they do not offer an objection to the proposal.

The SD: PI stated that a lot more consideration has been given to the proposal in what some members may think and does not really think a site visit would be beneficial. He was conscious that the school has raised their concerns which has been outlined on their letter of concern within circulated addendum.

Councillor McFlynn said that her main concern would be the safety of the children and if access was deemed safe that she would be happy to support the recommendation.

The Chair said that it may be beneficial at this stage to defer the application for an office meeting with DfI Roads, Agent and representatives of Anahorish Primary School to try and reach a positive outcome.

The SD: PI agreed that an office meeting would be best way forward to avoid conflict between the parties.

Proposed by Councillor McFlynn  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2022/1625/F be deferred for an office meeting with deferred for an office meeting with DfI Roads Rep, Applicant, Agent and Principal from Anahorish Primary School.

**LA09/2022/1690/O Dwelling at lands approx. 30m W of 1 Tobin Drive, Moortown for Smallwood Contracts Ltd**

Withdrawn.

**LA09/2022/1760/F Beechland Drive:- an upgrade pf existing access paths to the existing playpark and carpark and adjoining housing developments. The creation of a pocket park coupled with new seating and picnic areas will enhance the area. Small decrease in parking spaces in order to enhance the green area, existing parking areas will be resurfaced and whitelining. Beechland Park: - extension of carparking and upgrade of existing parking to include for whitelining. Existing grass area will be upgraded with improved drainage and creation of a new walking trail with seating and planters for community use at The Sites in Clady at Beechland Drive & Beechland Park, for Mr Johnny McNeill**

*All members present declared an interest in planning application LA09/2022/1760/F as it was related to Mid Ulster District Council.*

Members considered previously circulated report on planning application LA09/2022/1760/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2022/1760/F be approved subject to conditions as per the officer's reports.

**LA09/2022/1771/O Site for dwelling and garage in a cluster at 50m N of 146A Killycolpy Road, Stewartstown, for Sean Muldoon**

Members considered previously circulated report on planning application LA09/2022/1771/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/1771/O be approved subject to conditions as per the officer's reports.

**LA09/2023/0037/F Single storey rear extension to dwelling. at 32 Claggan Lane, Cookstown, for Mr Niall Convery**

Members considered previously circulated report on planning application LA09/2023/0037/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2023/0037/F be approved subject to conditions as per the officer's reports.

**LA09/2017/1333/O Trout hatchery farm managers dwelling and domestic garage at site adjacent to 91 Glengomna Road, Draperstown for Mr Alan McKeown**

Members considered previously circulated report on planning application LA09/2017/1333/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2017/1333/O be approved subject to conditions as per the officer's reports.

**LA09/2020/1380/F Retention of dwelling adjacent & 100m E of 18 Shantavny Road, Garvaghy for Ciaran Owens**

Mr Marrion (SPO) presented a report on planning application LA09/2020/1380/F advising that it was recommended for refusal.

The Chair advised that a request to speak in support of the application had been received and invited Mr Gourley to address the committee.

Mr Gourley advised that there has been delay caused by legal issues relating to probate and registration of the farm in the applicant's name which was beyond the applicant's control. The applicant has been trying to progress the matter as best he can. However, he has encountered delays in relation to the registration of the farm in his name and that he wished to update committee on the current situation.

The applicant has relayed that the solicitor has advised that the completion of the registration of the farm into his name is imminent. There has been considerable delay in processing this application as the applicant's grandfather (Francis) had bequeathed the farm in his will to the applicant's father (James) and it passed to James upon the death of Francis approximately sixty years ago. However, James did not register the lands in his name, although he did bequeath the farm in his will to his son, the applicant and it passed to the applicant upon the death of his father approximately forty years ago. The terms of James' will was that the applicant's mother would continue to enjoy and benefit from occupancy of the property until her death. Although the applicant's mother passed away approximately 25 years ago the applicant did not register the farm into his name. When the issue was highlighted by Planning Department, he immediately set about rectifying the situation, but has encountered a number of difficulties to date.

Firstly, the solicitor his grandfather and father had been dealing with had passed away and the business had been passed to another solicitor. This created difficulties in establishing the whereabouts of the records relating to the farm ownership and it took considerable time to collate these records due the passage of time since the applicant's grandfather had passed away.

Secondly, not all of the records relating to the ownership of the farm could be traced, specifically the applicant's father's will. As a result, an application had to be made to get a copy of the will from the Public Records Office NI which took some time to obtain.

Thirdly, it was realised upon obtaining the will of applicant's father that it stipulated that the applicant's mother would enjoy and benefit from occupancy of the property until her death. Before the farm could be registered in the applicant's name it had to be demonstrated that the applicant's mother had passed away. As a result, a copy of the death certificate for the applicant's mother had to be obtained from the General Register Office NI which also took time to obtain.

As a result of the difficulties encountered above, it has taken considerable time to progress the application to have the lands registered in the applicant's name.

In relation to justification for the dwelling under Policy CTY 10 I had collated additional invoices in relation to the farming activities in relation to the applicant's active farm business to substantiate the work carried out in relation to the farming activities. It was hoped to submit all of this information at one time in an up-to-date format with a comprehensive supporting statement addressing all of the issues arising together, including the resolution of farm ownership concerns. Therefore, was awaiting confirmation from the applicant's solicitor that the registration of the farm had been completed. Unfortunately for the reasons set out above, this has taken much longer than expected.

Mr Gourley advised that he had contacted the applicant's solicitor and requested that they send you a letter detailing the situation and the delays that have arisen. That letter should be with officers today. All supporting information can be submitted which has been collated to date if that would assist in the request for deferral of the application.

The SD: PI said that when a presentation is made by the Agent, there is a degree of complexity which provides him with no comfort what-so-ever that this would be resolved quickly. He said that it struck him that there was land brought through complexity, inheritance, probate and Land Registry is not going to resolve this because the bottom line is that Land Registry is not needed as it would be registered land and considered on that basis. He said that this was a debate that Mid Ulster District Council needed to have around June time as planning was coming down with deferred applications. Applications are coming in and all the relevant information is not there, resulting in deferrals after deferrals and at the moment there is approx. 270 deferred applications sitting. The SD: PI suggested a different approach and to withdraw the application, get it all sorted it out then resubmit an application again.

Mr Gourley said that he could fully understand the frustration here and fully agreed with Dr Boomer about deferrals and that the last thing Officers needed to see was files keeping emerging time and time again but felt that this was almost at the point of getting this issue resolved as all the relevant information has been submitted and possibly with an extension of another few months to get it resolved.

*Councillor McKinney left the meeting at 8.20 pm.*

Councillor Brown agreed with Mr Gourley that it would be beneficial to defer the application for a further 2 months and if all the relevant information has not been received by the deadline that a hard decision must be made then.

Councillor S McPeake enquired if the refusal reasons were solely down to the ownership of the application or was there other outstanding issues that would make it a recommendation for refusal anyhow. He felt if it all hinged on getting to the process where Mr Gourley wanted to then he would have some sympathy with that, but if there were other mitigating factors which was going to hold it up, then that would be a different matter and made it more complex.

The SD: PI said that the reality was that Officers could not acquire the information to make an assessment on the planning application, so there is no way of telling whether it would be approved or refused.

The SD: PI enquired from Mr Gourley if the application has been made with Land Registry.

Mr Gourley confirmed that the application has been made and it was his understanding that it was made approximately six months ago.

The SD: PI suspected that there was a backlog with Land Registry and could be working up to a year behind schedule. He said that he did not object to holding the application but was not content with the notion on what was occurring here where Agents are repeatedly making applications and expect Planners to hold on their books indefinitely. The SD: PI said that he would agree in this instance to hold the application but would suggest that when come June and elections are out of the way, that a workshop be set up for members on a way forward in relation to applications otherwise the process is going to jam up and would mean that those applications

which were relatively straight forward never got seen to as Officers were continually going around in circles.

*Councillor McKinney returned to the meeting at 8.24 pm.*

Councillor Corry said that it is stated within the report that Historic Environmental Division (HED) is concerned as this application is contrary to Policy BH 1 of PPS6 – Planning, Archaeology and the Built Heritage as it would have an unacceptable adverse impact upon the integrity of the setting of the adjacent Scheduled Monument.

In response to a query Mr Gourley had advised that there has been consultation with HED to relocating the modular dwelling.

The SD: PI advised that this would be a different planning application.

Mr Gourley said that he had submitted a layout previously regarding this. He confirmed that they were proposing to relocate the dwelling some distance away.

The SD: PI enquired how long the building had been up and what the application was for.

Mr Gourley advised that the building had been up 7 to 8 years at this stage.

Mr Marrion (SPO) advised the application was for a retention of the dwelling.

Councillor Cuthbertson enquired if this application was on the back of an enforcement notice on the Live Case List in front of members tonight.

The SD: PI said that this was his thinking also and was wondering what the real story was here.

The Chair advised that there has been already a proposal which was seconded put forward to hold the application for 2 months until all the relevant information was forthcoming and if the deadline is not met then a definite decision be made.

The SD: PI said that Mid Ulster Council always wanted to give everyone an opportunity to do things properly and it's clear that the applicant in this had not done this but would be happy to defer the application to try and join up the pieces in this instance.

Proposed by Councillor Brown  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2020/1380/F be deferred for 2 months for submission of additional information.

**LA09/2021/0800/F Conversion of 2 existing terrace houses to 4 apartments with existing Boyne Row streetscape being unaltered 2 existing on street parking spaces to be reused with an**



**additional 3 private parking spaces to the rear along with  
shared private amenity space at 8-9 Boyne Row,  
Castledawson for John Donnelly**

Members considered previously circulated report on planning application LA09/2021/0800/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2021/0800/F be approved subject to conditions as per the officer's reports.

**LA09/2021/0910/O Dwelling in an infill site at land 200m SW of 211 Ardboe Road, Moortown for Patrick Quinn**

Mr Marrion (SPO) presented a report on planning application LA09/2021/0910/O advising that it was recommended for refusal.

The Chair said that it was his understanding that whilst looking at this before that footings of foundations do not count as infill.

Mr Marrion (SPO) agreed that infill policy stipulates that it must be buildings.

Councillor S McPeake said that he was a bit confused regarding settlement limits and it was his understanding that anything within the green line was the settlement limits which could not be used as an infill opportunity. Then, the SPO laboured on the fact there was footings and although took on the point it had to be buildings, referred to the fact if a building was there and another building beside it within the settlement limits, does this exclude it.

The SD: PI said that it was his understanding that there was a statement to the effect that you would not include it where it is taking the settlement limit.

Councillor S McPeake advised that this has been used before as an exception.

Mr Marrion updated members on the policy which indicated:

*This Planning Policy Statement, PPS21 sets out planning policies for development in the countryside. For the purpose of this document the countryside is defined as land lying outside of settlement limits as identified in development plans. The provisions of this document will apply to all areas of Northern Ireland's countryside.*

Councillor McFlynn enquired if there was any merit on arranging a site visit.

The SD: PI would take the view that if someone is disputing this that they always have an opportunity to go to planning appeal. He said that it was important that a decision be made.

Proposed by Councillor Mallaghan  
Seconded by Councillor Cuthbertson and

**Resolved** That planning application LA09/2021/0910/O be refused.

**LA09/2021/1547/F Winning & Working of Minerals (sand & gravel) across phases 1 to 3 only and over a temporary period of 7 years and 6 months. A new access to Knockmany Road, Internal Haul Road and landscaped earth berms, with progressive restoration to agriculture at a lower level (re-advertisement) at lands E & W of 53 Knockmany Road, Augher for Campbell Contracts Ltd**

Members considered previously circulated report on planning application LA09/2021/1547/F which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/1547/F be approved subject to conditions as per the officer's reports.

**LA09/2021/1615/F Replacement storage shed at rear of 245 Washingbay Road, Aughamullan, Coalisland for Mr Colin McCluskey**

Members considered previously circulated report on planning application LA09/2021/1615/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2021/1615/F be approved subject to conditions as per the officer's reports.

**LA09/2022/0285/O Dwelling on a farm adjacent and W of 81 Drumflugh Rd, Benburb, Dungannon for Stephen McKenna**

Members considered previously circulated report on planning application LA09/2022/0285/O which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0285/O be approved subject to conditions as per the officer's reports.

**LA09/2022/0414/F Dwelling and domestic garage at 65m NE of 37 Liskittle Road, Tullagh Beg, Stewartstown for Mr Stephen Rodgers**

Members considered previously circulated report on planning application LA09/2022/0414/F which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0414/F be approved subject to conditions as per the officer's reports.

**LA09/2022/0686/O Dwelling at lands immediately W and adjacent to 115 Clonavaddy Road, Galbally, Dungannon for Blaine Nugent**

Members considered previously circulated report on planning application LA09/2022/0686/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/0686/O be approved subject to conditions as per the officer's reports.

**LA09/2022/1112/F Replacement dwelling with attached garage and carport at 39 Drumaspil Road, Drumaspil, Dungannon, for Mr Lee McFarland**

Members considered previously circulated report on planning application LA09/2022/1112/F which had a recommendation for approval.

Proposed by Councillor Glasgow  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2022/1112/F be approved subject to conditions as per the officer's reports.

**Matters for Information**

**P028/23 Minutes of Planning Committee held on 7 February 2023**

Members noted minutes of Planning Committee held on 7 February 2023.

*Councillor D McPeake left at 8.40 pm.*

**P029/23 Receive Report on Northern Ireland Heritage Stakeholder Group Membership**

Members noted update on Department for Communities, Historic Environment Division's request to reaffirm membership to the Historic Environment Stakeholder Group.

*Live broadcast ended 8.41 pm.*

## **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P030/23 to P033/23.

### **Matters for Information**

P030/23	Confidential Minutes of Planning Committee held on 7 February 2023
P031/23	Enforcement Cases Opened
P032/23	Enforcement Cases Closed
P033/23	Enforcement Live Case List

### **P034/23 Duration of Meeting**

The meeting was called for 7 pm and concluded at 9.15 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.
- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any

proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.

## ADDENDUM TO PLANNING COMMITTEE AGENDA

**FOR PLANNING COMMITTEE MEETING ON: 7 March 2023**

**Additional information has been received on the following items since the agenda was issued.**

**Chairs Business –**

-

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.6	Late objection from O McKenna	Members to note
5.15	Item has been withdrawn	Members to note
5.20	Item has been withdrawn	Members to note
5.26	Letter of concern from Danny Quinn, Principal of Anahorish P.S.	Members to note

**From:** Oliver McKenna <[oliver\\_mckenna@hotmail.com](mailto:oliver_mckenna@hotmail.com)>

**Sent:** 28 February 2023 18:07

**To:** [EnvironmentalHealth@Midulstercouncil.org](mailto:EnvironmentalHealth@Midulstercouncil.org); Mid Ulster Info <[info@midulstercouncil.org](mailto:info@midulstercouncil.org)>;

Melvin Bowman <[Melvin.Bowman@midulstercouncil.org](mailto:Melvin.Bowman@midulstercouncil.org)>; [Planning@Midulstercouncil.org](mailto:Planning@Midulstercouncil.org)

**Cc:** [caraskelton@icloud.com](mailto:caraskelton@icloud.com); [Ckel1@hotmail.co.uk](mailto:Ckel1@hotmail.co.uk); [annemarie9th@gmail.com](mailto:annemarie9th@gmail.com)

**Subject:** Late night noise coming from P Keenan Quarry- Corvanaghan Site @ 27 Corvanaghan Road, Cookstown and concerns

Hi all,

I have included both Planning teams (FAO MELVIN BOWMAN) and Environmental health teams in this email as there are constant breaches by Keenan's quarry working outside of the approved working hours. This breaches both the agreed working hours and also night time noise levels.

This is continuing on constantly (see attached recent video of quarry still operating late at night) and also attached objection to the current quarry extension application

This seems to be a constant theme every time P Keenan quarries have a road contract where they work through the night. **(This is just not acceptable to the Corvanaghan residents in proximity to the quarry and must stop)**

See below reference to the working hours that P Keenan Corvanaghan quarries should be adhering to both on their current planning extension application and on previous 2017 application that was approved.

In this email I have copied in-

**(ATTENTION- CORVANAGHAN & BELTONANE RESIDENTS can the below also forward this email to planning with adding individual comment also of your own added concerns to this application)**

- **Ms Ann Marie Heagney & Mary Heagney 6 Beltonanean Lane, BT80 9TH**
- **Mrs Skelton 29 Corvanaghan Rd**
- **Mrs Caroline Kelly/Mrs Mary Cahir 31a Corvanaghan Road / 2 Beltonanean Road**



**This is also to highlight concerns both with the current quarry site as it is today and also how it will affect other residents in the future regarding these out of hours breaches and late night noise.**

But also it touches on a more worrying point that a lot of the residents are not fully aware of what exactly this quarry extension application entails and how it will actually impact them.

**No one has got notified of this and since this application was conveniently placed during covid restrictions there was no community consultation held but clearly in the LA09/2020/0937/PAN pre application notes it states that letters would be sent to those within a 300m radius to advise of application and to request an information pack. (ref document LA09/2020/0937) - but no one received this letter or was made aware of this.**

**As this was not done as stated in the pre application I suggest that a public community consultation is held before the application is moved any further so residents can clearly see what this application should it get approved means to them plus given that there are current breaches of noise and working outside of hours there needs to be dialogue to ensure that this doesn't impact even more residents of the area should this get approved and the quarry extend the operations in the Direction of Mrs Heagney.**

Bottom line is this can't continue or be considered for approval without a community consultation

Plus, if P Keenan quarries are breaching their current planning conditions on working hours and late-night noise why are they being considered for a new planning application to extend to make the problem even worse and extend the pain to even more residents.

It is clear this business has no regard for its neighbours and the relevant government departments can't allow this to continue

Regards

O Mc Kenna

and Concerned Corvanaghan residents

S McKenna

T Mc Mckenna

15 /17 Corvanaghan road

*Principal: Mr D Quinn*  
***B.Ed. M.Ed.***  
***Tel: 028 796 50825***

***120 Deerpark Road***  
***Toomebridge***  
***Co Antrim***  
***BT41 3SS***

6<sup>th</sup> March 2023

We have very good relations with our neighbours SDC.

However, traffic management is an active issue in the area and the school is already engaged with the Department for Infrastructure on an approved traffic management plan for the school.

There is a need for joined up thinking and collaboration rather than a hierarchy of needs and solo runs by anyone.

The Mid Ulster Council have already approved a footpath across the front of the school to encourage more active travel and promoting walking to school.

However, the recent development of the alteration to the egress point to include access to the existing factory beside Anahorish Primary school is not without significant risk to the health and safety of the entire community.

As custodians of the school since 1954 it would be an abdication of our responsibility not to put on public record our profound concerns in relation to this latest proposed alteration to the development. This was not part of the original plans.

Our school has over 188 children and 30 staff using our single access point on multiple occasions throughout the day. Unlike SDC we don't have multiple sites and the luxury of alternative options.

We understand SDC want to grow and develop and as an important employer in our community we also want to support where we can.

However, the school, the board of governors and the planning members present have a duty of care to everyone. This extends beyond economic considerations. 4 year old children and 40 foot lorries are not compatible.

Although not HGV drivers trying to navigate a 40 foot lorry through what is already a congested area at school pick up and drop off times is high risk. Anyone present at these times will fully understand the high levels of congestion.

The level of speeding on this stretch of road has been heightened with the new bypass which means people are driving much faster on the area in front of the school putting risk to lives.

We have had multiple accidents in front of the school in recent years. We do not want to create the circumstances and conditions which could be contributing factors to further accidents and the potential loss of life.