



03 December 2019

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt at Mid Ulster District Council, Ballyronan Road, MAGHERAFELT, BT45 6EN on Tuesday, 03 December 2019 at 19:00 to transact the business noted below.

Yours faithfully

Anthony Tohill
Chief Executive

AGENDA

OPEN BUSINESS

1. Apologies
2. Declarations of Interest
3. Chair's Business

Matters for Decision

Development Management Decisions

4. Receive Planning Applications 7 - 242

	Planning Reference	Proposal	Recommendation
4.1.	H/2014/0154/F	Additional poultry house and feed bins at 150m NE of Newferry Road, Bellaghy, for Mr Alan Mawhinney.	REFUSE
4.2.	LA09/2017/1534/F	15 dwellings between 53 and 11 Calmore Road, Tobermore, for I McKinney Moyola Farms Ltd.	APPROVE
4.3.	LA09/2017/1801/F	Rationalisation of existing sand and gravel extraction, lateral extensions to existing approved extraction, deepening of extraction below the current base levels to a level circa 202mAOD,	APPROVE

		with restoration to agricultural after-use at lands at Murnells Sand and Gravel Quarry, N and W of 46 Murnells Road, Pomeroy, for Creagh Concrete Products.	
4.4.	LA09/2018/0073/F	2 poultry units; 4 meal storage bins, 2 underground wash water storage tanks and associated access lane/turning area at approx. 240m N of 93 Ballagh Road, Ranenly, Fivemiletown, for Mr Gary Beacom.	REFUSE
4.5.	LA09/2018/0471/F	General industrial building (Use Class B3) with ancillary accommodation at lands at 76 Derrynoid Road, Draperstown, for Inova Gates.	APPROVE
4.6.	LA09/2018/0785/F	Erection of ancillary store building and ancillary store extension to existing workshop at Rogers Business Park, 76 Derrynoyd Road, Draperstown, for Sperrin Metal Storage Solutions.	APPROVE
4.7.	LA09/2018/0943/F	Extension to existing factory premises to provide staff car parking, 70m S of 177 Annagher Road, Coalisland, for DMAC Engineering.	REFUSE
4.8.	LA09/2018/1069/F	2 additional broiler poultry sheds with 4 feed bins, 2 gas tanks and associated development at land approx. 190m SE of Cornamaddy Road, Pomeroy, for Mr Phelim McGee.	APPROVE
4.9.	LA09/2018/1094/F	Single storey detached garage (amended site) at Strathmullan House, 56 Killymeal Road, Dungannon, for Mr Stephen Boyle.	APPROVE
4.10.	LA09/2018/1566/O	Dwelling and garage 500m SE of 101 Branagh Road, Altmore, for Mr Sean O'Donnell.	REFUSE
4.11.	LA09/2019/0007/RM	Dwelling and domestic garage 130m E of 9 Creenagh Road, Dungannon, for Mr Conor Shields.	APPROVE
4.12.	LA09/2019/0282/O	Site for housing development, foul sewage treatment plant and associated works at lands	APPROVE

		opposite and immediately E of 2, 7 and 9 Aghinduff Park, Aghinaduff, Dungannon, for Mrs Anne McKeever.	
4.13.	LA09/2019/0704/F	Changes of layout to approved (LA09/2017/0293/F) at Church View, Church Street, Ballygawley, for Jackay Ltd.	APPROVE
4.14.	LA09/2019/0838/F	Hobby/storage shed, portacabin to be used as canteen and recreation room, raised flower beds, polytunnels and car parking at lands 90m S of 177a Annagher Road, Coalisland (DMAC factory) for Lilac Cancer Support Ltd.	REFUSE
4.15.	LA09/2019/0980/F	Replacement dwelling and detached double garage at 10 Coolnasillagh Road, Maghera, for Mr J Grant.	APPROVE
4.16.	LA09/2019/1088/F	Extension of curtilage and erection of domestic store and all associated site works at lands immediately between 218 and 220 Ballynakilly Road, Dungannon, for Moussa Jaafar.	APPROVE
4.17.	LA09/2019/1137/O	Dwelling and domestic garage on infill site at land between 13 and 19 Dunamony Road, Dungannon, for Mr Colm Casey.	REFUSE
4.18.	LA09/2019/1169/O	Infill dwelling and garage at lands between 33a and 33b Grange Road, Moy, for Mr Andrew Smith.	APPROVE
4.19.	LA09/2019/1183/F	Retention of building to provide communal site canteen, locker room and first aid facilities adjacent to 18 Cookstown Road, Dungannon, for Barry O'Neill.	REFUSE
4.20.	LA09/2019/1212/O	Farm dwelling and garage approx. 25m WSW of 71 Killymuck Road, Cookstown, for Mr P McCusker.	REFUSE
4.21.	LA09/2019/1213/O	Renewal of outline approval at Westland Road South and lands to the rear of 9 Adair Gardens, Cookstown, for R and F Developments.	APPROVE
4.22.	LA09/2019/1257/F	Small external store at 59 Dergenagh Road, Dergenagh, Dungannon, for Winston Duff	APPROVE

		Sec. Simpson Grant Assoc.	
4.23.	LA09/2019/1309/F	Removal of condition No. 2 of H/2000/0323/F, with change of use of existing storage building to dwelling, front and rear extension and detached garage at 75 Lisnagrot Road, Kilrea, for Michael Boyle.	APPROVE

5. Receive Deferred Applications

243 - 372

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2017/1004/O	Replacement dwelling and domestic garage at land approx. 320m NW of 180 Caledon Road, Aughnacloy, for Mr Adrian Robinson.	REFUSE
5.2.	LA09/2017/1349/F	Animal isolation and farm machinery storage shed approx. 120m SE of 37 Rocktown Lane, Knockloughrim, for Mr Robert Edward Scullion.	REFUSE
5.3.	LA09/2017/1452/F	Storage extension to the rear of building (amended plans) at 12 William Street, Cookstown, for Andrew McConnell.	APPROVE
5.4.	LA09/2018/0371/F	Subdivision of replacement dwelling into two dwellings, incorporating a dwelling on a farm, at 89 Moneysallion Road, Kilrea, for David Gordan.	APPROVE
5.5.	LA09/2018/0454/F	Retention of mobile home for residential use at approx. 170m N of 5 Doon Avenue, Aughamullan, Dungannon, for Martin McCaliskey.	APPROVE
5.6.	LA09/2019/0141/F	Agricultural shed with steel box profile façade at 65m SE of 21 School Lane, Gulladuff, for Mr Eugene Bradley.	REFUSE
5.7.	LA09/2019/0186/F	Retention of mobile home for temporary accommodation at 98a Gortlenaghan road, Dungannon, for Tony McElduff.	APPROVE
5.8.	LA09/2019/0470/O	Site for dwelling and garage 25m SE of 27a Garrison Road, toberhead, for Mr Liam O'Kane.	REFUSE
5.9.	LA09/2019/0569/O	Site for farm dwelling and	APPROVE

		domestic garage 35m ENE of 22 Dirnan Road, Dirnan, Cookstown, for Mr Noel Conway.	
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Matters for Information

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|---|---|-----------|
| 6 | Minutes of Planning Committee held on 5 November 2019 | 373 - 390 |
| 7 | Receive Non-Determination Appeal Decision | 391 - 404 |
| 8 | Receive Update on Ammonia - UFU | 405 - 422 |

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

9. Receive Report on consultation from MEA on DPS

Matters for Information

10. Special Planning Committee (Development Plan)
Confidential Minutes held on 30 October 2019
11. Confidential Minutes of Planning Committee held on 5 November 2019
12. Special Planning Committee (Development Plan)
Confidential Minutes held on 19 November 2019
13. Enforcement Cases Opened
14. Enforcement Cases Closed



Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: H/2014/0154/F	Target Date:
Proposal: Proposed additional 1no poultry house and feed bins to house approximately 8000 birds to accompany existing houses on site	Location: 150m North East of 20 Newferry Road Bellaghy BT45 8ND
Referral Route: This application is being presented to Committee as it is being recommended for Refusal due to lack of information to satisfactorily demonstrate that the proposed development will not have an adverse impact on the adjacent Ballymacombs More ASSI.	
Recommendation:	REFUSE
Applicant Name and Address: Mr Alan Mawhinney CO/AGENT	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Env Health Magherafelt District Council	Substantive Response Received
Non Statutory	DAERA - Ballymena	Substantive Response Received
Non Statutory	DFI Roads - Enniskillen Office	Substantive Response Received

Non Statutory	Water Management Unit	Add Info Requested
Non Statutory	Natural Heritage	Add Info Requested
Non Statutory	Rivers Agency	Add Info Requested
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Shared Environmental Services	Add Info Requested
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Shared Environmental Services	
Non Statutory	Shared Environmental Services	Add Info Requested
Non Statutory	Shared Environmental Services	
Non Statutory	Shared Environmental Services	Add Info Requested
Statutory	NIEA	Advice
Statutory	NIEA	
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		
<p>One representation was received from the RSPB.</p> <p>The site is within several hundred metres of statutory nature conservation designations and future peatland habitats restoration sites. Protection of these sites helps to conserve local habitat for breeding, wintering and migratory birds. RSPB are concerned that cumulative impact of the proposal with the existing developments could have negative impacts on the local environment. Potential impacts include :</p> <ul style="list-style-type: none">- habitat loss/fragmentation- increased risk of flooding- pollution of air, ground and water- Waste from poultry houses and the impact on adjacent habitats- emissions of ammonia, nutrient enriched runoff and dust. <p>The agent responded to advise that the applicant carried out a full wintering bird survey for the adjacent wind turbine (H/2014/0082/F) to which the conclusion of the survey was positive. A qualified comment from an ornithologist regarding RSPB's objection was offered, however, this was never submitted.</p>		
Characteristics of the site		

The site is a large portion of land to the rear and approx. 150m NE of 20 Newferry Road, Bellaghy.

Two poultry units exist on the western portion of the site, approved under planning ref: H/2010/0384/F. These are broiler breeder houses which were approved for a maximum of 8,700 birds in each unit.

The site is relatively flat and sits slightly below road level. It is accessed via an existing concreted laneway to the west of No. 20.

Views of the site are limited due to its set back from the road and behind a row of mature vegetation.



The site in association with Ballymacombs More ASSI, The River Bann and Lough Beg.

Description of Proposal

This proposal is for 1 additional poultry house for approx. 8,000 birds along with associated feed bins. If the existing houses are operating at maximum capacity this proposal takes the total site capacity to 25,400.

However, the Air quality Impact Assessment provided by Marshall Day Acoustics in support of this application states 'At present, there are two poultry sheds on the existing site, housing a total of 18,000 layers. On completion, it is proposed that the site will have the provision for three mechanically ventilated poultry sheds housing a total of 27,000 layer birds. This is not consistent with the numbers stated on the previous planning approval ($8,700 \times 2 = 17,400$) in addition to the 8,000 now proposed bringing the total for the site to 25,400.

Planning Assessment of Policy and Other Material Considerations

Consultation responses

Transport NI - Approval in principle, subject to conditions

Environmental Health - Satisfied that if poultry house operated in adherence with 'Odour and Noise Management Plan' residential amenity should not be adversely affected.

NIEA Natural Heritage - have concerns and considers that further information is required to comply with the Habitats Regulations.

NIEA Water Management Unit - further info required on litter utilisation - standard informatives.

DARD - Business ID has been in existence for more than 6 years and business claims subsidies.

Rivers Agency - Flood risk assessment carried out on the previous application

H/2010/0384/F. Rivers Agency accepts the reports logic and has no reason to disagree with its conclusions.

Shared Environmental Services – requested additional information on the specific outlet which will process litter from the proposed poultry house.

Natural Environment Division (NED) has serious nature conservation concerns with this proposal in that development would, if permitted, have an unacceptable adverse impact on the conservation objectives of Ballymacombs More ASSI.

I have assessed the relevant policy, in particular:

The regional Development Strategy (RDS)

Magherafelt Area Plan 2015

Planning Policy Statement 1 General Principles

Planning Policy Statement 2 Natural Heritage

Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

Planning Policy 6 Planning, Archaeology and The Built Heritage.

Planning Policy Statement 21 Sustainable Development in the Countryside;

- Policy CTY 1 Development in the Countryside

- Policy CTY 12 Agricultural and Forestry Development.

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

- Policy CTY 14 Rural Character

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 SPPS states that Planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the value of the site to the habitat network, or special interest of an Area of Special Scientific Interest. There is a legal duty to take reasonable steps to further the conservation and enhancement of the features by which the ASSI is of special scientific interest.

A development proposal which could adversely affect any of the above-mentioned sites of national importance may only be permitted where the benefits of the proposed development clearly outweigh the value of the site. In such cases, appropriate mitigation and/or compensatory measures will be required.

PPS 1 operates a general presumption in favour of development unless there is demonstrable harm to interests of acknowledged importance.

Policy CTY 1 of PPS 21 sets out the 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.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12.

Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:

a) It is necessary for the efficient use of the agricultural holding.

The proposal is for the expansion of the applicants existing poultry farm. DARD have confirmed that the applicant's business ID has been in existence for more than 6 years and that the business claims Single Farm Payment, Less Favoured Area Compensatory Allowances or Agri Environment scheme. Therefore there is an active and established business. This is an investment opportunity for the existing business and part of Moy Park's expansion programme and in line with the Agri-Food Strategy. Therefore it is my opinion that this proposal supports the needs of the existing business.

b) It is appropriate to the location in terms of character and scale.

The proposed shed is located adjacent to the existing poultry units. It is a standard scale, form and design for a modern poultry unit and is of similar design to the existing poultry units and buildings of this type are common in the rural area.

c) It visually integrates into the local landscape and additional landscaping is provided as necessary.

Given the positioning of the proposed shed back from the public road and its grouping with the existing poultry unit and farm buildings, it will visually integrate into the local landscape.

d) It will not have an adverse impact on the natural or built heritage.

There are no built heritage feature on or adjacent to the site. The site is adjacent to Ballymacombs ASSI, 390m from Lough Beg ASSI, 440m from Culnafey ASSI and 3.83 km from Moneystaghan Bog ASSI. NIEA Natural Heritage had concerns and considered that further information was required to comply with the Habitats Regulations. NIEA also had serious nature conservation concerns with this proposal in that the development would, if permitted, have an unacceptable adverse impact on the conservation objectives of Ballymacombs More ASSI.

The agent was requested to provide the necessary information for Natural Environment Division on 12th October 2018 and on three subsequent occasions but has continually failed to provide any additional information to address this issue. Therefore the proposal cannot be fully considered and fails to meet the policy test in that regard.

e) It will not result in a detrimental impact on the amenity of residential dwellings outside the holding.

The nearest neighbouring properties are the roadside dwellings in front of the site; Nos. 20 and 24 which are approx. 150m from the proposed poultry unit.

An odour and noise management plan was submitted with the previous application H/2010/0384/F - this is a generic report. An updated management plan has not been received, however, Environmental Health have not raised any objections. Given the relatively modest scale of the operation and its location relative to sensitive receptors, the proposed development should not give rise to detrimental impacts on the amenity of residential dwellings outside the holding.

In the case where a new building is proposed the following points should be met:

- There are no suitable existing buildings;

There are no buildings which can be used as the existing two poultry units are at capacity;

- The design and materials are sympathetic to the locality and adjacent buildings;

The poultry houses are of a simple design and buildings of this style are characteristic of the rural area.

- It is sited beside existing farm buildings.

The proposal is sited beside the two existing poultry units.

The proposal meets all but one of the above criteria and therefore it fails to comply with Policy CTY 12.

Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

As mentioned above under point c) the proposal will visually integrate into the surrounding landscape and is an appropriate design.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

Given that this proposal is for an expansion of an existing poultry farm and the new shed will group within the existing it will not cause a detrimental change to the rural character of this area.

Policy AMP3 of PPS3 deals with access to public roads.

Transport NI have no objections.

Policy NH 3 of PPS 2 deals with Site of Nature Conservation Importance – national; and advises that Planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the value of the site to the habitat network, or special interest of an Area of Special Scientific Interest. This Policy also states that 'A development proposal which could adversely affect a site of national importance may only be permitted where the benefits of the proposed development clearly outweigh the value of the site.

In such cases, appropriate mitigation and/or compensatory measures will be required'.

NIEA have raised concerns in relation to the impact on the adjacent ASSI. Due to the level of information provided, it will be very difficult to protect the ASSI as the proposed

poultry unit will make the restoration of the adjacent peat extract site to bog land almost impossible.

The applicant has provided details of an outlet for the poultry litter. It has been confirmed that the operations on the site, including the proposed unit, will produce 396 tonnes of litter per year. This litter will be utilised as part of Moy Park's litter utilisation strategy through land spreading in the Republic of Ireland, disposal via Anaerobic Digestion and combustion for renewable energy generation. No litter is to be landspread in Northern Ireland. There will be no storage of litter on site as litter will be cleared at the de-population stage and immediately transported to the relevant end user. However, Shared Environmental Services have requested details of the specific outlet which will process the litter from this proposed site. NIEA Water Management Unit have also requested a copy of the signed contractual agreement between the applicant and Moy Park to confirm that litter will be disposed of by way of the Moy Park litter Utilisation Strategy. Despite this additional information being requested from the applicant on four separate occasions, no additional information has been provided. Therefore it has not been satisfactorily demonstrated that there is an acceptable means of disposal for the poultry litter and the proposal is unacceptable in that regard.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse for the reasons listed below:-

Reasons for Refusal:

1. As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine this proposal, in respect of the potential adverse impact on Ballymacombs More ASSI.
2. The proposal is contrary to Policies CTY 1 and CTY 12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not satisfactorily demonstrated that the development, if permitted, will not have an adverse impact on natural heritage.
3. The proposal is contrary to Policy NH 3 of PPS2 Natural Heritage in that the applicant has failed to satisfactorily demonstrate that the development would, if permitted, have an unacceptable adverse impact on the conservation objectives of Ballymacombs More ASSI.

Signature(s)

Date:

ANNEX	
Date Valid	29th April 2014
Date First Advertised	12th May 2014
Date Last Advertised	
Details of Neighbour Notification (all addresses) L Peoples 1 Forest Education Centre Belvoir Drive The Owner/Occupier, 20 New Ferry Road Ballymacombs More Bellaghy The Owner/Occupier, 24 New Ferry Road Ballymacombs More Bellaghy The Owner/Occupier, Bulrush Horticultural Ltd New Ferry Rd, Magherafelt BT45 8ND giving nature a home Northern Ireland HQ,Belvoir Park Forest,Belvoir Drive,BELFAST,BT8 7QT	
Date of Last Neighbour Notification	13 th May 2014
Date of EIA Determination	21st May 2014
ES Requested	No
Planning History Ref ID: H/1992/0228 Proposal: PEAT EXTRACTION(MILLED METHOD) Address: BEHIND 20 NEWFERRY ROAD BELLAGHY Decision: Decision Date: Ref ID: H/1978/0077 Proposal: EXTENSION TO FARM BUNGALOW Address: 25 NEWFERRY ROAD, BELLAGHY Decision: Decision Date: Ref ID: H/2003/0810/F Proposal: Replacement Dwelling & Garage Address: 25 Newferry Road, Bellaghy. Decision: Decision Date: 09.03.2004 Ref ID: H/2004/1354/O Proposal: Site of dwelling and garage	

Address: To the rear of, 25 Newferry Road, Bellaghy

Decision:

Decision Date: 09.11.2005

Ref ID: H/2010/0384/F

Proposal: Proposed erection of two no. poultry houses to accomodate maximum of 8700 birds in each house and associated works

Address: 90m north of no.20 Newferry Road, Bellaghy

Decision:

Decision Date: 25.10.2011

Ref ID: H/2002/0109/O

Proposal: Site of Dwelling & Garage

Address: Adjacent to 25 Newferry Road, Bellaghy

Decision:

Decision Date: 05.03.2003

Ref ID: H/2004/0867/O

Proposal: Site of dwelling and garage.

Address: 140m North West of 27 Newferry Road Bellaghy.

Decision:

Decision Date: 24.11.2005

Ref ID: H/2014/0082/F

Proposal: Proposed 250kw wind turbine with a hub height of 50m and a blade diameter of 30m, giving a tip height of 65m from ground level.

Address: 310m North East of 22 Newferry Road, Bellaghy,

Decision:

Decision Date:

Ref ID: H/2014/0154/F

Proposal: Proposed additional 1no poultry house and feed bins to house approximately 8000 birds to accompany existing houses on site

Address: 150m North East of 20 Newferry Road, Bellaghy, BT45 8ND,

Decision:

Decision Date:

Ref ID: H/2013/0309/F

Proposal: Proposed In-vessel Composting Facility (IVCF) for (non-hazardous) green and organic waste, storage, access and ancillary site works.

Address: Lands east of Bulrush Horticulture Ltd, No. 16 Newferry Road, Bellaghy, BT45 8ND,

Decision:

Decision Date:

Drawing Numbers and Title
<p>Drawing No. DOC 04 Type: Technical Specification Status: Submitted</p> <p>Drawing No. DOC 03 Type: Further Particulars Status: Submitted</p> <p>Drawing No. DOC 02 Type: Technical Specification Status: Submitted</p> <p>Drawing No. DOC 01 Type: Technical Specification Status: Submitted</p> <p>Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p> <p>Drawing No. 03 Type: Existing and Proposed Elevations Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department:</p> <p>Response of Department:</p>



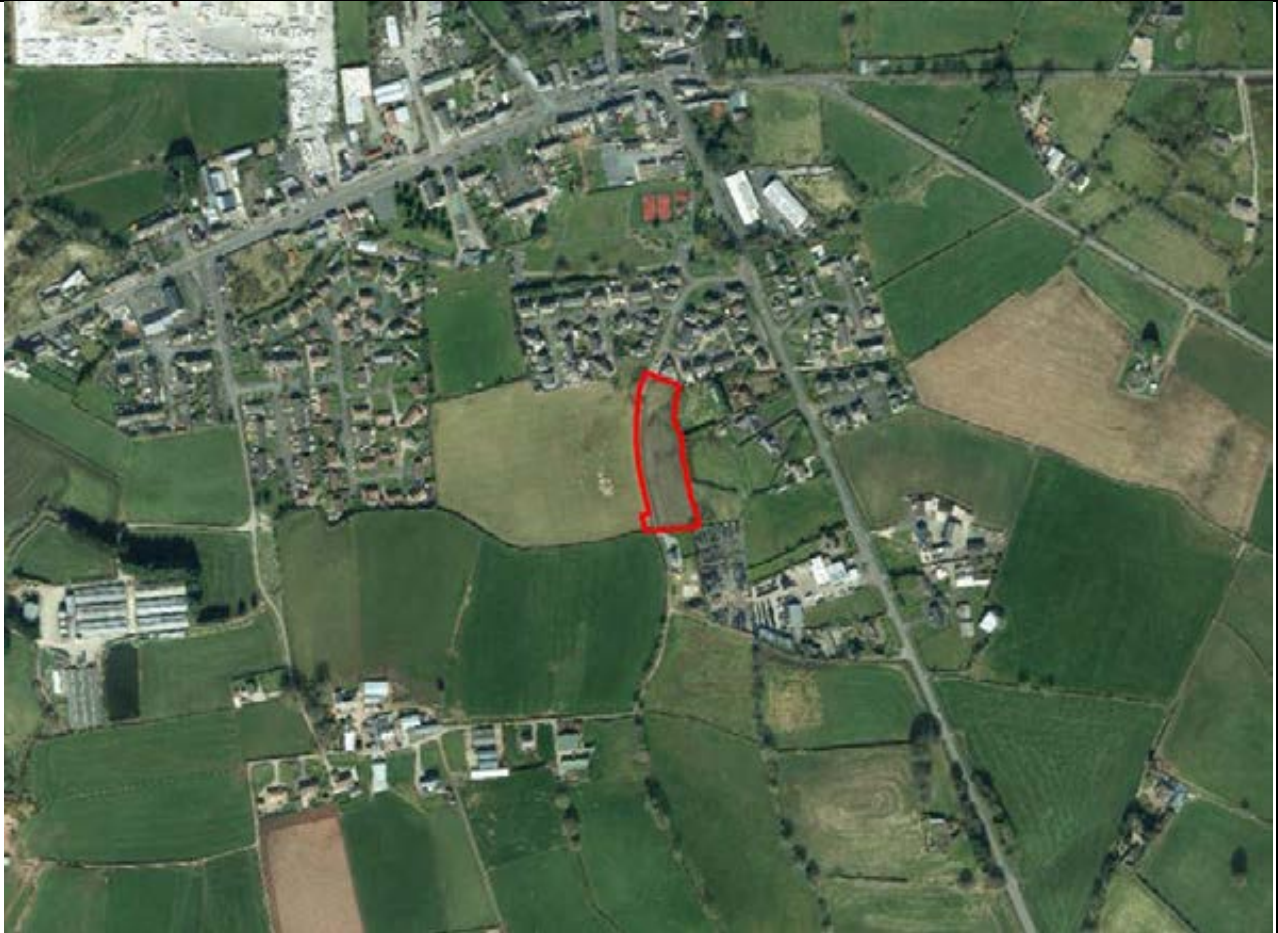
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1534/F	Target Date:
Proposal: 15 Dwellings 1 x4 bed detached 1.5 storey, 2 x 3 Bed semi detached 1.5 storey, 8 x 3 bed semi detached 2 storey and 4 x 4 four bed semi detached 2 storey	Location: Lands Calmore Road Tobermore between 53 and 11 Calmore Road Tobermore
Referral Route: The applicant is a brother of Councillor McKinney This application is being presented to Committee as it has attracted two letters of objection.	
Recommendation:	APPROVAL
Applicant Name and Address: I Mc Kinney Moyola Farms Ltd 11a Ballnahone Road Tobermore Maghera	Agent Name and Address: Russell Finlay 350 Hillhead Road Knockcloghrim Magherafelt BT45 8QT
Executive Summary:	
Signature(s):	


Case Officer Report

Site Location Plan



Consultations:

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

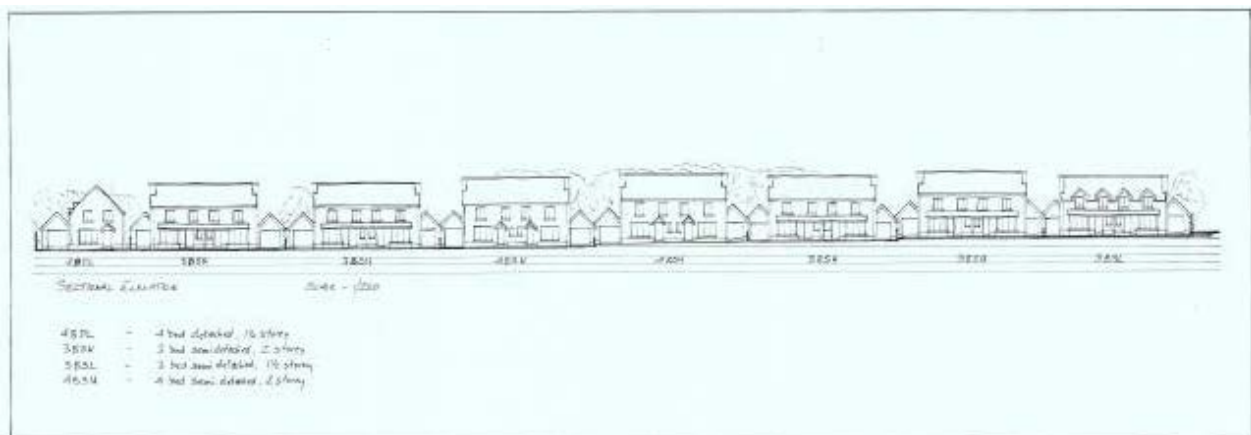
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Rivers Agency	Substantive Response Received
Representations:		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues		
<p>Two letters of objection were received in respect of this planning application and both relate to the following issue:-</p> <ul style="list-style-type: none">• The proposed road coming closer to the objectors house and the resulting devaluation of their property; <p>The area of land in question is outside the site boundary and is not affected by any part of the development. Therefore the concerns of the objectors are ill-founded and carry no weight in the consideration of this planning application.</p>		
Characteristics of the site and area		
<p>The site consists of a long narrow field of between 30-40m deep on the Calmore Road and with a road frontage of 160m. The site is bounded to the Calmore Road and along the southern boundary by a 1.5m high thorn hedge. There is a mature hedgerow along the eastern boundary alongside an open watercourse. The site rises gently from the north towards the southern boundary. There is a single two storey dwelling adjacent to the northern end of the site with a single bungalow adjacent to the southern boundary.</p>		
		
From the side of No.53 Calmore Road		



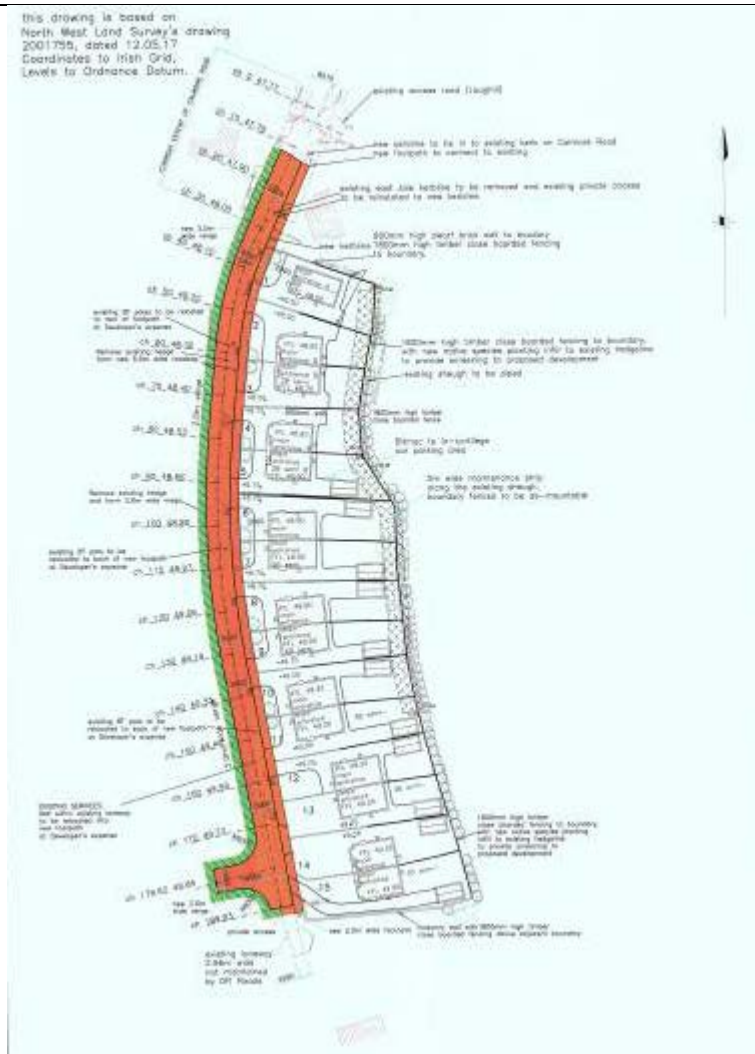
Calmore Road

Description of the Proposal

This application is for the erection of 15 Dwellings – 1 no. 1.5 storey 4 bed detached, 2 no. 1.5 storey 3 bed semi-detached, 8 no. 2 storey 3 bed semi-detached and 4 no. 2 storey 4 bed semi-detached. All dwellings are in a single row facing directly onto the eastern side of the Calmore Road.



Indicative Streetscape



Proposed housing layout

Planning Assessment of Policy and Other Material Considerations

The relevant policies for consideration of this application are:

Magherafelt Area Plan 2015

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

The site formed part of a larger site which was the subject of a planning appeal under H/2007/0909/O. That appeal was dismissed on the grounds of Prematurity as the majority of the appeal site (3.24 hectares) was outside the proposed development limits of Tobermore.

The lands in question are contained within the zoned lands as TE 02/3 in the Magherafelt Area Plan 2015. This site is designated as a Committed Housing Site and therefore does not have any Key Site requirements.

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

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

- (a) The proposal meets the first of these criteria in that it respects the surrounding context as it is for a housing development in a largely residential area. In terms of the layout, the density at 24.6 dwellings per hectare is slightly lower than the adjacent development at Loughhill Park which has 25.7 dwellings per hectare.
- (b) There are no features of archaeological or built heritage on this site. There are no TPO's near the site.
- (c) This layout is for 15 dwellings and therefore there is no requirement for the provision of public open space. All dwellings have adequate private amenity space and range from a minimum of around 100m² to 150m².
- (d) As the site is close to and within walking distance of the centre of Tobermore, the provision of neighbourhood facilities are not deemed necessary within the site;
- (e) The site has good access onto the Desertmartin Road and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;
- (f) Adequate provision is made for parking of vehicles with all sites having in-curtilage parking provided.
- (g) The design of the development is acceptable in terms of form, materials and detailing;
- (h) The proposal will not create a conflict with adjacent land uses as these are all existing dwellings.
- (i) Generally the layout is designed to deter crime as there are no areas which are unsupervised or overlooked.

The proposed development is acceptable when assessed under policies contained within PPS 12, PPS 13 and Creating Places.

DfI Roads were consulted regarding the proposed access and layout and advised that they have no objections to the proposed development subject to a minor amendment and submission of the necessary Private Streets Determination being carried out. The necessary amendments were completed and DfI Roads advised that these were acceptable.

Recommendation

On consideration of the above, it is my opinion that planning permission should be approved subject to the conditions listed below:-

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Approve subject to the conditions listed below:-

Conditions

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

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

2. 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 within each individual site no later than the first available planting season following occupation of that site as hereby approved.

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

3. The existing natural screenings along the eastern boundary 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 the provision, establishment and maintenance of a high standard of landscape.

4. 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 provision, establishment and maintenance of a high standard of landscape.

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

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

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

6. The Department for Infrastructure 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 13 bearing the date stamp 04 January 2019.

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

7. 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 the development.

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

8. 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.

9. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no buildings, walls, gate pillars, or other structures other than the demountable fencing as indicated on drawing no. 13 date stamped 4th January 2019 shall be erected within the 5m wide maintenance strip along the open watercourse on the eastern boundary of the site hereby approved..

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

Signature(s)

Date:

ANNEX	
Date Valid	3rd November 2017
Date First Advertised	16th November 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 11 Calmore Road Tobermore Londonderry The Owner/Occupier, 53 Calmore Road Tobermore Londonderry David Kee 59, Calmore Road, Tobermore, Londonderry, Northern Ireland, BT45 5SA Michael Dunbar Email	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/1534/F Proposal: 15 Dwellings 1 x4 bed detached 1.5 storey, 2 x 3 Bed semi detached 1.5 storey, 8 x 3 bed semi detached 2 storey and 4 x 4 four bed semi detached 2 storey Address: Lands Calmore Road, Tobermore between 53 and 11 Calmore Road, Tobermore, Decision: Decision Date: Ref ID: LA09/2017/0524/PAD Proposal: Development site within the current area plan, 15 dwellings and garages Address: Calmore Road, Tobermore, Decision: Decision Date: Ref ID: H/1997/0614 Proposal: HOUSING DEVELOPMENT Address: ADJ TO 11 CALMORE ROAD TOBERMORE Decision: Decision Date: Ref ID: H/2010/0464/F Proposal: Single storey side extension to existing dwelling	

Address: 53 Calmore Road, Tobermore

Decision:

Decision Date: 23.11.2010

Ref ID: H/2007/0385/F

Proposal: Demolition of existing dwelling & outsheds and proposed housing development comprising of 4 No. detached houses, 10 No. semi-detached houses & 6 No. apartments.amended scheme

Address: 19 Desertmartin Road, Tobermore

Decision:

Decision Date: 04.09.2009

Ref ID: H/2004/0009/O

Proposal: Site of housing development.

Address: North of no.11 Calmore Road, Tobermore, Magherafelt.

Decision:

Decision Date:

Ref ID: H/2007/0909/O

Proposal: Mixed density housing development comprising of approx 90-100 dwellings units (Amended details submitted including proposals for a right turn lane from Desertmartin Road to Calmore Road)

Address: Lands, adjacent to and north of No.11 Calmore Road, (and south of Nos 6, 24 & 26 Loughill Park, south and south west of No 53 Calmore Road and east of Nos 7, 17, 18 & 19 Calmore Park) Tobermore (Amended site address)

Decision:

Decision Date: 10.04.2009

Ref ID: H/2002/0863/Q

Proposal: Site of Housing Development

Address: Calmore Road, Tobermore

Decision:

Decision Date:

Ref ID: H/2002/1173/F

Proposal: Housing Development (110 units).

Address: Adjacent to Lough Hill, Calmore Road, Tobermore.

Decision:

Decision Date: 18.01.2006

Ref ID: H/1994/0398

Proposal: SITE OF DWELLING

Address: CALMORE LANE TOBERMORE

Decision:

Decision Date:

Summary of Consultee Responses

The consultees did not raise any issues.

Drawing Numbers and Title

Drawing No. 13
Type: Road Access Plan
Status: Submitted

Drawing No. 05
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 06
Type: Proposed Elevations
Status: Submitted

Drawing No. 07
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 08
Type: Proposed Elevations
Status: Submitted

Drawing No. 09
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 10
Type: Proposed Elevations
Status: Submitted

Drawing No. 11
Type: Garage Plans
Status: Submitted

Drawing No. 12
Type: Proposed Plans
Status: Submitted

Drawing No. 04
Type: Proposed Elevations
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1801/F	Target Date:
Proposal: Rationalisation of existing sand and gravel extraction, lateral extensions to existing approved extraction, deepening of extraction below the current base levels to a level circa 202mAOD, with restoration to agricultural after-use	Location: Lands at Murnells Sand and Gravel Quarry, north and west of no 46 Murnells Road, Pomeroy, Dungannon.
Referral Route: This is a major planning application	
Recommendation:	Approve
Applicant Name and Address: Creagh Concrete Products Blackpark Road Toome BT41 3SL	Agent Name and Address: Quarryplan Ltd 6 Saintfield Road Crossgar BT30 9HY
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	NIEA	Advice
Statutory	NIEA	Extension Required
Statutory	NIEA	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	Environmental Health Mid Ulster Council	Additional Information Required
Statutory	NIEA	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division (HED)	Error

Statutory	Historic Environment Division (HED)	
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	NIEA	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		
Characteristics of the Site and Area		
<p>The site is located in the open countryside and is bounded by agricultural fields, farm buildings, dwelling houses and Murnells Road. Lands to the east consist of a former sand and gravel pit.</p>		
Description of Proposal		
<p>Rationalisation of existing sand and gravel extraction, lateral extensions to existing approved extraction, deepening of extraction below the current base levels to a level circa 202mAOD, with restoration to agricultural after-use.</p>		
Planning Assessment of Policy and Other Material Considerations		
<p>Regional Development Strategy 2035 Strategic Planning Policy Statement Cookstown Area Plan 2010 MUDS Local Development Plan 2030 – Draft Plan Strategy Planning Policy Statement 2 - Nature Conservation Planning Policy Statement 3 - Access and Movement Planning Policy Statement 4 - Planning and Economic Development Planning Policy Statement 6 - Archaeology and the Built Heritage Planning Policy Statement 21 - Sustainable Development in the Countryside</p>		
<p>Section 45 (1) of the Planning Act (NI) 2011 requires a planning authority when dealing with a planning application to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6 (4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p>		
<p>The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy launched on the 22nd Feb 2019. The initial consultation period gave rise to a number of</p>		

objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

The RDS 2035 provides an overarching strategic planning framework to facilitate and guide the public and private sectors. There are 8 revised aims within the RDS 2035 one of which is “To take actions to reduce our carbon footprint and facilitate adaptation to climate change”. It also states that we need to reduce harmful green house gas emissions to help reduce the threat of climate change and promote sustainable construction, consumption and production.

The SPPS is a statement of the Department’s policy on important planning matters that should be addressed across NI. The SPPS acknowledges that the minerals industry makes an essential contribution to the economy and to our quality of life, providing primary minerals for construction, such as sand, gravel, crushed rock and other uses, and is a valued provider of jobs and employment, particularly in rural areas. Minerals can only be extracted from sites where they occur, and there may be limited opportunities for consideration of alternative sites with a further challenge being the restoration of sites upon completion of work associated with the extraction and processing of materials.

The regional strategic objectives for minerals development are to:

- Facilitate sustainable minerals development through balancing the need for specific minerals development proposals against the need to safeguard the environment;
- Minimise the impacts of minerals development on local communities, landscape quality, built and natural heritage, and the water environment; and
- Secure the sustainable and safe restoration, including the appropriate re-use of mineral sites, at the earliest opportunity.

Historically, sand and gravel has been extracted and processed from part of the application site under application reference I/1981/0189, which incorporated the eastern portion of the current application site and extended beyond to the north, which is outside the current red line boundary. There is a long history of planning approvals for sand and gravel extraction and associated plant and site works at this site. The most recent approval was granted in 2013 under planning reference I/2009/0222/F for “Proposed sand and gravel extraction pit associated operational plant and machinery including the retention of 3 number water washer/storage ponds for the duration of the works only”. Both areas approved historically are incorporated under this current application.

The planning application is seeking planning permission for 7.7 ha of land at Murnells sand and gravel quarry. The existing land uses comprise of agricultural lands, sand and gravel extraction and mineral processing. The agent has clarified that of the 7.7ha, approximately 6 ha relate to existing sand and gravel undertakings carried out under the previous grant of planning permissions outlined above. The remaining c.1.7ha is given over the agricultural lands, which are predominantly in the southwestern section of the proposed site and the access road from the site to the public road.

This current application is to rationalise the historic consents for mineral extraction and provide a phased scheme in order to maximise the reserve potential from the site without

significantly altering the existing footprint of the extant put and provide a holistic restoration concept. The access point to Murnells Road remains the same.

There are five phases of extraction proposed prior to the final restoration of the site. During Phase 1 mineral extraction will take place in a southerly direction. The applicant will create new receptor areas including ponds with the remaining existing ponds to be fenced off and protected as specified by a project ecologist. An exposed sand face along the western boundary will be protected and retained for nesting Sand Martin. Once these have been completed, extraction will proceed in the southern area of the site. Phase 1 is expected to release c.300,000 cubic metres of sand and gravel.

Phase 2 will revert to lands approved for mineral extraction under I/1981/0189 and is expected to release c.100,000 cubic metres of sand and gravel. During this phase the screen bund and overburden restoration in the north west of the site will be encouraged to 'green up' and will be sown out in accordance with the final restoration concept.

Prior to Phase 3 commencing, a system of ponds will be created in the south of the site and these will be used to create a habitat for newts within the remaining ponds in the north and north east of the site which are to be relocated. The newts will then be relocated to the new ponds and wetland area, established as part of progressive restoration in the completed area to the south of the site. Extraction will then commence in the northern area of the site. Phase 3 is expected to release c.25,000 cubic metres of sand and gravel.

Phase 4 will see the lands containing the processing plant site, erected following the approval of I/2009/0222/F worked to release c.30,000 cubic metres of sand and gravel reserve.

Phase 5 of the proposed operations will see restoration slopes being created within the previously extracted Phase 4 area prior to implementation of the holistic restoration concept. This phase will see the site worked to its maximum geotechnical levels and will release a further c.110,000 cubic metres of sand and gravel.

The agent has stated in the ES where opportunities present, progressive restoration will be implemented at the earliest opportunity within the context of active extractive operations. Drawings have been submitted to illustrate the proposed phased extraction and remediation of the site. A restoration plan has been submitted as part of this planning application and this illustrates the full and final landscape restoration envisaged for the entire holding.

Mineral can only be extracted from where it is found. The applicant has stated that a quarry location is not only governed by geological constraints, but in NI as haulage comprises such a large percentage of selling price (in the region of 25-40%), geographical location is also a key component. Due to the market forces of supply and demand this constrains mineral operations to a given distance from a target market. The ES includes a table outlining the selection process adopted for the selection of this site.

Policy MIN1 of A Planning Strategy for Rural Northern Ireland (PSRNI) states that extensions to existing mineral workings, which minimise environmental disturbance in the countryside, will normally be preferred to new workings on greenfield sites. As

assessment is required of the need for mineral resources against the need to protect and conserve the environment. The agent has detailed the selection process that has been adopted in arriving at the position that an extension of the Murnells operation provides the Best Practical Environmental Option (BPEO) for a development of this magnitude. There are a number of owner/operators of the existing operations who are in direct competition with the applicant and are unwilling to dispose of their site.

The ES states the applicant requires the mineral at Murnells to help meet the shortfall in aggregate available to the company on the open market and without it the shortfall would be required to be acquired from other sources. This, it is contended, could potentially result in less suitable extension applications or increased pressure on greenfield sites, agricultural lands and sites containing NI Priority Habitats with significantly less beneficial landscaping proposals, planning gain, rehabilitation of existing sites and after-use. The agent states the proposal offers planning benefits as it incorporates previous approvals brought under the one red line boundary and thereby offers an opportunity to modernise the historic conditions.

Effects on the water environment.

The ES identifies there are three designated conservation areas within a 4km radius of the site. The closest is Lough Doo ASSI which is noteworthy for its fluvio-glacial deposits. Limehill Farm ASSI is an internationally important fossil site for Silurian stratigraphy. The upstream reach of the Upper Ballinderry River ASSI and SAC is noted for the physical features of the river and refers to the importance of its associated riverine flora and fauna. The Sperrins AONB is c.3.7km to the northwest of the application site.

The application area straddles the watershed between the two headwaters of two watercourses, Loughagarran Stream and Shancrock Stream that converge some 2km to the east of the site.

The site does not overlap any area of floodplain with the risk of fluvial flooding confined to the narrow strip of land immediately adjacent to the banks of the Loughagarran Stream (450m to the north of the site at the closest approach) and Shancrock Stream (235m to the south of the site at the closest approach).

Storm runoff will collect in the sump on the quarry floor or drain towards the settlement ponds at the northern margin. Aside from the water management system within the extraction area there is a relatively scarcity of waterbodies near the site.

Based on the proposed quarry design and the interpolated groundwater contours, it is anticipated there will be a negligible risk of intercepting the water table during the operational life of the quarry.

The ES states the operation of mobile and fixed plant presents a risk that pollutants may enter groundwater because of hydrocarbon spillage or leakage on site. The risk of such a pollution incident can be minimised through the adoption of various measures including checking for leakages, reporting defects to ensure timely repairs etc.

It is considered the proposed development will cause no derogation in the quantity and quality of any local water supplies, including private spring wells. This is because the proposed development will not involve sub-watertable working or dewatering, therefore there will be no drawdown-related impact upon water levels and flow and water quality will be safeguarded by the same measures.

Following the submission of further data to verify the groundwater levels in the northern section of the site and a groundwater monitoring plan both Water Management Unit and Land, Soil and Air team of NIEA find the proposal acceptable. This is subject to the applicant referring and adhering to standing advice and obtaining and complying with any required statutory permissions.

Noise impact assessment

A daytime noise survey was carried out at the nearest noise sensitive locations, to establish the current ambient noise levels in the area. The noise survey entailed taking readings during a typical working day at the nearest noise sensitive receptor locations. The noise survey accounted for the rationalisation of existing approved sand and gravel extraction, lateral extensions and deepening of approved extraction to a level of c.202mAOD with restoration to agricultural after-use. Sand gravel output is expected to be between 80,000 and 100,000 tonnes pa with no more than 20 vehicle movements occurring at the site daily, and there is no processing of the quarried sands and gravels at the quarry site. All mineral excavated at the site will be transported to the Creagh Concrete processing and distribution sites at Toomebridge and Ardboe. There will be no blasting on site and the proposed hours of operation are 0700-1900 Mon – Fri and 0800-1500 Saturdays. There are 12 noise sensitive receivers in proximity to the quarry site boundary.

The noise survey has found the predicted noise levels due to the proposed quarrying activities will be well below the World Health Organisation recommended guideline noise limit criterion on 50-55dB LAeq, 12hour for community exposure during operation. The noise levels due to dozer activities during topsoil excavation, noise bund construction and restoration works may periodically result in a noise level that exceeds the noise limit of 55dB LAeq, 1hour. However, it is accepted within Planning Practice Guidance 'Assessing Environmental Impacts from Mineral Extraction - Noise Emissions' (March 2014) that all operators will have some noisier short-term activities that cannot meet the limits set for normal operations such as overburden removal, bund construction, restoration works etc. Site preparation and restoration works will be carried out during an 8 week window per annum.

The ES details mitigation measures which will be employed to minimise operational impacts and include restricted operating hours as outlined above; a 220m long 3m high noise bound along the southern boundary to protect dwellings at 34, 38 and 40 Murnells Road; on site speed limit; noise reduced plant; silenced vehicle reverse alarms; noise monitoring in the event of a complaint from a NSR.

When the measured baseline noise levels and the predicted noise levels from the quarrying and extraction operations on site are compared, there will be no exceedance of the relevant noise limits outlined in the PPG.

Environmental Health has assessed the acoustic assessment by AONA Environmental. They acknowledge the report predicts noise levels at the noise sensitive properties will not exceed the proposed PPG noise limit of 45dB LAeq (1hour). Consequently, there are no objections from EHO subject to conditions.

Ecology

There are several designated sites around Murnells Quarry. The designated areas located less than 2km from the site have been considered in terms of their potential connectivity to the proposed development and impacts of dust and noise have been considered. There are no SPA's within the 15km of the proposed site. The closest SAC is the Upper Ballinderry River SAC and it has been determined there is no direct connectivity via surface watercourses from the Murnells Quarry site to this SAC. The hydrological report has confirmed that there is some low potential for groundwater connectivity to this SAC because groundwater from this site drains towards the Shancrock Stream, which eventually feeds into the Kildress Stream, which flows into the SAC.

The following ASSI sites lied within 5km of the quarry site; Upper Ballinderry River ASSI, Bardahessiagh ASSI, Lime Hill Farm ASSI and Lough Doo ASSI, the latter of which is the closest at c.1.8km NW of the proposed quarry. There are no ASSI's that have hydrological connectivity to the application site. With regards to SLNCI's, Evishanoran SLNCI is within 1.1km of the quarry. This will not be impacted by the proposal, as there is no connectivity to this site given its distance from the proposals and the lack of a hydrological link.

The main potential physical impacts identified in the ES that quarrying may have on the receiving environment are:

- Permanent habitat removal;
- Dust deposition;
- Noise; and
- Hydrological impacts.
-

It is considered there is no potential for dust, noise or hydrological impacts upon any designated sites within 15km of the proposed quarry extension.

The only pathway for impact upon a designated site is in the event of polluted groundwater entering the Shancrock Stream and this eventually reaching >10km downstream to the Upper Ballinderry River SAC, and causing an indirect effect upon this site. The potential for impact is considered very low and mitigation has been provided to ensure that there is no likelihood of significant effects upon this SAC.

There is also potential for impacts on protected species and species of conservation importance, including bats, starlings, newts and frogs.

Mitigation measures have been included in the ES for the potential impacts on habitats, SAC, ASSI, amphibians, bats, birds and hedgerows. Subsequent to implementing all of the recommended mitigation provided in the Ecology report, the majority of adverse impacts potentially posed by the proposals will be negated. Significant areas of habitat

restoration have been proposed and it is considered this will provide an overall long-term enhancement of the habitats that are currently available at this quarry site.

NIEA Natural Environment Division 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 conditions. They also note that if the restoration plan is successful, it is expected that the long term positive impacts to biodiversity will be adequate. NED recommend that a long term monitoring plan should also be included as part of the Habitat Restoration Plan to report on the success rate of the restoration project.

Visual appraisal

The application site is located in an area of undulating landform. The surrounding area comprises mainly of rolling agricultural fields, private dwellings and farm buildings, and several tributaries from the Ballinderry River. There are several woodland clusters, notably to the NE near the Ballinderry River. Dum Manor Forest Park is located approx. 2km to the NE of the site. The area is rich with archaeological heritage with numerous sites marked on the 1:50,000 map.

The site lies within LCA 43 - Carrickmore Hills. The key characteristics of this LCA are:

- A broad, generally open upland fringe landscape;
- Undulating landform;
- Open and exposed particularly on upper slopes;
- Complex series of glacio-fluvial features;
- Extensive sand and gravel quarrying;
- The area has a wild and remote character in parts but this is tempered by man-made influences;

Landscape sensitivity has been reduced in the northeast by the relatively strong man-made influence, generally convex skyline and mixed landscape quality.

The ES concludes the sensitivity of the broad regional landscape associated with this development would fit with the Medium/Low definition.

A number of measures have been proposed to mitigate against adverse landscape and visual effects being generated by the proposed development including commencement of restoration at the earliest opportunity in all areas where extraction or operations associated with extraction are no longer occurring and advanced permanent screen planting along the boundaries to the north. This proposal is not introducing a new land use in this rural area. The ES states the proposed comprehensive restoration scheme brings opportunities for significant beneficial amenity and biodiversity outcomes post extraction at this location.

From an inspection of the application site and the surrounding area, there can be no doubt this proposed development will have an impact on the local landscape for the lifetime of the quarry. However, given the history of approvals on the site and the scarring that has taken place thus far at this location the negative impact is not uncharacteristic for the area. There is a comprehensive restoration scheme proposed

once the reserves from this quarry have been exhausted. Restoration will bring significant visual amenity and biodiversity benefits to the local landscape.

Dust

The primary sources of dust that could possibly give rise to an impact on the air quality environment of the surrounding area are:

- Soil/overburden movement and storage;
- Excavation of mineral;
- Onsite transportation of material;
- Loading and dispatch of vehicles; and
- Restoration /material replacement.

The ES suggests dust control measures that should be employed to control the impacts to acceptable levels. A Dust Action Plan is to be employed for the control and reporting of the effects of specific dust events.

EHO has assessed the dust deposition survey, which concluded the development might have the potential to generate levels of dust through its operation. However if the proposed mitigation and dust management protocols are implemented in full, then the development will not significantly impact air quality at sensitive locations in the vicinity of the site.

Vehicle Movements and Highways

The proposed development will use the existing access approved under I/1981/0189. The level of vehicles using the road is not proposed to increase over and above the existing levels experienced and there is no issue of intensification.

DfI Roads have noted the access and access sight lines were not implemented in accordance with previous approval. They request the access is brought up to an acceptable standard prior to any other works commencing and have recommended conditions.

Archaeology

There are three sites and monument record sites and one scheduled monument within 1km of the site and these sites all date to the prehistoric period. The closest archaeological site consists of two standing stones located c.655m to the south-southwest of the proposed development area. These are recorded as destroyed and have been unscheduled. The scheduled zone is situated c.645m to the south-southwest and encompasses a portal tomb and long cairn known as 'Dermot and Grania's Bed' and a round cairn.

The ES concludes a steep slope under pasture forms the greenfield area that forms the proposed quarry extension. Given the topography, the archaeological potential of the site is deemed low. As such, no negative impacts are predicted upon the archaeological resource because of the proposed extension going ahead. Consequently, no mitigation measures are deemed necessary.

HED Historic Monuments has reviewed the Archaeological, Architectural and Cultural Heritage section of the ES and accept the recommendations in the report. They are concerned with future extensions but since these are not part of a planning application, this is not a material consideration at this time.

Having considered all the relevant plans, policies and material considerations, I recommend an approval of this application subject to the conditions listed below.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below.

Conditions:

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

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

2. Within 24 months of the date of this decision notice, the applicant must submit a guarantee to cover all site restoration and aftercare liabilities for the written approval of Mid Ulster District Council. Such guarantee must, unless otherwise agreed in writing by the Council as the Planning Authority:
 - i. Be granted by a bank or other institution which is of sound financial standing and capable of fulfilling the obligations under the guarantee;
 - ii. Be for a specified amount which covers the value of all site restoration as agreed between the operator and Mid Ulster District Council at the commencement of development;
 - iii. Either contain indexation provisions so that the specified amount of the guarantee shall be increased on each anniversary of the date of this consent by the same percentage increase in the General Index of Retail Prices (all items) exclusive of mortgage interest published by or on behalf of HM Government or, in the event that the index is no longer appropriate or applicable, such other comparable index as the Planning Authority, acting reasonably, decide between the said date and such relevant anniversary. The amount shall be reviewable to ensure that the specified amount of the guarantee always cover the value of the site restoration and aftercare liabilities.
 - iv. Come into effect once written approval has been issued by Mid Ulster District Council and expire no earlier than 12 months after the end of the aftercare period and a guarantee of aftercare for a period of not less than 5 years post restoration.

Reason: To ensure the resources are made available for the future restoration of the land

3. In the event that the guarantee becomes invalid for any reason, no operations will be carried out on site until a replacement guarantee completed and lodged with Mid Ulster District Council as the Planning Authority.

Reason: To ensure the resources are made available for the future restoration of the land.

4. In the event the value of the guarantee held by the Council is less than the calculated site restoration and aftercare liabilities (calculated through condition 6) below, the operator shall, within four months of the submission of the annual progress plan required through condition 6, deliver a further guarantee to cover all site restoration and aftercare liabilities. Such guarantee must, unless otherwise agreed in writing by Mid Ulster District Council, comply with parts (i) to (iv) of condition 2 above. If this further guarantee is not submitted within four months of the submission of the annual progress plan required through condition 7, all extraction operations shall cease until the Council confirms, in writing, receipt of an acceptable guarantee.

Reason: To ensure that provision is made for the restoration of the site.

5. The Landscape Restoration Concept drawing number 10 date stamped 3 May 2019 shall be adhered to in full and completed within one year of completion of extraction of the site.

Reason: To ensure restoration takes place in its entirety.

6. An annual progress plan shall be submitted to the Council as Planning Authority on the 31st March of each year following the commencement of development and for the duration of extraction and restoration operations approved through this permission. The annual progress plan shall detail:
 - i. The extent of extraction operations undertaken that year;
 - ii. Areas prepared for extraction, including any soil stripping and removal of vegetation etc;
 - iii. The extent of restoration operations carried out;
 - iv. Recent topographical site survey undertaken within 1 month prior to the submission of the annual progress plan;
 - v. Total tonnage of minerals dispatched from the site within the preceding year;
 - vi. Estimation of remaining reserve of sand and gravel material (which are likely to be exported from site);
 - vii. A calculation of the costs of restoring the area of the site disturbed by the development and the associated area of the site to be enhanced at that time;
 - viii. Compliance with statutory permissions and legal agreements;
 - ix. Site complaint log and actions taken;
 - x. Any incidents involving pollution of watercourses.

Reason: To ensure the proper restoration of the site after extraction operations have ceased.

7. A finalised Habitat Restoration Plan (HRP) shall be submitted and approved in writing by the Planning Authority prior to commencement of any works associated with the proposal. The approved HRP shall then be implemented in accordance with the approved details and all works on site shall conform to the approved plan, unless otherwise agreed in writing by the Planning Authority. The HRP shall include the following:

- i. Pre-construction baseline habitat surveys to National Vegetation Class (NVC) level;
- ii. Appropriate maps, clearly identifying restoration areas as well as any ornithological mitigation measures proposed;
- iii. The methodology and prescriptions of habitat management measures as per the recommendations of the Ecological Impact Assessment. This should include timescales and defined criteria for the success of the measures proposed;
- iv. Details of monitoring of measures using fixed quadrat locations to assess and report the success or otherwise of the restoration measures.

Details of the production of regular monitoring reports to be submitted to the Planning Authority at intervals to be agreed and to include details of contingency measures should monitoring reveal unfavourable results.

Reason: To compensate for the loss of and damage to Northern Ireland priority habitats.

8. Mineral extraction/storage of overburden material that will see the loss of ponds 1, 2, 7 and 8 shall not commence until the replacement ponds, as denoted on drawing number 04/1 have been created. Mineral extraction/storage of overburden material that will see the loss of ponds 3, 4, 5 and 6 shall not commence until the replacement ponds, as denoted on drawing number 04/1 have been created.

Reason: To compensate for the loss and damage of priority habitat.

9. No works shall occur until the newt population in ponds 1, 2, 7 and 8 have been successfully translocated to the replacement ponds under licence and under the supervision of a qualified ecologist. The replacement habitat shall be protected by appropriate fencing to restrict movement across the site and to prevent unnecessary mortality for the duration of the works.

Reason: To protect newts.

10. Ponds 3, 4, 5 and 6 shall be cordoned off with appropriate fencing and a protective buffer put in place until the newts inhabiting these ponds are ready to be translocated under licence to the replacement habitat. The replacement habitat shall be protected by appropriate fencing to restrict movement across the site and to prevent unnecessary mortality for the duration of works.

Reason: To protect newts.

11. There shall be no extraction works or disturbance to any of the sand martin nesting sites within the redline boundary during the bird breeding season (1 March to 31 August inclusive).

Reason: To protect sand martins.

12. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 1 August inclusive, unless a competent ecologist has

undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of commencing.

Reason: To protect breeding birds.

13. The site shall only operate normal working hours ie. 07:00- 19:00hrs Mon- Fri, 07:00- 15:00hrs Sat.

Reason: In the interest of residential amenity.

14. A Noise Target level of 45dB LAeq (1 hour) should not be exceeded at any nearby residential properties.

Reason: In the interest of residential amenity.

15. Mechanical plant used on site shall be fitted with effective exhaust silencers. Vehicle reverse alarms will be appropriately silenced in order to reduce noise breakout from the site while still maintaining their effectiveness. All plant shall be maintained in good working order and where possible operated at low speeds and shall be shut down when not in use.

Reason: In the interest of residential amenity.

16. Potentially noisy plant or operations shall be located as far as possible from noise sensitive receptors so that the transmission of noise can be minimised.

Reason: In the interest of residential amenity.

17. Prior to any extraction taking place a 220m long 3m high earthen noise bund should be placed along the southern quarry perimeter in close proximity to the residential properties at 34, 38 and 40 Murnells Road.

Reason: In the interest of residential amenity

18. An on-site speed limit will be enforced for all traffic. Drivers of vehicles must be advised of the speed limits through the erection of signs.

Reason: In the interest of residential amenity

19. The operators will use 'noise reduced plant' and/or will modify work activities so that noisy plant is unnecessary.

Reason: In the interest of residential amenity

20. Within 4 weeks of a written request by Mid Ulster District Council, following a noise complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ

a suitably qualified and competent person, to assess the level of noise emissions from the extraction activity. Details of the proposed assessment shall be submitted to Mid Ulster District Council for written approval prior to any monitoring commencing. Mid Ulster District Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: In the interest of residential amenity

21. The operator shall provide to Mid Ulster District Council the results, assessment and conclusions regarding the noise monitoring required by Condition 20, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of a written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: In the interest of residential amenity

22. The dust mitigation plan outlined in Section 10 of the Environmental Statement submitted in support of this application by Quarryplan, dated March 2019. This should be adopted and fully implemented by the applicant.

Reason: In the interest of residential amenity

23. Within 4 weeks of a written request by Mid Ulster District Council, following a dust complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of dust from the extraction activity. Details of the proposed assessment shall be submitted to Mid Ulster District Council for written approval prior to any monitoring commencing. Mid Ulster District Council shall be notified not less than 2 weeks in advance of the date of commencement of the dust monitoring.

Reason: In the interest of residential amenity

24. The operator shall provide to Mid Ulster District Council the results, assessment and conclusions regarding the noise monitoring required by Condition 23. Such information shall be provided within 3 months of the date of a written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: In the interest of residential amenity

Signature(s)

Date:

ANNEX	
Date Valid	22nd December 2017
Date First Advertised	18th January 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 32 Murnells Road Pomeroy Tyrone The Owner/Occupier, 34 Murnells Road,Pomeroy,Tyrone,BT70 2SL, The Owner/Occupier, 38 Murnells Road,Pomeroy,Tyrone,BT70 2SL, The Owner/Occupier, 40 Murnells Road Pomeroy Tyrone The Owner/Occupier, 46 Murnells Road Pomeroy Tyrone The Owner/Occupier, 48 Murnells Road Pomeroy Tyrone The Owner/Occupier, 50 Murnells Road,Pomeroy,Tyrone,BT70 2SL,	
Date of Last Neighbour Notification	18th January 2018
Date of EIA Determination	28th September 2018
ES Requested	Yes
Planning History Ref ID: LA09/2017/1801/F Proposal: Rationalisation of existing sand and gavel extraction, lateral extensions to existing approved extraction, deepening of extraction below the current base levels to a level circa 202mAOD, with restoration to agricultural after-use Address: Lands at Murnells Sand and Gravel Quarry, north and west of no 46 Murnells Road, Pomeroy, Dungannon, Decision: Decision Date: Ref ID: LA09/2017/1337/PAN Proposal: Continued extraction and processing (washing and screening) of sand and gravel from Murnells Quarry, a lateral extension in a northerly and westerly directions with the rationalisation of historic mineral workings and deepening of the quarry floor with restoration to nature conservation habitats Address: Murnells Quarry, Lands North of 40 Murnells Road, Cookstown, Decision: Decision Date: Ref ID: I/2002/0413/F Proposal: Sand & Gravel Extraction including the construction and retention of 3 Water Washer / Storage Ponds for the duration of the works only	

Address: On land 200m North of 38 Murnells Road, Pomeroy, Cookstown.

Decision:

Decision Date: 19.10.2004

Ref ID: I/2003/0154/F

Proposal: Operation and use of Sand and Gravel washing and screening mobile plant.

Address: 200m North of 38 Murnells Road, Pomeroy, Cookstown.

Decision:

Decision Date: 19.10.2004

Ref ID: I/2009/0222/F

Proposal: Proposed sand and gravel extraction pit, associated operational plant and machinery including the retention of 3 number water washer/storage ponds for the duration of the works only.

Address: Lands adjacent to and north of 38 Murnells Road, Pomeroy, Cookstown

Decision: PG

Decision Date: 20.12.2013

Ref ID: I/2009/0656/F

Proposal: Part retrospective sand and gravel extraction in association with additional sand and gravel extraction.

Address: Lands adjacent to and North of 38 Murnell's Road, Pomeroy, Cookstown

Decision:

Decision Date: 05.01.2011

Ref ID: I/1981/0189

Proposal: EXTRACTION AND SCREENING OF SAND AND GRAVEL

Address: MURNELLS, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2011/0221/F

Proposal: Proposed erection of a wind turbine of 30m hub height and 30m rotar diameter with a max output not exceeding 250kw (Shadow Flicker Assessment received)

Address: 105m North of 46 Murnells Road, Pomeroy, Co Tyrone. BT70 2SL,

Decision: PG

Decision Date: 31.08.2012

Ref ID: I/1981/0185/F

Proposal: EXTRACTION AND SCREENING OF SAND AND GRAVEL

Address: MURNELLS, COOKSTOWN

Decision:

Decision Date:

Summary of Consultee Responses

No objection subject to conditions.

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 04

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 05

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 06

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 07

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 08

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 09

Type: Cross Sections

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0073/F	Target Date:
Proposal: 2no Poultry Units (16,000 bird capacity in each unit) with 4no meal storage bins, 2no underground wash water storage tanks and associated access lane/turning area	Location: Approx 240m North of 93 Ballagh Road Ranenly Fivemiletown
Referral Route: Refusal	
Recommendation:	Refusal
Applicant Name and Address: Mr Gary Beacom 93 Ballagh Road Fivemiletown BT75 0LD	Agent Name and Address: Neil Irvine Design Ltd Unit 5 The Buttermarket 132 Main Street Fivemiletown BT75 0PW
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Representations: None Received

Description of proposal

This is a full planning application for 2no Poultry Units (16,000 bird capacity in each unit) with 4no meal storage bins, 2no underground wash water storage tanks and associated access lane/turning area.

Characteristics of site and area

The site includes the southern portion of 2 agricultural fields and is set back approx. 740m from Ballagh Road at the end of an existing laneway that serves existing dwellings, farm buildings and agricultural land. The southern boundaries of the site are defined by a row of mature trees, the remaining boundaries are not clearly defined and are open to the remainder of the fields.

Land rises from roadside up the lane to the site. Although on high land, the site is well screened by existing vegetation and the site cannot be seen from surrounding vantage points. The site is relatively flat with land rising to the north.

Surrounding the site is agricultural land, and the area is defined by dispersed single dwellings and farm holdings. Fivemiletown is the nearest settlement to the site, approx. 3km to the west, with Clogher sited to the east.

Planning Assessment of Policy and Other Material Considerations

Area Plan

Dungannon and South Tyrone Area Plan 2010- unzoned land in the open countryside.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this, the Draft Plan cannot be given any determining weight at this time.

Relevant Planning Policy

The regional Development Strategy (RDS)

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2 Natural Heritage

Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside;

- Policy CTY 1 Development in the Countryside

- Policy CTY 12 Agricultural and Forestry Development.

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

- Policy CTY 14 Rural Character

Consultation responses

DfI Road no objection subject to conditions;

- 60M X 2.4 M sight lines and any forward sight line shall be provided in accordance with drawing 04 18/2/17 and retained and kept clear thereafter.

DfI Roads also require the access to be in accordance with the attached RS1 form. As this is a full planning application and DfI Roads are content with the visibility spays provided, it is my view that this is sufficient for the proposed development and no further condition is required in this instance.

Environmental Health – agrees with findings that there will be no significant adverse odour impacts on neighbouring sensitive dwellings.

DAERA - no objection. Farm business ID has been in existence for more than 6 years and business claims subsidies therefore is established and currently active.

NIEA – additional information is required;

Justification for the use of the emission factor detailed within the Air Quality Impact Assessment (date stamped 28/02/2019).

Or

Revised Air Dispersion Modelling using the ammonia emission factor of 0.08kg/yr per animal for free range layer birds with litter removed twice weekly by manure belt.

The application site lies within 7.5km of Slieve Beagh - Mullaghfad - Lisnaskea SPA which

has reached the 10% additional loading capacity for nitrogen emissions. Therefore the Process Contribution must equate to <1% to proceed. The applicant may consider the use of nitrogen abatement measures to reduce emissions. These measures should be incorporated into any modelling submitted.

Shared Environmental Services- require additional information;

-According to the Agent (24/10/2019), the system to be installed for litter removal from the poultry houses is currently under consideration.

-When confirmed, an appropriate emission factor reflective of the proposed system should be agreed with NIEA prior to commissioning any revised Air Quality Impact Assessment (AQIA).

-SES has concerns regarding potential impacts of ammonia emissions from the proposal at Slieve Beagh-Mullaghfad-Lisnaskea Ramsar/SAC/SPA. Where the process contribution is greater than 0.1% of the designated sites Critical Level, visual representation across the area impacted must be included in the AQIA.

-Revised detailed Air Dispersion Modelling would not guarantee recommendation for approval of this application, therefore the applicant should fully consider the additional expense to further the application.

Rivers Agency - No objections subject to condition (development to be carried out in accordance with Drainage Assessment) and informatives.

3rd Party Objections

No objections to this application have been received.

Relevant planning history

No relevant history

Key Policy Consideration

Policy CTY 1 of PPS 21 sets out the 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.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy.

Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:

a) It is necessary for the efficient use of the agricultural holding.

The applicant has an existing farm which includes the site and adjoining lands. Details of this farm business accompany the application and DAERA have confirmed that the business ID has been in existence for more than 6 years and that the farm business claims subsidies. Therefore, there is an active and established farm business. This poultry house is an investment opportunity for the applicant and part of Moy Park's expansion programme and in line with the Agri-Food Strategy. I am of the opinion that this proposal supports the needs of the existing business.

b) It is appropriate to the location in terms of character and scale.

The surrounding area is rural in character. Although hen houses in general are large scale, these are agricultural buildings which are typical of the rural area. Given the nature of this proposal, and its purpose to house poultry, it is considered appropriate to the location. The materials and finishes are typical of this type of building and are acceptable in the rural area. The proposal is also in keeping the scale, mass, design and materials of existing hen houses in the area. The site benefits from set back from the public road and mature tree cover.

c) It visually integrates into the local landscape and additional landscaping is provided as necessary.

The proposed poultry sheds will benefit from a backdrop of land rising to the north and surrounding tree coverage. The proposal is set back 740m from the public road which assists integration and will be somewhat screened/grouped with the existing buildings to the south. Access will be from an existing laneway. It is my view the hen houses will satisfactorily integrate into the landscape.

d) It will not have an adverse impact on the natural or built heritage. There are no built heritage features on the site or adjacent to the site. NIEA, Shared Environmental Services and Rivers Agency were consulted on this proposal. Rivers Agency have no concern subject to the proposal being carried out in accordance with the Drainage assessment.

NIEA and SES both require additional information because it has not been properly demonstrated by the applicant/agent that ammonia produced at the facility can be managed in such a way that it will not have a detrimental impact on European or local designated protected sites. I sent an e-mail to the agent on 23rd July 2019 and again on 20th September seeking additional information to rectify the situation. To date no additional information has been provided to address the outstanding issues. On discussion with the agent by phone it was indicated by the agent that the applicant had not agreed to commission further reports to progress these issues. I therefore recommend that the proposal be refused for this lack of information.

Members will note that SES in their response have applied a 0.1% contribution factor whilst NIEA have applied 1%. Since it has not been demonstrated that the 1% has not been achieved it is our view that the proposal represents a significant risk to protected habitats.

e) It will not result in a detrimental impact on the amenity of residential dwellings outside the holding. Environmental Health have been consulted and have no objections. I am content that the proposal is of sufficient distance to dwellings outside the holding for there to be any detrimental impacts to residential amenity.

In the case where a new building is proposed the following points should be met:

- There are no suitable existing buildings;

No suitable buildings exist on the applicants holding. These types of buildings need to be of a particular size, shape and internal environmental standard to create optimum conditions for laying.

- The design and materials are sympathetic to the locality;

The poultry house is of a simple design and buildings of this style are characteristic of the rural area.

- It is sited beside existing farm buildings.

The proposal is sited to the north (approx. 100m) of existing farm buildings which share the same laneway.

Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

As detailed in my assessment above, these points have been covered.

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. The poultry houses are agricultural in nature and will benefit from a backdrop of land and tree coverage. The character of this area will still remain rural and the proposal will not cause a detrimental change to the rural character of this area.

It is worth noting that an EIA screening exercise was also carried out and given that the proposal is unlikely to have a significant environmental impact, the need for an ES was screened out.

PPS2 Natural Heritage

In my view the proposal is contrary to both policies NH1- European and Ramsar Sites- International and NH3 Sites of Local Conservation Importance of PPS2 Natural Heritage in that it has not been demonstrated that the proposal can operate without detriment to these protected sites. Amonia emissions from this proposal may have a detrimental impact on these designated sites and this needs to be clearly demonstrated by the applicant/agent which has not been the case to date.

The application site is within 7.5 km of Cullentra Lough ASSI, Round Lough and Lough Fada ASSI, Lough McCall ASSI, Cloghcor Lough ASSI, Fardross Stream ASSI, Slieve Beagh – Mullaghfad – Lisnaskea SPA and Slieve Beagh ASSI/SAC/Ramsar (hereafter referred to as the designated sites) which are of international and national importance and are protected by Conservation (Natural Habitats, etc.).

Other Considerations

The site is not subject to flooding and no land contamination has been identified.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

That the proposal is refused for the following reasons;

Refusal Reasons

1. The proposal is contrary to policy CTY12 (d) of PPS21 Sustainable Development in the Countryside in that there is insufficient information to demonstrated that the proposal will not have a detrimental impact on natural heritage.

2.The proposal is contrary to policies NH1 and NH3 of PPS2 Natural Heritage in that there is insufficient information to demonstrated that the proposal will not have a detrimental impact on sites of International and National importance.

Signature(s)

Date:

ANNEX	
Date Valid	18th January 2018
Date First Advertised	1st February 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 97 Ballagh Road Fivemiletown Tyrone The Owner/Occupier, 97 Glasdrummond Road,Aughnacloy,Tyrone,BT69 6DE, The Owner/Occupier, Kiltermon Church 101 Ballagh Road Fivemiletown The Owner/Occupier, Termon Lodge,103 Ballagh Road,Fivemiletown,Tyrone,BT75 0LD, The Owner/Occupier, The Wayside 93 Ballagh Road Fivemiletown	
Date of Last Neighbour Notification	6th February 2018
Date of EIA Determination	
ES Requested	No
Notification to Department (if relevant) Date of Notification to Department: Response of Department:	

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 3/12/2019	Item Number:
Application ID: LA09/2018/0471/F	Target Date: 18/6/2018
Proposal: Proposed new general industrial building (Use class B3) with ancillary accommodation.	Location: Lands at 76 Derrynoid Road Draperstown Co Derry BT45 7DN.
Referral Route: Agreement is required from planning committee to treat this application as an exception to Policy FLD 1 of PPS 15	
Recommendation: Approval	
Applicant Name and Address: Inova Gates 76 Derrynoid Road, Draperstown	Agent Name and Address: OJQ Architecture 89 Main Street Garvagh BT51 5AB
Executive Summary: This proposal, to expand an existing economic development in the countryside, complies with the relevant policies contained within PPS4. The site however is located within the 1 in 100 year fluvial flood plain. The proposal does not meet any of the exception tests for undefended areas contained under Policy FLD1 of PPS 15, however given the fact that the development proposed is contained within the existing site curtilage, displaced flood water will not impact on adjacent third party land and on the basis that the applicant could utilise his industrial permitted development rights to erect something of a similar size provided it was the required distance away from the site boundary, members are requested to consider this proposal as an exception to policy FLD 1 of PPS 15.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	Rivers Agency	
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Statutory	Rivers Agency	
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

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

Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified of the proposal. To date there have been no objections.

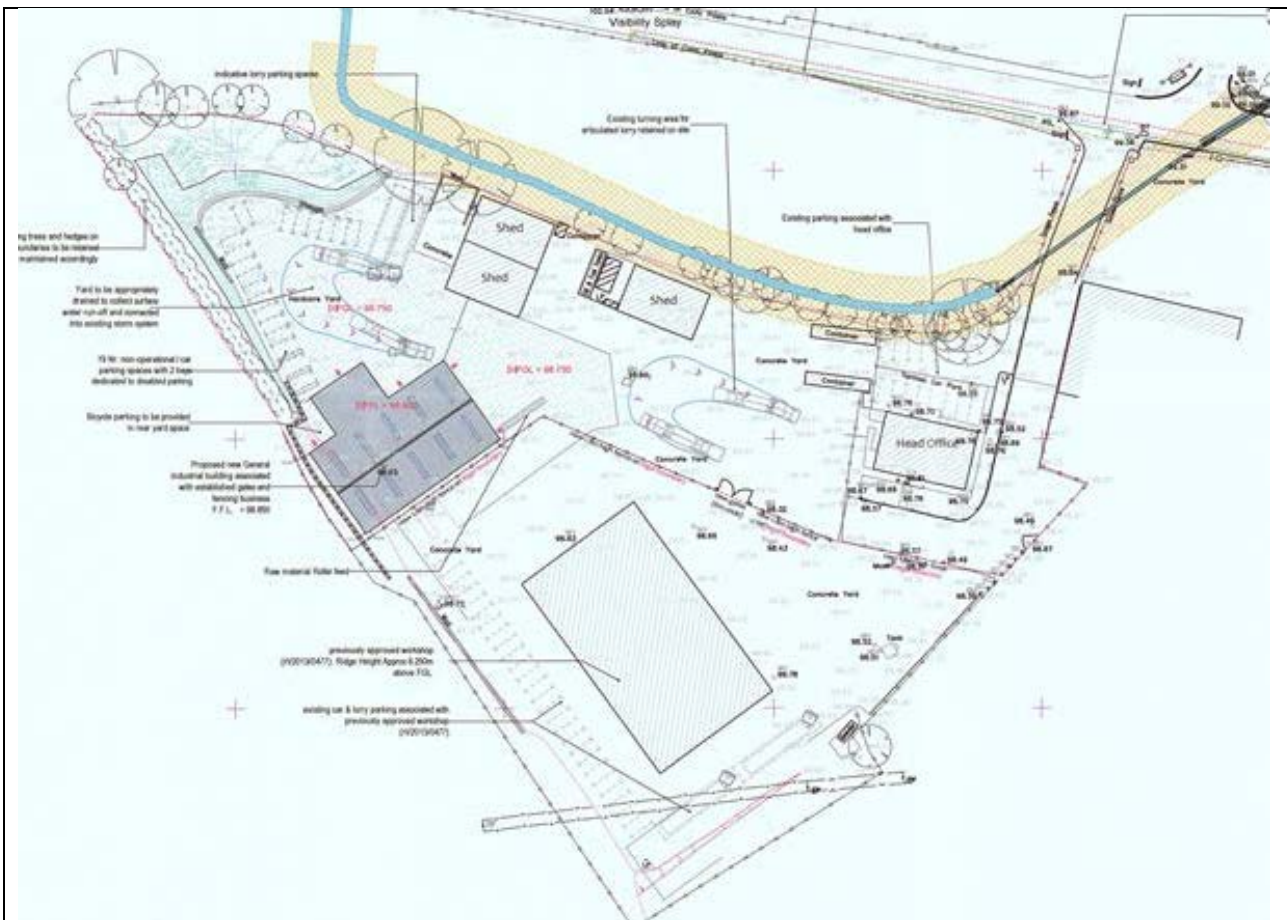
Characteristics of the Site and Area

The application site is 0.85 hectare plot of industrial land within “Rogers Business Park” located at 76 Derrynoid Road, Draperstown. It is approximately 2 miles outside the development limits of Draperstown and is just opposite the entrance to Derrynoid Wood and Rural College. The application site contains 3 industrial sheds occupied by Inova Gates, several metal shipping containers and a two storey detached office building. The remainder of the overall site is occupied by “Sperrin Metal Storage Solutions”. The site is defined to the SW by an embankment topped with semi mature vegetation and security fencing. The Northern boundary is defined by a band of thick mature vegetation. The remaining boundaries are void of any form of boundary treatment. To the SE of the site is a detached third party dwelling, number 74a Derrynoid Road and further to the NE is another detached third party dwelling, number 74 Derrynoid Road.

This is an upland rural area with a dispersed settlement pattern. It is recognised as being an area of archaeological importance (LDY 040:008). It is also recognised as being within the 1 in 100 year strategic fluvial flood plain.

Description of Proposal

This is a full application for a new general industrial building (use class B3) and ancillary accommodation with a total floor space of 654.66 sqm. It will measure 8m in height at its highest point. It will be finished in a mix of smooth cement render and metal panelling. 19 non-operational car parking spaces and 1 operational car parking space are being provided along with 3 bicycle spaces. (see proposed layout below)



Planning Assessment of Policy and Other Material Considerations

Relevant Planning History

LA09/2018/0785/F – Erection of ancillary store building and ancillary store extension to existing workshop at Sperrin Metal Storage Solutions, Rogers Business Park, 76 Derrynoyd Road, Draperstown. Under consideration.

H/2013/0477/F - Retention of re-siting of workshop previously approved under application H/2003/0088/F and proposed erection of new fence and gates within site curtilage, 76 Derrynoyd Road, Draperstown, BT45 7DW. Approved 28/02/2014

H/2009/0272/O - New business premises including a dwelling in connection with the business enterprise. Land to rear of No.74 Derrynoid Road, Draperstown. Approved 19/04/2011

H/2005/1171/F - Construction of 1 No. steel portal framed workshop within existing site curtilage for powder coating and assembly of supplied components forming gates and fencing. 76 Derrynoid Road, Draperstown. Approved 11/04/2008

H/2003/0088/F - New Workshop. 76 Derrynoyd Road, Draperstown, Magherafelt. Approved 28/08/2003

The following policies will be considered in this assessment:

- SPPS – Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- PPS 3 – Access, Movement and Parking
- PPS 4 – Planning and Economic Development
- PPS 6 – Planning, Archaeology and the Built Heritage
- PPS 15 – Planning and Flood Risk
- PPS 21 – Sustainable Development in the Countryside

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause “demonstrable harm to interests of acknowledged importance”.

This site is located in an area of archaeological importance. Historic Environment Division have been consulted and have raised no concerns in this regard. It is not adjacent to any Listed Buildings, priority habitat or designated sites. The proposal for a general industrial building to be used for the manufacturing of gates will not impact on residential amenity by way of unacceptable noise, odours or fumes. This has been verified following consultation with EH and conditions have been recommended to ensure the protection of residential amenity. Issues around flooding will be discussed further in this report.

The SPPS does give specific provision for Economic Development, Industry and Commerce subject to a number of policy provisions. It does not present any change in policy direction with regards to industrial development in the Countryside. As such, existing policy will be applied (ie) PPS 4.

Magherafelt Area Plan 2015

This site is located outside any settlement defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations, key site requirements and the plan does not have any policies for this type of development in a rural location. As such, existing planning policy will be applied (ie) PPS 4

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy and Policy ECON 2 (d) are applicable to this application. In my opinion this proposal is not in conflict with either of these policies. It is however acknowledged that no weight can be given to this document as it is only at public consultation stage.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of an existing unaltered access onto the Derrynoid Road. The proposal will result in a minor intensification of use of this existing access. DFI Roads have been consulted and have advised that they have no objections subject to the provision of 2.4m x 90m sight splays. This can be a condition of approval

PPS 4 – Planning and Economic Development

The principle of an industrial use on this site has been long established judging by the planning history, which suggests the site has had an industrial use dating back to 2001.

Policy PED 2 of PPS 4 states that economic development uses in the countryside will be permitted in accordance with four other policies – PED 3, PED 4, PED 5 and PED 6. I consider Policy PED 3 – Expansion of an Economic Development in the Countryside to be relevant in this assessment as well as PED 9 - General Criteria for Economic Development.

PED 3 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. Expansion is normally expected to be accommodated through reuse or extensions. New buildings will be approved if they are in proportion to existing buildings and integrate as part of the overall development. Extensions should respect the scale, design and materials of original buildings.

The proposed building will be located within the confines of the existing industrial site, therefore no expansion of the site curtilage is necessary. There will be no critical views of the building from the Derrynoid road due to its set back positioning within the existing site and the presence of mature roadside vegetation. There are more critical views of the existing buildings on the site from the Doon Road, however it is my opinion that these critical views will not be exacerbated as a result of this development being approved. The proposal will cause no additional detrimental impact on the rural character or appearance of the local area. Existing vegetation along the SW site boundary is shown to be retained and should go some way to providing some integration, especially when viewed from the Doon Road. This new building will similar in scale and design to existing buildings on the site and will integrate as part of the overall development.

PED 9 General Criteria for Economic Development must also be satisfied for all economic development and provides a list of 13 criteria (a) to (m) which need to be considered. I have considered the proposal against the list of criteria and I am satisfied the proposal complies with all of them were applicable. I want to make particular reference to Criteria (d) which refers to flooding, which I will address in detail further in this report.

PPS 6 – Planning, Archaeology and the Built Heritage

This site is in an area recognised for its archaeological potential, in particular, a megalithic tomb. Historic Environment Division have been consulted and have raised no concerns in this regard.

PPS 15 – Planning and Flood Risk

The Rivers Agency Strategic Flood Maps indicate that this site lies just within the 1 and 100 year strategic fluvial flood plain. The existing industrial development on the site would have been constructed prior to the implementation of PPS 15. Policy FLD 1 does not permit development in the 1 to 100 year fluvial flood plain. It does however set out an exceptions test. The proposal does not meet any of the exceptions listed.

Policy FLD 1 also makes reference to Development Proposals of Overriding Regional or Sub-Regional Economic Importance. It states that a development proposal within the floodplain that does not constitute an exception to the policy may be permitted where it is deemed to be of overriding regional or sub regional economic importance. The applicant has submitted an Economic Importance Statement in which a case is made to consider this development as being of sub-regional economic importance. This case has not been accepted.

The applicant has also submitted a Flood Risk Assessment (FRA) in conjunction with an adjacent application (LA09/2018/0785/F). The FRA report states that displaced flood water due to the proposed developments increases flood levels on both application sites. The report states that both applicants have accepted this potential increase in flood risk to both sites and that a flood management plan will be implemented. Rivers Agency, in their consultation response have not raised any concern about the displacement of flood water on adjacent third party lands. They have advised that implementation of any flood management plan is a matter for the Council and that they cannot sustain a reason to object to the proposal from a drainage or flood risk perspective. They have also advised that compliance with FLD 1 is also a matter for the Council to decide.

It is evident from the plans submitted that the development does not involve any expansion into adjacent lands. The proposed development is contained solely within the existing industrial site, which is already subject to potential flooding. On the basis that the applicant and the applicant of the adjacent application have accepted the resulting increase in flood risk to both of their sites and the fact that Rivers have raised no concern about the displacement of flood water onto adjacent land, members are requested to consider this proposal as an exception to Policy FLD 1 of PPS 15. It is also recommended that a condition be attached to any approval that the Flood Management Plan, referred to in the FRA be submitted to the Council for agreement prior to any development becoming operational on site.

PPS 21 – Sustainable Development in the Countryside

Policies CTY 13 (Design and Integration) and CTY 14 (Rural Character) are relevant in this assessment given the rural location of the site. I have no concerns regarding the visual impact of this development which is located within an existing business park. Design and

finishes are also acceptable. It does not create or add to ribbon development or build up. Overall it does not have a negative impact on the rural character of this area.

Other Material Considerations

All developments proposals must accord with the local Area Plan and relevant Planning Policy, unless other material considerations indicate otherwise. In considering this proposal it is important to hold weight to Planning Legislation, in particular, the Planning (General Permitted Development) Order (Northern Ireland) 2015. Part 9 sets out the permitted development criteria for Industrial and Warehouse Development. Whilst the current proposal does not meet all the criteria in Part 9, it is clear that the applicant could erect a substantial extension to his building under permitted development as long as it was located the appropriate distance from the boundary and it was a certain height irrespective of the flooding issue.

Neighbour Notification Checked

Yes

Summary of Recommendation:

This proposal, to expand an existing economic development in the countryside, complies with the relevant policies contained within PPS4. The site however is located within the 1 in 100 year fluvial flood plain. The proposal does not meet any of the exception tests for undefended areas contained under Policy FLD1 of PPS 15, however given the fact that the development proposed is contained within the existing site curtilage, displaced flood water will not impact on adjacent third parties and the on the basis that the applicant could utilise his industrial permitted development rights to extend his development, members are duly requested to consider this proposal as an exception to policy FLD 1 of PPS 15.

Approval is recommended

Conditions

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

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

2.The vehicular access, including visibility splays of 2.4m x 90m in both directions, shall be in place, in accordance with Drawing No.02 rev 1 bearing the date stamp 1st March 2019, prior to the commencement of any other works or other development hereby permitted.

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

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

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

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

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

5.No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 rev 1, bearing date stamp 1st March 2019 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.

6.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

7.The development hereby approved shall be used only for economic development categorised under Use Class B3 (General Industrial) and for no other Use Class identified in the Planning (Use Classes) Order (Northern Ireland) 2015

8.The business hereby permitted shall not operate outside 07:00-18:00hrs Monday to Friday and 07:00-13:00hrs on a Saturday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity.

9.No construction or manufacture of products shall be undertaken in the external yard areas of the businesses, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity.

10.Within 4 weeks of a written request by the Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of noise from the development. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The

Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect nearby residential amenity.

11.The existing vegetation along the SW site boundary shall be retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

12.Prior to the operation of the development hereby approved, the Flood Management Plan, as detailed on page 13 of the Flood Risk Assessment prepared by McCloy Consulting, shall be submitted and agreed by Mid Ulster District Council.

Reason: To protect against flooding

Informatives

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

The applicant is advised that under Article 11 of the Roads Order (NI) 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

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

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road

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

2.The responsibility for the accuracy, acceptance of the Flood Risk Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (refer to section 5.1 of PPS 15).

Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of DfI. This should be obtained from our Western Regional Office, Woodside Avenue, Gortin Road, Lisnamallard, Omagh, BT79 7BP.

Signature(s)

Date:

ANNEX	
Date Valid	5th April 2018
Date First Advertised	19th April 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 15 Doon Road Draperstown Londonderry The Owner/Occupier, 15a Doon Road Draperstown The Owner/Occupier, 74 Derrynoyd Road, Draperstown, Londonderry, BT45 7DN The Owner/Occupier, 74a Derrynoyd Road, Draperstown, Londonderry, BT45 7DN The Owner/Occupier, Sperrin Metal (unit 3) 76 Derrynoyd Road, Draperstown, Londonderry, BT45 7DN The Owner/Occupier, TFR Refridgeration Ltd 76 Derrynoyd Road, Draperstown, Londonderry, BT45 7DN	
Date of Last Neighbour Notification	24th October 2019
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: H/2013/0344/RM Proposal: Proposed dwelling and Garage with business in connection with the business enterprise Address: Lands to rear of 74 Derrynoyd Road, Draperstown, Decision: PG Decision Date: 13.11.2013 Ref ID: LA09/2018/0785/F Proposal: Erection of ancillary store building and ancillary store extension to existing workshop at Address: Sperrin Metal Storage Solutions, Rogers Business Park, 76 Derrynoyd Road, Draperstown, Decision: AL Decision Date:	

Ref ID: H/2013/0477/F

Proposal: Retention of re-siting of workshop previously approved under application H/2003/0088/F and proposed erection of new fence and gates within site curtilage

Address: 76 Derrynoyd Road, Draperstown, BT45 7DW,

Decision: PG

Decision Date: 28.02.2014

Ref ID: LA09/2018/0471/F

Proposal: Proposed new general industrial building (Use class B) with ancillary accommodation.

Address: Lands at 76 Derrynoid Road, Draperstown, Co Derry, BT45 7DN.,

Decision: AL

Decision Date:

Ref ID: H/2005/1171/F

Proposal: Construction of 1 No. steel portal framed workshop within existing site curtilage for powder coating and assembly of supplied components forming gates and fencing.

Address: 76 Derrynoid Road, Draperstown

Decision:

Decision Date: 11.04.2008

Ref ID: H/2002/0474/F

Proposal: New Office Building

Address: 76 Derrynoyd Road, Draperstown

Decision:

Decision Date: 14.02.2003

Ref ID: H/2003/0088/F

Proposal: New Workshop.

Address: 76 Derrynoyd Road, Draperstown, Magherafelt.

Decision:

Decision Date: 28.08.2003

Ref ID: H/2004/0963/F

Proposal: Proposed garage and storage building facility

Address: The Rural College, Derrynoid, Draperstown

Decision:

Decision Date: 07.12.2004

Ref ID: H/1997/0538

Proposal: ALTERATIONS TO ACCESS

Address: 76 DERRYNOID ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/2001/0578/F

Proposal: Proposed erection of new office building, workshop and store

Address: 76 Derrynoyd Road, Draperstown, Co Derry

Decision:

Decision Date: 05.10.2001

Ref ID: H/2009/0272/O

Proposal: New business premises including a dwelling in connection with the business enterprise

Address: Land to rear of No.74 Derrynoid Road, Draperstown

Decision:

Decision Date: 19.04.2011

Ref ID: H/2002/0208/O

Proposal: Site of Dwelling & Garage

Address: Site 230 South East of 74 Derrynoyd Road, Draperstown

Decision:

Decision Date: 24.05.2002

Ref ID: H/2002/1032/O

Proposal: Site of dwelling and garage.

Address: Site 260 South East of 74 Derrynoyd Road, Draperstown.

Decision:

Decision Date: 03.02.2003

Ref ID: H/1979/0199

Proposal: SITE OF FARM DWELLING

Address: DERRYNOYD ROAD, STRAWMORE, DRAPERSTOWN

Decision:

Decision Date:

Summary of Consultee Responses

EH – No objection. Conditions recommended

DFI Roads – No objection. Condition recommended

Rivers – No objection

HED – No objection

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 3/12/19	Item Number:
Application ID: LA09/2018/0785/F	Target Date: 18/9/18
Proposal: Erection of ancillary store building and ancillary store extension to existing workshop at	Location: Sperrin Metal Storage Solutions Rogers Business Park 76 Derrynoyd Road Draperstown
Referral Route: 2 objections received	
Recommendation: Approve	
Applicant Name and Address: Sperrin Metal Storage Solutions Cahore Road Draperstown	Agent Name and Address: O'Conner Burke Architecture Ltd 1 College Terrace Derry, BT48 7NZ
<p>Executive Summary: This proposal, to expand an existing economic development in the countryside, complies with the relevant policies contained within PPS4. The site however is located within the 1 in 100 year fluvial flood plain. The proposal does not meet any of the exception tests for undefended areas contained under Policy FLD1 of PPS 15, however given the fact that the development proposed is contained within the existing site curtilage, displaced flood water will not impact on adjacent third parties and the on the basis that the applicant could utilise his industrial permitted development rights to erect something of a similar size provided it was the required distance away from the site boundary, members are duly requested to consider this proposal as an exception to policy FLD 1 of PPS 15.</p> <p>Both objections have been fully considered and following consideration of consultation advice from Environmental Health, it is my opinion that the objections do not merit the refusal of this application. Conditions are recommended in order to ensure the protection of adjacent residential amenity and to protect against flooding.</p>	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Environmental Health Mid Ulster Council	No Response
Statutory	Rivers Agency	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	

Representations:

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

Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified of the proposal.

To date there have been 2 objections received from the occupants of number 74 Derrynoid Road and the occupants of number 74a Derrynoid Road. The issues raised by these third parties are summarised as follows:

- They have no objection in principle.
- The need, siting and integration of the detached store and its impact on their residential amenity in terms of noise
- How the proposed acoustic barrier fence will address their noise concerns
- Their concern about the content and conclusions of the noise report submitted
- The dwelling at number 74a is not indicated on the plans
- Site layout does not indicate topographical levels
- A request that conditions be attached in relation to operating hours and use.

Members are advised that EH have been consulted with this application and the associated acoustic report (including an addendum). EH have responded and have raised no objections in terms of the impact on residential amenity from unacceptable noise levels. They have recommended conditions to ensure the protection of residential amenity. These relate to hours of operation, no manufacturing outside the buildings and the requirement for the applicant to assess noise if a reasonable noise complaint is received in the future.

Despite the dwelling at number 74a not been shown on the site location (this is a recently constructed dwelling), I am satisfied that EH have considered the impact on this dwelling as they have been made aware of the objection from the occupants of number 74a.

It is also noted that the objector at number 74a was granted approval for their dwelling in connection with a business enterprise where it would have been accepted that there was going to be a reduced level of amenity experienced due to the proximity of the dwelling to the business enterprise.

It is my opinion that the objections to this proposal do not merit the refusal of the application.

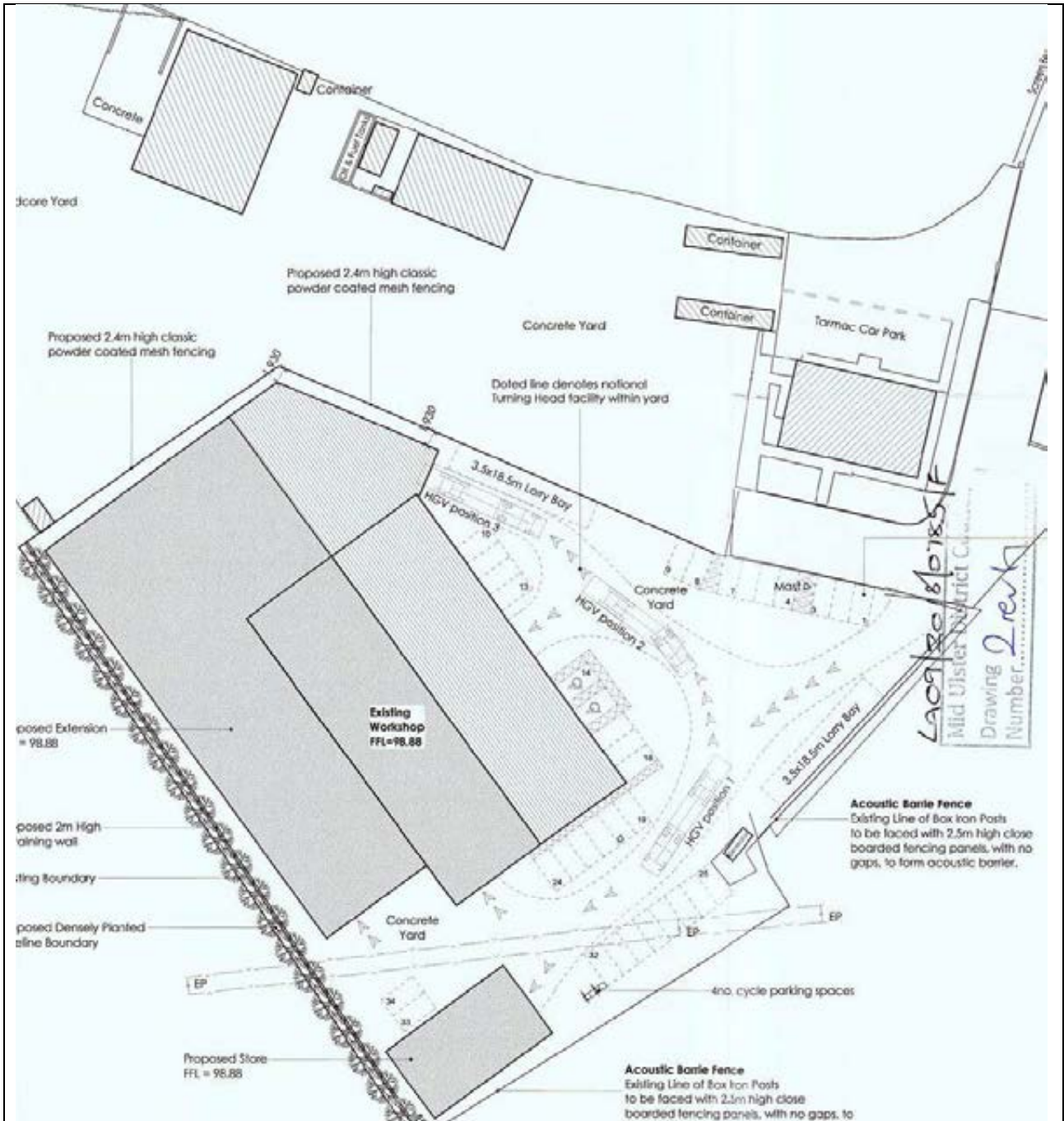
Characteristics of the Site and Area

The application site is 0.58 hectare plot of industrial land within “Rogers Business Park” located at 76 Derrynoid Road, Draperstown. It is approximately 2 miles outside the development limits of Draperstown and is just opposite the entrance to Derrynoid Wood and Rural College. The application site contains one large industrial shed currently used as a workshop by “Sperrin Metal Storage Solutions”. The remainder of the Business Park contains 3 smaller industrial sheds occupied by Inova Gates, several metal shipping containers and a two storey detached office building. At the entrance to the site, adjacent to the public road is another large industrial building occupied by TFR. The application site is defined to the SW by a retaining wall, an embankment topped with semi mature vegetation and security fencing. The SE boundary is defined by security fencing and sporadic gorse hedgerow. The remaining boundaries are void of any form of boundary treatment. To the immediate SE of the site is a detached third party dwelling, number 74a Derrynoid Road and further to the NE is another detached third party dwelling, number 74 Derrynoid Road.

This is an upland rural area with a dispersed settlement pattern. It is recognised as being an area of archaeological importance (LDY 040:008). It is also recognised as being within the 1 in 100 year strategic fluvial flood plain.

Description of Proposal

This is a full application for the erection of ancillary store building (176sqm) and an ancillary store extension (1458sqm) to the existing workshop. It will also involve ancillary works, including the retention of a retaining wall, the provision of formalised parking areas and the erection of 2.4m high security fencing to define the site curtilage within the Business Park (see proposed site layout below)



Planning Assessment of Policy and Other Material Considerations

Relevant Planning History

LA09/2018/0471/F - Proposed new general industrial building (Use class B) with ancillary accommodation. Lands at 76 Derrynoid Road, Draperstown, Co Derry, BT45 7DN. Under consideration.

H/2013/0477/F - Retention of re-siting of workshop previously approved under application H/2003/0088/F and proposed erection of new fence and gates within site curtilage, 76 Derrynoyd Road, Draperstown, BT45 7DW. Approved 28/02/2014

H/2009/0272/O - New business premises including a dwelling in connection with the business enterprise. Land to rear of No.74 Derrynoid Road, Draperstown. Approved 19/04/2011

H/2005/1171/F - Construction of 1 No. steel portal framed workshop within existing site curtilage for powder coating and assembly of supplied components forming gates and fencing. 76 Derrynoid Road, Draperstown. Approved 11/04/2008

H/2003/0088/F - New Workshop. 76 Derrynoyd Road, Draperstown, Magherafelt. Approved 28/08/2003

The following policies will be considered in this assessment:

- SPPS – Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- PPS 3 – Access, Movement and Parking
- PPS 4 – Planning and Economic Development
- PPS 6 – Planning, Archaeology and the Built Heritage
- PPS 15 – Planning and Flood Risk
- PPS 21 – Sustainable Development in the Countryside

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause “demonstrable harm to interests of acknowledged importance”.

This site is located in an area of archaeological importance. Historic Environment Division have been consulted and have raised no concerns in this regard. It is not adjacent to any Listed Buildings, priority habitat or designated sites. The proposal by its nature – an ancillary store and extension to a work shop to provide bespoke metal storage solutions – will not give rise to any unacceptable noise, odours or fumes which have the potential to impact on neighbouring residential amenity. This has been verified following consultation with EH.

The SPPS does give specific provision for Economic Development, Industry and Commerce subject to a number of policy provisions. It does not present any change in policy direction with regards to industrial development in the Countryside. As such, existing policy will be applied (ie) PPS 4.

Magherafelt Area Plan 2015

This site is located outside any settlement defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations, key site requirements and the plan does not have any policies for this type of development in a rural location. As such, existing planning policy will be applied (ie) PPS 4

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy and Policy ECON 2 (d) are applicable to this application. In my opinion this proposal is not in conflict with either of these policies. It is however acknowledged that no weight can be given to this document as it is only at public consultation stage.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of an existing unaltered access onto the Derrynoid Road. The proposal will result in a minor intensification of use of this existing access. DFI Roads have been consulted and have advised that they have no objections subject to the provision of 2.4m x 90m sight splays. This can be a condition of approval

PPS 4 – Planning and Economic Development

The principle of an industrial use on this site has been long established judging by the planning history, which suggests the site has had an industrial use dating back to 2001.

Policy PED 2 of PPS 4 states that economic development uses in the countryside will be permitted in accordance with four other policies – PED 3, PED 4, PED 5 and PED 6. I consider Policy PED 3 – Expansion of an Economic Development in the Countryside to be relevant in this assessment as well as PED 9 - General Criteria for Economic Development.

PED 3 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. Expansion is normally expected to be accommodated through reuse or extensions. New buildings will be approved if they are in proportion to existing buildings and integrate as part of the overall development. Extensions should respect the scale, design and materials of original buildings.

The proposed extension and new store will be located within the confines of the existing Business Park, therefore no expansion of the site curtilage is necessary. There will be no critical views of the extension or the new store from the Derrynoid road due to their set back positioning within the existing site. There are more critical views of the existing buildings on the site from the Doon Road, however it is my opinion that these will not be exacerbated as a result of this development. The proposal will cause no additional detrimental impact on the rural character or appearance of the local area. A band of trees

are shown to be planted along the SW boundary which should go some way to providing some integration, especially when viewed from the Doon Road.

PED 9 General Criteria for Economic Development must also be satisfied for all economic development and provides a list of 13 criteria (a) to (m) which need to be considered. I have considered the proposal against the list of criteria and I am satisfied the proposal complies with all of them were applicable. I want to make particular reference to criteria (b – amenity) and criteria (e – noise), given the fact that there have been objections which have referenced similar issues. Environmental Health have been consulted with this proposal. They have not objected to the proposal and have recommended conditions to mitigate against any adverse noise impacts to ensure the protection of residential amenity. Criteria d refers to flooding, which I will address in detail further in this report.

PPS 6 – Planning, Archaeology and the Built Heritage

This site is in an area recognised for its archaeological potential, in particular, a megalithic tomb. Historic Environment Division have been consulted and have raised no concerns.

PPS 15 – Planning and Flood Risk

The Rivers Agency Strategic Flood Maps indicate that this site lies within the 1 and 100 year strategic fluvial flood plain. The existing industrial development on the site would have been constructed prior to the implementation of PPS 15. Policy FLD 1 does not permit development in the 1 to 100 year fluvial flood plain. It does however set out an exceptions test. The proposal does not meet any of the exceptions listed.

Policy FLD 1 also makes reference to Development Proposals of Overriding Regional or Sub-Regional Economic Importance. It states that a development proposal within the floodplain that does not constitute an exception to the policy may be permitted where it is deemed to be of overriding regional or sub regional economic importance. The applicant has submitted an Economic Importance Statement in which a case is made to consider this development as being of sub-regional economic importance. This case has not been accepted.

The applicant has also submitted a Flood Risk Assessment (FRA) in conjunction with an adjacent application (LA09/2018/0471/F). The FRA report states that displaced flood water due to the proposed developments increases flood levels on both application sites. The report states that both applicants have accepted this potential increase in flood risk to both sites and that a flood management plan will be implemented. Rivers Agency, in their consultation response have not raised any concern about the displacement of flood water on adjacent third party lands. They have advised that implementation of any flood management plan is a matter for the Council and that they cannot sustain a reason to object to the proposal from a drainage or flood risk perspective. They have also advised that compliance with FLD 1 is also a matter for the Council to decide.

It is evident from the plans submitted that the development does not involve any expansion into adjacent lands. The proposed development is contained solely within the existing industrial site, which is already subject to potential flooding. On the basis that the applicant and the applicant of the adjacent application have accepted the resulting increase in flood risk to both of their sites and the fact that Rivers have raised no concern about the

displacement of flood water onto adjacent land, members are requested to consider this proposal as an exception to Policy FLD 1 of PPS 15. It is also recommended that a condition be attached to any approval that the Flood Management Plan, referred to in the FRA be submitted to the Council for agreement prior to any development becoming operational on site.

PPS 21 – Sustainable Development in the Countryside

Policies CTY 13 (Design and Integration) and CTY 14 (Rural Character) are relevant in this assessment given the rural location of the site. I have no concerns regarding the visual impact of this development which is located within an existing business park. Design and finishes are also acceptable. It does not create or add to ribbon development or build up. Overall it does not have a negative impact on the rural character of this area.

Other Material Considerations

All developments proposals must accord with the local Area Plan and relevant Planning Policy, unless other material considerations indicate otherwise. In considering this proposal it is important to hold weight to Planning Legislation, in particular, the Planning (General Permitted Development) Order (Northern Ireland) 2015. Part 9 sets out the permitted development criteria for Industrial and Warehouse Development. Whilst the current proposal does not meet all the criteria in Part 9, it is clear that the applicant could erect a substantial extension to his building under permitted development as long as it was located the appropriate distance from the boundary and it was a certain height irrespective of the flooding issue.

Neighbour Notification Checked

Yes

Summary of Recommendation:

This proposal, to expand an existing economic development in the countryside, complies with the relevant policies contained within PPS4. The site however is located within the 1 in 100 year fluvial flood plain. The proposal does not meet any of the exception tests for undefended areas contained under Policy FLD1 of PPS 15, however given the fact that the development proposed is contained within the existing site curtilage, displaced flood water will not impact on adjacent third parties and on the basis that the applicant could utilise his industrial permitted development rights to extend his development, members are duly requested to consider this proposal as an exception to policy FLD 1 of PPS 15.

Both objections have been fully considered and following consideration of consultation advice from Environmental Health, it is my opinion that the objections do not merit the refusal of this application. Conditions are recommended in order to ensure the protection of adjacent residential amenity and to protect against flooding.

Approval is recommended

Conditions

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

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

2.The vehicular access, including visibility splays of 2.4m x 90m in both directions, shall be in place, prior to the commencement of any other works or other development hereby permitted.

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

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

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

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

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

5.No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 bearing date stamp 5th June 2018 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.

6.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.

7.The business hereby permitted shall not operate outside 08:00-18:00hrs Monday to Friday and 08:00-13:00hrs on a Saturday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity.

8.No construction or manufacture of products shall be undertaken in the external yard areas of the businesses, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity.

9.Within 4 weeks of a written request by the Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of noise from the development. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect nearby residential amenity.

10.The proposed 2.4m high boundary fencing and the 2.5m acoustic barrier fencing as identified on drawing number 02 revision 1, bearing date stamp 20th February 2018, shall be erected prior to any other development commencing.

Reason : To protect nearby residential amenity

11.All planting comprised in the approved plans shall be carried out in the first planting season following the commencement of the building and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

12. Prior to the operation of the development hereby approved, the Flood Management Plan, as detailed on page 13 of the Flood Risk Assessment prepared by McCloy Consulting, shall be submitted and agreed by Mid Ulster District Council.

Reason: To protect against flooding

Informatives

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

The applicant is advised that under Article 11 of the Roads Order (NI) 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

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

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

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

It is the responsibility of the developer to ensure that

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

2.The responsibility for the accuracy, acceptance of the Flood Risk Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (refer to section 5.1 of PPS 15).

Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of DfI. This should be obtained from our Western Regional Office, Woodside Avenue, Gortin Road, Lisnamallard, Omagh, BT79 7BP.

Signature(s)

Date

ANNEX

Date Valid

5th June 2018

Date First Advertised	21st June 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 15 Doon Road Draperstown Londonderry The Owner/Occupier, 15a Doon Road Draperstown The Owner/Occupier, 74 Derrynoyd Road, Draperstown, Londonderry, BT45 7DW, The Owner/Occupier, 74a Derrynoyd Road, Draperstown, Londonderry, BT45 7DW, Sheila Curtin Email Address Sheila Curtin Email Address The Owner/Occupier, Inova Gates 76 Derrynoyd Road, Draperstown, Londonderry, BT45 7DN The Owner/Occupier, TFR Refridgeration Ltd 76 Derrynoyd Road, Draperstown, Londonderry, BT45 7DN	
Date of Last Neighbour Notification	11th October 2019
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: H/2013/0344/RM Proposal: Proposed dwelling and Garage with business in connection with the business enterprise Address: Lands to rear of 74 Derrynoyd Road, Draperstown, Decision: PG Decision Date: 13.11.2013 Ref ID: H/2013/0477/F Proposal: Retention of re-siting of workshop previously approved under application H/2003/0088/F and proposed erection of new fence and gates within site curtilage Address: 76 Derrynoyd Road, Draperstown, BT45 7DW, Decision: PG Decision Date: 28.02.2014 Ref ID: LA09/2018/0785/F Proposal: Erection of ancillary store building and ancillary store extension to existing workshop at	

Address: Sperrin Metal Storage Solutions, Rogers Business Park, 76 Derrynoyd Road, Draperstown,
Decision:
Decision Date:

Ref ID: LA09/2018/0471/F

Proposal: Proposed new general industrial building (Use class B) with ancillary accommodation.

Address: Lands at 76 Derrynoid Road, Draperstown, Co Derry, BT45 7DN.,

Decision:

Decision Date:

Ref ID: H/2005/1171/F

Proposal: Construction of 1 No. steel portal framed workshop within existing site curtilage for powder coating and assembly of supplied components forming gates and fencing.

Address: 76 Derrynoid Road, Draperstown

Decision:

Decision Date: 11.04.2008

Ref ID: H/2002/0474/F

Proposal: New Office Building

Address: 76 Derrynoyd Road, Draperstown

Decision:

Decision Date: 14.02.2003

Ref ID: H/2003/0088/F

Proposal: New Workshop.

Address: 76 Derrynoyd Road, Draperstown, Magherafelt.

Decision:

Decision Date: 28.08.2003

Ref ID: H/1997/0538

Proposal: ALTERATIONS TO ACCESS

Address: 76 DERRYNOID ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/2001/0578/F

Proposal: Proposed erection of new office building, workshop and store

Address: 76 Derrynoyd Road, Draperstown, Co Derry

Decision:

Decision Date: 05.10.2001

Ref ID: H/2009/0272/O

Proposal: New business premises including a dwelling in connection with the business enterprise

Address: Land to rear of No.74 Derrynoid Road, Draperstown

Decision:

Decision Date: 19.04.01

Summary of Consultee Responses

EH – No objection. Conditions recommended

DFI Roads – No objection. Condition recommended

Rivers – No objection

HED – No objection

Drawing Numbers and Title

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

Drawing No. 10
Type: Proposed Plans
Status: Submitted

Drawing No. 09
Type: Existing Plans
Status: Submitted

Drawing No. 08
Type: Existing Plans
Status: Submitted

Drawing No. 07
Type: Proposed Plans
Status: Submitted

Drawing No. 06
Type: Proposed Plans
Status: Submitted

Drawing No. 05
Type: Proposed Plans
Status: Submitted

Drawing No. 04
Type: Proposed Plans
Status: Submitted

Drawing No. 03
Type: Site Appraisal or Analysis
Status: Submitted

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

Drawing No.
Type:
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0943/F	Target Date:
Proposal: Extension to existing factory premises to provide staff car parking	Location: 70m South of 177 Annagher Road Coalisland (DMAC Engineering Factory)
Referral Route: Refusal, objections	
Recommendation:	Refuse
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan 01



Representations:

Letters of Support	None Received
Letters of Objection	4
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

-detrimental impact of proposal on newt, bat and badger population surrounding the site. The objector provided some photographs to show badger sets and newts within a pond on his land. The objector also provided an e-mail from a Mid Ulster Council Biodiversity Officer, which highlights the presence of some badger sets within the area however these are not indicated on a map nor is there any evidence of use.

-land ownership queries. The objector claims that part of the application site to the south is not within the applicants control, and belongs to the objector. No further evidence was received. This has not been raised with the applicant as yet.

-Sound Barrier- by cutting through the existing sound barrier on site will increase noise levels at the objectors property which will cause unacceptable detriment to residential amenity;

-Parking Need- there is no need for parking at this part of the facility as there is ample parking provision within existing curtilage boundaries;

-Soakaway/Drainage- the proposal will be on top of drainage for DMAC which may increase flooding at the objectors property;
 -there is concern that the applicant is trying to extend into this part of the site again, this is years after removal of unauthorised development from this part of the site.

Description of proposal

This is a full planning application for an extension to existing factory premises to provide staff car parking.

Characteristics of site and area

This site is located adjacent and south of the existing approved DMAC engineering factory which is accessed from Annagher Road. It is proposed to use the same access position that the business currently uses, but to direct staff carparking from its current location to the front of the factory building, to an area of land located to the SE. At present there is a sizable earth bund, approx 4-5m high, which separates the proposed parking area from the existing factory and yard. There is also earth banking and mature landscaping along the SE and NE boundaries of the site.

Topography is relatively flat and the site is defined by exposed bare soil/earth. This part of the site is where most of the drainage works for DMAC have been carried out, which can be evidenced on site.

To the south is a detached single dwelling. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Planning Assessment of Policy and Other Material Considerations

Area Plan

Dungannon South Tyrone Area Plan 2010- The site is located just outside the development limits of Coalisland, in the countryside. The policy provisions of SPPS and PPS21 apply.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this, the Draft Plan cannot be given any determining weight at this time.

Planning Policy

SPPS- Strategic Planning Policy Statement

PPS21- Sustainable Development in the Countryside

PPS4- Planning and Economic Development

PPS3- Movement Access and Parking

PPS2- Natural Heritage

PPS15- Planning and Flood Risk

Relevant Planning History

M/2011/0126/F- permission granted for a small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland, for DMAC on 13.04.2015 (North of application site).

M/2006/2126/F- Retention of Replacement shed for the purpose of paint spraying machine components, permission was refused on 22.06.2017.

An enforcement notice was served on this site for unauthorised breached in planning control and the offender fined £15,000.

There are various other planning histories on or close to this site (both planning applications and enforcement cases) however most relate to the factory to the north, some of which are ongoing.

3rd Party Objections

A number of objections have been received by the same objector, who is located at 36 Washingbay Road (approx 140m SW from the proposed car park). These objections relate to;
 -detrimental impact of proposal on newt, bat and badger population surrounding the site. The objector provided some photographs to show badger sets and newts within a pond on his land. The objector also provided an e-mail from a Mid Ulster Council Biodiversity Officer, which highlights the presence of some badger sets within the area however these are not indicated on a map nor is there any evidence of use.

-land ownership queries. The objector claims that part of the application site to the south is not within the applicants control, and belongs to the objector. No further evidence was received. This has not been raised with the applicant as yet.

-Sound Barrier- by cutting through the existing sound barrier on site will increase noise levels at the objectors property which will cause unacceptable detriment to residential amenity;

-Parking Need- there is no need for parking at this part of the facility as there is ample parking provision within existing curtilage boundaries;

-Soakaway/Drainage- the proposal will be on top of drainage for DMAC which may increase flooding at the objectors property;

-there is concern that the applicant is trying to extend into this part of the site again, years after unauthorised operations have been removed from this part of land.

Consideration

The proposal is for the expansion of an established economic use in the countryside. PPS21 Sustainable Development in the Countryside, Policy CTY1 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 PPS's, and PPS4 is a retained policy until such time as a Plan Strategy for Mid Ulster is adopted. SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal.

The relevant policy consideration is PED 3 of PPS 4- Expansion of an Existing Economic Development Use in the Countryside:

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

The proposal consists of the expansion to the established curtilage of DMAC Engineering, to provide a car park for business employees with 114 spaces.

It is proposed to access this car park through the existing yard of DMAC, where an existing earth bund will be cut through to provide access to the land to the south. At present this earth bund helps to reduce the impacts of noise from DMAC operations.

The applicant/agent also provided a supporting statement for the car park at this location. It is argued by the agent that the existing staff car parking is interfering with factory operations and is not safe. Land to the east of the factory cannot be used due to health and safety reasons and that this area will be used to store finished machines. There is also a gas container located to the SE corner of the factory, which would be dangerous for employees to pass every day.

In my view the proposed extension would not represent a major increase in the site area of the existing established business. Set back from the public road, it is low in the landscape and will benefit from existing earth banks and landscaping for integration. In my view the proposal will not have a detrimental impact to the visual character of this area of countryside.

However, cars will now be moved to an area that is closer to the rear of properties located along Washingbay Road. This will mean that cars will be travelling through a passage cut through an earth banking at 7am in the morning, engines will be stopping and starting, doors will be slamming and opening. In my view, this noise nuisance close to residential development is not something that you would normally expect to hear in the countryside. For this reason it is my opinion that the character of this area of countryside and nearby residential amenity will be detrimentally impacted thorough noise, nuisance and general disturbance.

In the past, this part of the site was used for industrial operations and an unauthorised building was constructed. This was subject to enforcement proceedings and the unauthorised use and building was removed from the land. Part of the reasoning to allow DMAC to relocate further to the north, behind substantial landscaped earth banking, was to protect existing residential amenity . The objector thinks that it is a deliberate tactic by DMAC to extend factory operations to this part of land that was subject to previous enforcement actions in previous years, in an effort to secure future permissions on this part of land. I cannot attach any weight to this argument as I can only consider the facts presented.

In order to demonstrate that noise nuisance will not have a detrimental impact on residential amenity the agent has provided a Noise Impact Assessment. Environmental Health have provided comment on the most recent version of this assessment and make the following comments;

'It should be noted that a 4.5m high earth bund is currently positioned to the south of the existing factory to mitigate noise from the existing DMAC factory. This earth mound is a requirement of planning decision M/2011/0126/F listed as condition 14 on Decision Notice dated 15th April 2015 and was incorporated to reduce noise from the existing factory. This planning application seeks to cut through the existing earth bund to create a car park to the south and beyond the current site boundary.

We have concerns around the performance of the existing earth bund as a noise barrier to existing site activities if part of the barrier is removed and would contend that this may lead to increased noise levels due to existing site activities at nearby residential properties.

A Grainger Acoustics report has been submitted in support of this application for an extension to existing factory premises to provide staff car parking and we would provide the following comments:

We note that the consultancy has used noise obtained from cars passing a point on the existing driveway at a rate of 20 cars per hour. Current operating hours for the DMAC facility range from 7am to 8pm Monday to Friday and 8am to 2pm on Saturdays. We agree with the consultancy that traffic movements will peak twice daily (arrival and departure from the DMAC facility). However, we note from the CMI supporting statement that the site currently employs 127 people, the majority of whom would be assumed to arrive by vehicle. We therefore believe traffic movements of approximately 100 cars per 10 minutes is more reflective of the situation as vehicles will arrive en masse prior to 7am and post 5pm but this is unlikely to extend to a period of 1 hour as used within the assessment.

The proposal includes plans for approximately 114 car parking spaces but the assessment considers a line source assessment i.e. cars travelling past a fixed point. Other noise associated with car parking which has not been considered within the report include engine start up and car door slamming, both of which are likely to be noisier and door slamming will have a peak LMax value which does not seem to have been considered within the assessment. The noise assessment should consider all encompassing noise from within the proposed car parking area.

It is also unclear why the ISO 717 correction was applied as this standard considers the impact of building sound insulation on internal noise levels from road traffic noise measurements, yet

this assessment seems to consider the impact of noise on external amenity and not within nearby residential receptors.

Table 1 identifies three receptors on Washing Bay Road but 6 additional properties are located within 200 metres of the proposed site and appear to have been omitted from the assessment. These are; 181, 183, 193, 193A, 195 and 197 Dernagh Road and lie to the east of the proposal.

A current planning application (LA09/2019/0179/F) has also been submitted to amend condition 12 of M/2011/0126/F planning decision to alter the starting time from 7am to 6am. Travel to the site and any noise from the car park could potentially have more impact with earlier opening as background noise levels are likely to be lower.

Until the above matters are addressed, no further comment can be provided by this Department on the suitability of the proposal.'

In my view, the agent has not provided sufficient information to demonstrate that acceptable noise levels can be achieved at nearby residential properties. I share the objectors concerns in relation to noise, nuisance and general disturbance. Plus, I contend that there is sufficient space within the existing curtilage of the factory to provide sufficient parking for existing staff and there is no need to extend the factory yard to this area. The reasons given by the agent to relocate to this area are not sufficient.

PED9: General Criteria for Economic Development in that Environmental Health lists a number of criteria that has to be met before permission is granted;

(a) it is compatible with surrounding land uses;

In my view it has not been demonstrated that this proposal is compatible with surrounding landuses in that there is insufficient information to show that there will be no detrimental impact on residential amenity.

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

Again, the agent has failed to demonstrate that nearby residents will not suffer detrimental impact to their private amenity through noise, nuisance and general disturbance. An existing earth bank of around 4-5m high will also have a passage cut through it. This bund at present helps protect existing amenity from noise generated at DMAC. To cut a hole through this bund may affect its noise retention, and may even amplify or channel noise to sensitive receptors nearby which will make the situation worse for them. The onus is on the applicant/agent to clearly demonstrate that this will not be the case.

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

Features of built heritage will not be impacted from this proposal.

The agent has provided a Preliminary Ecological Appraisal. NIEA were consulted to comment on this proposal and to comment on all objections, as well as an e-mail provided to the objector by a Biodiversity Officer within Mid Ulster District Council. NIEA provided comment and raise no objection to this proposal in terms of its impact on the natural environment, including local sites and protected species. I am satisfied that there will be no detrimental impact to natural heritage. Objectors concerns in relation to impacts on protected species are not sustained in this instance.

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

Rivers Agency indicate that the site is not located within a Flood Plain. The agent has provided a Drainage Assessment and Rivers Agency raise no objection its conclusions. Should permission be granted then the proposal should be carried out in accordance with the findings of the Drainage Assessment. The objectors concerns in relation to increased flooding are not sustained in this case.

(e) it does not create a noise nuisance;

It has not been demonstrated that a noise nuisance will not be created by this proposal.

(f) it is capable of dealing satisfactorily with any emission or effluent;
No issues raised 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 were consulted on this proposal and raise no objection. No additional traffic will be generated for this site, existing splays are acceptable for this proposal, parking will be moved to a different area to the SE of the existing site.

(h) adequate access arrangements, parking and manoeuvring areas are provided;
There is sufficient space for access arrangements and DfI Roads raise no concern with this proposal.

(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;

Due to its location, access to this facility relies heavily on private car. This proposal does not change this. The proposal can be accessed by bike and foot and does respect access for people whose mobility is impaired.. In my view the proposal does not impede existing public rights of way. There are poor links to public transport, but this was the case under the existing permission and the situation is not made worse.

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

Existing landscaping can be retained along the site boundaries. Where the car park is to be located is bare soil at present with a very low biodiversity value. In my view, existing biodiversity will not suffer a detrimental impact from this proposal.

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

I am satisfied that the proposal will integrate into the landscape, with little or no public critical views of the carpark from the surrounding area.

(l) is designed to deter crime and promote personal safety; and
The site is secured by fencing and gates.

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

See (k) above.

PPS2 Natural Environment

The agent has provided a preliminary ecological appraisal and NIEA are content that no protected sites, habitats or species will be detrimentally impacted by this proposal. SES confirm that no European designated sites will be detrimentally impacted by this proposal. Objectors concerns in relation to impacts on protected species are not sustained in this instance.

Other considerations

The site is not subject to flooding and acceptable drainage for the site has been demonstrated in a Drainage Assessment. The policy provisions of PPS15 Planning and Flood Risk are not offended.

Environmental Health or NIEA did not raise any land contamination issues.

The Objector has raised concern that land to the south of the application site may be within his ownership. As the objector is aware that the proposal may be on his land, then no one has been prejudiced by the inclusion of this land within the application site, as the landowner is aware. On inspection of the plans, the red line seems to be for inclusion of a drainage pipe, which seems to be included within land controlled by DMAC. Neither party have provided evidence to show landownership. Any 3rd party dispute over land ownership is a matter for the interested parties concerned to sort out (through the Courts if necessary) and Mid Ulster Council cannot adjudicate on such matters.

Objectors concern in relation to other land drainage issues are not for this application to address and is a 3rd party dispute.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That the proposal is refused for the following reasons;

Refusal Reasons

1. The proposal is contrary to CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED3 of Planning Policy Statement 4: Planning and Economic Development in that insufficient information has been provided to demonstrate that the proposal will not have a detrimental impact on the character of this area of countryside by reason of noise, nuisance and general disturbance.
2. The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that insufficient information has been provided to demonstrate that;
 - it is compatible with surrounding land uses;
 - it will not harm the amenities of nearby residents;
 - it will not create a noise nuisance.

Signature(s)

Date:


ANNEX	
Date Valid	5th July 2018
Date First Advertised	19th July 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 36 Washingbay Road Coalisland Tyrone James Hughes 36, Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU James Hughes 36, Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU James Hughes Email James Hughes Email Address	
Date of Last Neighbour Notification	25th July 2019
Date of EIA Determination	
ES Requested	No
Notification to Department (if relevant) Date of Notification to Department: Response of Department:	



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1069/F	Target Date:
Proposal: Proposed 2No additional broiler poultry sheds with 4No feed bins 2No gas tanks and associated development. (Poultry sheds to contain 74000 broilers taking the total site capacity to 132000 broilers)	Location: Land approx. 190m South East of 39 Cornamaddy Road Pomeroy
Referral Route: It is a Major planning application	
Recommendation:	Approve
Applicant Name and Address: Mr Phelim Mc Gee 32 Dernanaught Road Dernanaught Dungannon	Agent Name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Executive Summary:	
Signature(s):	

Case Officer Report		
Site Location Plan		
		
Consultations:		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Foyle Carlingford & Irish Lights Commission	Substantive Response Received
Statutory	DAERA - Omagh	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	NIEA	Advice
Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	Shared Environmental Services	
Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	Foyle Carlingford & Irish Lights Commission	
Non Statutory	Shared Environmental Services	Substantive Response Received
Representations:		

Letters of Support	None Received
Letters of Objection	7
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues	
Characteristics of the Site and Area	
<p>The application site is situated in the rural area outside of any settlement limits and where the predominant land use is agricultural including farm sheds and fields, and there are a number of rural dwellings.</p>	
Description of Proposal	
<p>The application is for 2 additional broiler poultry sheds with 4no feed bins, 2no gas tanks and associated development (Poultry sheds are to contain 74,000 broilers taking the total site capacity to 132,000 broilers).</p>	
Planning Assessment of Policy and Other Material Considerations	
<p>Regional Development Strategy Strategic Planning Policy Statement Dungannon and South Tyrone Area Plan 2010 MUDC Local Development Plan 2030 - Draft Plan Strategy Planning Policy Statement 2 - Natural Heritage Planning Policy Statement 11 Planning and Waste Management Planning Policy Statement 21</p> <p>Section 45 (1) of the Planning Act (NI) 2011 requires a planning authority when dealing with a planning application to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6 (4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p>The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period gave rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.</p> <p>In the DST Area Plan 2010 the application site lies outside any settlement limits in the open countryside.</p> <p>There have been 7 letters of objection received which all raise the same issues as follows:</p> <ol style="list-style-type: none"> 1. The Habitats Regulation Assessment by Shared Environmental Services is based on an inappropriate screening policy; 	

2. The MPLUS provides no certainty as to the destination of the waste and its adverse impact on protected sites is unknown which is contrary to Article 6(3) of the Habitats Directive;
3. The MPLUS agreement did not have a Strategic Environmental Assessment completed at the time of its approval and the impact on protected sites, priority habitats and species is unknown;
4. The MPLUS agreement includes export of waste to another Member State but there is no evidence of export agreements and approvals, permits and licenses being in place, especially post Brexit. The final destination of the waste within another Member State has not been determined nor the adverse impact of that waste;
5. There is no evidence the Planning Authority consulted with another Member State as per the ESPOO Convention regarding the transboundary impact of this project which is in contravention of the EIA Regs;
6. The AD plants cited as potential processing facilities did not have EIA's or Habitats assessments completed at the time of the planning approval. It has not been determined if the waste from these plants will have an adverse impact on protected sites, priority habitats and species;
7. The screening policy of not undertaking an in-combination or cumulative assessment is concerning;
8. The objectors do not agree with non-regulated intensive agricultural sites being screened out from the appropriate assessment;
9. The cumulative impact of all anaerobic digestors, poultry and pig house applications on European Sites in NI and other Member States is not included;
10. The anaerobic digester plants in operation are unlawful due to the lack of an appropriate assessment;
11. The environmental information is flawed as it only considers ammonia;
12. 98% of Special Areas of Conservation exceed the critical levels of nitrogen deposition at which ecological damage occurs and 75% of these sites exceed the thresholds by double and some by over 400%;
13. The European Court of Justice ruling against the RoI which concluded that Habitats subject to degradation must be given time to recover.
14. The objectors feel the level of gaps in evidence in contravention of Annex IV of the EIA Directive and the degree of maladministration mean it will be unlawful for the Planning Authority to approve this project.

In addressing the above points of objection both NIEA and Shared Environmental Services hold the expert advice and both have provided consultation responses to the planning application. It is for NIEA and SES to decide on the appropriateness of the screening policies used by them and MUDC cannot comment on these issues.

Neither SES nor NIEA have objected to the proposed development. There are no European designated sites within the NIEA 7.5km screening zone for NH₃ emissions. The existing installation and associated emissions are regulated by NIEA-IPRI: PPC Permit number P0269/07A and the applicant has to apply for a permit variation. The Moy Park Litter Utilisation Strategy (MPLUS) referred to by the objectors does include land spread in RoI. However, further clarification has been sought on the matter and Moy Park have confirmed the poultry litter produced on this farm will be utilised through Tully Biogas plant in Ballymena under the MPLUS. Upon further investigation SES have informed us that Moy Park has indicated there is sufficient processing capacity available

via its contract with Tully Biogas plan. Consequently, no waste has been indicated on the updated letter from the agent to be taken to Rol. Given this updated position there is no transboundary effect from the proposed development. Natural Environment Division of NIEA considers there are no Natura 2000 sites that will be adversely impacted by the proposal. The existing installation and associated emissions from the Tully Biogas Plant are regulated by NIEA-IPRI: PPC permit number P0269/07A.

Consultation responses:

Roads: No objection subject to condition

DAERA: Confirms the farm business has been in existence for more than 6 years and that Single Farm Payment has been claimed for the last 6 years.

Rivers: No objection in principle.

Environmental Health: No objection in principle. It is to be noted that due to the capacity regarding poultry spaces Industrial Pollution and Radiochemical Inspectorate (IPRI) are responsible for the permit issued regarding this site.

NIEA: Water Management Unit is content subject to an informative that the applicant should adhere to DAERA's Standing Advice.

NIEA: Land, Soil and Air IPRI team advises the applicant will be required to apply for and obtain a Pollution Prevention and Control (PPC) variation prior to making any alteration to the site.

NIEA: Natural Environment Division advises the application site is within 7.5km of Lurgylea ASSI, Taneragee ASSI, Little River ASSI, Bardahessiagh ASSI and Limehill Farm ASSI. The site also has a tenuous hydrological connection to River Foyle and Tributaries (SAC/ASSI) and Upper Ballinderry River SAC/ASSI. These sites are of international and national importance and are protected by Conservation (Natural Habitats etc.) Regulations (NI) 1995 as amended and The Environment (NI) Order 2002. NED has no concerns subject to recommendations.

A watercourse exists along the western red line boundary, which enters River Foyle and Tributaries SAC/ASSI over 55km downstream, via the Camowen and Strule Rivers. A watercourse exists c.105m south of the application site, which enters Ballinderry River c.25km downstream via the Claggan and Killymoon Rivers, thus creating a tenuous hydrological connection between the application site and Upper Ballinderry River SAC/ASSI. All contaminated run off must be directed to an appropriate collection tank, with no overflow or outlet to any waterway or soakaway.

NED have no objection in principle subject to informative.

Loughs Agency: Notes the proximity of the proposed development is hydrologically connected to the River Foyle and Tributaries SAC and have requested the inclusions of conditions.

Shared Environmental Services: A response has been made in light of the assessment required by Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations

(NI) 1995 (as amended). Having considered the nature, scale, timing, duration and location of the project it is concluded that the proposal will not have an adverse effect on site integrity of any European site.

Policy Consideration:

NIEA has stated the applicant must apply for and obtain a PPC variation prior to making any alteration to the site. PPS 11 addresses this area. It states the planning and pollution control systems are separate but complementary systems of control and regulation designed to protect the environment from harm as a result of development and related operations.

Planning control focuses primarily on:

- Whether the development itself is an acceptable use of the land rather than on the control of the processes or substances involved; and
- Regulating the location of the development in order to avoid or minimise the adverse effects on people, the use of land and the environment.

PPS 11 goes on to state that planning control should not duplicate other statutory controls or be used to achieve objectives relating to other legislation. Accordingly the applicant will be advised of the need to apply for a variation to the existing PPC prior to any development taking place.

Whilst it is acknowledged that planning control is not an appropriate means of regulating the detailed characteristics and day to day operations of this proposal it is accepted that certain matters relevant to pollution control may be material planning considerations. As a consequence advice has been sought from a number of consultees on aspects of the scheme and their responses are detailed in this report.

The Industrial Pollution and Radiochemical Inspectorate have commented on this application. The applicant has not applied for a variation to the PPC and the applicant must demonstrate the proposal will have an acceptable environmental impact, including (a) impacts of odour, ammonia and dust emissions on sensitive local receptors and (b) utilisation of manures produced from the proposed installation. In an explanatory note IPRI state sustainable utilisation of litter is a critical environmental aspect of the operation of the farm, particularly since the cumulative impact of poultry litter generated by this and other proposals may be significant. The applicant has stated that litter will be utilised in accordance with the Moy Park Litter Utilisation Strategy. As part of the application for a PPC permit variation the applicant will be required to identify the specific outlet they intend to utilise and to provide evidence that the outlet has the capacity to utilise the litter and has the appropriate authorisation in place. Although outside the remit of planning control the applicant has confirmed that litter is to be taken to the Tully Biogas Plant in Co Antrim.

As I have already stated the application sits outside any settlement limit as identified in the area plan. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing Planning Policy Statements (PPS) one of which is Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21).

Policy CTY 1 of PPS 12 sets out the types of development, which in principle are considered to be acceptable in the countryside, one of these being agricultural and forestry developments in accordance with Policy CTY 12. Paragraph 6.73 of the SPPS also contains policy in respect of agriculture and forestry development. The latter, essentially reiterates elements of Policy CTY 12 of PPS 21. Policy CTY 1 goes on to state that 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.

Policy CTY 12 - Agricultural and Forestry lists criteria under which planning permission will be granted for development on an active and established agricultural holding. The applicant is a producer for Moy Park and is seeking to expand the business to facilitate additional bird capacity on-site as part of a wider Moy Park expansion programme. Paragraph 5.56 of CTY 12 states that for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10. The applicant has provided a DARD business number, which DAERA has confirmed has been in existence for more than 6 years and that Single Farm Payment has been claimed for the last 6 years.

In terms of character and scale I consider the proposed buildings to be appropriate to the location. The new sheds will be sited to the rear of the existing farm buildings and will sit on slightly higher ground. There is a considerable level of engineering works required given the sheds will be cut into the ground. The agent has shown the land will be graded up as required. The site will be visible from the Cornamaddy Road but the degree of public interest is limited at this location. The buildings are of a relatively low level and it is my opinion they will integrate into this rolling countryside. There are no adverse impacts on the natural or built heritage and it will not result in any detrimental impact on the amenity of residential dwellings outside the holding, given there are no dwellings in the immediate vicinity of the application site.

Policy CTY 12 address those situations where a new building is proposed. In this case the applicant does not have any suitable existing buildings on the holding that can be used for the purposes of the proposed use. The design and materials for the proposed buildings are sympathetic to the locality and the adjacent buildings. The proposed buildings will be finished in Acheson and Glover facing brick and juniper green cladding. The proposal is sited immediately behind two existing poultry sheds finished with similar materials.

PPS 2 sets out planning policies for the conservation, protection and enhancement of our natural heritage. Policy NH 1 states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans is not likely to have a significant effect on a European Site (including SAC, SPA). Policy NH 3 states that planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the value of the site to the habitat network, or special interest of an ASSI for example.

Natural Environment Division advises the application site is within 7.5km of Lurgylea ASSI, Taneragee ASSI, Little River ASSI, Bardahessiagh ASSI and Limehill Farm ASSI.

The site also has a tenuous hydrological connection to River Foyle and Tributaries(SAC/ASSI) and Upper Ballinderry River SAC/ASSI. These sites are of international and national importance and are protected by Conservation (Natural Habitats etc.) Regulations (NI) 1995 as amended and The Environment (NI) Order 2002. NED has no concerns subject to recommendations. 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 recommendations.

NED have considered the proposal following acquisition of DAERA specific legal advice on DAERA's operational policy including any direct/indirect impacts on associated farm activities. NES has considered the impacts of the proposal, as per the application, on the designated sites and, on the basis of the information provided is content that the proposal is in line with DAERA's operational policy on nitrogen emissions. Due regard is to be given by the competent authority, MUDC, to the recommendations of NED when undertaking a Habitats Regulations Assessment on River Foyle and tributaries SAC/ASSI and Upper Ballinderry River SAC/ASSI to ensure compliance with the requirements of the Habitats Regulations and The Environment (NI) Order 2002.

The applicant has submitted an ES, which includes an Air Quality Impact Assessment in Appendix 3 (dated 1 March 2018). Table 15 details the modelled ammonia concentration, i.e. the Process Contribution from the proposal and the existing poultry sheds at the already cited designated sites within 7.5km of the proposal. All of these sites have been designated for earth science features. It is considered, due to the nature of these features, that they are unlikely to be affected by nitrogen emissions from the proposal. NED are content that all of the litter from the proposed facility will be utilised in accordance with Moy Park's Litter Utilisation Strategy.

A watercourse exists along the western red line boundary, which enters River Foyle and Tributaries SAC/ASSI over 55km downstream, via the Camowen and Strule Rivers. A watercourse exists c.105m south of the application site, which enters the Ballinderry River c.25km downstream via the Claggan and Killymoon rivers, thus creating a tenuous hydrological connection between the application site and Upper Ballinderry River SAC/ASSI. All contaminated run-off (from the facility and associated concrete aprons must be directed to an appropriate collection tank, with no overflow or outlet to any waterway or soakaway. The applicant should also be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (NI) 2003 and the Nitrates Action Programme (NAP) Regulations (NI) 2014 as detailed in Standing Advice Note 12 for agricultural developments.

Shared Environmental Service has carried out a HRA and this is adopted by MUDC. They have concluded an appropriate assessment is complete and there is no adverse effect on site integrity without conditions. They state there are no European designated sites within the NIEA 7.5km screening zone for NH₃ emissions. The existing installation and associated emissions, as well as Tully AD plant are regulated by NIEA-IPRI, therefore SES considers that there can be no adverse effect to any designated European Site from the proposal.

The Environmental Health Department has offered no objections in principle to the proposal and recommend the Industrial Pollution and Radiochemical Inspectorate should be consulted on the application on the basis of poultry capacity regarded as intensive

farming. Due to the capacity regarding poultry spaces IPRI are responsible for the permit issued regarding this site. No issues or concerns have been raised in the areas of noise and dust.

With regards to hydrology of the proposed application and the environs, drawing no 02 illustrates all dirty water to be collected in a wash tank to the north east of the proposed sheds with no overflow or outlet to a waterway. This is for the purposes of heavily contaminated water which includes any waste water arising from the washing of the poultry houses which will be collected in a channel and piped directly to the tank. Heavily contaminated yard run off will be directed to a diverter in the yard before entering the tank. NIEA: Drainage and Water state this will ensure there will be no release of contaminants from operational activities into any adjacent/nearby watercourses. Lightly contaminated water i.e. run off water from the roofs and concrete yard during the crop cycle will be routed via guttering and downpipes to a proposed 103m swale with check dams located to the south of the proposed houses for treatment. A field drain connected to the swale will collect any surface water that does not infiltrate into the sides and base of the grass swale but instead overtops the last dam and flows into the lowest bay of the swale.

With regards to transport, the ES identifies that due to the nature of poultry farming, the majority of vehicular movements are concentrated at specific times during the crop cycle. A crop cycle lasts fifty days and there are seven cycles per annum with 30 trips per crop cycle. This will produce, for the entirety of the poultry site 420 vehicular movements per annum. DfI Roads were consulted on the proposed application and have not raised any objections in principle and have suggested the inclusion of conditions.

Having considered the local area plan, all relevant planning policies and other material considerations it is my opinion this application is acceptable subject to the conditions listed below.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Conditions:

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

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

2. The vehicular access, including visibility splays of 2.4m x 60m in both directions and forward sight distance of 60m shall be provided in accordance with the approved drawings prior to the commencement of any works or 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 before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

3. Gates or security barriers at the access shall be located at a distance from the edge of the carriageway that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed and shall be sited so that when open they do not project over the footway, verge, or carriageway.

Reason: To ensure waiting vehicles do not encroach onto the carriage

Signature(s)

Date:

ANNEX	
Date Valid	6th August 2018
Date First Advertised	22nd August 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) Gwyneth McQuiston 11, Drumalief Road, Limavady, Londonderry, Northern Ireland, BT49 0QS Harriett Moore-Boyd, 21, Christine Park, Newtownabbey, Antrim, Northern Ireland, BT36 6TD Joanne Lusby Elizabeth Roche Ciaran McClean Dianne Greer Cormac McAleer	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Voluntary
Planning History Ref ID: LA09/2018/0210/PAN Proposal: Proposed 2no. additional broiler poultry sheds (37,000 birds per house), 4no. feed bins, 2no. gas tanks and associated development. Address: Land approx. 190m SE of 39 Cornamaddy Road, Pomeroy, Co Tyrone, BT70 2TW., Decision: Decision Date: Ref ID: LA09/2018/1069/F Proposal: Proposed 2No additional broiler poultry sheds with 4No feed bins 2No gas tanks and associated development. (Poultry sheds to contain 74000 broilers taking the total site capacity to 132000 broilers) Address: Land approx. 190m South East of 39 Cornamaddy Road, Pomeroy, Decision: Decision Date:	

Ref ID: M/2004/1764/F

Proposal: 2 No Free Range hen houses with maximum capacity of each house of 19,000 birds

Address: 340m South East of 41 Cornamaddy Road, Cornamaddy, Pomeroy

Decision:

Decision Date: 15.04.2005

Ref ID: M/2006/1422/F

Proposal: Retention of 3 free range hen houses (19000 birds) also retention of farm building to be used in conjunction with hen houses

Address: 340m South East of 41 Cornamaddy Road, Pomeroy

Decision:

Decision Date: 24.08.2006

Ref ID: M/1988/0204

Proposal: DWELLING

Address: 200 M SOUTH EAST OF 41 CORNAMADDY ROAD, CORNAMADDY, DUNGANNON

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1094/F	Target Date:
Proposal: Single Storey detached Garage (amended site)	Location: Strathmullan House 56 Killymeal Road Dungannon BT71 6XJ
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Mr Stephen Boyle 11 Hillcroft Dungannon BT71 6SJ	Agent Name and Address: Ronan Boyle (CSEA) Construction Environmental Engineering LTD 3 Strathmullan Dungannon Co. Tyrone BT71 6XJ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Three objections were received from the neighbouring properties to the NE at dwellings 23, 24 and 25 Viewfort. Their concerns were over the accuracy of the red line, disputing the land ownership along their boundary. The objection from Number 24 also included concerns over the obstruction of the views to the listed building.

Characteristics of the Site and Area

The application site is a 0.66 hectare plot of land which takes in Strathmullan House, a two storey Grade 2 Listed derelict dwelling and its extensive domestic curtilage.

The dwelling is included on the Built Heritage At Risk NI (BHARNI) Register. It is located to the immediate North of numbers 3, 5 and 10 Strathmullan, a low density residential development within the development limits of Dungannon Town.

The site is elevated above the level of the existing dwellings in Strathmullan and is accessed via a sweeping hard core driveway which runs along the side and rear of number 3 Strathmullan.

The dwelling itself has a slate roof with 2 chimneys finished in red brick. The external lower walls are finished in sandstone and the upper walls are finished in red clay brickwork. Rain water pipes and gutters are finished in cast iron.

The front elevation has a two storey centralised projection and ground floor bay windows. The dwelling also has two storey rear return. The majority of windows are boarded up.

At the time of site visit the site was under construction and there was a temporary chain link fence running along the footpath to the front of the site. The curtilage of the site was overgrown with weeds and shrubs and there were a number of piles of rubble.

The immediate area is residential in character, with Strathmullan to the South, Viewfort to the North East and Dunavon Heights to the North. To the North West of the site is a zoned community woodland (DCW01) Dunlea Vale.

Description of Proposal

The proposal seeks full planning permission for a single storey detached garage.

Planning Assessment of Policy and Other Material Considerations

The proposal is for a 16 metres long, 8 metres wide and 4 metres high single storey three bay garage to the rear of the property. The finishes proposed are timber cladding walls, profiled metal deck cladding roof and timber effect doors and windows.

As this site lies within the curtilage of a listed building PPS 6 - Planning and the Built Heritage must be considered.

HED have been consulted and have expressed concerns and have taken the stance that it has failed to comply with policy BH11 of PPS 6.

The proposal would affect the setting of a listed building, The Department will not normally permit development which would adversely affect the setting of a listed building. Development proposals will normally only be considered appropriate where all the following criteria are met:

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

-In this case HED feel that the proposals roof pitch is not sympathetic to the listed building as per criteria (a)

- In this case the HED consider the current palette of finishes for the proposed detached garage block to be unacceptable under criteria (b).

- And finally HED feel that a detailed landscape proposal would be needed in order to soften the approach to the garage block and assist in separating elements of the listed building and the proposal.

These concerns have been transmitted to the applicant whom has expressed his desire for the application to be assessed as is without these suggested changes.

Having discussed the proposal at length with the senior planners it is our opinion that a timber garage of this size and design would not be obtrusive at this location. The garage is set back behind the building line of the existing listed building, in addition its low ridge height and the back cloth of existing vegetation help it integrate. A steeper roof pitch would necessitate the removal of the lower branches of the surrounding trees. With regards to the effect on the settings of the listed building, it is my opinion that the proposal will have little impact, especially given the close proximity of the large two storey detached dwellings situated immediately in front of the site. The access remains unaltered and critical views will be minimal.

The application is seeking planning consent for the erection of a single storey garage and as such the proposal must be assessed in accordance with the Addendum to Planning Policy Statement 7- Residential Extensions and Alterations.

It is considered that Policy EXT1 of this statement is relevant to this proposal. Policy permits development where the following criteria are met:

- The scale, massing, design and materials are sympathetic with the built form and area,
- The proposal does not unduly affect privacy or amenity,
- The proposal will not cause unacceptable loss or damage to the environment,
- Where sufficient space remains within the curtilage of the property for recreational purposes.

The proposal is for a single storey garage to the rear of the property. As the proposal is minimal, it is considered to be subordinate to the existing dwelling. In addition to this the proposed garage would generally match the proportions and materials of the dwelling. It is also considered that there is little impact on the character or appearance of the surrounding area. It is considered that the size and scale of the garage would ensure that there would be no overlooking or infringement upon the privacy of the neighbouring dwelling. Furthermore it is considered that there is sufficient amenity space remaining for the dwelling and shall thus not have a detrimental impact on the residential amenity of this or of neighbouring dwellings. The proposal is therefore acceptable in terms of scale and design, should not cause overlooking or overshadowing or have adverse impact on the adjoining properties

Three objections were received from the neighbouring properties to the NE at dwellings 23, 24 and 25 Viewfort. Their concerns were over the accuracy of the red line, disputing the land ownership along their boundary. The objection from Number 24 also included concerns over the obstruction of the views to the listed building.

The applicant has submitted deeds map to show all lands within his ownership, it appears that the red line of the site correlates to this map.

In addition the existing access is to be used and with the positioning of the garage to the west there should be minimal impact on the views of the listed building.

In conclusion, contrary to HED concerns that the proposal does not comply with PPS 6 policy BH11 in that if approved it would adversely affect the settings of a listed building. Having discussed with the senior planners it is our opinion that the proposal is acceptable for the reasons detailed above.

The proposal is also compliant with PPS 7, in terms of scale and design, should not cause overlooking or overshadowing or have adverse impact on the adjoining properties

Recommendation Approval.

Neighbour Notification Checked

Yes

Conditions

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

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

2. The materials used for the building hereby approved shall be as shown on the plans, with external walls to be constructed of closed board timber or overlapping closed board timber.

Reason; To safeguard the settings of the listed building.

Informatives

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

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

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

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

Provision shall be made to the satisfaction of DFI Roads Service, to ensure that surface water does not flow from the site onto the public road.

Provision shall be made to the satisfaction of DFI Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site.

Signature(s)

Date:

ANNEX

Date Valid	15th August 2018
Date First Advertised	30th August 2018
Date Last Advertised	29th November 2018

Details of Neighbour Notification (all addresses)

The Owner/Occupier,
1 Strathmullan, Dungannon BT71 6XJ
The Owner/Occupier,
10 Dunavon Heights Dungannon Tyrone
The Owner/Occupier,
10 Strathmullan Dungannon Tyrone
The Owner/Occupier,
11 Dunavon Heights Dungannon Tyrone
The Owner/Occupier,
2 Strathmullan Dungannon Tyrone
The Owner/Occupier,
22 Viewfort Dungannon Tyrone
The Owner/Occupier,
23 Viewfort,Dungannon,Tyrone,BT71 6LP,
Fergal and Carmel McCann
24 Viewfort, Killymeal Road,Dungannon,BT71 6LP
The Owner/Occupier,
24 Viewfort,Dungannon,Tyrone,BT71 6LP,
The Owner/Occupier,
25 Viewfort Dungannon Tyrone
Michael and Lynne Maguire
25 Viewfort, Killymeal Road,Dungannon,BT71 6LP
The Owner/Occupier,
3 Strathmullan Dungannon Tyrone
The Owner/Occupier,
5 Strathmullan,Dungannon,Tyrone,BT71 6XJ,
The Owner/Occupier,
9 Dunavon Heights Dungannon Tyrone
Paddy Mallon
Email Address
The Owner/Occupier,

Soliticors,46 Irish Street,Dungannon,BT70 1DB
 The Owner/Occupier,
 Strathmullan House,56 Killymeal Road,Dungannon,Tyrone,BT71 6LJ,

Date of Last Neighbour Notification

15th November 2018

Date of EIA Determination**ES Requested**

No

Planning History

Ref ID: LA09/2016/1115/LBC

Proposal: Refurbishment of existing listed building to include demolition of existing 2 storey rear return and construction of new 2 storey extension to rear and 1 new single storey extension to rear

Address: Strathmullan House, 56 Killymeal Road, Dungannon,

Decision: CG

Decision Date: 04.01.2017

Ref ID: LA09/2018/1094/F

Proposal: Single Storey detached Garage (amended site)

Address: Strathmullan House, 56 Killymeal Road, Dungannon, BT71 6XJ,

Decision:

Decision Date:

Ref ID: LA09/2016/1114/F

Proposal: Refurbishment of existing listed building to include demolition of existing 2 storey rear return and construction of new 2 storey extension to rear and 1 new single storey extension to rear

Address: Strathmullan House, 56 Killymeal Road, Dungannon,

Decision: PG

Decision Date: 04.01.2017

Ref ID: LA09/2016/0943/PAD

Proposal: Alteration and enlargement or improvement of a dwelling

Address: Strathmullan House, 56 Killymeal Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/1994/0534

Proposal: Public Authority Housing

Address: MULLAGHADUN, ADJOINING DUNAVON PARK DUNGANNON

Decision:

Decision Date:

Ref ID: M/2007/1118/F

Proposal: Erection of 4 detached dwellings, site road and retention of existing dwelling with new access at lands at and inclusive of 56 Strathmullan House, Killymeal Road, Dungannon. (amended proposal)

Address: Lands adjacent to and inclusive of 56 Strathmullan House, Strathmullan, Killymeal Road, Dungannon

Decision:

Decision Date:

Ref ID: M/1989/0283

Proposal: Private Housing Development

Address: REAR OF DUNAVON PARK MULLAGHADUN DUNGANNON

Decision:

Decision Date:

Ref ID: M/1990/0418

Proposal: Dwelling House

Address: GROUNDS OF STRATHMULLAN HOUSE (TO THE REAR OF 56 KILLYMEAL ROAD.) DUNGANNON.

Decision:

Decision Date:

Ref ID: M/1993/0669

Proposal: Site for dwelling house

Address: APPROX 80 M SOUTH EAST OF STRATHMULLAN HOUSE, KILLYMEAL ROAD, DUNGANNON.

Decision:

Decision Date:

Ref ID: M/1995/0332

Proposal: Housing Development

Address: GROUNDS OF STRATHMULLAN HOUSE KILLYMEAL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1988/0863

Proposal: Housing Development

Address: GROUNDS OF STRATHMULLAN HOUSE KILLYMEAL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1977/0059

Proposal: PRIVATE HOUSING DEVELOPMENT

Address: MULLAGHADUN, KILLYMEAL ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1977/005902

Proposal: 5 NO DWELLINGS

Address: SITES 6, 7, 10, 11 AND 25 VIEWFORT, KILLYMEAL ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1977/005901

Proposal: 22 DWELLINGS. PRIVATE HOUSING DEVELOPMENT

Address: KILLYMEAL ROAD, MULLAGHADUN, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1999/0158

Proposal: Dwelling

Address: SITE ADJACENT TO SITE 1 STRATHMULLAN DUNGANNON

Decision:

Decision Date:

Ref ID: M/1991/0171

Proposal: Erection of dwelling

Address: SITE 23 VIEWFORT DUNGANNON

Decision:

Decision Date:

Ref ID: M/1992/0124

Proposal: Erection of Dwelling

Address: SITE 22 VIEWFORT KILLYMEAL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1987/0358

Proposal: DWELLING

Address: 20 VIEWFORT, KILLYMEAL ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2014/0296/F

Proposal: Single storey garage conversion and extension to existing dwelling

Address: 22, Viewfort, Dungannon,

Decision: PG

Decision Date: 11.07.2014

Drawing Numbers and Title

Drawing No. 2B
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 3B
Type: Proposed Plans
Status: Submitted

Drawing No. 04
Type:
Status: Submitted

Drawing No. 1B
Type: Site Location Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1566/O	Target Date:
Proposal: Proposed dwelling and garage	Location: 500m S.E. of 101 Barnagh Road Altmore Dungannon
Referral Route: Refusal – Contrary to Policy CTY 10 and CTY 13 of PPS 21.	
Recommendation:	Refusal
Applicant Name and Address: Mr Sean O'Donnell 36A Barvagh Road Donaghmore	Agent Name and Address: McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

Contrary to policy requirements of PPS 21 - CTY 10 and CTY 13.

Characteristics of the Site and Area

The site is located approx. 500m SE of 101 Branagh Road, Altmore. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The application site includes a portion of an agricultural field and includes the existing access arrangement. The blue lands surrounding indicate land ownership include

agricultural fields and the existing old homestead as indicated on the site location plan which is located to the NW of the application site. The lands are generally quite flat throughout the site. The current boundaries of the site vary between post and wire fencing and mature trees to the west with other parts of the site remaining undefined. There is existing mature trees located to the south of the application site. The surrounding area is predominantly rural with forestry trees to the west of the site.

Description of Proposal

Outline planning permission is sought for a proposed dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were no neighbours notified under this application. At the time of writing, no third party representations have been received.

Planning History

It is not considered there is any relevant planning history associated with this site.

Planning Assessment of Policy and Other Material Considerations

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

The Dungannon and South Tyrone Area Plan 2010 identify the site as being in the rural countryside, located NW of Cappagh Settlement Limit. There are no other specific designations or zonings.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy, Policy CT1- General Policy and Policy CT2 - Dwellings in the Countryside, part (e) – Dwelling on a Farm, are applicable to this application although it holds no determining weight following on from the consultation stage.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

Policy CTY 1 of PPS 21 establishes that planning permission will be granted for a dwelling on a farm where it is in accordance with Policy CTY 10. This establishes the principle of

development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) the farm business is currently active and has been established for at least 6 years
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. 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 ID and associated mapping. DAERA have confirmed that the business ID has been in existence for more than 6 years and also that the lands have been claimed on for over 6 years too. From this, I am content the farm holding has been active and established for at least 6 years.

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

With respect to (c), the only evidence of and buildings or structure on site from the farm maps is the old homestead which is also noted on the site location plan. From the site visit I could not see any evidence of this on the ground. There did not appear to be any buildings which the proposed siting would visually link with. The agent was asked to provide justification for the proposed siting following land registry checks which showed that the applicant was in ownership of a number of fields around their home address which appeared to provide a suitable alternative site to that proposed under this application. The agent cited right of way issues along the existing laneway and the difficulty of maintaining a mountain farm a number of miles away from the farm holding as the reasoning for the proposed site. There are exceptional circumstances set out in CTY 10 which may allow for siting elsewhere on the farm if there are demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing business group, however it has not been demonstrated that this is the case in this instance and therefore the proposal fails this criterion of the policy.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, details surrounding the design and finishes of the dwelling have not been submitted however the site lacks boundaries and therefore the site would appear quite open and exposed to public views and would appear quite prominent. There would be little vegetation to aid with integration. Criterion (g) of CTY 13 relates back to the need for any proposed dwelling on a farm to be sited to visually link or cluster with an established group of buildings on a farm. This issue has been addressed previously and therefore it is considered the proposal fails on this requirement of CTY 13 also.

The applicant has noted that they intend to alter an existing access. DfI Roads have been consulted and have no objection subject to condition.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal is recommended.

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.
2. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling does not cluster with an established group of buildings at the farm.
3. 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 and therefore would not visually integrate into the surrounding landscape.

Signature(s)

Date:

ANNEX	
Date Valid	27th November 2018
Date First Advertised	13th December 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) N/A	
Date of Last Neighbour Notification	N/A
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA10/2018/1475/PAD Proposal: Heart of Ancient Ulster Landscape Partnership 2019-2024 Address: Lands on Carrickmore Plateau and the Pomeroy Hills, Co Tyrone, Decision: Decision Date: Ref ID: LA09/2018/1566/O Proposal: Proposed dwelling and garage Address: 500m S.E. of 101 Barnagh Road, Altmore, Dungannon, Decision: Decision Date:	
Summary of Consultee Responses No issues.	
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:	

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0007/RM	Target Date:
Proposal: Proposed dwelling and domestic garage (amended drawings received)	Location: 130 m east of 9 Greenagh Road Dungannon
Referral Route: Objection	
Recommendation: Approve	
Applicant Name and Address: Mr Conor Shields 23 Charter Road Rugby CV22 5HX	Agent Name and Address: McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Rivers Agency	Advice

Representations:

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

Summary of Issues 1 objection received – detailed in assessment of proposal.

Characteristics of the Site and Area

There does not appear to be any significant changes on site or in the immediate vicinity from the outline application on site, as such the characteristics of the site and area by enlarge remain as per LA09/2016/0873/O.

The site is located approx. 130 metres east of 9 Greenagh Road approx. 1.8km south of Coalisland. It is in area which is largely characterised by agricultural land, farm holdings and dispersed rural settlement. The red line of the site encompasses the curtilage of no. 9 a two storey dwelling and its access along with a parcel of land located at the roadside and adjacent to the entrance of the laneway within which the proposed dwelling is to be sited. This parcel of land has well-established hedgerow boundaries to the south and

east which are augmented by mature trees which extend to heights in excess of approximately 6m. The roadside and western boundaries are defined by a wooden fence.

Description of Proposal

This is a reserved matters application for a dwelling and garage to be located on a site 130 metres east of 9 Greenagh Road, Dungannon. This proposal gained outline approval under outline application LA09/2016/0873/O granted 9th November 2018.

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 (RDS)
Dungannon and south Tyrone Area Plan 2010 (CAP)
Strategic Planning Policy Statement for Northern Ireland (SPPS)
Planning Policy Statement 3 (PPS3) - Access, Movement and Parking
Planning Policy Statement 15 (Revised) - Planning and Flood Risk
Planning Policy Statement 21 (PPS21) - Sustainable Development in the Countryside with particular reference to -

Policy CTY 1 - Development in the Countryside

Policy CTY 8 - Ribbon Development

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

Policy CTY 14 - Rural Character

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

Relevant Planning History on Site

LA09/2016/0873/O – outline permission for a dwelling and garage, granted the 9th November 2016.

Consultees

1. Transport NI were consulted in relation to access arrangements and further to an amended drawing showing a paired access with no. 9 Greenagh Road and drainage measures (Drawing no. 01 Rev.02) in place have no objection to this proposal subject to standard conditions and informatives.
2. Rivers Agency were consulted on this application as Flood Maps NI indicated surface water flooding on site. Rivers Agency responded under PPS15:

- Policy FLD 2 Protection of Flood Defence and Drainage Infrastructure - an undesignated watercourse flows along the Southeast boundary of the site. A suitable maintenance strip is required unless the watercourse can be maintained from the opposite bank by agreement with the landowner. It should be marked up on a drawing and be protected from impediments. I think this is reasonable and can be dealt with via condition.
- Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains - The proposed development is located in an area where there is evidence of a history of surface water flooding. A Drainage Assessment (D.A) is required. The agent submitted an amended block plan (Drawing no. 01 Rev.02) to show existing and proposed levels of the site and a D.A on the 07/05/2019, which was forwarded to River's Agency for comment. Rivers Agency responded that the D.A should address the potential flood risk associated with the culvert which leaves the site at the Southeast boundary. Particularly the capacity and potential for blockage. The agent subsequently submitted an addendum to the D.A on the 16/08/2019 and Rivers Agency were re-consulted. Rivers Agency response to the addendum was that the D.A does not provided the methodology used to determine the pipe size. This should be provided. This methodology was subsequently provided by the agent to Rivers Agency who while not being responsible for the preparation of the report accepted its logic and has no reason to disagree with its conclusions. Consequently, Rivers Agency did not object to the proposed development from a drainage or flood risk perspective. Rivers Agency noted it should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the D.A and implementation of the proposed flood risk measures rests with the developer and their professional advisors. I am content that this can be attached to any subsequent decision as an informative.

Consideration

The site is located in the rural countryside outside any settlement defined in the Dungannon and South Tyrone Area Plan. The SPPS and PPS 21 therefore apply.

The principle of development has already been established on this site under outline planning application LA09/2016/0873/O. This approval granted permission for a dwelling and garage under the provisions of CTY 8 of PPS 21 - a small gap site within an otherwise substantial and continuously built up frontage.

This Reserved Matters proposal complies with the planning conditions set at outline stage under LA09/2016/0873/O.

The size, scale, siting, orientation and design of the dwelling and garage are considered acceptable for the site and locality in that they should integrate on site and into the landscape, respecting the existing development pattern and without significant impact to the character of the area. As such this proposal should not offend policy CTY 13 or CTY 14 of Planning Policy Statement 21

The size and scale of the dwelling which is single storey (6m ridge height) and the garage (5.5m ridge height) is considered to be proportionate to the site and existing dwellings in the vicinity.

The dwelling and garage is sited within the existing line of development. And its orientation fronting unto the adjacent road is considered consistent with traditional siting patterns and acceptable for the locality.

The design (including finishes) of the dwelling is simplistic and reflective of traditional rural design and generally in keeping with the rural design principles set out in 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

The dwelling which has an rectangular shaped floor plan and pitched roof construction has a dropped pitch gable extension to its east side, a smaller sun lounge extension to its west side and a small pitched roof front porch. The garage sited to the west side of the dwelling also has a simple rectangular floor plan and pitched roof construction.

Finishes to the dwelling and garage are as follows:

Walls: smooth render with stone cladding detail to the gable extension and porch

Roof: black slates

Windows/doors: Upvc double glazed

I have no concerns regarding the new dwelling and garage impacting the amenity of neighbouring properties to any unreasonable degree in terms of overlooking or overshadowing given the enclosed nature of the site and existing separation distances.

Other Policy / Material Considerations

An objection letter to this proposal was received on the 22nd January 2018 from Mr and Mrs Loughran of No. 9 Greenagh Road, the property adjacent and west of the site. Advising that they sold this site to the applicant they raised the following two issues:

1. The location of garage -They state the garage is on lands that did not form part of the sale of the site to the applicant.
2. Access to site - They state that the access to the site is using their entrance off the Greenagh Road. That when outline permission was obtained it was for a family member, this fell through and the site was sold. That is was agreed the outline permission would be superceded with a full permission including a new entrance a few metres down from theirs.

The issues raised in the letter above have been taken into consideration in the assessment of this proposal however they are a civil matter between the applicant and the objectors. The principle of this proposal was established under the outline application and this reserved matters application as detailed above meets with the conditions of the outline approval. Any permission granted does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

It is noted that the agent/applicant was made aware of the objection letter received and subsequently submitted an amended drawing to show the garage pulled further east on the site out of the lands identified by Mr and Mrs Loughran as not forming part of the sale of the site. The amended drawing also showed amended access arrangements as per Transport NI consultation response to show a paired access with no.9 Greenagh Road. Upon receipt of these amendments the objectors and neighbour were re-notified. No further objections were received.

Recommendation: Approval

Neighbour Notification Checked	Yes
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Summary of Recommendation:	Approval
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Conditions

1. The development to which this approval relates must be begun by whichever is the later of the following dates:-
 - i. The expiration of a period of 5 years from the grant of outline planning permission; or
 - ii. The expiration of a period of 2 years from the date hereof.

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

2. All proposed landscaping as detailed on Drawing No. 01(Rev.02), bearing the date stamp received 15th February 2019, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

3. The vehicular access, including visibility splays of 2.4m x 45m and any forward sight distance shall be provided in accordance with Drawing No. 01(Rev.02), bearing the date stamp received 15th February 2019, prior to the commencement of any other works or 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 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

4. A working strip of at least 5 metres along the watercourse adjacent the site must be kept clear from impediments, land raising or development.

Reason: To facilitate future maintenance of the watercourse

Informatives

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.
5. Transport NI comments:

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

It is the responsibility of the developer to ensure that:

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- The developer should note that this planning approval does not give consent to discharge water into a DfI Transport NI drainage system.

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

6. Please see Rivers Agency consultation responses dated and scanned to the Planning Portal for information purposes. Additional comments:

An undesignated watercourse flows along the South-Eastern boundary of the site. Perspective 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.

Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to DfI Rivers, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for.

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0282/O	Target Date:
Proposal: Site for housing development with foul sewage treatment plant and associated works	Location: Lands opposite and immediately east of 2 7 and 9 Ackinduff Park Aghaginaduff Dungannon
Referral Route: Objections	
Recommendation:	Approve
Applicant Name and Address: Mrs Anne Mc Keever 17 Drumnacanvy Lodge Portadown BT63 5XY	Agent Name and Address:
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan: 01



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

- increased traffic levels and lack of traffic calming measures on Whites Road, requirement for extra speed restriction;
- inclusion of speed bumps on this stretch of whites road would encourage drivers to adhere to 30mph speed limit;
- received no neighbour notification.

Description of proposal

This is an outline planning proposal for a housing development located within the development limits of Aghaginaduff/Cabragh as defined in Dungannon and South Tyrone Area Plan 2010.

Characteristics of Site and Area

This triangular shaped plot is located at the SE edge of the northern Node of development within Aghaginaduff/Cabragh development limits (one of 3 development nodes) opposite Ackinduff Park with access from Whites Road. All boundaries of the site are defined by maintained hawthorn hedgerows of approx 2m in height, with the roadside boundary having a 1m wide grass verge. Topography within the site is relatively flat, and the field is currently used for grazing purposes. The SE boundary of the site marks the edge of the northern node of development beyond which to the east is agricultural land.

To the west and north are residential developments, the west is high density terraced 2 storey properties, to the north is lower density 2 storey detached and semi-detached dwellings with areas of open space contained within the development.

Further to the south is a primary school with Cabragh petrol filling station located on the opposite side of the A5 road.

Planning Assessment of Policy and Other Material Considerations

Area Plan

Dungannon and South Tyrone Area Plan 2010- The site is located within the development limits of Aghaginaduff/Cabragh on land with no zoning. Within the area plan it indicates 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. Accordingly, residential developments in excess of five units will not normally be permitted.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this, the Draft Plan cannot be given any determining weight at this time.

Relevant planning history

None

Representations

3rd party representation has been received on this application.

The following issues have been raised;

- increased traffic levels and lack of traffic calming measures on Whites Road, requirement for extra speed restriction;
- inclusion of speed bumps on this stretch of whites road would encourage drivers to adhere to 30mph speed limit;
- received no neighbour notification.

I am satisfied that all notifiable neighbours were notified in accordance with the statutory neighbour notification definition. The objector lives at 23 Whites Road, approx. 200m south of the application site. There are 2 intervening agricultural fields between the application site and the objector.

In terms of traffic calming measures, DfI Roads were consulted on this proposal and do not object to this proposal subject to the following conditions;

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements 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.

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

The development shall be in accordance with the requirements of the Department's Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the Department shall determine the width, position and arrangement of the streets associated with the development and the land to be regarded as comprised in those streets.

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

Therefore subject to a satisfactory road layout being received at RM stage, and agreement with DfI Roads, I am satisfied that a safe and satisfactory road layout can be achieved that will safeguard all road users.

Consideration

The Strategic Planning Policy Statement is a consolidation of existing Planning Policy, under which PPS7 and addendums remain unaltered.

This proposal was received on 28th Feb 2019. The concept submission was of poor quality, and failed to relay a quality layout. There was no clear indication of potential numbers, no open space provision which is important for an intimate small village setting given the proposed housing numbers, no indication of buffer planting at the development limit or private treatment plant provision (as NIW have indicated that there is insufficient mains sewage capacity for the proposed development to connect).

The applicant was requested to provide a more quality Concept Layout Plan. While the revised version also left a lot to be desired, in a broad sense it was accepted that housing on this site is acceptable in principle, the overall layout to be agreed at Reserved Matters Stage.

DfI Rivers Agency were consulted on this proposal and given proposed numbers indicated on the Concept Plan it is likely that 10 or more dwelling units are being proposed and therefore a Drainage Assessment is required at this stage. On discussion with senior colleagues, given that no flood risk had been identified, that in this case a DA could be conditioned for inclusion at RM stage.

Buffer planting and open space provision can also be conditioned, along with DfI Road requirements.

Details of the revised Concept Plan and technical specifications of the proposed Private Treatment Plant were forwarded to EHD for comment, and they are content that the proposed plant will not have a detrimental impact on existing or proposed residential amenity.

Under the policy provisions of PPS7 DQ1 it is considered that the principle of housing on this application site is acceptable

Policy QD1 states all proposals for residential development will be expected to conform to all of the following criteria:

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

-I consider that an acceptable form of development can be achieved on this site that will respect the existing form of development in the area. Should the proposal be for more than 5 units then areas of open space will be expected.

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

There are no sites of archaeological or built heritage nearby that the site will impact. Hedging along the boundaries can be retained, with buffer planting along the SE boundary to mark the edge of the development limit.

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.

This can be assessed at RM stage.

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

The site is located close to an existing shop and primary school. Additional facilities are not required for a development of this size and scale.

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;

DfI Roads propose planning conditions for footpaths and sight splays at RM stage, which will provide footpaths within the development and along the roadside, which will support walking and cycling.

f) adequate and appropriate provision is made for parking;

This can be assessed at RM or full stage. DfI Roads raise no concern or objection to this development subject to planning conditions.

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

This can be assessed at RM or full stage.

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;

This can be assessed at RM or Full stage. It seems from the size of the site that a form of development can be agreed that will safeguard existing and proposed amenity.

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

Detailed boundary treatment and internal layout can ensure good security to rear of properties and good surveillance over public areas such as footways, roads and areas of open space. Can be assessed at RM or full stage.

Revised PPS15 Planning and Flood Risk (introduced September 2014)

Should the proposal accommodate 10 units or more then there is a requirement for a Drainage Assessment to be prepared under policy FLD3. This can be conditioned in this instance to be provided at RM stage.

The site is not located within a flood plain.

PPS2 Natural Heritage

The site is an agricultural field of low biodiversity value. There are no links to any N2K or local protected sites. It is my view that the proposal will not have a detrimental impact on protected sites, habitats or animals.

Other Material Considerations

This site is not impacted by land contamination and is currently used for agricultural purposes.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That outline planning permission is granted subject to the following conditions.

Conditions

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

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

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

2. The under-mentioned reserved matters shall be as may be approved, in writing, by the Council :-

Siting; the two dimensional location of buildings within the site.

Design; the two dimensional internal arrangement of buildings and uses and the floor space devoted to such uses, the three dimensional form of the buildings and the relationship with their surroundings including height, massing, number of storeys, general external appearance and suitability for the display of advertisements.

External appearance of the Buildings; the colour, texture and type of facing materials to be used for external walls and roofs.

Means of Access; the location and two dimensional design of vehicular and pedestrian access to the site from the surroundings and also the circulation, car parking, facilities for the loading and unloading of vehicles and access to individual buildings within the site.

Landscaping; the use of the site not covered by building(s) and the treatment thereof including the planting of trees, hedges, shrubs, grass, the laying of hard surface areas, the formation of banks, terraces or other earthworks and associated retaining walls, screening by fencing, walls or other means, the laying out of gardens and the provisions of other amenity features.

Open Space: an area of open space to function as a kick about area shall be provided as an integral part of the development.

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

3. A 5m-10m strip of buffer landscaping, including trees and hedges, shall be provided along the boundary indicated in yellow on drawing No. 01 date stamp received 28-FEB-2019, details of which shall be approved at Reserved Matters stage.

Reason: To indicate the edge of the development limit, and in the interests of visual amenity.

4. All public open space and landscape areas agreed at Reserved Matters stage shall be maintained in accordance with a maintenance plan to be submitted and agreed with Council prior to the occupation of any unit hereby approved, unless otherwise agreed in writing by Mid Ulster Council.

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

5. At Reserved Matters stage a Drainage Assessment shall accompany the proposal should it be for 10 or more dwellings, details of which to be approved by Rivers Agency.

Reason: To ensure satisfactory drainage within the site and to ensure the development will not flood or cause flooding elsewhere.

6. A satisfactory means of sewage disposal shall be demonstrated at Reserved Matters stage.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

7. Should a private treatment plant be agreed at Reserved Matters stage, it shall remain in place until such times as the necessary improvements are made to the Waste Water Treatment Works, at which point the development hereby approved shall be connected to the public sewerage system and the private sewage treatment plant shall be decommissioned and removed from the site within 3 months of successful connection and adoption to the public sewerage system.

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

8. Details of all curtilage boundaries shall be agreed at Reserved Matters stage and shall be built in accordance with approved plans prior to the occupation of that dwelling to which that curtilage relates, and shall be permanently maintained and retained thereafter, unless otherwise agreed by Council.

Reason: In the interests of privacy and amenity.

9. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements 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.

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

The development shall be in accordance with the requirements of the Department's Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the Department shall determine the width, position and arrangement of the streets associated with the development and the land to be regarded as comprised in those streets.

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

Informatives

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

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

3. The extent and location of the area of open space required by condition 2 will be determined at Reserved Matters stage. The developers attention is drawn to the guidance provided by Creating Places.

Signature(s)

Date:

ANNEX	
Date Valid	4th March 2019
Date First Advertised	21st March 2019
Date Last Advertised	11th July 2019
Details of Neighbour Notification (all addresses) The Owner/Occupier, 19 Aghinduff Park,Dungannon,Tyrone,BT70 3AU The Owner/Occupier, 2 Aghinduff Park,Dungannon,Tyrone,BT70 3AU Sean Loughran 23 Whites Road Dungannon Tyrone Sean Loughran 23, Whites Road, Dungannon, Tyrone, Northern Ireland, BT70 3AN The Owner/Occupier, 34 Gleanniseal,Dungannon,Tyrone,BT70 3BE The Owner/Occupier, 36 Gleanniseal,Dungannon,Tyrone,BT70 3BE The Owner/Occupier, 38 Gleanniseal,Dungannon,Tyrone,BT70 3BE The Owner/Occupier, 40 Gleanniseal,Dungannon,Tyrone,BT70 3BE The Owner/Occupier, 5 Gleanniseal,Dungannon,Tyrone,BT70 3BE The Owner/Occupier, 7 Aghinduff Park,Dungannon,Tyrone,BT70 3AU The Owner/Occupier, 7 Gleanniseal,Dungannon,Tyrone,BT70 3BE The Owner/Occupier, 9 Aghinduff Park,Dungannon,Tyrone,BT70 3AU	
Date of Last Neighbour Notification	26th June 2019
Date of EIA Determination	
ES Requested	No



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5th November 2019	Item Number:
Application ID: LA09/2019/0704/F	Target Date: 29/08/2019
Proposal: Proposed changes of layout to approved development (LA09/2017/0293/F): Site No.9 single detached dwelling changed to a pair of 2 storey semi detached dwellings. Sites Nos. 19 and 20 (pair of semi detached) removed due to archaeology (revised road layout)	Location: Church View Church Street Ballygawley Co Tyrone.
Referral Route: Objection	
Recommendation:	Approve
Applicant Name and Address: Jackay Ltd 4a Enterprise Road Bangor BT19 7TA	Agent Name and Address: Eugene Corrigan Building Designs 7 Ardmore Heights Omagh BT78 5AX
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



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

See main body of report

Description of proposal

This is a full planning application changes of layout to approved development (LA09/2017/0293/F): Site No.9 single detached dwelling changed to a pair of 2 storey semi detached dwellings.

Characteristics of site and area

The application site is located on the south side of Church Street in Ballygawley. It is bounded by the Church of Ireland to the west and by the 'Fairway Green' housing development and hall with direct access onto Church Street to the east. Permission has been granted on this under LA09/2017/0293/F and development has commenced, with 4 sets of semi-detached dwellings almost complete to the north of the site where proposed changes are proposed, from a detached dwelling, to a set of semi-detached 2 storey dwellings.

Opposite the site to the north is Presbyterian Church and Hall and Richmond Primary School.

Most of the site has been cleared for development, and most drainage work and road way paths seem to be in place. The northern portion of the east/NE boundary is shared with development to the east including dwellings within Fair Green that back onto the site, an existing hall and nursing home and is defined by a mix of treatments including fencing, hedging and walls of a variety of heights. The remaining part of this boundary is defined in part by a post and wire fence shared with another field. Other parts to the south of this boundary are not clearly defined and open to a larger open area of rush/marsh land. A retaining gabbion structure has been constructed to the south, which forms part of the drainage/flood protection measures.

Part of the NW boundary is shared with the Church of Ireland, a listed building, and is defined by a 2/3m high stone wall and some mature trees located on the site side of the boundary. The remainder of this boundary is not clearly defined and dissects part of an existing field to the south of the Church.

The SW boundary is not clearly defined. To the south of the site the land is flat and marshy, with drainage channels, marshy/rush land and some tree/shrub growth. This part of the site lies within 1:100 flood plain.

There are panoramic views of the countryside to the south, with the A5 visible in the distance. The site can be viewed from the stretch of road from the Ballygawley roundabout towards Omagh for small approx. 200m with the Church of Ireland also clearly visible along with other surrounding development within this area of Ballygawley.

Land within the site slope downhill from Church Street to a flatter area to the south of the site. Access is gained from Church Street where this boundary is defined by a rendered block wall and access gate.

Planning Assessment of Policy and Other Material Considerations**Planning Act 2011**

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

Area Plan

Dungannon and South Tyrone Area Plan 2010- The site is located within the development limits of Ballygawley on land with no zoning. Within the area plan it indicates 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.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this, the Draft Plan cannot be given any determining weight at this time.

Relevant planning history

LA09/2017/0293/F- Proposed private housing development consisting of 29 No. dwellings ,including private and public amenity spaces and associated roads and Waste Water Treatment Plant, granted 27.11.2018.

M/2006/1112/F this site was granted on 28th May 2009 for 38 units of accommodation and included a mix of apartments, semi-detached and terraced dwellings with associated landscaping and parking.

Representations

One 3rd party objections has been received by No. 18 Fairview, a single storey dwelling located to the north (NNE) of site No. 9. Issues raised are summarised below and include;

- loss of sunshine/daylight;
- detrimental impact on privacy by overlooking;
- overbearing effect on home from proposed development.

I will assess these impacts later in my consideration.

Consultees

In this particular case, as communal car parking spaces are proposed to be displaced, I find it only necessary to consult DfI Road. DfI Roads required further amendments from the original proposed layout. The agent provided an amended block plan (drawing No. 02 rev1) and DfI roads have no further concern with this proposal. Need for a new Private Street determination is not required as this has been considered under the previous application LA09/2017/0293/F and the road layout is remaining broadly unchanged. It is felt that no further consultation was required with any other professional consultee as numbers are being reduced by one, and the only other assessment required is to assess the visual and amenity impacts on existing and proposed dwellings.

Consideration

Planning permission was granted on this site under LA09/2017/0293/F. Layout remains broadly the same, with the exception of site 9, which proposes to replace a 2 storey detached dwelling and communal parking with 2 semi-detached 2 storey dwellings with in curtilage parking, and the removal of dwellings on sites 19 and 20, to be left as open space with the discovery of archaeological remains. Some communal parking is also proposed at this area of open space.

In my view, the proposed amended layout on site 9 is reflective of the relationship between that layout which was approved between sites 8, 10 and 11 of LA09/2017/0293/F. Site 10 has a separation distance to the rear boundary of approx 8m, and a private amenity space of 62m2. Site 11 had 8m to rear boundary and private amenity space of 62m. Distances between dwellings 10, 11 and 8 were approximately 9m.

Under the proposed development, there is a separation distance to the rear boundaries of the proposed semis of approx. 8m, with a separation distance of 9m between buildings. Proposed private amenity measures 65m2 (site 9) and 58m2 (site 10). This is very similar to what was previously granted. In my view this is on the limit of what is considered to be a quality residential

layout, but given the similar relationship that was granted under 17/293, I find this to be still within the spirit of policy QD1 of PPS7 in provision of a quality residential layout. While Creating Places suggest a standard of 70m² for private residential amenity, and a separation distance of 10m to the rear boundary, and 20m between properties that back onto each other, these are only recommendations.

In relation to the objectors concerns, there will be a separation distance of over 25m from the gable of the dwelling that will face No. 18 Fairview, which is a similar distance from the dwelling on site No. 8 that was granted under 17/293/F. I do not feel that impacts of overlooking or overshadowing will be any greater on this property from this proposed development. The new dwelling on site No. 9 is also at a lower level in the site, and will have a lower finished floor level than No. 18, by approx. 3.5m. This will reduce impacts of overlooking, overshadowing and over dominance. Proposed first floor bedroom windows will pint towards No. 18, by due to separation distance and proposed levels it is my view there will be no detrimental impact to the private amenity by this development. Existing rear boundary fencing and proposed landscaping will also help to protect existing private amenity.

Policy QD1 - Quality in New Residential Development in PPS7 - Quality Residential Environments states all proposals for residential development will be expected to conform to all of the following criteria:

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

The principle of residential development has been established on this site under M/2006/1112 and LA09/2017/0293/F. As detailed above, it is my view that the proposed changes are appropriate for this site and are in keeping with the character of the previous permission.

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

The site is located adjacent to Church of Ireland, a Grade B listed building. Its curtilage wall, shared with the proposed development is listed also. This has been considered under LA09/2017/0293/F where conditions for its protection has been added and still apply. It is proposed to remove dwellings on sites 19 and 20 to preserve archaeological important discoveries on the site. I have no objections to this, subject to a planning condition being attached for an open space management plan being put in place prior to the occupation of sites 18, 19, 20 and 20.

No landscaped features are identified in the area for protection and integration into the development.

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

There is sufficient private amenity space provided for each dwelling in this application. Parking is mostly to the front of properties, with some on-street parking outside any defined existing curtilage. This layout has been found acceptable by DfI Roads. Council Planning staff have also found the previous layout to be acceptable, and this layout is broadly similar.

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

The site is located close to existing services within Ballygawley Village. A development of this size and scale does not need its own facilities.

e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;
Footpaths are provided along the internal road that link with existing footpaths into the village and the location of this site within Ballygawley enables convenient access to public transport.

f) adequate and appropriate provision is made for parking;
There is adequate provision for parking provided for each dwelling proposed and DfI Roads raise no concern or objection to this development. DfI indicate that Private Street Determination exists under 17/293/F.

g) the design of the development draws upon the best local traditions of form, materials and detailing;
The proposed materials and design match the previous permission, part of which has been implemented to the north of the site.

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;
This has been assessed above.

i) the development is designed to deter crime and promote personal safety.
There are no concerns about this regarding this proposal. Rear boundaries of properties are secure, and there is a good level of surveillance as properties front onto the road and onto each other to the south of the development. Area of open space are bounded by public road with good surveillance which promotes personal safety. Streetlighting will also help promote personal safety. There are no 'hideout' or potential anti-social areas within the development.

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

(a) the proposed density is not significantly higher than that found in the established residential area;
The density of this proposal is suitable in this established residential area. This application proposes a reduced density to that which was previously granted approval by the Department and Council.

(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area;
The layout and design of residential development within the wider area is varied with dwellings of differing design and types. I do not think this proposal is conflicting with the character of the existing residential area, as explained above.

(c) all dwelling units and apartments are built to a size not less than those set out in Annex A
The sizes of the dwellings proposed exceed the minimum recommended standards and are acceptable.

PPS15 Planning and Flood Risk. This has been considered under LA09/2017/0293/F and in my view covers this site. There is no amendment to drainage, surface levels, or runoff rates. Mitigation included under 293/f still stands.

Neighbour Notification Checked	Yes
Summary of Recommendation: That permission is granted subject to the following conditions.	
Conditions	
1.	The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
2.	The area of open space, located between sites 19 and 20 and indicated on drawing No. 02 rev1 date stamp received 20th August 2019, shall be provided prior to the occupation of any dwelling on sites 11, 12, 14, 15, 16, 17, 18, 19, 20, 21 as indicated on drawing No. 02 rev1 date received 20th August 2019, unless otherwise agreed in writing by Mid Ulster council. Reason: To ensure that the public open space and planting provision is provided in a timely manner for the benefit of the occupiers and to aid integration of the development into the local landscape as soon as possible.
3.	No dwelling unit on sites 11, 12, 14, 15, 16, 17, 18, 19, 20, 21 as indicated on drawing No. 02 rev1 date received 20th August 2019 shall be occupied until Mid Ulster District Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with an appropriate management company for the upkeep and maintenance of the area of public open space referred to in Condition 2 above. Reason: To ensure that the open space provided is managed and maintained, in perpetuity, in accordance with the Department's Planning Policy Statement 7 (PPS7)-Quality Residential Environments, and Planning Policy Statement 8 (PPS8)-Open Space, Sport and Outdoor Recreation.
4.	Prior to the occupation of each dwelling on sites 9 and 10 hereby approved, the boundary treatments defining each curtilage shall be constructed as detailed on drawings no. 02 rev1 date stamp received 20th August 2019. Reason: To ensure that boundary treatments are provided in a timely manner to assist in the provision of a quality residential environment in accordance with the Departments Policy Statement PPS 7 - Quality Residential Environments, and to ensure continuity throughout the development.
Informatives	
1.This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.	
2.This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.	

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

4.This approval relates only to sites 9 and 10, and the area of open space which is adjacent and east of site No. 19 indicated on drawing No. 02 rev1 date stamp received 20th August 2019. All the remaining conditions and informatives of planning approval LA09/2017/0293/F remain unaltered and shall be complied with unless otherwise agreed by Mid Ulster Council.

5.This application does not require a determination under The Private Streets Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992 as the street was previously determined under Application Reference LA09/2017/0293/F.

Signature(s)

Date:

ANNEX	
Date Valid	23rd May 2019
Date First Advertised	6th June 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 11 Fair Green,Ballygawley,Tyrone,BT70 2LJ The Owner/Occupier, 17 Fair Green,Ballygawley,Tyrone,BT70 2LJ Paul Carson 18 Fair Green,Ballygawley,Co. Tyrone,BT70 2LJ The Owner/Occupier, 18 Fair Green,Ballygawley,Tyrone,BT70 2LJ The Owner/Occupier, 19 Fair Green,Ballygawley,Tyrone,BT70 2LJ The Owner/Occupier, 21 Fair Green,Ballygawley,Tyrone,BT70 2LJ The Owner/Occupier, 3 Old Omagh Road,Ballygawley,Tyrone,BT70 2AA The Owner/Occupier, 81 Church Street,Ballygawley,Tyrone,BT70 2HA The Owner/Occupier, Richmond Primary School,1 Old Omagh Road,Ballygawley,Tyrone,BT70 2EZ The Owner/Occupier, The Firs,7 Fair Green,Ballygawley,Tyrone,BT70 2LJ The Owner/Occupier, The Rectory,24 Old Omagh Road,Ballygawley,BT70 2AA	
Date of Last Neighbour Notification	20th September 2019
Date of EIA Determination	
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0838/F	Target Date:
Proposal: Hobby/Storage shed, portacabin to be used as a canteen and recreation room, raised flower beds, polytunnels and car parking associated with Coalisland men's shed club.	Location: Lands 90m of South of 177a Annagher Road Coalisland (DMAC Engineering Factory).
Referral Route: Objection received	
Recommendation:	Refusal
Applicant Name and Address: Lilac Cancer Support Ltd 177b Annagher Road Coalisland	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	NIEA	

Statutory	NIEA	
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Rivers Agency	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

One objection has been received from the owner of number 36 Washingbay Road, Coalisland. The main concerns in the letter refer to the neighbouring engineering site of DMAC, however, the objector states a number of additional points;

This application would undermine pledges made to residents made in the initial approval.

This is an attempt to extend the operations at DMAC.

Siting is outside the settlement and therefore unsuitable for this type of development.

Siting is on existing soakaways and may cause flooding.

Bio diversity, the application is located within 50 metres of a newt pond, in addition the objector is stating that there are bats in the area.

Characteristics of the Site and Area

This red line of the site includes a long narrow access laneway taken off the Annagher road and a triangular plot of land located adjacent and south of the existing approved DMAC engineering factory. The access runs along the west of the existing factory and continues to a cleared portion of land to the rear. At present there is a sizable earth bund, approx. 6-7m high, which separates the proposed site from the existing factory and yard. There is also earth banking and mature landscaping along the SE and NE boundaries of the site. The cleared area itself is at a much lower level than the factory and a gravel base has been constructed. At the time of site visit there was a number of metal containers as well as some other industrial type metal structures located along the southern boundary.

To the south is a detached single dwelling. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west. The site lies just a short distance to the East of the settlement limits of Coalisland and to the West of the settlement limits of Clonoe.

Description of Proposal

Hobby/Storage shed, portacabin to be used as a canteen and recreation room, raised flower beds, polytunnels and car parking associated with coalisland men's shed club.

Planning Assessment of Policy and Other Material Considerations

Area Plan

Dungannon South Tyrone Area Plan 2010- The site is located just outside the development limits of Coalisland, in the countryside. The policy provisions of SPPS and PPS21 apply.

Planning Policy

SPPS- Strategic Planning Policy Statement

PPS21- Sustainable Development in the Countryside

PPS1 - General Principals

PPS3- Movement Access and Parking

PPS8 - Open Space and Recreation

Relevant Planning History

M/2011/0126/F- permission granted for a small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland, for DMAC on 13.04.2015 (North of application site).

M/2006/2126/F- Retention of Replacement shed for the purpose of paint spraying machine components, permission was refused on 22.06.2017.

An enforcement notice was served on this site for unauthorised breached in planning control and the offender fined £15,000.

LA09/2018/0943/F - Extension to existing factory premises to provide staff car parking - which is currently ongoing.

There are various other planning histories on or close to this site (both planning applications and enforcement cases) however most relate to the factory to the north, some of which are ongoing.

3rd Party Objection

One objection has been received from the owner of number 36 Washingbay Road, Coalisland. The main concerns in the letter refer to the neighbouring engineering site of DMAC, however, the objector states a number of additional points;

-This application would undermine pledges made to residents made in the initial approval.

-This is an attempt to extend the operations at DMAC.

There is concern that an approval for the men's shed on this site would set a precedent and lead to the owner for the adjoining DMAC to extend into this part of the site again after years of trying to get unauthorised operations from this part of the site removed.

-Siting is outside the settlement and therefore unsuitable for this type of development.

There has been no supporting statement to suggest why this application must be sited on this site and not within the settlement limits. The applicant has stated that should the proposal gain planning permission the owner of the site would gift the area to the applicant, however, no evidence of this has been submitted.

-Siting is on existing soakaways and may cause flooding.

The proposal will be close to the drainage area for DMAC which may increase flooding at the objectors property, at the applicants request I am bringing the application to committee before the full response from rivers agency or NIEA have been received.

-Bio diversity, the application is located within 50 metres of a newt pond, in addition the objector is stating that there are bats in the area.

During my site visit there was no evidence of bats or newt, no evidence or photographs have been provided by the objector and the time of writing the full response from rivers agency or NIEA have not been received.

Consideration

SPPS - Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. This site is not located in an area that has any acknowledged importance (ie) an area of archaeological potential, nor is it adjacent or near to any listed building.

The Council has the important task of guiding appropriate developments to the right places, while preventing developments that are not acceptable. In exercising its planning role, it must make provision for necessary developments, such as workplaces, houses, schools and roads, and at the same time protect the natural and built environment. It must secure economy and efficiency as well as amenity in the use of land. It must integrate a variety of complex economic, social, environmental and other factors, many of which have implications beyond the confines of the land-use planning system. The key themes that underlie the Councils approach to planning are sustainable development, mixed use, quality development and design. These themes are set out here and more detailed policies are contained in the other Planning Policy Statements and the SPPS. With this application PPS 3 and PPS21 are applicable.

PPS 21 CTY1

There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. In addition other types of development will 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. In this case the application is applying for a non-residential use (Hobby/Storage shed, porta cabin to be used as a canteen and recreation room, raised flower beds, poly tunnels and car parking associated with coalisland men's shed club.) in the open countryside.

Planning permission will be granted for non-residential development in the countryside in the following cases:

- farm diversification proposals in accordance with Policy CTY 11;
- agricultural and forestry development in accordance with Policy CTY 12;
- the reuse of an existing building in accordance with Policy CTY 4;
- tourism development in accordance with the TOU Policies of PSRNI;
- industry and business uses in accordance with PPS 4 (currently under review);
- minerals development in accordance with the MIN Policies of PSRNI;
- outdoor sport and recreational uses in accordance with PPS 8;
- renewable energy projects in accordance with PPS 18; or
- a necessary community facility to serve the local rural population.

The proposed development is for the Lilac Cancer Support Ltd, whom have proposed to locate a Hobby/Storage shed, porta cabin to be used as a canteen and recreation room, raised flower beds, poly tunnels and car parking all in conjunction with The Coalisland's men's shed club.

It is suggested that the shed would be open from the hours of 10am to 7pm, however, it has not been made clear if this is the first of its type within the area, or where the current meeting places are and as to why they require a new premises.

This application does not fall within any of the above categories and the applicant has not demonstrated any overriding reason why it cannot be located within the settlement limit therefore refusal recommended

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.

PPS21 CTY13

It is my opinion that there is sufficient landscaping and trees to assist with integration of the proposal into the landscape. The design, size and scale of the building would allow the building to blend in successfully with its immediate and wider surroundings. I have no concerns for integration.

PPS21 CTY14

It is my opinion that the proposal is of a size and scale that will not have a detrimental impact on the rural character of this area and will not offend policy CTY14.

PPS 8 - Open Space, Sport and Outdoor Recreation

Policy OS 3 of PPS 8 deals with Outdoor Recreation in the Countryside. It identifies 8 different criteria which must be adhered to.

This proposal does not impact on any features of archaeological importance or built heritage.

There was no evidence of any protected species on site on the day of my inspection.

The proposal does not result in the loss of any agricultural land and due to its location – a clearing to the rear of the DMAC engineering site– it will not have any impact on agricultural activities.

The site and activities are nearly totally enclosed with mature vegetation and its topography. It cannot be critically viewed from the public road. It therefore has no adverse impact on the visual amenity or rural character of this area.

The nearest occupied dwelling is located over 40m to the S of the site. I am satisfied that the activities on site (as long as there is no increase in activity) will not have an adverse impact on residential amenity.

The site is in an area outside of the settlement limit and given the limited use of the site, I would have no concerns in respect of public safety.

The proposal is acceptable in terms of scale, massing and design.

The proposal will cater for the need of older men, with a concern for their mental health and well being. Access to this site is only achievable by private car/bus given its rural location.

The proposal does involve intensification in terms of traffic movements, however road service have no objection and adequate parking is available.

I am satisfied that this proposal is compliance with all criteria contained in policy OS 3.

PPS 3

Planning Policy Statement 3 - Access, Movement and Parking sets out the main planning considerations that the Council will take into account in assessing: the provision made for access, movement and parking in proposals for new development; proposals for car parks; and proposals which affect routes afforded protection for future transport proposals. The provisions

will prevail unless there are other overriding policy or material considerations which outweigh them and justify a contrary decision.

The proposed access is taken off the Annagher Road via the existing access, DFI Roads have been consulted and have responded with no objections subject to conditions.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this the Draft Plan cannot be given any determining weight at this time.

Accordingly, this application does not accord with the provisions of current Planning Policy and therefore cannot be determined under the Council's present scheme of delegation and must be presented to the Planning committee.

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.

Signature(s)

Date:

ANNEX	
Date Valid	14th June 2019
Date First Advertised	27th June 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 172 Annagher Road, Coalisland, Tyrone, BT71 4NF The Owner/Occupier, 174 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 175 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 175a ,Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 177 Annagher Road, Coalisland, Tyrone, BT71 5DA The Owner/Occupier, 177 Washingbay Road, Coalisland, Tyrone, BT71 5EG The Owner/Occupier, 36 Washingbay Road Coalisland Tyrone James Hughes 36 Washingbay Road, Coalisland, Tyrone, BT71 4PU	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2019/0838/F Proposal: Hobby/Storage shed, portacabin to be used as a canteen and recreation room, raised flower beds, polytunnells and car parking associated with coalisland mens shed club. Address: Lands 90m of South of 177a Annagher Road, Coalisland (DMAC Engineering Factory)., Decision: Decision Date: Ref ID: LA09/2018/0943/F Proposal: Extension to existing factory premises to provide staff car parking (Biodiversity checklist and amended plans) Address: 70m South of 177 Annagher Road, Coalisland (DMAC Engineering Factory),	

Decision:

Decision Date:

Ref ID: LA09/2016/1761/NMC

Proposal: Relocation of previously approved flue stacks

Address: 70m South of 177 Annagher Road, Coalisland,

Decision: CR

Decision Date:

Ref ID: LA09/2019/0179/F

Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition

Monday - Friday from 6am - 8pm

Address: Lands 70m South of 177 Annagher Road, Coalisland.,

Decision:

Decision Date:

Ref ID: LA09/2015/1278/NMC

Proposal: Minor change to planning approval M/2011/0126/F: change of exterior cladding colour of the unit to green and change of roof pitch to accommodate overhead cranes

Address: 70m South of 177 Annagher Road, Coalisland,

Decision: CG

Decision Date:

Ref ID: LA09/2017/0319/F

Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)

Address: 70m South of 177 Annagher Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/2013/0464/LDE

Proposal: Works which were subject to conditions have not been carried out

Address: Lands south of 177 annagher Road, Coalisland,

Decision: PG

Decision Date:

Ref ID: M/2014/0027/LDE

Proposal: The continued use of the land for the storage of industrial machinery, steel. portacabins and general industrial equipment

Address: Lands south of 177 Annagher Road, Coalisland,

Decision: PR

Decision Date:

Ref ID: M/2010/0631/Q

Proposal: Zoning of Industrial Lands

Address: Lands South of 177 Annagher Road, Coalisland

Decision:

Decision Date:

Ref ID: M/2010/0074/F

Proposal: Proposed retention of existing spray painting/shot blasting workshop (using an Industrial Development Board backed volatile organic compound extraction system) and hardstanding area with extension to workshop and hardstanding area.

Address: 260m South of 177 Annagher Road, Coalisland

Decision: AW

Decision Date:

Ref ID: M/2011/0126/F

Proposal: Small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland.

Address: 70m South of 177, Annagher Road, Coalisland,

Decision: PG

Decision Date: 29.04.2015

Ref ID: M/1986/0582

Proposal: EXTRACTION OF SAND

Address: ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1987/0421

Proposal: SAND EXTRACTION

Address: ANNAGHER ROAD, ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/2006/2126/F

Proposal: Retention of Replacement shed for the purpose of paint spraying machine components

Address: Retention of Replacement Shed 260m's South of 177 Annagher Rd, Coalisland, Co.Tyrone

Decision:

Decision Date: 22.06.2007

Ref ID: M/2009/0643/F

Proposal: Proposed retention of ex shotblasting/spray painting workshop with hardstanding area and extension to workshop & hardstanding area

Address: 260m south of 177 Annagher Rd, Coalisland

Decision:

Decision Date: 11.01.2010

Drawing Numbers and Title

Drawing No. 04
Type: Proposed Plans
Status: Submitted

Drawing No. 05
Type: Proposed Plans
Status: Submitted

Drawing No. 03
Type: Proposed Plans
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0980/F	Target Date:
Proposal: Proposed Replacement Dwelling and Detached Double Garage.	Location: No. 10 Coolnasillagh Road Maghera.
Referral Route: Approval – To committee – One objection received.	
Recommendation:	
Applicant Name and Address: Mr J Grant 101 A Iniscarn Road Desertmartin Magherafelt BT45 5NJ	Agent Name and Address: Paul Moran Architects 18B Drumsamney Road Desertmartin Magherafelt BT45 5LA
Executive Summary: Approval	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

Approval – To committee – One objection received.

Summary of objection are as below:

- First issue raised that the objector owned the laneway that the applicant initially intended to use which has only been used for agricultural purposes and was never used for residential purposes. In which they have not been asked or granted any permissions for a right of way over this lane.
- In addition as per the submitted plans it indicates vegetation to be trimmed back, in which no permissions will be given for those owned by the objector.
- Finally, the lane is not up to purpose for residential use and especially during the construction phase. In which construction vehicles driving over this lane could not do so without damage to a primary drain and fence.

Characteristics of the Site and Area

The proposed site is located approximately 3.51km south west of the development limits of Glen, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 10 Coolnasillagh Road, Maghera and on the site sits a detached single storey dwelling that appears not to have been lived in for some years. Originally the red line showed the use of an existing access onto the Coolnasillagh Road but has since changed to create a new access. In which the red line runs over a number of agricultural fields to the south of the dwelling in which are bounded by high mature trees that limits the public view. I note that the immediate and surrounding area are predominately agricultural land uses with a scattering of residential dwellings.

Representations

Five neighbour notifications were sent out however there was one objection received on this application.

Description of Proposal

This is a proposed full application for a proposed replacement dwelling house and detached double garage located at 10 Coolnasillagh Road, Maghera.

The proposed dwelling is detached two storey dwelling with a frontage of 23.4m with a ridge height of 8.5m above finished floor and a gable depth of 9m with the remaining development to the rear. The proposed dwelling will be smooth render to be painted with blue/black slates to the roof.

Planning Assessment of Policy and Other Material Considerations

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

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

CTY 3 – Replacement Dwellings

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 are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Buildings designed and used for agricultural purposes, such as sheds or stores will not be eligible for replacement under this category. However favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. Upon review of submitted plans and what was witnessed on site I am content that the building to be replaced exhibits the main characteristics of a dwelling and that the building itself remains substantially intact.

In addition the policy goes on to state that the proposed replacement should be sited within the established curtilage of the existing, unless either a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. Upon review of the submitted plans and what was seen on the site visit I note that given the level of surrounding vegetation it is difficult to determine where the curtilage actually is. I note that due to the limited space around the existing building that a new location would be required to accommodate a modest sized dwelling, with this in mind I am content that the proposed location of the dwelling is acceptable and is able to comply with CTY 3 of PPS 21.

The proposed development must also comply with policies CTY 13 and 14, in that CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design. As previously note that given the level of existing and surrounding landscaping that there will be limited public views into the site and that as the site sits on lower ground than that of the existing dwelling I am content that it will not appear as prominent in the landscape and will also adequately integrate into the landscape. In terms of the proposed design I am content on balance that it is acceptable within this rural context. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As noted I am content that the proposed dwelling will not be unduly prominent in the landscape and will not result in a suburban style of build-up development when viewed with existing development. I am content that the proposed dwelling is able to respect the traditional pattern of settlement exhibited in the area, in addition it will not result in additional dwellings through infilling. Finally, I note that throughout the application process that the access arrangements have changed as a response to the issues raised, in which has been agreed to be acceptable by DFI Roads and during the group meeting. I am therefore content that the proposal is able to comply with the criteria of CTY 14.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving

rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

In terms of access, I note that a new access directly onto the Coolnasillagh Road was proposed and a consultation to DFI Roads was sent who responded to confirm that there was no objection subject to conditions.

In response to the comments raised by the objector, I note that the objection was made in reference to laneway in the first submitted location plan. However the access position has since been changed away from this laneway in which no further objections have been raised. From such, I am content that the issues have since been addressed.

I have no flooding, ecological or residential amenity concerns.

The proposal accords with the policy requirements of SPPS and PPS 21, therefore I recommend approval for this development.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval – To committee – One objection received.

Conditions:

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

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

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

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

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

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

4. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/2 date stamped 03rd October 2019 shall be carried out in the

first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

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

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

6. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan No 01/1 date stamped 03rd October 2019 is demolished, all rubble and foundations have been removed and the site restored in accordance with a scheme to be submitted to the Council and approved in writing.

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

7. The vehicular access including visibility splays 2.4 X 60 metres and any forward sight distance, shall be provided in accordance with Drawing No 02 / 2 bearing the date stamp 3 Oct 2019 prior to the commencement of any other development hereby permitted.

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

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

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

Informatives

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

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

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

4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing

legislation as may be administered by the Department or other statutory authority. The developer's attention is expressly drawn to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 which has application to the development hereby granted planning permission.

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

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

Signature(s)

Date:

ANNEX	
Date Valid	18th July 2019
Date First Advertised	1st August 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Drumconready Hill, Maghera, Londonderry, BT46 5UH The Owner/Occupier, 12 Coolnasillagh Road, Maghera, Londonderry, BT46 5LJ The Owner/Occupier, 2 Drumconready Hill Maghera Londonderry The Owner/Occupier, 8 Coolnasillagh Road Maghera Londonderry Kathleen McCusker 8, Coolnasillagh Road, Maghera, Londonderry, Northern Ireland, BT46 5LJ Kathleen McCusker 8, Coolnasillagh Road, Maghera, Londonderry, Northern Ireland, BT46 5LJ	
Date of Last Neighbour Notification	23rd August 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/0980/F Proposal: Proposed Replacement Dwelling and Detached Double Garage. Address: No. 10 Coolnasillagh Road, Maghera., Decision: Decision Date: Ref ID: H/2014/0376/PREAPP Proposal: solar Farm Address: Drunconready Hill Solar Farm, 1 Drunconready Hill ,Maghera, BT46 5UH, Decision: EOLI Decision Date: Ref ID: LA09/2015/0815/F Proposal: Dwelling and Garage (Change of House Type to that approved under H/2007/0652/F, Construction commenced). Address: Approx 140m NW of 12 Coolnasillagh Road, Maghera., Decision: PG	

Decision Date: 09.03.2016

Ref ID: H/2005/0046/F

Proposal: New access and laneway to existing approved sites ref H/2003/0801, H/2003/0918 and H/2003/0123

Address: Adjacent to Campbells Bridge, Five Mile Straight, Maghera

Decision:

Decision Date: 08.07.2005

Ref ID: H/2003/0801/O

Proposal: Site of Dwelling & Garage

Address: Approx 140m North West of 12 Coolnasillagh Road, Maghera

Decision:

Decision Date: 20.04.2004

Ref ID: H/2007/0652/F

Proposal: Repositioning & change of house type, approved under Ref. H/2007/0152/RM and detached garage

Address: Approx. 140m North West of 12 Coolnasillagh Road, Maghera

Decision:

Decision Date: 22.11.2007

Ref ID: H/2007/0152/RM

Proposal: Dwelling & garage

Address: Approx 140m North West of 12 Coolnasillagh Road, Maghera

Decision:

Decision Date: 21.06.2007

Ref ID: H/2003/0918/RM

Proposal: Dwelling and garage.

Address: Adjacent to no.10 Coolnasillagh Road, Maghera.

Decision:

Decision Date: 13.08.2004

Ref ID: H/2001/0366/O

Proposal: Site of two storey dwelling and garage

Address: Adjacent No.10 Coolnasillagh Road, Maghera

Decision:

Decision Date: 14.12.2001

Ref ID: H/1978/0402

Proposal: BUNGALOW WITH GARAGE

Address: DRUMCONREADY, MAGHERA

Decision:

Decision Date:

Ref ID: H/2003/0123/O

Proposal: Site of dwelling and garage.

Address: Approximately 60m West of 12 Coolnasillagh Road, Maghera.

Decision:

Decision Date: 14.04.2003

Ref ID: H/2006/0303/RM

Proposal: Dwelling & Garage

Address: Approximately 60m West of 12 Coolnasillagh Road, Maghera

Decision:

Decision Date: 04.07.2006

Ref ID: H/2003/0500/F

Proposal: Dwelling and garage.

Address: Approx 60m West of 12 Coolnasillagh Road, Maghera.

Decision:

Decision Date: 08.06.2006

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01/1

Type: Site Location Plan

Status: Approved

Drawing No. 02/2

Type: Site Layout or Block Plan

Status: Approved

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Elevations and Floor Plans

Status: Approved

Drawing No. 04

Type: Garage Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1088/F	Target Date:
Proposal: Proposed extension of curtilage and erection of domestic store and all associated site works	Location: Lands immediately between 218 and 220 Ballynakilly Road Dungannon
Referral Route: Objection	
Recommendation: Approve	
Applicant Name and Address: Moussa Jaafar 85 Coash Road Ballynakilly Dungannon BT71 6JE	Agent Name and Address: Armagh Design 63 Glen Mhacha Armagh BT61 8AF
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

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 1 objection letter received 26th September 2019

Description of Proposal

This is a full planning application to extend the curtilage of a dwelling, located at 218 Ballynakilly Rd, to include lands to its southeast for the erection of domestic store and all associated site works

The lands sought to be included within the curtilage of no. 218 are located between it and another dwelling, no. 220 Ballynkilly Rd.

The domestic store has a rectangular floor plan and pitched roof construction. It measures 8m (gable depth) x 12m (length) x 3.7m (height) and has a roller shutter

garage door located on its front gable elevation. There are no windows in the garage only a door in its southeast elevation.

Material finishes to the proposed studio include:

- Walls: black pvc insulated steel wall cladding with black trims
- Roof: black pvc insulated steel roofing sheets
- Doors: black upvc insulated roller shutter door and upvc black double glazed pedestrian door.
- Rainwater goods: black pvc guttering upvc black downspouts.

It is noted that this application originally included a mixed martial arts grappling and wrestling studio for the applicants son, Mr Yousef Jaafar who resides at no. 218 Ballynakilly Rd. Yousef is an amateur MMA fighter and requires an studio to progress his career. Yousef proposed to train personally and simultaneously provided a limited no. of training sessions. Further to consultation with Transport NI recommending refusal (see 'Consultations' within 'Planning Assessment of Policy and Other Material Considerations' further down in the body of this report) within of this proposal under PPS 3, Access, Movement and Parking, Policy AMP 2, the applicant / agent removed this element of the proposal.

Characteristics of the Site and Area

The site which sits adjacent the Cohannon Inn is located in the rural countryside as defined by the Dungannon and South Tyrone Area Plan 2010, approx. ½ mile north west of the Tamnamore Roundabout unto the M1.

The site which is a relatively flat irregular shaped plot comprises a small single storey dwelling, no.218 Ballynakilly Rd (the applicant's son's residence), and its curtilage. It also comprises part of an adjacent agricultural field located between no. 218 Ballynakilly Rd and 220 Ballynakilly Rd a large two storey hipped roof dwelling with detached garage that is bound to its southeast side by a horse arena and to its rear by outbuildings/sheds.

It is the aforementioned lands between nos. 218 and 220 Ballynakilly Rd that the applicant seeks to include within the curtilage of no.218 Ballynakilly Rd for the provision of the domestic store, mixed martial arts grappling and wrestling studio.

No.218 is a vernacular dwelling set back from and accessed off the Ballynakilly Rd via a short concrete lane. It has a simple rectangular floor plan and pitched roof construction with only a small pitched roof porch located on its front elevation and dropped pitched outbuilding attached to its northern gable. Its has dash finished walls, a red corrugated metal roof, and white upvc window frames and doors.

The dwelling fronts onto a small farm yard (to its east) bound by small no. of outbuildings only one of which is within the red line of the application site. It is positioned quite tight to its rear/western party boundary of the site with The Cohannon Inn leaving only a small amenity strip to its rear. It has a slightly larger garden located further to its southern gable running alongside the access lane.

The western/party boundary of the site with The Cohannon Inn is bound by close boarded fencing; the northeast boundary of the site is bound along the existing curtilage of no. 218 by a small no. outbuilding, the remainder of this boundary taking in what is

proposed as the new curtilage is undefined and opens unto the larger agricultural field from which it is cut. The southeast/party boundary of the site with no.220 Ballynakilly Rd is defined primarily by a mix of mature vegetation.

Whilst the site is located in the rural countryside and has agricultural lands running to its east, the immediate area is characterised by the heavily trafficked Ballynakilly Rd connecting Coalisland to the M1; and by The Cohannon Inn, the Service Station, and no. of mixed retail units all located on lands immediately to its northwest.

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.

Key Policy Context

Regional Development Strategy
Dungannon and South Tyrone Area Plan 2010
Strategic Planning Policy Statement for Northern Ireland
Addendum to PPS 7 Residential Extensions and Alterations

The Mid Ulster Local Development Plan 2030 – Draft Strategy published February 2019

Planning History

- M/1986/0305 - Bungalow - Ballynakilly Rd, Tamnamore, Dungannon
- M/1987/0071 - Two storey dwelling - Ballynakilly Rd, Tamnamore, Dungannon
- M/1991/0041 - Domestic Garage and Store - 220 Ballynakilly Rd Tamnamore Dungannon
- M/1992/0577 - Change of use from store to bedroom accommodation for Tourists - Adjacent to 210 Ballynakilly Rd Dungannon

Consultations

Policy Consideration and Assessment

Dungannon and South Tyrone Area Plan 2010 - The site is located in the rural countryside. The plan offers no specific policy relevant to this application.

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

Strategic Planning Policy Statement for Northern Ireland - sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

I believe if this proposal complies with the provisions of PPS 7 Residential Extensions and Alterations which have been retained under the SPPS, then it will not cause demonstrable harm to any interests of acknowledged importance.

Planning Policy Statement 7 Residential Extensions and Alterations - This proposal meets the criteria as set out in Policy EXT 1 of this policy in that:

The scale, massing, design and external materials of the proposed store are sympathetic with the built form and appearance of the existing property and associated buildings on site and as such should not detract from the appearance and character of the property or the area. It is my opinion that the proposed building will take on the appearance of an agricultural shed typical of the rural countryside, and when viewed from critical vantage points along the Ballynakilly Rd it will cluster with the existing dwelling and small no. of outbuildings on site.

The extension should not unduly affect the privacy or amenity of neighbouring residents in terms of overlooking or overshadowing. In terms of overlooking the extension has no windows in any of its elevations and only one door in its southeast elevation which despite being glazed I am content should not overlook any private amenity afforded to no. 220 Ballynakilly Rd given the mature vegetation that runs along the party boundary of the site with no. 220 which in my opinion will provide adequate screening between both properties.

With regards overshadowing I am content that adequate separation distance will be retained between the proposed building and existing buildings as to not cause any concern in this regard.

The extension which is to be located on agricultural lands between nos. 218 and 220 Ballynakilly Rd will not cause any loss of, or damage to, trees or other landscape features contributing significantly to local environmental quality.

Existing amenity space within the curtilage of no.218 Ballynakilly Rd for recreational and domestic purposes including for the parking and manoeuvring of cars will not be impacted by this proposal. In effect this proposal will provide additional amenity space within the increased curtilage of no. 218, in the form of the domestic store and additional garden area to its front/south side.

Representations

Neighbour notification and press advertisements have been carried out in line with the Council's statutory duty. At the time of writing, 1 objection had been received and is detailed below.

The objection was submitted by Mr David Mounstephen for FM Planning on behalf of their client, the details of whom were not supplied. The objection related to the studio element of the proposal which Mr Mounstephen stated appeared commercial and questioned by reason of its size and scale whether it will be ancillary to the dwelling. In relation to this concern he noted the following:

- The studio and associated shower/changing facilities are some 63 sqm (680sqft) in area;

- The studio is in a new stand alone building as opposed to an extension or alteration to the existing dwelling;
- The studio is sited beyond the curtilage of the existing dwelling; and
- The proposal includes provision for 4 car parking spaces, a turning space and passing bay.

He stated that the supporting statement accompanying this application confirmed the proposal is sited so as not to detrimentally affect amenity of residents. And highlights that an ancillary studio for domestic purposes would be unlikely to need such consideration.

He also stated the development is contrary to PPS 7 Residential Extensions and Alterations Policy EXT 1 justification and amplification text, that in all cases the (Council) need to be satisfied the accommodation will remain ancillary to the main residential property and careful consideration be given to the impact of proposals on neighbouring dwellings. Furthermore he states the design does not appear to result in an integrated rural group of building as per Annex A Guidance. And finally that the development is also contrary to PPS 21 CTY1 Development in the Countryside as there are no overriding reasons why the development is essential and could not be located in a settlement.

Further to Mr Mounstephen's objection, upon Transport NI's objection to the proposal the applicants agent submitted a revised scheme removing the MMA Grappling Studio element of the proposal (including washing and changing facilities) and 4 car parking spaces, a passing bay and turning space provided to serve it.

Upon receipt of the amended scheme both neighbouring properties and the objector was re-notified. And to date no further objections have been received.

Based on the amended scheme and having considered the objection letter received above, my opinion has not changed. I believe proposal complies with the policy provision PPS 7 Residential Extensions and Alterations Policy EXT 1. I am satisfied the accommodation will remain ancillary to the main residential property and I propose attaching an informative to ensure this remains the case. I note careful consideration has been given to the impact of proposals on neighbouring dwellings. As the proposal meets with the provision of PPS7 it does not require justification for its siting within the countryside under PPS 21 CTY1 Development in the Countryside.

I am content that that the size, scale and location of this stand alone building is acceptable for the site and locality. The proposed development is no longer proposed to be used by the applicant's son, as a grappling studio accordingly the 4 car parking spaces, a turning space and passing bay have been removed from the proposal.

I am content that the extension to the properties curtilage for the provision of this store will not, in my opinion cause any significant detrimental impact on this visual amenity of the area. It is noted the building is within a substantially built up frontage with the Cohannon Inn and Cohannon Complex next door and a large detached dwelling with equestrian facilities on the other side. Under the initial proposal which had included the MMA Studio I had concerns regarding noise from the MMA building and discussed this with Environmental Health, they did not raise any concerns with this due to its location close to other noisy activities and its small scale nature. However it noted that this element of the proposal has subsequently been removed.

I note all proposals requiring planning permission, including those for domestic purposes are considered in relation to any unduly affect they may have on the privacy or amenity of neighbouring residents. As detailed above in my assessment of this proposal against PPS7 I am content this proposal should not cause any unduly affect on neighbouring residential amenity.

Other Considerations

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

Taking all of the above into consideration I would recommend the approval of this application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve

Conditions.

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

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

2. The building hereby approved shall be used only for purposes ancillary to and for the enjoyment of the occupiers of 218 Ballynakilly Road.

Reason: To protect residential amenity.

Informative

1. This permission only allows for domestic use ancillary to 218 Ballynakilly Road. This approval does not give permission for any a separate planning unit for a commercial gym or training facility which would require a separate permission.

Signature(s)

Date:

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 03/12/2019	Item Number:
Application ID: LA09/2019/1137/O	Target Date:
Proposal: Proposed single dwelling house and domestic garage on infill site	Location: Land between 13 & 19 Dunamony Road Dungannon
Referral Route: <ol style="list-style-type: none"> 1. Objection received from a third party. 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 creation of ribbon development along Dunamony Road. 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 and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration. 4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted would further erode rural character as a consequence of a build-up of dwellings. 	
Recommendation:	Refusal
Applicant Name and Address: Mr Colm Casey 48 Friary Road Dungannon BT70 1PU	Agent Name and Address: Linepoint Architects 34 Clonmore Manor Lisburn BT27 4EW
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	NIEA	Advice

Representations:

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

Number of Petitions of Objection and signatures	No Petitions Received
<p>Characteristics of the Site and Area</p> <p>The site is located 2.16km northwest of the settlement limit of Eglish as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding countryside is predominantly rural, characterised by single detached dwellings, farm complexes and sprawling agricultural fields.</p> <p>The application site is a portion of an agricultural field and has a roadside frontage along the Dunamony Road. There is a detached dwelling across the road at No. 6 and a number of detached dwellings along the same side of the public road. The site has a square shape with a flat topography, situated between No. 13 to the northwest and No. 19 to the southeast. There is a 2m high established hedgerow along the northwest boundary with No. 13. To the rear of the site, there is a watercourse and a post and wire fence. Along the roadside boundary, there is a post and wire fence.</p>	
<p>Description of Proposal</p> <p>This is an outline application for a dwelling and garage on an infill site.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Planning History</p> <p>No recent planning history at the site.</p> <p>Consultees</p> <p>DFI Roads were consulted and responded with no objections subject to conditions that a 1:500 block plan is submitted at Reserved Matters Stage.</p> <p>NI Water were consulted and had no objections.</p> <p>NIEA were consulted as there is a watercourse along the southern boundary of the site and responded with no objections.</p> <p>Representations</p> <p>The proposal was advertised in the local press and neighbours notified and one representation has been received.</p> <p>The owner/occupiers of No. 6 Dunamony Road submitted an objection by letter on 05th October 2019. Their premises are directly across the road from the application site. The main issues within the letter are –</p> <p>The close proximity of another house to the existing two houses. The site is across the road from No. 6 and in the field to the southeast of No. 13. The principle of whether a dwelling is acceptable on this site will be considered in the assessment of CTY8 in PPS 21.</p> <p>Another dwelling on this lane would affect the safety and character of the neighbourhood. In terms of safety DFI Roads were consulted and had no objections to the safety of a new access at the site. The issue of the impact on rural character will be determined in assessment of CTY 14 in PPS 21.</p>	

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

Dungannon and South Tyrone Area Plan 2010

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Strategic Planning Policy Statement

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.

PPS 21 Sustainable Development in the Countryside

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance, the application is for a dwelling on an infill site and as a result, the development must be considered under CTY 8 of PPS 21.

CTY 8 – Ribbon Development

The application site is situated with a roadside frontage along a public road and is the northern portion of an existing agricultural field. There is a dwelling northwest and abutting the site at No.13. 50m southeast of the site is the lane for No.19. There is no roadside frontage of No. 19 along the Dunamony Road. 74m north of the site is another dwelling at No. 09. On balance, I am not content the proposal is located in a substantial frontage on a small gap site, with 3 or more buildings along a road. No. 19 does not have a common frontage with the public road so the proposal will add to ribbon development along this stretch of the road. In addition, there are no other dwellings south of No. 19 that have a frontage to this side of the road. As a consequence rather than infilling existing development, it would extend the build up to the detriment of rural character.

Overall, I do not consider the proposal is an infill site and will be adding to ribbon development.

CTY 13 – Integration and Design of Buildings in the Countryside

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 application site is situated along an existing roadside frontage and is on land with flat topography. The proposed dwelling will sit to the south of No. 13. In a southeast direction, there are long distance views of the site but the proposed dwelling will read with the dwelling at No. 13. In a northwest direction, there are minimal critical views due to the slight bend in the road and the dwelling will sit behind the existing dwelling at No. 13. Overall, I consider the proposal will not be a prominent feature in the landscape.

There is a 2m high hedgerow along the boundary with No. 13. There is no vegetation along the roadside boundary and along the southeast boundary as the site is a portion of an agricultural field. To the rear of the site is a watercourse and a post and wire fence. I consider the proposed site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. There is only one established natural boundary and the site would rely on new landscaping for integration.

A new access is proposed along the southeast boundary of the site and I am content a new access will integrate with the surroundings.

The design of the proposed dwelling will be considered at the Reserved Matters Stage. I consider a one or two storey dwelling would integrate well at this site. It is predominantly one storey dwellings along this side of the road but there is a two storey dwelling opposite the site.

There is a dwelling to the northwest of the site and another dwelling directly across the road. I am content the proposed dwelling will cluster with these buildings and provide a backdrop in critical views.

The case of dwelling on a farm is not applicable in this case.

CTY 14 – Rural Character

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As mentioned, the site does not benefit from existing vegetation on all the boundaries. Furthermore a dwelling on this site would only add to a build-up of dwellings and further erode rural character.

I consider the proposal will add to a ribbon of development. As stated earlier in the assessment, the proposed site is not within a small gap site within a line of 3 or more buildings with a common frontage.

No ancillary works are proposed which would damage rural character.

Other Considerations

There is a small area of surface water flooding to the rear of the site but I do not consider it necessary to consult Rivers Agency as it has minimal potential to impact on the proposal.

Neighbour Notification Checked Yes

Summary of Recommendation:

The proposal is recommended for refusal, as it does not comply with CTY8 and CTY 13 of Planning Policy Statement 21.

Reasons for Refusal:

1. 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 ribbon development along Dunamony Road.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration.
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 would further erode rural character as a consequence of a build-up of dwellings.

Signature(s)**Date:**



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 05/11/2019	Item Number:
Application ID: LA09/2019/1169/O	Target Date:
Proposal: Erection of infill dwelling & garage	Location: Lands between 33a & 33b Grange Road Moy
Referral Route: Objection received from a third party.	
Recommendation:	Approve
Applicant Name and Address: Mr Andrew Smith 15 Grange Road Moy BT71 7EJ	Agent Name and Address: 2 Plan NI 47 Lough Fea Cookstown BT80 9QL
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	Content

Representations:

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

Characteristics of the Site and Area

The site is located in the rural countryside and is 1.87km from the settlement limit of Moy as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is predominantly rural with sprawling agricultural fields, single detached dwellings and farm complexes. The site is located along the Grange road in a row of detached dwellings. Within the immediate area of the site, there are a number of detached dwellings along Grange Road and along Seyloran Lane, which is at a junction with the site.

The application site is a square shaped plot with a roadside frontage along the public road. There are several detached dwellings on either side of the public road. The site has

a relatively flat topography. It is situated between No. 33A and No. 33B Grange Road. There is mature hedgerow along the roadside boundary and the eastern/western boundaries are defined by a row of mature trees and hedgerows. The rear boundary is undefined as the site is a portion of a larger agricultural field. The site is accessed via an existing field gate along Grange Road.

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

Planning History

M/2002/0743/O – Dwelling – Opposite 34 Grange Road, Moy – Withdrawn

This application is on the same site as this planning application but was withdrawn after being recommended for approval.

Consultees

NI Water were consulted and responded with no objections.

DFI Roads were consulted and responded with no objections subject to a 1:500 scale plan being submitted.

Planning 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.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes 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

Policy CTY 8 – Ribbon Development

Policy CTY 1 of PPS 21 sets out the 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. As this is an application for a dwelling on an infill site CTY8 – Ribbon Development is the relevant policy, which will apply.

The application site has a roadside frontage along a public road. There is a dwelling 260m east of the site at No. 35, a dwelling abutting the eastern boundary at No. 33B and a dwelling abutting the western boundary at No. 33A. There are also dwellings at No. 33 and No. 31. No. 31, No 33A and No. 35 are all set back from the public road with sweeping driveways to the dwellings. However, I am satisfied the dwellings have frontages with the public road as the gardens of the properties abut the road so I consider this is still the frontage of the dwellings. On balance, I am content the proposal situated on a small gap site is within a substantial and continuously built up frontage, which includes a line of 3 or more buildings along a road frontage.

There are varying plot frontages along this public road with 62m at No. 24, 56m at No. 33, and 50m at No. 33A, 67m at No. 33B and 273m at No. 35. The application site has a frontage of 72m. I am satisfied the proposed site has a plot frontage which respects the existing development pattern in terms of plot size. The proposal is the same size plot as No. 33B east of the site.

In terms of size and scale of the proposed dwelling, this is an outline application so the design of the dwelling will be considered at the Reserved Matters Stage. Along the Grange road, there are a number of large two storey dwellings so I am content that either a single/two storey dwellings would integrate into the landscape.

A number of the dwellings such as No. 31, No. 33a and No. 35 are sited further back in the plot with large gardens fronting the road. No. 33B which is adjacent to the site has a dwelling frontage onto the road. No. 34 is directly opposite the application site so members may want to set a siting condition to move the dwelling further back from the public road to protect the amenity of No. 34.

Overall I am content the proposed site is an infill site and meets the criteria in CTY 8 in PPS 21.

CTY 13 – Integration and Design of Buildings in the Countryside

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 application site is along an existing roadside frontage and is on land with an undulating topography. There are no long distance views of the site in both directions along the public road as there are mature trees and hedgerows along the eastern and western boundaries, as shown in figures 1 and 2. There is also mature trees along the roadside boundaries of No. 31 and No. 33A which particularly blocks any direct views in a

westerly direction. On balance, I consider the proposal will not be a prominent feature in the landscape.



Figure1 – View from western direction



Figure 2 – View from eastern direction

There are established trees along the east and west boundaries which will integrate the site in long distance views. There is a mature hedgerow along the roadside boundary and some of this will be removed for visibility splays. As shown on Drawing No. 01 date stamped 05 SEP 2019 additional planting is proposed to replace any removed which will further aid integration. As the proposal consists of a portion of an existing larger field, a new hedge is proposed along the southern boundary, which will aid integration in views from Majors Lane. I am content new planting will not be primarily relied on for the

purposes of integration.

A double garage will sit behind the dwelling and I am content this will integrate into the overall scheme. A new access is proposed which will travel through the middle of the site. It is preferable that the access runs along the boundary but as the access travels a short distance, I am content the new access is acceptable. Also, No. 31 and No. 33A have long sweeping driveways running through the middle of the site so the new access is acceptable in comparison with the surrounding landscape.

The design of the proposed dwelling will be considered at the Reserved Matters Stage. I consider a one or two storey dwelling would integrate well at this site.

I am content the proposal will blend with the existing trees along the east and west boundaries. There are no other buildings at this site but as there are other dwellings along this stretch of public road, I am content the proposal will blend with the other development in the surrounding area.

The case of dwelling on a farm is not applicable in this case.

I am content that the proposal is capable of complying with CTY 13.

CTY 14 – Rural Character

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As mentioned, the site benefits from existing vegetation on three boundaries and further landscaping is proposed on the remaining boundaries, which will further aid integration. The proposed dwelling is sited to cluster with existing dwellings along the road. I am content that this dwelling will not be a prominent feature in the landscape.

As there are already dwellings along this public road and they are sited within a roadside frontage I am satisfied that the development will not result in a suburban style build-up of development. I am of the opinion that the proposal is able to respect the traditional pattern of development as the site can accommodate either a one or two-storey dwelling, which would be in scale and form with other dwellings in the area. The site will be located between 2 other dwellings so I am content the proposal will not add to a ribbon of development.

The creation of a new access at this site will not damage the rural character as there is proposed hedging to mitigate the impact of a new entrance onto a public road.

Planning Policy Statement 3 – Access, Movement and Parking

DFI Roads were consulted as there is a new access from the Grange Road. There is a field gate but according to PPS 3, this is not considered an existing access. DFI Roads requested visibility splays of 2.4m x 70m in both directions and this should be submitted on a 1:500 scale plan at Reserved Matters Stage.

Representations

An objection was submitted from the owner/occupier at 34 Grange Road, Moy. Their dwelling is across the public road from the application site. The following issues have been raised :

1. The proposal is not in the spirit of the gap site i.e. small site in an existing row of no more than six. There will be eleven houses on the same side of Grange Road. This is ribbon development and detrimental to the rural area.
2. The proposal will alter the character of the area and lead to a loss of amenity. Currently the land is used for agricultural purposes and provides relief to the existing housing build-up.
3. The proposed dwelling will be closer to the public road than No. 33B and together with its elevated position will make it a prominent feature in the landscape.
4. The proposed dwelling overlooks the front garden at No.34 and will lead to a loss of privacy.

In regards to point 1, CTY 8 states that to be an infill site there must be three buildings with a roadside frontage and there is no mention of 'no more than six approvals in a row'. As stated earlier in the assessment I am satisfied the proposal meets the criteria in CTY 8.

In regards to point 2, I do not consider the proposal will alter the character of the rural area. The proposal has met the principle of CTY 8 and will not lead to ribbon development. In addition, the immediate area is already built-up with a number of detached dwellings along Grange Road and particularly at the junction with Seyloran Lane and Dreemore Road.

In regards to point 3, the proposed site is 13m from the public road and No. 33B is 16m. I consider the proposed dwelling is not much nearer to the public road than No. 33B. The topography of the application site has a slight undulating topography as shown in figure 3 below but I do not consider a dwelling on this site would be a prominent feature in the landscape.



Figure 3 shows the undulating topography of the site, which is one of the factors the objector feels the proposed dwelling may be a prominent feature in the landscape.

In regards to point 4, this issue was discussed in the assessment of CTY8. If approved the position of the dwelling is a material consideration, which can set as a siting planning condition in the decision notice. This would protect the amenity of No. 34 if the dwelling set further back from the public road. As shown in Drawing No 01 date stamped 05 SEP 2019 the proposed dwelling is 17m from the boundary fence of No.34 and additional planting is proposed on the roadside boundary. I consider the separation distance and the planting on the roadside boundary will protect the amenity of No. 34.

Neighbour Notification Checked Yes

Summary of Recommendation

The proposal is recommended for approval as it complies with CTY 8, CTY 13 and CTY 14 in PPS 21.

Conditions

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, 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 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. Time Limit

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

3. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 70 m in both directions 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.

4. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved

Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted to the rear of the of the visibility splays and along the new boundaries of the curtilage identified in orange on drawing No 01 bearing the stamp dated 05 SEP 2019. 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: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

Informatives

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

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

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

The applicant is advised that under Article 11 of the Roads Order (NI) 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

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

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road

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

Signature(s)

Date:

Development Management Officer Report Committee Application - Addendum

Summary	
Committee Meeting Date: December 2019	Item Number:
Application ID: LA09/2019/1169/O	Target Date:
Proposal: Erection of infill dwelling & garage	Location: Lands between 33a & 33b Grange Road Moy
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Mr Andrew Smith 15 Grange Road Moy BT71 7EJ	Agent Name and Address: 2 Plan NI 47 Lough Fea Cookstown BT80 9QL
Executive Summary: Application considered at Committee 5 th November 2019, late objection received 5 th November 2019 was not taken into account. Objection now being considered.	
Signature(s):	

Case Officer Report - Addendum

Planning Assessment of Objection from Fergus and Karen Bain.

This report is an addendum to the report presented to the Planning Committee on 5th November 2019.

Members are advised this application was recommended as an approval for a dwelling on the basis that it met the exception for infill development as set out in CTY8 of Planning Policy Statement 21. The Committee agreed with the recommendation to approve the development, however following the meeting it came to the attention of the Planning Manager that an objection had been lodged on the day of the Planning Committee and this had not been taken into account in the determination of the application. The Planning Manager is of the opinion that as the objection was received before the Committee made its decision, any decision taken was not in the knowledge of the full facts of the case and therefore the application has been brought back to the Committee for its decision.

The letter of objection raises the following concerns:

- adverse impact on the character of this stretch of Grange Road by extending the ribbon development
- do not consider the site fully adheres to the infill exception in CTY8
- a dwelling on the site will not integrate in accordance with Policy CTY14
- the site was refused planning permission before

The application site was previously refused and recommended for refusal:

M/2002/0743/O – Erection of dwelling – withdrawn 10.10.2002(recommended for refusal as contrary to greenbelt, loss of rural character, lack of integration)

M/1995/0154 – Erection of dwelling - refused 12.12.1995 due to lack of integration and loss of rural character.

The planning policy has changed since those previous applications were considered and this application is now considered against the current policies in PPS21. If it meets with policies in PPS21 then the previous decisions do not have any determining weight in this decision.

The objectors acknowledge that the site is set within a loose row of development and shares a common frontage with a number of developments along Grange Road. They do not consider this is a continuous or substantial row of development as the proposed development is only set within a continuous row of 2 no dwellings and that there are other gaps along the frontage. Members will be aware the definition of a substantial and built up frontage in policy CTY8 includes a line of 3 or more buildings along a road frontage. This has formed the basis of previous decisions taken by the Planning Committee, as well as Planning Appeals Decisions. While the objection refers to the number of dwellings in the frontage, it fails to take account of the number of buildings,

which is what the policy asks us to consider. The objector has accepted the proposed development is between 2 dwellings and these have a common frontage. They have not taken into account the detached outbuilding that is set to the side of their own dwelling which, in the consideration of the policy results in the required 3 buildings, with the proposed development site between these. See below where the existing buildings are identified in blue and the application site is in red.



The site is well screened from views on approach from the east and the west by the existing vegetation and buildings around it, it will be visible for a short distance along the road frontage immediately in front of the site and on approach on the minor road from the north. That said, it has been considered the proposal meets with CTY8 and any design and siting of a dwelling will be fully assessed at the Reserved Matters stage to ensure that it fits in with the character of the area.

Members are advised this application is an exception to CTY8 of PPS21 as it is an infill site and it is therefore recommended as an approval.	
Neighbour Notification Checked	Yes
Summary of Recommendation:	
It is recommend to approve this development.	
<p>Conditions:</p> <p>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:-</p> <p>i. the expiration of 5 years from the date of this permission; or</p> <p>ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</p> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>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.</p> <p>Reason. To enable the Council to consider in detail the proposed development of the site.</p> <p>3. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 70 m in both directions 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.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>4. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted to the rear of the of the visibility splays and along the new boundaries of the curtilage identified in orange on drawing No 01 bearing the stamp dated 05 SEP 2019. The scheme shall detail species</p>	

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: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

Informatives

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

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

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

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

It is the responsibility of the developer to ensure that

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

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1183/F	Target Date:
Proposal: Proposed Retention of Building to Provide Communal Site Canteen, Locker Room + First Aid Facilities	Location: Adjacent to 18 Cookstown Road Dungannon
Referral Route: Refusal	
Recommendation:	Refusal
Applicant Name and Address: Barry O'Neill 18 Cookstown Road Dungannon	Agent Name and Address: McKeown & Shields 1 Annagher Road Coalisland BT71 4NE
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan: 01



Representations: None Received

Description of proposal

The proposal seeks full planning permission for the retention of building to provide Communal Site Canteen, Locker Room + First Aid Facilities. The agent has made an argument that there is a need for such an ancillary facility to cater for the existing businesses on this site. The agent has provided information to show that there is 44 no. existing employees at this site. The agent, on the P1 form, indicates that this proposed facility will not attract its own staff.

Characteristics of site and area

The application site is located approximately 36 metres north-east of 18 Cookstown Road, Dungannon within the Dungannon Green Belt and outside any settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The application relates to the retention of one building on site, there is also a number of other buildings of a similar scale to the rear of the subject building. The immediate surrounding area is comparable to a small business park with a mixed use of retail, storage and industrial uses on site. The wider surrounding context is predominantly rural in character with green fields, as well as dispersed dwellings, farm holdings

and industrial works in proximity. The site is accessed via the A29 protected route and located on elevated ground approximately 3/4 metres higher than the ground level of the road.

Planning Assessment of Policy and Other Material Considerations

Planning Policy

Under the provisions of the Planning Act (Northern Ireland) 2011, all decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. Dungannon and South Tyrone Area Plan 2010 is the relevant, extant Development Plan for the site. Account will also be taken of the relevant provisions of the SPPS and retained Planning Policy Statements (PPSs). The Strategic Planning Policy Statement for Northern Ireland (SPPS) published in September 2015 confirms that until such time as a Plan Strategy for the whole of the Council Area has been adopted the Council should continue to apply existing policy and guidance contained in retained PPSs and other relevant documents together with the provisions of the SPPS itself.

Dungannon and South Tyrone Area Plan 2010: The Plan offers no specific guidance on this proposal.

SPPS - Strategic Planning Policy Statement for Northern Ireland: sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

PPS4 Planning and Economic Development;

PPS 3: Access, Movement and Parking: sets out the Department's planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning.

RELEVANT PLANNING HISTORY

LA09/2017/1258/F- Proposed retention of building as a domestic garage, incidental to the domestic usage of Dwelling at 18 Cookstown Road, Dungannon. Refused 13.06.2019 in that;

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy EXT 1 of the Addendum to Planning Policy Statement 7 Residential Extensions and Alterations in that the development would, if permitted, be inappropriate in terms of scale, massing, siting and design and would not appear subordinate or sympathetic with the existing property;

- The proposal is contrary to Planning Policy Statement 3: Access, Movement and Parking in that it has not been demonstrated that a safe and satisfactory access can be gained to the site from the public road, including visibility splays of 4.5m by 120.0m in both directions.

It is noted that originally the above application description of proposal was amended from Agricultural to domestic garage.

2017/E0050 - Lands 10m west and 10m north of No. 18 Cookstown Road, Dungannon, specifically identified as units 4 and 11, Ross Beg, Dungannon - Unauthorised change of use of: unit 4 to a dance studio with associated gymnasium; and unit 11 to a vehicle repair business - Enforcement Notice Upheld 13/08/18 (notice does not relate to subject application building).

LA09/2017/1618/LDE, Retention of existing Units, a certificate of lawfulness was granted for this existing development on 01.02.2018.

M/2006/1985/F - Approx. 60 metres East of 18 Cookstown Road, Derraghadoan, Dungannon, Bt71 4BG - Free Standing Hoarding - Permission Refused 19/02/07

M/2004/1534/F - Adjacent to 18 Cookstown Road, Dungannon - Proposed multi-purpose shed/store - Permission Granted 12/04/06

CONSULTATION

DfI Roads were consulted and responded on 07/10/19 requesting 4.5m by 120.0m visibility splays in both directions.

REPRESENTATION

No 3rd party representations received.

ASSESSMENT OF PLANNING ISSUES/MATERIAL CONSIDERATION

No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application. Proposals for a communal site canteen, locker room and first aid facility will also be considered under the provisions of PPS4 Planning and Economic Development policy PED3 Expansion of an established economic development use in the countryside. Annex B of PPS3 identifies the adjacent A29 road network as a protected route, therefore it is necessary to also consider Policy AMP2 and AMP 3 of PPS3.

In terms of the planning history to this proposal, it is important to remember that this proposal was built as a single building, with its purpose to be a standalone planning unit for commercial purposes, without the benefit of planning permission.

This is the third change in the description of the proposal for this building which is already constructed on site and measures 16.6 metres in length, with a width of 7.6 metres and a ridge height of 5.8 metres. The building is finished with grey dash external walls, grey cladding roof and three roller shutter doors coloured black.

This building is subject to current enforcement action, details of which cannot be disclosed as it is not privy for public consumption at this stage. It seems that the applicant/agent is trying to get a use that would fit this building so that it can be retained on site, which seems disingenuous. This is the third attempt by the applicant/agent to rectify this proposal, from an agricultural building, to domestic garage to communal canteen. The previous refusal was never appealed by the applicant/agent.

The agent has stated on the P1 form that this development will not attract any additional staff or visitors. At present there is no way to control employment numbers on this existing site, which the agent states that currently stands at 44, spread over the various businesses on this site. In my view, it would not be appropriate for Mid Ulster Council to approve a facility that may attract further employment to a site where the current access onto a protected route is sub-standard and dangerous. Splays of 4.5m by 120m in both directions are required by DfI Roads, where existing splays are almost non-existent.

Previously, permission was refused for retention of a domestic garage (under LA09/2017/1258/F) as there was a sub-standard access onto a protected route, and it was demonstrated that there would be no increase in the number of people using the access. This decision was never appealed to the PAC. No change in circumstance has occurred since this refusal, and it is my view that the same reason for refusal be applied in this instance. In my view, as the proposal is related to industrial/commercial development, that splays of 4.5m by 120m be required, not a reduced 'x' distance of 2.4m. The PAC carried out surveys on this access under 2017/E0050 and contend that due to traffic speeds and number of vehicles per day on this stretch of road that no reduction in standards can be applied, that splays of 4.5m by 120m in both directions are required. I agree with this assessment. This proposal is contrary to Planning Policy Statement 3: Access, Movement and Parking in that it has not been demonstrated that a

safe and satisfactory access can be gained to the site from the public road, including visibility splays of 4.5m by 120.0m in both directions.

It is difficult to see how such a facility could operate without attracting additional employees to the site, even in terms of maintenance and cleaning. Any proposal on this site that may increase in the number of people using this access could result in a fatality given how substandard the current substandard access to the site. It is clear that this building should not be retained in any circumstance for any use, until access to this site has been improved to an acceptable standard. Under the previous application, the agent was provided with an opportunity to carry out these improvements, but this offer was declined and improvements to the visibility splays were never carried out.

In terms of an extension to an established economic development use in the countryside (Policy PED3 of PPS4), broadly speaking the design, size, scale and mass of the building is broadly similar to the existing established buildings on the site and there is no major expansion in site area. In my view retention of this building will not have a detrimental impact on the character of this area of countryside as it groups with and has existing lawful buildings as a backdrop. This proposal meets nearly all criteria under PED 9 except for part (g) in that suitable developer led improvements have not been put in place to overcome sub-standard visibility splays.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That the application is refused for the following reason;

Refusal Reason

1.The proposal is contrary to Planning Policy Statement 3: Access, Movement and Parking and policy PED9 part (g) of PPS4 Planning and Economic Development in that it has not been demonstrated that a safe and satisfactory access can be gained to the site from the public road, including visibility splays of 4.5m by 120.0m in both directions.

Signature(s)

Date:

ANNEX	
Date Valid	9th September 2019
Date First Advertised	24th September 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 18 Cookstown Road,Dungannon,Tyrone,BT71 4BG	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Summary of Consultee Responses	



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1212/O	Target Date:
Proposal: Proposed farm dwelling and garage	Location: Approx 25m West South West of 71 Killymuck Road Cookstown
Referral Route: To Committee – Refusal – Contrary to CTY 10 of PPS 21.	
Recommendation:	
Applicant Name and Address: Mr P Mc Cusker 71 Killymuck Road Ballinderry Bridge Cookstown	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

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 10 of PPS 21.

Characteristics of the Site and Area

The site is located approximately 1.1km east of the development limits of Ballylifford from such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as approx. 25m West South West of 71 Killymuck Road, Cookstown, in which the red line covers the north eastern portion of a much larger agricultural field. I note that the intention is to create a new access directly off the Killymuck Road. Given the nature of the red line I note that the southern and western boundaries remain undefined in which the northern boundary is defined by a mix of

mature hedging and trees with the eastern boundary being defined by a line of hedging and the applicants home. The surrounding land is defined by predominately agricultural land uses, interspersed with single dwellings.

Representations

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

Description of Proposal

This is an outline application for a proposed farm dwelling and garage. The site is located approx. 25m West South West of 71 Killymuck Road, Cookstown.

Planning Assessment of Policy and Other Material Considerations

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

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 – Draft Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 – Dwellings on Farms

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

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

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

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) I note that the application was sent in without a registered farm business ID, in which was requested from the agent. In which the agent confirmed on the phone that the applicant did not have a farm business number only an applicant number along with a farm survey number. In addition the agent provided a number of receipts to try and argue that there has been farming activity over the previous 6 years. Therefore in the absence of a registered Farm Business Number a consultation with DAERA was not possible, from which I am of the opinion that this cannot constitute as a farm case in the absence of farm business number. It appears that there has been some activity on the lands but this appears to be a landowner up keeping his lands rather than proving that there is a continuous and active farm business operating at this site. To confirm I am of the opinion that this cannot be constituted as a valid farm case under CTY 10.

With respect to (b) and despite the issue over the farm business number it appears that the applicant only owns the one field in which the site is located along with his own dwelling only, and that there does not appear to be any development opportunities approved within the field in the previous 10 years.

With respect to (c), I note that the proposed site is located directly adjacent the applicants home and there does not appear to be any farm buildings under the applicants ownership. With this in mind I would be content that the dwelling would cluster with this building. But given the absence of the farm business number I am of the opinion that application has failed under CTY 10 in that it has not been provided that there is an active and established farm business.

I note that no other policy considerations have been put forward by the agent but I note the following; the site is not located within a dispersed rural community. It is not located within an existing cluster that is associated with a focal or located at a cross-roads. There is no valid replacement opportunity on the site nor is there any conversion of an existing building. The application is not for social and affordable housing nor has there been any personal or domestic circumstances provided to justify the house. Finally, given that it set behind No. 71 without a common frontage to the Killymuck Road that it cannot constitute compliance under CTY 8. From this, the application fails under CTY 1.

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 an outline application in which the exact design and siting details have not been submitted, however I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. I am of the opinion that as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to aid integration. Therefore a landscaping

plan will be necessary in any 'Reserved Matters' application. Due to the surrounding landform and surrounding development I feel it necessary to restrict any dwelling on the site to have a ridge height of no more than 6.0m above finish floor. From this I am content that the application is able to comply with CTY 13.

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

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

I have no flooding, ecological or residential amenity concerns.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded confirmed that DfI Roads do not offer an objection subject to the conditions as per attached RS1 Form being complied with at Reserved Matters Stage.

I have no ecological, flooding or residential amenity concerns.

As the application has failed under CTY 10 of PPS 21 I must therefore recommend refusal for the application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

To Committee – Refusal – Contrary to CTY 10 of PPS 21.

Reasons for Refusal:

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

2.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as

an exceptional case in that it has not been demonstrated that there is a farm business and that it is currently active and has been established for at least six years.

Signature(s)

Date:

ANNEX	
Date Valid	11th September 2019
Date First Advertised	1st October 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 63 Killymuck Road Coagh Londonderry The Owner/Occupier, 65 Killymuck Road Coagh Londonderry The Owner/Occupier, 68 Killymuck Road Coagh Londonderry The Owner/Occupier, 70 Killymuck Road Coagh Londonderry The Owner/Occupier, 71 Killymuck Road Coagh Londonderry	
Date of Last Neighbour Notification	24th September 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/1212/O Proposal: Proposed farm dwelling and garage Address: Approx 25m West South West of 71 Killymuck Road, Cookstown, Decision: Decision Date: Ref ID: LA09/2018/1111/F Proposal: Proposed extension to dwelling Address: 71 Killymuck Road, Ballylifford, Decision: PG Decision Date: 15.11.2018 Ref ID: I/1985/0474 Proposal: ERECTION OF BUNGALOW Address: KILLYMUCK, COAGH, COOKSTOWN Decision: Decision Date: Ref ID: I/1979/0151 Proposal: DWELLING	

Address: KILLYMUCK ROAD, COAGH, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1985/047501

Proposal: ERECTION OF DWELLING HOUSE

Address: KILLYMUCK, COAGH, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1985/0475

Proposal: BUNGALOW

Address: KILLYMUCK ROAD, COAGH, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1994/4036

Proposal: Replacement Roof

Address: 71 KILLYMUCK ROAD COAGH COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1988/0269

Proposal: EXTENSION TO DWELLING

Address: 65 KILLYMUCK ROAD, COAGH

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:



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1213/O	Target Date:
Proposal: Proposed renewal of outline planning approval	Location: Westland Road South Lands to the rear of 9 Adair Gardens Cookstown
Referral Route: Approval	
Recommendation:	Approval
Applicant Name and Address: R and F Developments	Agent Name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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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

Some of the main issues raised include:

- Roads issues: traffic, congestion, access arrangements
- Privacy concerns
- Extra street lighting
- Character of area/buildings proximity
- Bats habitat

Characteristics of the Site and Area

The site is located within the limit of development for Cookstown as defined within the Cookstown Area Plan 2010. Located approximately 1km south west of the town centre the site lies within an existing residential estate. Access to the proposal is gained via Adair Gardens which connects onto Adair Drive and in turn the Westland Road South. The development road to the proposed dwellings is via the side of no 9, removing the attached garage and adjacent to the boundary with no 7. The majority of the garden of no 9 is utilized for the proposal including that area on which the large garage structure is located. On site at present are a detached single storey dwelling with attached garage and large garage structure within the rear garden. This structure sits on significantly lower ground to that of the dwelling. Site boundaries are a mixture of conifer type hedging and timber fencing. Within the south western part of the site is existing woodland/scrub area. Levels within the site vary considerably from Adair Gardens estate road to the southern corner of same.

Description of Proposal

This application seeks permission for the renewal of the existing planning approval I/2013/0370/O which was for a proposed residential development incorporating the retention of the existing garage.

Planning Assessment of Policy and Other Material Considerations

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 7, 8, 9, 11, 12 Adair Gardens and 18 Westbury Gardens. There were a number of representations received, the details of which will be discussed below.

Planning History

I/2013/0370/O - Lands to the rear of 9 Adair Gardens, Cookstown - Proposed residential development incorporating the retention of the existing garage (amended description) – PERMISSION GRANTED

Planning Assessment of Policy and Other Material Considerations

- Cookstown Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- Local Development Plan 2030 – Draft Plan Strategy
- PPS 3: Access, Movement and Parking
- PPS 7: Quality Residential Environments
- PPS 7 Addendum: Safeguarding the Character of Established Residential Areas

The Cookstown Area Plan 2010 identify the site as being located within the development limits of Cookstown which gives favourable consideration to proposals subject to criteria outlined within the plan policy. There are no other zonings or designations within the Plan.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. At present, the proposal is considered to be in line with the policies held within this document, however it must be noted that Draft Plan Strategy holds little determining weight following on from the consultation stage.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

The proposal is for the renewal of planning permission I/2013/0370/O which was granted 5th October 2016 and therefore is still live which allows for this application to be made under Article 3 (5) of the Planning (General Development Procedure) Order (NI) 2015 to renew planning permission where existing approval has not yet expired [Schedule 1, Part 1 General Provisions, Paragraph 3].

As this is a renewal of a previous outline planning permission for a proposed residential development incorporating the retention of the existing garage, the main concern is whether the main considerations that allowed for the approval in I/2013/0370/O still apply. I see no changes proposed from what was previously approved. There are no changes to the proposed access which was accepted in the original application and therefore it was not considered necessary to consult with DfI Roads. Any issues in relation to the design will be dealt with at reserved matters stage although a general concept plan which sets out the proposed site layout has been agreed previously. The same conditions and informatives which were provided for the previous application will still apply.

Representations

Some of the main issues raised include:

- Roads issues: traffic, congestion, access arrangements
- Privacy concerns
- Extra street lighting
- Character of area/buildings proximity
- Bats habitat

There were a number of representations received in relation to the proposal. It is considered that some of the issues raised were dealt with in the original outline proposal however each issue will be discussed regardless. There was concerns raised in relation to traffic, congestion and access arrangements in this cul de sac. It was not considered necessary to consult with DfI Roads again given that there were no changes proposed to the scheme which was previously agreed under I/2013/0370/O.

The site layout was agreed under the previous application in the form of a concept drawing which will be stamped approved with any forthcoming approval on this site. The number of units which was originally proposed were reduced to two units and it was considered that this meant the proposed density was not significantly higher than that found in the surrounding area and the pattern of development remained in keeping with

the overall character of Adair Gardens. The effect on surrounding properties was addressed by siting the units at an angle and the introduction of proposed planting. It was noted in the original outline report that issues of overlooking and lack of privacy will be fully considered when detailed plans have been submitted. It should also be noted that Environmental Health raised no issues in relation to the street lighting impact the proposal would have. A Bat Mitigation Plan was stamped approved as part of the original outline approval I/2013/0370/O and will be attached to any forthcoming approval on this site.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal is considered to be in compliance with the relevant planning policies and therefore approval is recommended.

Conditions/Reasons for Refusal:**Conditions**

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

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

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

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

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

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

4. A Construction Method Statement must be submitted to Mid Ulster District Council at Reserved Matters Stage. This must identify all potential risks to the Upper Ballinderry River via the adjacent watercourse (Rathbeg Drain) and appropriate mitigation to eliminate these risks. Appropriate areas for the storage of construction machinery, fuels/oils, refuelling areas, must be identified.

Reason: To ensure effective mitigation is provided ensuring there are no adverse impacts on the integrity of Upper Ballinderry River SAC.

5. Storm drainage of the site, during construction and operational phases, must be designed to the principles of Sustainable Drainage Systems (SuDS) in order to prevent the polluting effects of storm water on Upper Ballinderry River SAC. Construction of SuDS should comply with the design and construction standards as set out in The SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C753.

Reason: To prevent polluting discharges entering and impacting on the site integrity of Upper Ballinderry River SAC.

6. A vegetated buffer of at least 10 m shall be maintained between the location for refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. and the watercourse bordering the south eastern edge of the red line boundary.

Reason: To prevent polluting discharges entering and impacting on the site integrity of Upper Ballinderry River SAC.

7. The bat mitigation measures as listed in Section 5 (page 8) of the report entitled a bat mitigation plan to the rear of 9 Adair Gardens, Cookstown received by the planning office on 13 June 2016 shall be incorporated into the layout and design of the Reserved Matters or Full application.

Reason: To minimise impact on bats.

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

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

Informatives

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

2. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

3. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

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

5. Where a Designated watercourse flows through or adjacent to a development site, it is considered essential that a working strip of minimum width 5m is left along the bank in order to facilitate future maintenance of the watercourse by the Rivers Agency. Actual requirement should be determined in consultation with the Agency.

6. Please see attached note from NI Water.

7. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to;
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605.

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

kill, injure or take any wild bird; or take, damage or destroy the nest of any wild bird while that nest is in use or being built; or at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or obstruct or prevent any wild bird from using its nest; or take or destroy an egg of any wild bird; or disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturb dependent young of such a bird. Any person who knowingly causes or permits to be

done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1st March to 31st August, unless pre-clearance surveys show an absence of breeding birds.

8. POLLUTION CONTROL AND LOCAL GOVERNMENT (NI) ORDER 1978. The Health and Environmental Services Department, Mid Ulster Council, requires that noise emanating from the premises shall not be audible within any dwelling between 1900 hours and 0800 hours.

Signature(s)

Date:

ANNEX	
Date Valid	16th September 2019
Date First Advertised	1st October 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 11 Adair Gardens, Cookstown, Tyrone, BT80 8PS The Owner/Occupier, 12 Adair Gardens, Cookstown, Tyrone, BT80 8PS Derek Donaldson 12, Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS The Owner/Occupier, 18 Westbury Gardens, Cookstown, Tyrone, BT80 8WE The Owner/Occupier, 7 Adair Gardens, Cookstown, Tyrone, BT80 8PS Eileen and Sean O'Hagan 7, Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS The Owner/Occupier, 8 Adair Gardens, Cookstown, Tyrone, BT80 8PS Gerald and Clare Thornton 8, Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS The Owner/Occupier, 9 Adair Gardens, Cookstown, Tyrone, BT80 8PS	
Date of Last Neighbour Notification	2nd October 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/1213/O Proposal: Proposed renewal of outline planning approval Address: Westland Road South, Lands to the rear of 9 Adair Gardens, Cookstown, Decision: Decision Date: Ref ID: LA09/2017/0150/O Proposal: Proposed demolition of workshop and erection of 1 No. 1.5 storey dwelling Address: To the rear of no's 9 and 11 Adair Gardens, Cookstown, Decision: PG Decision Date: 29.11.2018	

Ref ID: LA09/2016/1778/NMC

Proposal: Change in finished floor level to 3 of the semi-detached dwellings (under approval I/2014/0089/F)

Address: Land adjacent to 10-16 Westbury Gardens, Cookstown,

Decision: CG

Decision Date:

Ref ID: I/1977/0377

Proposal: 11 KV O/H LINE, MV U/G CABLE

Address: SULLENBOY, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2004/0164/F

Proposal: Proposed extension and alterations to dwelling

Address: 7 Adair Gardens, Cookstown, Co Tyrone

Decision:

Decision Date: 16.04.2004

Ref ID: I/2001/0815/F

Proposal: Domestic garage and store

Address: 9 Adair Gardens, Cookstown

Decision:

Decision Date: 14.01.2002

Ref ID: I/2003/1002/F

Proposal: Extension & alterations to dwelling

Address: 9 Adair Gardens Cookstown

Decision:

Decision Date: 11.03.2004

Ref ID: I/2013/0370/O

Proposal: Proposed residential development incorporating the retention of the existing garage (amended description)

Address: Lands to the rear of 9 Adair Gardens, Cookstown,

Decision: PG

Decision Date: 10.10.2016

Ref ID: I/1983/0216

Proposal: RESIDENTIAL DEVELOPMENT

Address: SULLENBOY, COOKSTOWN

Decision:

Decision Date:

Ref ID: LA09/2015/1091/F

Proposal: Proposed new access to 4No. proposed dwellings (approval I/2014/0089/F)
Westbury Way

Address: Land adjacent to 10-16 Westbury Gardens, Cookstown,

Decision: PG

Decision Date: 09.05.2016

Summary of Consultee Responses

N/A

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:

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 03/10/2019	Item Number:
Application ID: LA09/2019/1257/F	Target Date:
Proposal: Small external store	Location: 59 Dergenagh Road Dergenagh Dungannon
Referral Route: Application 'called in' by Planning Committee Member under Section 29 of the Planning Act (NI) 2011	
Recommendation:	Approve
Applicant Name and Address: Winston Duff Sec. Simpson Grant Assoc C/o. 133 Carnteel Road Aughnacloy BT69 6EF	Agent Name and Address:
Signature(s):	

Case Officer Report

Site Location Plan



Consultations: None Required

Consultation Type	Consultee	Response
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Representations:

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

Summary of Issues

No third party representations have been received and there are no other issues.

Characteristics of the Site and Area

The site is located 2.76km north of the settlement of Carnteel as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding countryside is predominantly rural and is characterised predominately by single detached dwellings, farm complexes and sprawling agricultural fields.

The site is located at a T-junction, and across the road and abutting the site to the southwest are detached dwellings. The application site comprises an orange hill and concrete driveway abutting the northern boundary. The existing orange hall has external finishes of profiled steel with painted red bargeboard. Along the north, south and northwest boundaries are 1m hedgerow. The roadside frontage has black metal railings and metal gates.

Description of Proposal

This is a full planning application for a small external store. The proposed store is 3.8m in width and 2.9m in depth. The proposed external finishes are powder coated corrugated profiled steel walls and roof. In addition, there is painted redwood fascia, bargeboard and rafterends. The proposed finishes of the store will match the existing orange hall.

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

M/2008/1159/F – Orange Hall - 59 Dergenagh Road, Dungannon – Permission Granted 12.11.2008

M/2008/0805/F - Proposed alterations and extensions to hall - 59 Dergenagh Road, Dungannon – Permission Granted 09.09.2008

Consultees

The proposed store will use a portion of the existing concrete driveway. I informally consulted DFI Roads and they responded stated there is no intensification of use at the site.

Representations

The application was advertised in the local press and neighbour notified, and at the time of writing no representations have been received.

Planning 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.

Dungannon and South Tyrone Area Plan 2010

The site is not within any settlement limits and it is not subject to any special designations contained in the plan.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. I am satisfied that this

development meets a social need in the area and will not negatively impact on the built or natural environment nor will it harm interests of acknowledge importance.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 identifies that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development, one of these is a necessary community facility to serve the local rural population. The proposal relates to a community facility, which is required to meet the growing demands of the local community. I consider the principle of development to be acceptable on the site.

Impact on residential Amenity

The proposal is for a store, which will be used in conjunction with an existing orange hall. The applicant submitted a supporting statement demonstrating the store will be used for the storage of chairs, table and BBQ equipment. Consequently, there will be more storage within the orange hall for uniforms, documents, instruments and other equipment. There is a detached dwelling abutting the southern boundary of the site and another dwelling across the road. I am content there will not be an unacceptable impact on the residential amenity of these properties as the store is used for storage. There will be no increase in noise or other neighbour disturbance at the site.

Design and Integration

The design and integration of the development are to be assessed against the policy provisions in PPS 21. Policy CTY 13 and 14 of PPS 21 are applicable in terms of assessing the how the proposal integrates into the countryside and its impact on rural character.

CTY 13 – Integration and Design

The store is adjacent to the orange hall and along the northern boundary of the site. There are critical views in all directions as the orange hall has a roadside frontage onto the Dergenagh Road. However as the proposed store will cluster with the existing orange hall I am content the proposal will not be a prominent feature in the landscape.

The site has a roadside frontage along Dergenagh Road and the proposed store will be cut into the existing rear embankment along the northern boundary. Therefore, I consider there is a suitable degree of enclosure for the building to integrate into the landscape. The retention of existing vegetation ensures that the proposal does not rely on new landscaping for integration.

There are no ancillary works proposed at the site as the store will use a portion of the existing concrete driveway and there is no change to the existing access onto the public road.

The design of the building is a simple rural form and is small in scale and massing. The proposed store is 12m² and will have external finishes to match the existing orange hall.

The proposed store is located along the northern boundary of the site and I am satisfied it will blend in with the existing orange hall.

CTY 14 – Rural Character

As mentioned previously in the assessment I consider the proposal will not be a prominent feature in the landscape.

The proposal respects the traditional development pattern in this area and has been sited between the existing orange hall.

The proposal does not create or add to a ribbon of development.

As documented above, there are no ancillary works proposed at the site.

PPS 3 – Access, Movement and Parking

DFI Roads have been consulted informally with this application and have raised no concerns in respect of intensification or road safety. There is a gravelled area along the roadside at the site, which provides further car parking. I am content there are no issues with car parking at the application site.

Neighbour Notification Checked Yes

Summary of Recommendation:

The proposal is recommended for approval as it complies with CTY 1, CTY 13 and CTY 14 of Planning Policy Statement 21 – Sustainable Development in the Countryside.

Conditions

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

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

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1309/F	Target Date:
Proposal: Removal of Condition No 2 to planning application H/2000/0323/F, with change of use of existing storage building to dwelling, front & rear extension & detached garage	Location: 75 Lisnagrot Road Kilrea
Referral Route: Approval – To Committee – Exception to Policy	
Recommendation:	
Applicant Name and Address: Mr Michael Boyle 75 Lisnagrot Road Kilrea BT51 5SG	Agent Name and Address: Healy McKeown Architects 11-13 Maghera Street Kilrea BT51 5QL
Executive Summary: Approval	
Signature(s): Peter Henry	

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

Approval – To Committee – Exception to Policy

Characteristics of the Site and Area

The site is located approximately 3.95km NW of the development limits of Tamlaght from which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 75 Lisnagrot Road, Kilrea however I note that the red line only covers a portion of what is the curtilage of the dwelling now known as No. 75. Within the red line sits a detached building that was formerly a dwelling but conditioned to be used as storage for the dwelling at No.75, along with a small yard to the side and garden area to the rear. The site is accessed via an existing laneway that already serves four residential properties. The immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.

Relevant planning history

H/2000/0323/F - Replacement Dwelling and garage – Permission Granted - 20.09.2000

Representations

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

Description of Proposal

This is a full application for the removal of Condition No 2 to planning application H/2000/0323/F, with change of use of existing storage building to dwelling, front & rear extension & detached garage, the site is identified as 75 Lisnagrot Road, Kilrea.

Planning Assessment of Policy and Other Material Considerations

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 – Ribbon Development

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

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

The 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 with regards to this application that there are a number of elements to the application, the first is the removal of condition No. 02 of H/2000/0323/F which states 'Upon occupation of the new dwelling, the dwelling to be replaced, coloured green on the approved plan date stamped 04 May 2000, shall no longer be used or adapted for purposes of human habitation and may only be used for the purposes specified in this permission or any other purpose incidental to the enjoyment of the approved dwelling house. Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.' From which the second part is to change the use of the building which is currently used as storage back to a residential use. I note that there is no remit within current policy to allow a dwelling that has been approved to be replaced and conditioned to no longer be used for human habitation to subsequently be used as a

dwelling once more. However upon review of the site and the surrounding area it is clear that a dwelling within the red line would now be able to comply under the policy provisions for a dwelling under CTY 8 – Ribbon Development given new developments since the original application H/2000/0323/F. In that I note that along the laneway to the site there is a substantial and continuous build up as it includes four dwellings, three to the east of the site and one to the south west wherein they all share a common frontage to the laneway. In that the site can be seen as a small gap wherein it could only accommodate a maximum of one dwelling that also shares a common frontage to the laneway, in turn showing compliance to the CTY 8. Given the above it is felt necessary to take this application to committee given the issues over the removal of condition of the previous approval.

With regards to the proposed extension to the building and proposed domestic garage, as it has been considered that this is now acceptable as a residential unit that this is to be considered under Ext 1 of PPS 7. From which I am content that both the garage and proposed extensions are acceptable in terms of scale, massing, design and use of external materials in that it will be sympathetic towards the existing building and not detract from the character of the surrounding area. With regards to residential amenity I am content on balance that this is unlikely to cause any adverse impacts on neighbouring amenity wherein there have been no objections received in connection to this application. The proposed works will result in a loss of the existing yard and garden area however I am content that it will not result in an unacceptable loss of, or damage to, trees or other landscape features which contribute to the local environmental quality. The proposed extension will have a minimal impact upon the existing parking arrangements however I am content that there is still sufficient space for parking and other recreational and domestic purposes.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As the building is existing I am content that it will not appear as a prominent feature and it is able to integrate in the landscape. Finally I am content that the proposed design and ancillary works are acceptable within this rural context. From all of this it has been agreed that the dwelling is able to comply 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 noted the proposed dwelling has been agreed as acceptable and is not deemed to be unduly prominent in the landscape. On a whole I am content that the proposed development complies with CTY 14.

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

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were the only consultation sent out and responded to confirm that they did not offer an objection subject to the relevant conditions and informatives being applied.

I have no ecological, flooding or residential amenity concerns.

As the proposal has shown its compliance under PPS 21 I therefore must recommend approval for this application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval

Conditions:

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

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

2. The vehicular access including visibility splays 2.4 X 70 metres and any forward sight distance, shall be provided in accordance with Drawing No 01 bearing the date stamp 04th October 2019 prior to the commencement of any other development hereby permitted.

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

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

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

4. Notwithstanding the provisions of Article 3 Part 3 Class A of the Schedule of the Planning (General Permitted Development) Order (NI) 2015 (or any legislation revoking that Order and re-enacting those provisions, no gates, fences, walls or other means of enclosure shall be erected without prior agreement from the Planning Authority.

Reason: To preserve the amenity of the countryside.

Informatives

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

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

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

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

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

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

Signature(s)

Date:

ANNEX	
Date Valid	4th October 2019
Date First Advertised	22nd October 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 73a ,Lisnagrot Road,Kilrea,Londonderry,BT51 5SG The Owner/Occupier, 75a Lisnagrot Road Kilrea The Owner/Occupier, 75b Lisnagrot Road Kilrea	
Date of Last Neighbour Notification	11th October 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/1309/F Proposal: Removal of Condition No 2 to planning application H/2000/0323/F, with change of use of existing storage building to dwelling, front & rear extension & detached garage Address: 75 Lisnagrot Road, Kilrea, Decision: Decision Date: Ref ID: H/2004/1265/O Proposal: Site of Nursing Home for terminally ill Address: 200m South East of, 73a Lisnagrot Road, Kilrea Decision: Decision Date: Ref ID: H/2000/0323/F Proposal: Replacement Dwelling and garage Address: 75 Lisnagrot Road, Kilrea Decision: Decision Date: 22.09.2000 Ref ID: H/1994/0016 Proposal: ENTRANCE AND DRIVEWAY Address: ADJ TO 75A LISNAGROT ROAD KILREA Decision:	

Decision Date:

Ref ID: H/1988/0210

Proposal: BUNGALOW AND GARAGE

Address: ADJ TO NO 75 LISNAGROT ROAD KILREA

Decision:

Decision Date:

Ref ID: H/1988/0051

Proposal: SITE OF BUNGALOW AND GARAGE

Address: ADJ TO 75 LISNAGROT ROAD KILREA

Decision:

Decision Date:

Ref ID: H/1985/0510

Proposal: BUNGALOW AND GARAGE

Address: ADJACENT TO 73 LISNAGROT ROAD, KILREA

Decision:

Decision Date:

Ref ID: H/1985/0388

Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW

Address: 75A LISNAGROAT ROAD, KILREA

Decision:

Decision Date:

Ref ID: H/1985/0283

Proposal: SITE OF RETIREMENT BUNGALOW

Address: ADJACENT TO 75A LISNAGROT ROAD, KILREA

Decision:

Decision Date:

Ref ID: H/1979/0148

Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW AND NEW GARAGE

Address: 75A LISNAGROT, KILREA

Decision:

Decision Date:

Ref ID: H/1978/0274

Proposal: MV O/H LINE (BM 2211)

Address: LISNAGROAT, MAGHERAFELT

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title
Drawing No. 06 Type: Existing Elevations Status: Submitted
Drawing No. 05 Type: Existing Floor Plans Status: Submitted
Drawing No. 04 Type: Proposed Elevations Status: Submitted
Drawing No. 03 Type: Proposed Floor Plans 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:



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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2017/1004/O	Target Date: <add date>
Proposal: Proposed replacement dwelling and domestic garage.	Location: Land approx. 320m N.W. of 180 Caledon Road Aughnacloy
Applicant Name and Address: Mr Adrian Robinson 59 Curlough Road Aughnacloy	Agent name and Address: Bernard Donnely 30 Lismore Road Ballygawley BT70 2ND
Summary of Issues: It has not been demonstrated the building to be replaced was a dwelling, access to the development is via a new access to a protected route. Roads object to any new access onto protected routes. A members site visit was carried out and there has been no change in the recommendation.	
Summary of Consultee Responses: Roads object to a new access onto a protected route.	
Characteristics of the Site and Area: The application site is part of a larger agricultural field that sits above the level of Caledon Road approx 3.5 kms south east of Aughnacloy The site is bounded by mature trees to the south , west and east and the north boundary is undefined. In the south west corner of the field are 2 buildings, currently used for agricultural purposes. One of the buildings is of stone constriction with a tin roof and 3 solid walls, the other is a smaller tin shed. The west boundary is a high point here with	

Caledon Road in a cutting to the south separated from the site by a treed embankment. The land falls away from these existing buildings to the north, west and east. The area is very rural in character within a drumlin landscape and little perception of development along this relatively new stretch of road. There are isolated farm groups and single rural dwellings in the locality.

Description of Proposal

The proposal is for a site for a replacement dwelling and garage.

Deferred Consideration:

Members will be aware this application was discussed at the September Meeting, the agent was concerned that not all the information that had been presented had been considered in the Planning Officer Report and that information had not been uploaded to the Planning Portal. The application was deferred to allow a members site visit to take place to look at the existing buildings and the access that is proposed.

A site visit took place on 26 September 2019, at the visit it was noted:

- there was no evidence of a lane to the rear of the hedge,
- the buildings on the site did not have any features that would identify them as a dwelling and
- the traffic on the road travelled at a high speed and a dip in the road towards Aughnacloy, meant traffic was not visible for a time.

Members are advised following the site visit DFI Roads Engineers were asked to clarify the access position has the necessary sight lines in place to ensure any access was safe. DFI Roads have advised, they have estimated the road speed at 100kmh (62mph) and in accordance with Development Control Advice Note 15, a safe access here requires sight splays of 2.4m x 160.0m and that these are in situ. Members are therefore advised there is no road safety issue with an access here.

Members should note the following information was presented for consideration with the planning application:

- A map from Public Records Office showing the application site in a field numbered 30
- A ledger from the Public Records Office, which accompanied the map, this states Henry Hagan -In Chancery Foster Dunwoody (Receiver) – House Office and Land – 17 acres 1 rood and 17 perch – Buildings - Land Value £14, 2 shillings and 0 pence – Buildings value £2, 10shillings and 0 pence - totalling £16, 12 shillings and 0pence
- Recollection from the applicants father that someone lived in a house on these lands

As previously indicated this information is only helpful in that it illustrates there was a dwelling on these lands, it does not help to identify which building was the dwelling. This does not provide anything new for consideration that was not already considered in the previous reports and it does not demonstrate the field gate is a vehicular access for the

purposes of consideration of the policies in Planning Policy Statement 3 – Access, Movement & Parking.

In view of the lack of evidence that this building was a dwelling and that it involves the creation of a new access to a protected route, it is recommended this application is refused.

Reasons for Refusal:

1. The proposal is contrary to the Consequential Amendment to Policy AMP3 of Planning Policy Statement 3 - Access, Movement and Parking in that it has not been demonstrated this building meets the criteria for a replacement dwelling as set out in CTY3 of PPS21 and that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic.

Signature(s):

Date



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Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2017/1004/O	Target Date: <add date>
Proposal: Proposed replacement dwelling and domestic garage.	Location: Land approx. 320m N.W. of 180 Caledon Road Aughnacloy
Applicant Name and Address: Mr Adrian Robinson 59 Curlough Road Aughnacloy	Agent name and Address: Bernard Donnely 30 Lismore Road Ballygawley BT70 2ND
Summary of Issues: It has not been demonstrated the building to be replaced was a dwelling, access to the development is via a new access to a protected route. Roads object to any new access onto protected routes.	
Summary of Consultee Responses: DFI Roads - object to a new access onto a protected route.	
Characteristics of the Site and Area: The application site is part of a larger agricultural field that sits above the level of Caledon Road approx 3.5 kms south east of Aughnacloy The site is bounded by mature trees to the south , west and east and the north boundary is undefined. In the south west corner of the field are 2 buildings, currently used for agricultural purposes. One of the buildings is of stone construction with a tin roof and 3 solid walls, the other is a smaller tin shed. The west boundary is a high point here with Caledon Road in a cutting to the south separated from the site by a treed embankment. The land falls away from these existing buildings to the north, west and east.	

The area is very rural in character within a drumlin landscape and little perception of development along this relatively new stretch of road. There are isolated farm groups and single rural dwellings in the locality.

Description of Proposal

The proposal is for a site for a replacement dwelling and garage.

Deferred Consideration:

This application was considered as a dwelling on a farm and was recommended for refusal at the Committee Meeting in January 2019 as it was not considered to meet Protected Routes Policy. The agent revised the submission to a replacement dwelling before the meeting and the application was deferred to consider the revised proposal, it was presented back to Committee on 5th March 2019 and deferred for an office meeting with the Planning Manager. At the office meeting it was indicated the old building on the site was formerly a dwelling and its access to the Caledon Road was cut off by the new road. It was further advised that as the access was cut off a facilitation laneway was built to allow the old buildings to be accessed from the public road. The Planning Manager advised if information could be provided to clearly demonstrate this, then it is quite clear the application meets the policy for access to a protected route and invited the applicant to submit this information.

Mr Robinson (Snr) advised the members at the office meeting that he remembered someone living in the old building on the site, other than that recollection there is no additional information to suggest this was a dwelling. That said, the principle of a dwelling on a farm has been considered and it is acceptable in principle, subject to a suitable access being provided.

A Geotechnical Investigation has been carried out and submitted, this includes information from trial pits and geotechnical testing consisting of Dynamic Core Penetration (DCP) to establish the California Bearing Ratio (CBR) of the ground. Members are advised the California Bearing Ratio (CBR) is a simple strength test that compares the bearing capacity of a material with that of well graded crushed stone, which has a CBR value of 100%. The test involves applying a load to a small penetration piston and recording the total load penetration. <https://www.pavementinteractive.org/reference-desk/design/design-parameters/california-bearing-ratio/>

The report shows that 3 locations close to the hedge (Test Locations 1, 4 & 10 in the report) appear to have better load bearing capacity than the remainder of the grounds. The report suggests this is due to the ground having been developed to provide a stoned laneway. From the trial pits information provided, the report suggests a 0.25m deep bed of gravel has been encountered at 2 locations close to the hedge, southeast of the existing buildings. Again the report suggests this was because a laneway had been constructed along the rear of the hedge.

Members are advised the report is unhelpful as it can only advise there may have been a stoned laneway provided along the rear of the hedge. This does clearly demonstrate that the lane was used as an access to a dwelling and as such constitutes an existing access for the purposes of AMP3. That said neither does it demonstrate the lane was only used for agricultural purposes, which would result in the creation of a new access to the protected route. The situation on the ground is:

- there is a field gate from the side of the road into the field,
- there is no obvious laneway to the rear of the hedge, it all appears to be in grass and part of the fields

If a lane had been created, in my opinion and from observation on site, its use was abandoned long ago and there is now no vehicular access onto the protected route at this location. Members are reminded that PPS3 clearly sets out in footnote 4 on page 21 that for the purpose of the policies in the PPS a field gate is an access.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. Policy TRAN4 as proposed does not provide any significant change in policy. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

In view of the lack of evidence that this building was a dwelling and there is an existing vehicular access to a protected route, it is recommended this application is refused.

Reasons for Refusal:

1. The proposal is contrary to the Consequential Amendment to Policy AMP3 of Planning Policy Statement 3 - Access, Movement and Parking in that it has not been demonstrated this building meets the criteria for a replacement dwelling as set out in CTY3 of PPS21 and that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic.

Signature(s):

Date



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Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2017/1004/O	Target Date: <add date>
Proposal: Proposed replacement dwelling and domestic garage.	Location: Land approx. 320m N.W. of 180 Caledon Road Aughnacloy
Applicant Name and Address: Mr Adrian Robinson 59 Curlough Road Aughnacloy	Agent name and Address: Bernard Donnely 30 Lismore Road Ballygawley BT70 2ND
Summary of Issues: It has not been demonstrated the building to be replaced was a dwelling, access to the development is via a new access to a protected route. Roads object to any new access onto protected routes.	
Summary of Consultee Responses: Roads object to a new access onto a protected route.	
Characteristics of the Site and Area: The application site is part of a larger agricultural field that sits above the level of Caledon Road approx 3.5 kms south east of Aughnacloy. The site is bounded by mature trees to the south, west and east and the north boundary is undefined. In the south west corner of the field are 2 buildings, currently used for agricultural purposes. One of the buildings is of stone construction with a tin roof and 3 solid walls, the other is a smaller tin shed. The west boundary is a high point here with Caledon Road in a cutting to the south separated from the site by a treed embankment. The land falls away from these existing buildings to the north, west and east.	

The area is very rural in character within a drumlin landscape and little perception of development along this relatively new stretch of road. There are isolated farm groups and single rural dwellings in the locality.

Description of Proposal

The proposal is for a site for a replacement dwelling and garage.

Deferred Consideration:

This application was considered as a dwelling on a farm and was recommended for refusal at the Committee Meeting in January 2019 as it was not considered to meet Protected Routes Policy. The agent revised the submission to a replacement dwelling before the meeting and the application was deferred to consider the revised proposal.

Members will be aware of Policy CTY3 of PPS21 which sets out the considerations for replacement dwellings in the countryside. This Policy has not been changed by the SPPS and I consider it is still the relevant policy for consideration of this proposal. Members will be aware that Policy CTY3 allows the replacement of a building that was formerly used as a dwelling and the policy requires the building to be replaced to exhibit the essential characteristics of a dwelling and as a minimum all external walls are substantially intact. The policy does not give any guidance of what is meant by substantially intact and as such it is a subjective test. Helpfully a review of PPS21 was carried out in July 2013, the then Minister for the Environment, identified good practice for consideration of a flexible approach to replacement dwellings. The Minister referred to an application in Armagh (this has been subsequently identified as O/2009/0175/O) which had long ago been a dwelling, it had no roof and the walls were not 100% intact. Members are advised the Ministers Statement is not setting out new policy, merely giving guidance on how to best interpret the existing policy.

The applicant has indicated that the building in the south west corner of the site was a dwelling and it is proposed to replace this with a new dwelling. The existing building on site has 3 stone walls and a tin roof , the front wall is missing and the rear wall has one small window opening in it. There are no other features within the building to give any indication of its previous uses. (see photos in Annex A). The applicant has stated the building was a dwelling and there is evidence in historic maps that a building or buildings have been on the site for some considerable time, however this does not demonstrate the building was used as a dwelling. There is nothing here to give me any comfort that this was a dwelling and I do not see that it is directly comparable to the case referred to by the Minister in the Review and I do not consider it has been shown this was a dwelling that could be replaced.

Members are advised that even if this was a dwelling, the fundamental issue that still has not been addressed is the provision of a new access onto a Protected Route. The agent has provided details of planning permission K/2010/0529/F, a decision that was taken by

the Department in relation to an access to the A5 Protected Route for a dwelling on a farm. That decision allowed a new access to a Protected Route through what was clearly a field gate. I have considered this and cannot see how this would have met the Policy and as such I do not consider this poor decision to set a precedent which should allow unfettered access to the Protected Route network. The Consequential Amendment to Policy AMP3 – Access to Protected Routes Protected Routes Policy requires a dwelling to be replaced to meet the criteria for a replacement dwelling as set out in CTY3 and there must be an existing vehicular access onto the protected route. For the purposes of this policy it is set out in footnote 4 that a field gate is not a vehicular access. As stated in the previous report, the access to this building is from a field gate to the south east. Again historical maps have indicated that an access to the buildings was lastly achieved from a laneway that went north of the buildings then west onto the then Caledon Road line which ran alongside the railway line. There is some evidence that a lane was in place with its path still evident but overgrown to the north, a crossing point over a watercourse is still in place which provides access between 2 agricultural fields. The point where the lane would have met the new road is marked by a field gate and there is no evidence of a lane along the side of the field. (See Photographs in Annex B)

In view of the lack of evidence that this building was a dwelling and that it involves the creation of a new access to a protected route, it is recommended this application is refused.

Reasons for Refusal:

1. The proposal is contrary to the Consequential Amendment to Policy AMP3 of Planning Policy Statement 3 - Access, Movement and Parking in that it has not been demonstrated this building meets the criteria for a replacement dwelling as set out in CTY3 of PPS21 and that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic.

Signature(s):

Date

ANNEX A

Photographs of the Building to be Replaced

Side walls



Rear wall



Rear wall window opening



Front of building



Internal wall



Rear wall with window opening blocked up





ANNEX B
Access photographs

Field gate as indicated for access to proposal



Remains of lane to north of buildings



View from new road of field where lane is indicated on old maps





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Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1004/O	Target Date:
Proposal: Erection of dwelling and garage on a farm	Location: Land approx. 320m N.W. of 180 Caledon Road Aughnacloy
Referral Route: Refusal recommended as contrary to policy AMP3 - Access onto Protected Routes. Objection from Roads Service.	
Recommendation:	Refusal
Applicant Name and Address: Mr Adrian Robinson 59 Curlough Road Aughnacloy	Agent Name and Address: Bernard Donnely 30 Lismore Road Ballygawley BT70 2ND
Executive Summary: The proposal meets the criteria for a dwelling on a farm, access to the development is proposed off a new access to a protected route.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Object to new access onto Protected Route
Non Statutory	DAERA - Omagh	Active and established for over 6 years

Representations:

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

Summary of Issues

The proposal meets the criteria for a dwelling on a farm, access to the development is via a new access to a protected route. Roads object to any new access onto protected routes.

Characteristics of the Site and Area

The application site is part of a larger agricultural field that sits above the level of Caledon Road approx 3.5 kms south east of Aughnacloy. The site is bounded by mature trees to the south, west and east and the north boundary is undefined. In the south west corner of the field are 2 buildings, currently used for agricultural purposes. One of the buildings is of stone construction with a tin roof and 3 solid walls, the other is a smaller tin shed. The west boundary is a high point here with Caledon Road in a cutting to the south separated from the site by a treed embankment. The land falls away from these existing buildings to the north, west and east. The area is very rural in character within a drumlin landscape and little perception of development along this relatively new stretch of road. There are isolated farm groups and single rural dwellings in the locality.

Description of Proposal

The proposal is for a site for a dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

The proposal is for a dwelling in the countryside and the policies contained in the Area Plan are determining unless other material facts should indicate otherwise. The site is not within any settlement limits defined in the Dungannon & South Tyrone Area Plan and there are no policies within the plan relevant to the proposed development.

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 Strategic Policy Statement for Northern Ireland is the most recent policy published by the Department. It provides guidance for Councils in the preparation of their Local Development Frameworks and until these LDF's are published in final form the SPPS, as well as other published policies are to be considered in determining planning applications. Where policy direction or clarification is different in the SPPS than other policies, the SPPS shall be determining. I do not consider there is any change in policy for this development in the SPPS. I consider the policies contained in PPS21 - Sustainable Development in the Countryside is the most relevant policy for consideration and Policy CTY1 allows for certain development in the Countryside provided it accords with other policies contained within CTY2 - CTY16.

DEARA have confirmed this is for an active and established farmer and the agent advises there is a dairy herd on the holding. A search of the farm map has not shown any development opportunities that have been transferred off the holding since 25 November 2008. The main farm group is located approx. 2kms to the south east off the proposed site. A site has not been chosen there as the land close to the buildings is subject to flooding, this has been confirmed on the DEARA flood maps. Members are advised policy CTY10 directs new dwellings on farms to be side to visually link or cluster with a group of established buildings on the far. There are 2

buildings in the south west corner of the site, as such I consider a dwelling sited beside these would meet with the criteria in CTY10. Due to the height of the existing vegetation on the site boundaries and around the site, I consider a large storey and half dwelling or small 2 storey dwelling could be well integrated on this site. There is limited development pressure around this area and as such I do not consider a dwelling here would have any undue impact on rural character.

Members are however advised that it is proposed to access the dwelling off a protected route, where it is the Roads Authority policy to severely restrict new access so as to minimise disruption to the free flow of traffic on these important routes. The consequential amendment to Policy AMP3 of PPS3 allows farm dwellings to access off protected routes where there is no reasonable possibility to access off an adjacent minor road and provided it uses an existing access. For the purposes of access policy it is important to note a field gate cannot be considered as a vehicular access.

The applicant has advised one of the old buildings used to be a dwelling and that it had an access onto the old road to the south west. When the new road was being built in the 1980's, as the old dwelling was not occupied, no provision was made for an access to it from the new road, or indeed the surrounding roads. Since then access has been via a field gate at the north east corner of this field, where it is proposed to provide the access for this dwelling. Old maps from the Public Records Office online library would appear to validate this claim. Where the existing stone building with the tin roof is located, it is clear there has been a building here for some considerable time:

- First edition map (1832-1846) shows a building and enclosures
- Second edition map (1846 - 1862) shows a building with an access to the road to the south west
- Third edition map (1900 - 1907) shows 2 buildings and the access has moved to the north with a dog leg to the west and access the road west of the buildings
- Fourth edition map (1905 - 1957) shows the same as the third edition but a building is now located at the south side of where the access meets the public road.

(See appendix A)

Roads engineers were asked to confirm if there is an existing vehicular access, however they are unable to provide any confirmation of this and as such it would appear there is no existing vehicular access to the public road. Due to the hard shoulder along the side of the road, Roads have advised 2.4m x 160.0m sight lines can be achieved to create a safe access and as such the issue here is the principle of a new access onto the Protected Route.

Members are advised that alternative sites, which do not access onto the Protected Route, have been explored and in principle may be acceptable. However the applicant has advised they wish to have a decision on this application.

I recommend to the Committee that this application is refused as it will result in the creation of a new access onto a Protected Route and is contrary to Policy AMP3, as amended by PPS21.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Recommendation to refuse.

Refusal Reason:
1. The proposal is contrary to Policy AMP3 of Planning Policy Statement 3 - Access, Movement and Parking in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic.
Signature(s)
Date:

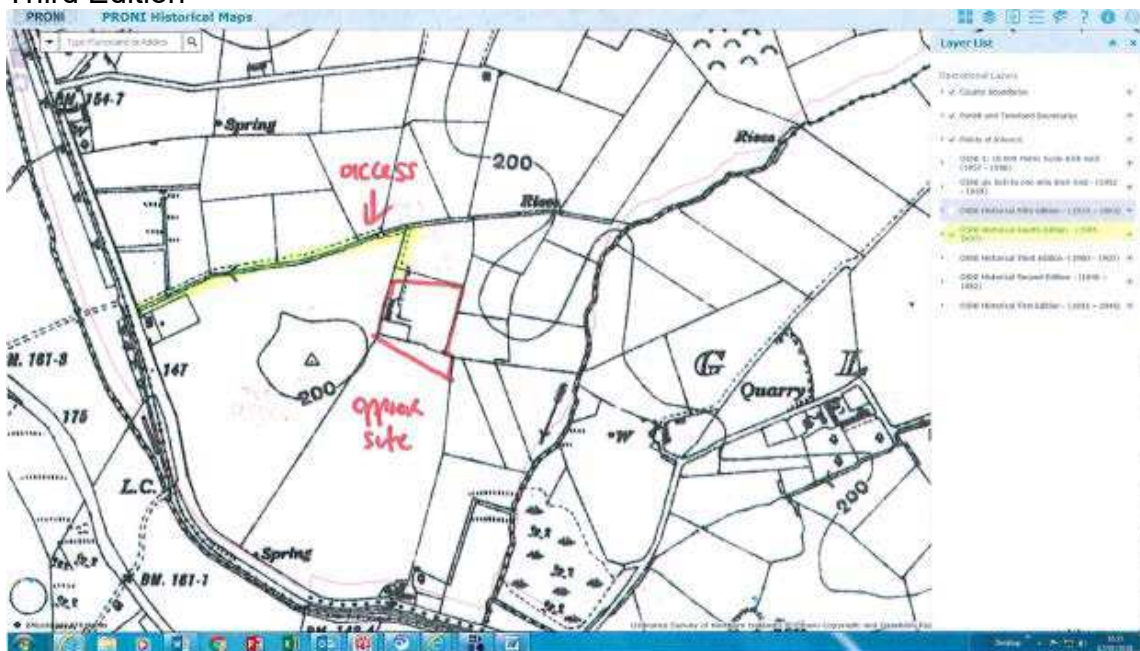
First Edition



Second Edition



Third Edition



ANNEX	
Date Valid	26th July 2017
Date First Advertised	10th August 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	None required
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: M/1979/0181 Proposal: ERECTION OF TWO STOREY DWELLING HOUSE Address: GLENDAVAGH, AUGHNACLOY Decision: Decision Date: Ref ID: LA09/2017/1004/O Proposal: Erection of dwelling and garage on a farm Address: Land approx. 320m N.W. of 180 Caledon Road, Aughnacloy, Decision: Decision Date:	
Summary of Consultee Responses Roads object to a new access onto a protected route.	
Drawing Numbers and Title	

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2017/1349/F	Target Date:
Proposal: Animal isolation and farm machinery storage shed	Location: Approx 120m South East of 37 Rocktown Lane Knockloughrim
Applicant Name and Address: Robert Edward Scullion 322 Hillhead Road Knockloughrim	Agent name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
Summary of Issues: <p>Following an initial deferral a site meeting was held on the site in May 2019. The application was recommended for refusal but withdrawn from the Committee schedule in Jan 2019 to consider additional information. This not been forthcoming following numerous attempts asking for this information and a final deadline was given for 18th July 2019. The issues remain as previously and refusal is recommended.</p>	
Characteristics of the Site and Area: <p>The site is located approximately half a mile east of Knockcloghrim in open countryside in accordance with the Magherafelt Area Plan 2015. The site address is described as 100m south east of No 37 Rocktown Lane and the site consist of an area of hardstanding surrounded by mature trees. The site is accessed via an existing laneway onto Rocktown Lane.</p>	
Description of Proposal <p>The application proposes to erect a portal frame building to provide winter housing and isolation facilities when there is an outbreak of TB. The site is within a cleared area of woodland located approximately half a mile north east of the existing farm complex located at No 322 Hillhead Road, Knockcloghrim. The building measures 18.6m x 15m</p>	

with a ridge height of 6.6m. The lower half of the building is cavity walls construction and the upper half of the building is finished using insulated metal cladding. The roof finish is also insulated metal cladding. A 4m x 4m roller shutter door is proposed on the western elevation and pedestrian door with glass panel is proposed on southern elevation. 2 No. 0.8m x 0.8m ventilation louvres are proposed on each gable.

Deferred Consideration:

This application was initially presented before the Planning Committee in May 2018 with a recommendation to refuse based on the following reason:

1. The proposal is 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 the alternative site away from the existing buildings is essential for the efficient functioning of the business and has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used and the design and materials to be used are appropriate for livestock building.
2. The proposal is contrary to PPS3 Access, Movement and Parking in that insufficient information has been provided to demonstrate that a safe access can be achieved onto the public road.

Following a discussion at that meeting it was agreed that the application would be deferred to allow Committee members to visit the site. A subsequent site meeting took place on 17th May 2018 and was attended by Councillors McKinney and McPeake together with Mr Bowman and Mr McCrystal from MUDC.

At that site meeting issues were discussed in relation to the principle of siting an isolation shed away from the main group of farm buildings. The justification for this was that the applicants herd being infected by TB. However this does not necessitate an isolation building to be located on a site remote from the main farm grouping. In fact, to site such a building away from the main farm grouping, such as proposed, would have the consequence of moving infected animals to a small narrow plot with two other farm businesses on either side, with the potential to infect animals on those lands. It was claimed the applicant has around 30 acres of land at this location, however, full details of these lands have never been provided.

It was agreed that the details of the aforementioned lands would be requested on a without prejudice basis to enable further consultation to be undertaken with DAERA and to allow the case to be reconsidered. This information was duly requested, however it has not been provided and therefore there has been no further consultation with DAERA. On Dec 2018, the agent advised by letter that Mr Scullion had completed the purchase of 30 acres of land adjacent to the proposed storage shed and the land will be attached to his single farm payment claims in Jan 2019. On this basis the application was withdrawn from the Committee schedule in Jan 2019 to consider the additional information. However, these details have not been forthcoming, farm maps and land reg documents have been requested in March 2019 and again in June 2019, giving a final deadline of 4 weeks to get the details in, which is now well past. In addition to this, a land reg check by Planning was carried out on 11/10/19 on adjacent land and none is in the name of the applicant.

The proposed development also raises questions regarding the appropriateness of siting a livestock building within a plantation, which is also an ideal habitat for badgers which are a source of TB. The supporting statement states that cattle will have access to outside grazing throughout the plantation, which may heighten the risk of cattle being exposed to badgers, thus increasing the risk of a TB outbreak. Furthermore, the applicant has failed to demonstrate that an alternative site away from the existing buildings is essential for the business and why an isolation shed cannot be located at the existing main farm grouping.

As the agent has advised, DAERA have changed the applicants herd test type because his herd is at a high risk of TB from neighbouring farms. Therefore, in reality, what the applicant is proposing will not only put his livestock at a high risk of contracting TB from other farms due to the close proximity of the proposed building to third party lands, but will also put those other parties livestock at risk if the applicants herd were to suffer a TB outbreak.

In reconsidering the proposed development, no persuasive evidence has been provided to justify why an isolation shed should be permitted at this location as the applicant has alternatives at the existing main farm grouping which can be accommodated through the provision of a shed which meets the current DAERA guidance for Isolation Facilities. This guidance confirms that farm isolation buildings only need to be free-standing buildings (i.e. solid walls, no shared airspace, water supply or drainage with other animal accommodation) from any buildings used for other livestock. There is no requirement to locate the isolation building/facility on an alternative site away from existing farm buildings.

The issue relating to achieving the NE visibility splay has not yet been fully resolved. A vertical section drawing has not been provided to show this can be achieved. However as the principle of development has not yet been established the section was not requested. However it would appear the applicant can achieve this, so it would not be necessary as an additional refusal reason.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Conclusion

The main issues remain the same as previously, and as no further information has been submitted to address the concerns, the refusal reason is as follows below;

Refusal Reasons

1. The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that the alternative site away from the existing buildings, should be treated as exceptional, nor why it is essential for the efficient functioning of the

business and has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used and the design and materials to be used are appropriate for livestock building.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Malachy McCrystal	
Application ID: LA09/2017/1349/F	Target Date: <add date>
Proposal: Animal isolation and farm machinery storage shed	Location: Approx 120m South East of 37 Rocktown Lane Knockloughrim
Applicant Name and Address: Robert Edward Scullion 322 Hillhead Road Knockloughrim	Agent name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
Characteristics of the Site and Area: The site is located approximately half a mile east of Knockcloghrim in open countryside in accordance with the Magherafelt Area Plan 2015. The site address is described as 100m south east of No 37 Rocktown Lane and the site consist of an area of hardstanding surrounded by mature trees. The site is accessed via an existing laneway onto Rocktown Lane.	
Description of Proposal The application proposes to erect a portal frame building to provide winter housing and isolation facilities when there is an outbreak of TB. The site is within a cleared area of woodland located approximately half a mile north east of the existing farm complex located at No 322 Hillhead Road, Knockcloghrim. The building measures 18.6m x 15m with a ridge height of 6.6m. The lower half of the building is cavity walls construction and the upper half of the building is finished using insulated metal cladding. The roof finish is also insulated metal cladding. A 4m x 4m roller shutter door is proposed on the western elevation and pedestrian door with glass panel is proposed on southern elevation. 2 No. 0.8m x 0.8m ventilation louvres are proposed on each gable.	

Deferred Consideration:

This application was presented before the Planning Committee in May 2018 with a recommendation to refuse based on the following reason:

1. The proposal is 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 the alternative site away from the existing buildings is essential for the efficient functioning of the business and has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used and the design and materials to be used are appropriate for livestock building.
2. The proposal is contrary to PPS3 Access, Movement and Parking in that insufficient information has been provided to demonstrate that a safe access can be achieved onto the public road.

Following a discussion at that meeting it was agreed that the application would be deferred to allow Committee members to visit the site. A subsequent site meeting took place on 17th May 2018 and was attended by Councillors McKinney and McPeake together with Mr Bowman and Mr McCrystal from MUDC.

At that site meeting issues were discussed in relation to the principle of siting an isolation shed away from the main group of farm buildings. The justification for this was that the applicants herd being infected by TB. However this does not necessitate an isolation building to be located on a site remote from the main farm grouping. In fact, to site such a building away from the main farm grouping, such as proposed, would have the consequence of moving infected animals to a small narrow plot with two other farm businesses on either side, with the potential to infect animals on those lands. Councillor McPeake referred to the applicant having around 30 acres of land at this location, however, full details of these lands have never been provided.

It was agreed that the details of the aforementioned lands would be requested on a without prejudice basis to enable further consultation to be undertaken with DAERA and to allow the case to be reconsidered. This information was duly requested, however it has not been provided and therefore there has been no further consultation with DAERA.

The proposed development also raises questions regarding the appropriateness of siting a livestock building within a plantation, which is also an ideal habitat for badgers which are a source of TB. The supporting statement states that cattle will have access to outside grazing throughout the plantation, which may heighten the risk of cattle being exposed to badgers, thus increasing the risk of a TB outbreak. Furthermore, the applicant has failed to demonstrate that an alternative site away from the existing buildings is essential for the business and why an isolation shed cannot be located at the existing main farm grouping.

As the agent has advised, DAERA have changed the applicants herd test type because his herd is at a high risk of TB from neighbouring farms. Therefore, in reality, what the applicant is proposing will not only put his livestock at a high risk of contracting TB from other farms due to the close proximity of the proposed building to third party lands, but will also put those other parties livestock at risk if the applicants herd were to suffer a TB outbreak.

In reconsidering the proposed development, no persuasive evidence has been provided to justify why an isolation shed should be permitted at this location as the applicant has alternatives at the existing main farm grouping which can be accommodated through the provision of a shed which meets the current DAERA guidance for Isolation Facilities. This guidance confirms that farm isolation buildings only need to be free-standing buildings (i.e. solid walls, no shared airspace, water supply or drainage with other animal accommodation) from any buildings used for other livestock. There is no requirement to locate the isolation building/facility on an alternative site away from existing farm buildings.

Conclusion

Given the above situation, it is my opinion that the proposed development is contrary to Planning policy as stated and should be refused for the following reasons:-

Refusal Reasons

1. The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that the alternative site away from the existing buildings is essential for the efficient functioning of the business and has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used and the design and materials to be used are appropriate for livestock building.
2. The proposal is contrary to PPS3 Access, Movement and Parking in that insufficient information has been provided to demonstrate that a safe access can be achieved onto the public road.

Signature(s):**Date**



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1349/F	Target Date:
Proposal: Animal isolation and farm machinery storage shed	Location: Approx 120m South East of 37 Rocktown Lane Knockloughrim
Referral Route: Contrary to Policy	
Recommendation:	Refusal
Applicant Name and Address: Robert Edward Scullion 322 Hillhead Road Knockloughrim	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

For committee decision



18/4/18

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues: No issues raised.

Characteristics of the Site and Area

The site is located approximately half a mile east of Knockcloghrim in open countryside in accordance with the Magherafelt Area Plan 2015. The site address is 100m south east of No 37 Rocktown Lane and the site consists of a cleared area of rock/hardstanding and access is via an existing laneway onto Rocktown Lane. The site is located within Lemnaroy Plantation which consists largely of mature trees and overgrown gorse. Views into the site are virtually non-existence.

Description of Proposal

The application proposes to erect a portal frame building to provide winter housing and isolation building. The site is within a cleared area of woodland located approximately half a mile north east of the existing farm complex located at No 322 Hillhead Road, Knockcloghrim. The building measures 18.6m x 15m with a ridge height of 6.6m. The lower half of the building is cavity walls construction and the upper half of the building is finished using insulated metal cladding. The roof finish is also insulated metal cladding. A 4m x 4m roller shutter door is proposed on the western elevation and a pedestrian door with glass panel is proposed on southern elevation. 2 No. 0.8m x 0.8m ventilation louvres are proposed on each gable.

Planning Assessment of Policy and Other Material Considerations

Relevant Site History:

No relevant history

Representations:

1 neighbour notification letter was sent to the occupiers of No 37 Rocktown Lane, Knockcloghrim.

No letters of representation have been received.

Policy Considerations

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

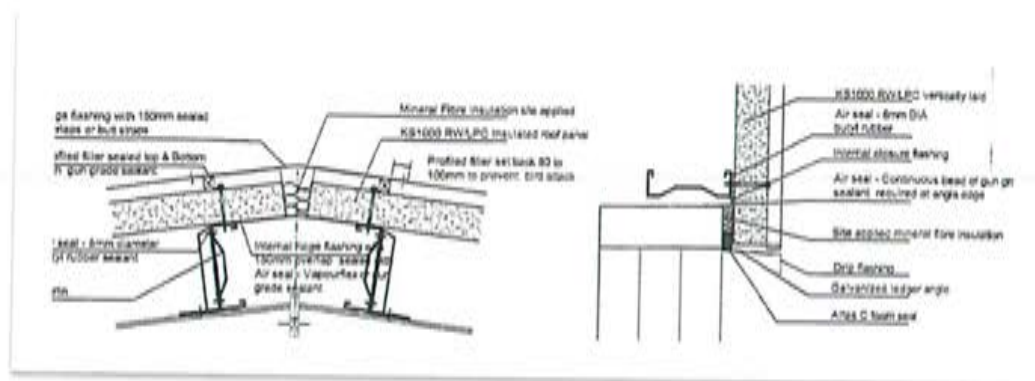
Magherafelt Area Plan 2015: The site is located within open countryside. There are no other designations on the site, however part of the site falls within an area of a monument constraint. HED Historic Monuments have been consulted and are content that the proposal satisfies the SPPS and PPS 6.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. There are a range of types of development which in principle are considered to be acceptable in the countryside, which includes agricultural development (CTY 12). Planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that:

(a) it is necessary for the efficient use of the agricultural holding or forestry enterprise; - The policy requires the applicant to provide evidence of an active farm business, established for at least 6 years. The applicant has provided a DAERA Business number. Consultation with DAERA has confirmed that the farm business is currently active and is established for over 6 years. The applicant has also submitted farm maps indicating the extent of his farm holding which is about 30.55 hectares. The issue regarding whether the shed is necessary will be considered under the heading '**Justification for an Alternative Site**'.

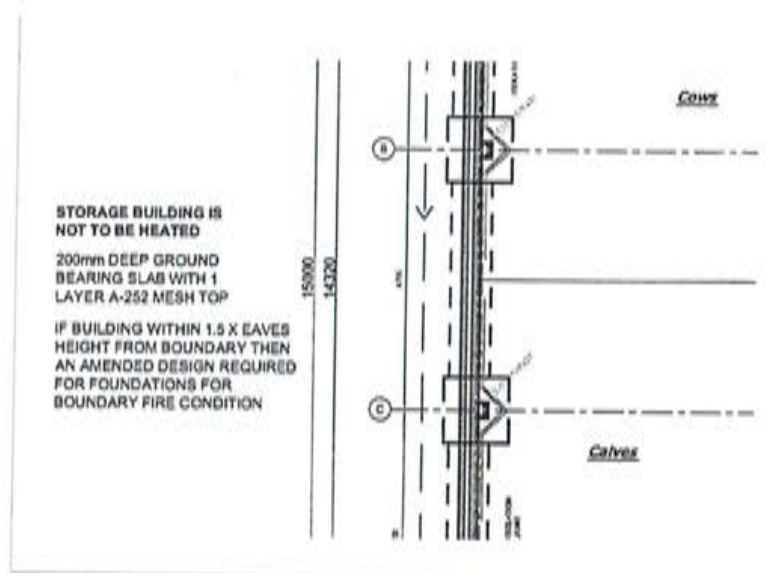
(b) in terms of character and scale it is appropriate to its location;

I have concerns that the proposed building will not be used for agricultural purposes. Firstly, the building will be constructed using cavity walls and metal insulated cladding which are not typical construction methods used for constructing livestock buildings.



According to DAERA guidance, livestock buildings should be designed to allow the free movement of air to circulate within the building to prevent the build-up of stale air/condensation. From my own farming background, housing a large number of animals inside a sealed insulated building over a prolonged periods of time would undoubtedly lead to a build-up of condensation which may result in outbreaks of respiratory diseases such as pneumonia.

Secondly, drawing No 4 Rev 1 which was received on 13th April 2018 includes a note which states that the '**STORAGE BUILDING IS NOT TO BE HEATED**' which also demonstrates that the building will not be used for agricultural purposes.



(c) it visually integrates into the local landscape and additional landscaping is provided as necessary and considering CTY 13 & 14;

The site is setback approximately 100m from the public road and is surrounded by mature trees along all boundaries. The size and scale of the shed will integrate into landscape and there will be no detrimental change to the rural character.

(d) it will not have an adverse impact on the natural or built heritage;

The proposal will not have an adverse impact on any monuments or buildings of historic value.

(e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution; The closest third party dwelling is located at No 37 Rocktown Lane which is approximately 100m northwest of the site. Environmental Health Department have been consulted with regards to noise and smell and have raised no concerns, therefore I am satisfied the proposal will not have a significant detrimental impact on third party residential amenity.

Justification for an Alternative Site.

The proposal will not be sited beside an existing group of farm buildings, instead will be located within a plantation located approximately 0.5 mile north east of the principle farm holding located at No 322 Hillhead Road, Knockcloghrim. CTY 12 allows for an alternative site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding, and where:

- it is essential for the efficient functioning of the business; or
- there are demonstrable health and safety reasons.

A supporting statement was submitted on 7th March and states that the isolation shed is necessary because the applicant's milking herd has been affected by TB on three separate occasions within the last 2 years and that TB was revealed in the herd on 7th March 2018. The supporting statement concludes by stating that 'the applicant is investing in good husbandry practices to eliminate the risk of further TB infection whilst protecting his milking herd which he has built up over many years'.

To help verify the above information was correct, I contacted Coleraine Veterinary Office and a DAERA official confirmed that the applicant herd is not subject to any TB restrictions following two clear tests, one in April 2017 and another in November 2017. The official also confirmed that the applicant runs a beef enterprise and not dairy enterprise as claimed.

I contacted the agent regarding the information provided by DAERA and he ^{admitted} omitted that he had made a 'mistake' regarding the type of farm the applicant runs, however he refused to confirm the up to date TB status of the applicant herd, instead argues that DAERA has had to amend the applicant's TB test which was due on the 28/03/2018 from an ordinary Annual Herd Test (AHT) to a Lateral Check Test (LCT) because his herds is at high risk to TB breakdown from neighbouring farms.

A follow up supporting statement was submitted on 13th April and states that the shed is required-also required for winter housing because all the sheds at the existing farm complex are fully utilised. The supporting statement also states that the applicants has 30 acres of land at the proposed site and cows and calves will be have access to outside grazing over the winter months.

Consideration

The applicant has failed to demonstrate why his herd is at greater risk from an outbreak of TB than other herds. An isolation building will not prevent the outbreak of TB, it is only used to isolate an animal if it tests positive for TB, until the animal is either retested or removed off the farm. DAERA guidance for Isolation Facilities confirms that buildings used for on farm isolation need to be free standing building (i.e. solid walls, no shared airspace, water supply or drainage with other animal accommodation) from any buildings used for other livestock. There is no requirement to locate the isolation building/facility on an alternative site away from existing farm buildings.

No supporting information has been provided to demonstrate that the applicant owns/farms 30 acres beside the site, therefore no weight can be attached to this information.

I would question the appropriateness of siting a livestock building within a plantation which is also an ideal habitat for badgers. Badgers are well known carrier of TB. The supporting statement states that cattle will have access to outside grazing throughout the plantation which may heighten the risk of cattle coming into contact with badgers, thus increasing the risk of a TB outbreak.

The applicant has failed to demonstrate that an alternative site away from the existing buildings is essential for the business. No information has been provided to demonstrate why existing buildings on the holding can be utilised and the design and materials are not keeping those used for the construction of livestock buildings.

Other Material Consideration.

Following an internal consultation with Sean Hackett of DFI Roads, a vertical section through the visibility splay on the RHS exiting indicating 1.05 – 0.26 and 1.05 – 1.05 at 2.4m x 60m was requested on the 31st January 2018. To date the section has not been provided, however given the principle of development has not been established the section is not required.

Neighbour Notification Checked	Yes
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Summary of Recommendation: recommend refusal on the bases of non-compliance with CTY12 of PPS 21.

Refusal Reasons:

1. The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that the alternative site away from the existing buildings is essential for the efficient functioning of the business and has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used and the design and materials to be used are appropriate for livestock building.

2. The proposal is contrary to PPS3 Access, Movement and Parking in that insufficient information has been provided to demonstrate that a safe access can be achieved onto the public road.

Signature(s)

Date:

ANNEX

Date Valid	29th September 2017
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Date First Advertised	19th October 2017
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Date Last Advertised	
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Details of Neighbour Notification (all addresses)

The Owner/Occupier,
37 Rocktown Lane Knockcloghrim Magherafelt

Date of Last Neighbour Notification	31st October 2017
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Date of EIA Determination	
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ES Requested	No
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Planning History

Ref ID: LA09/2015/0608/LDP

Proposal: Erection of Dwelling and Garage

Address: Site opposite No 37 Rocktown Lane, Knockloughrim,

Decision: PR

Decision Date:

Ref ID: LA09/2017/1349/F

Proposal: Animal isolation and farm machinery storage shed

Address: Approx 120m South East of 37 Rocktown Lane, Knockloughrim,

Decision:

Decision Date:

Ref ID: H/1974/0299

Proposal: EXISTING QUARRY

Address: GULLADUFF ROAD, KNOCKLOUGHRIM

Decision:

Decision Date:

Ref ID: H/2003/0450/O

Proposal: Site of dwelling house.

Address: Site opposite no 37 Rocktown Lane, Knockloughrim.

Decision:

Decision Date: 05.03.2004

Ref ID: H/2011/0164/LDE

Proposal: Development commenced within the timeframe of the approval for dwelling and garage approved under H/2007/0204/RM dated 1st March 2007 by construction of visibility splays as required therefore works are lawful.

Address: Site opposite no. 37 Rocktown Lane, Knockloughrim,

Decision:

Decision Date:

Ref ID: H/2007/0204/RM

Proposal: Proposed single storey dwelling and single storey double garage.

Address: Site opposite No. 37 Rocktown Lane, Knockloughrim

Decision:

Decision Date: 16.06.2008

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03 Revision 1

Type: Proposed Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2017/1452/F	Target Date:
Proposal: Proposed storage extension to the rear of building (amended plans)	Location: 12 William Street Cookstown
Applicant Name and Address: Andrew McConnell 12 William Street Cookstown	Agent name and Address: APS Architects LLP 4 Mid Ulster Business Park Cookstown BT80 9LU
Summary of Issues: <p>Proposal was deferred to allow agent to submit amended plans, these have been received and reconsidered and approval is now recommended. Neighbours were re-notified on amended plans and further objector concerns have been fully considered.</p>	
Summary of Consultee Responses: <p>No objections</p>	
Characteristics of the Site and Area: <p>The site is located within the development limits of Cookstown but also within the town centre, part of the site is also situated within the Primary Retail Core and Area of Townscape Character as per defined in the Cookstown Area Plan 2010. On the site sits the existing retail unit known as 'McConnell Shoes' with a small rear yard defined by a concrete wall. . The immediate area is defined by a mix of development inclusive of retail units, residential, bars, restaurant and a bank.</p>	

Description of Proposal

This is a full application for the storage extension to the rear of building.

Deferred Consideration:

This application was presented as a refusal at Committee in June 2019 for the following reason;

1. The proposal is contrary to the Department's Planning Policy Statement 4, Planning and Economic Development, in that the development would, if permitted, would harm the living conditions of the existing residents in 12 and 14 Union Place by reason of loss of light, overshadowing and dominance.

It was subsequently deferred to allow the agent to submit amended plans in an attempt to overcome the objector's issues. Amended plans were received on 30 July 2019 and neighbours were re-notified. An objection was received on 16th August from 14 Union Place who felt the amendments did not significantly address their concerns, in terms of dominance, over shadowing and loss of sunlight.

Amended plans submitted on 25 Sept 2019 showed a trocal flat roof for 3m before the covered ceiling and the store has been reduced from 163sqm to 140sqm. This moved the extent of the extension a further 3m from the neighbours at first floor level.

No.14 Union Place raised objections to the amends, and following discussion with the Planning Manager, it was felt if the proposal was moved a further 0.5m back so there would be the same amount of separation from the common wall from the extension and the common wall and the No.14 (6m), this would be an acceptable solution.

This change was done and amended plans submitted on 30 October 2019, also showing the roof is no longer sloped but a flat roof. This would also reduce the impact on No's 12 and 14 Union Place to an acceptable degree and complies with PS4- PED9.

DES 2 of PSNRI is relevant. In terms of amenity, the proposal is compatible with the neighbouring properties. In terms of design, the detailing and materials of the proposal are acceptable.

Neighbours were re-notified on 08/11/19 and no objections were received at the time of writing the report.

Approval is now recommended based on the amended plans.

Conditions

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

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

Signature(s):

Date

**Development Management Officer Report
Committee Application**

Summary

Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1452/F	Target Date:
Proposal: Proposed storage extension to the rear of building	Location: 12 William Street Cookstown

Referral Route:

Refusal – To Committee – Contrary to PPS 4 and objections received.

Recommendation:

Applicant Name and Address:
Andrew McConnell
12 William Street
Cookstown

Agent Name and Address:
APS Architects LLP
4 Mid Ulster Business Park
Cookstown
BT80 9LU

Executive Summary: Refusal

Signature(s): Peter Henry

for committee decision

19/6/17

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	6
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

Refusal – To Committee – Contrary to PPS 4 and objections received.

Summary of objections;

- The two storey building will be tight the boundary and would appear dominant over the dwellings and gardens. Opinion that this proposed extension does not fit in visually with this residential area and the dominance is felt as it is at the bottom of the garden.
- There will be a loss of light – firstly, loss of direct sun light into the rear gardens resulting in overshadowing taking away from the enjoyment of garden space. Secondly, there will be a loss of light into the living areas such as the kitchen and dining area creating dull and dark spaces which may affect the resident's mood.
- There will be serious disruption during construction – affect parking arrangements, noise coming from machinery.
- Loss of privacy during construction – they would be towering over the garden areas.
- Fears that these works would impact on the boundary wall, making it become unstable with fear of this causing damage to the residential properties.

- Fears that this work would resultantly devalue these residential properties.

Characteristics of the Site and Area

The site is located within the development limits of Cookstown but also within the town centre, part of the site is also situated within the Primary Retail Core and Area of Townscape Character as per defined in the Cookstown Area Plan 2010. On the site sits the existing retail unit known as 'McConnell Shoes' with a small rear yard defined by a concrete wall. . The immediate area is defined by a mix of development inclusive of retail units, residential, bars, restaurant and a bank.

Representations

There were thirteen neighbour notifications sent out with 6 objections received in connection with this application.

Description of Proposal

This is a full application for the storage extension to the rear of building.

Planning Assessment of Policy and Other Material Considerations

The proposal is for the storage extension to the rear of building.

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 4 Planning and Economic Development

PPS 3 Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS supersedes PPS 5 in relation to retail planning policy and it aims to 'support, and sustain vibrant town centres as the first choice location of retailing and other main town centre uses'. The use as a garden centre has long been established wherein this application intends to add internal floor space along with additional external ground area by extending the existing polytunnels. The proposed extension is both subordinate and ancillary to the main use of the garden centre. I note that the extension is to use the same external materials as that of the existing which is deemed acceptable within the context of the surrounding area.

PED 1 of PPS 4 deals with Economic Development in Settlements, with PED 1 it states that a development proposal to extend an existing development use or premises within settlements will be determined on its individual merits having regard to Policy PED 9.

PED 9 of PPS 4 provides general criteria for economic development, in which any proposal for economic development use will be required to meet the following criteria:

(a) it is compatible with surrounding land uses;

I note that this is a proposed extension to provide storage for an existing commercial business which as stated part of the site is located within the Primary Retail Core. I do note that the site is located within an area characterised by a mix of development from which I am content it is compatible.

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

I note that the initial design of the extension was deemed to be too dominant on the neighbouring residential units, mainly that of Nos. 12 and 14 Union Place. From such and after a number of discussions the scheme was amended creating a pitch roof to try and reduce the dominance. However after group discussions this was still deemed to be unacceptable and was again met by objections from neighbouring residents. From such, a reduction in the scheme was requested however after a number of conversations with the agent, they stated that the applicant did not want to amend the application any further. From this the most current scheme is still deemed unacceptable and it is felt that it will adversely harm the amenities of neighbouring amenity.

Given its location and the extent of the extension coupled with the existing separation distances I am content that the proposal is likely to have any adverse impact on any neighbouring residents.

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

I do note that part of the site is located within the ATC however I do note that the extension is not located within the ATC and from such I am content that it is unlikely to have an adverse impact on the natural or built heritage. In addition HED were consulted who confirmed they were content with the proposal.

(d) it is not located in an area at flood risk and will not cause or exacerbate flooding;
The site is not located within a flood plain and it is unlikely to cause or exacerbate flooding.

(e) it does not create a noise nuisance;

Given the nature of the development being identified as storage I am content that the proposal is unlikely to create any adverse noise nuisance.

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

The proposal is to create storage and from this is unlikely to cause any emissions or effluent but I am content that the existing arrangements on the site should be sufficient to deal with any that is created.

(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;

I am content that the existing road network would be able to deal with any extra traffic.

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

The proposal is create a car port to provide parking from which I am content that access, parking and manoeuvring areas are sufficient to deal with the extension to the shop.

(i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport; This is a rear extension for the purpose of storage and I am content that the existing movement pattern is adequate to support all access needs.

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

I note the design is simple and the external materials are acceptable for this type of the development however given its location it has created issues with neighbouring amenity.

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

As noted the proposal is in direct view of the rear two residential dwellings which has been met with a number of objections otherwise there would be minimal public views given it is to the rear.

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

The site is designed to deter crime and is able to promote personal safety.

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

Site is located within the development limits of Cookstown.

PPS 3 Access, Movement and Parking

DFI Roads were consulted in relation to this application who responded to confirm that they had no objections to the application, from this I am content that it is able to comply under PPS 3.

I note that the Mid Ulster Local Development Plan 2030 – Draft Strategy has now been published and it is considered as a material consideration. Under the Draft Strategy the proposed application would be considered under policy ECON 1 – Economic Development in Settlements. As this is an extension to an existing premises within the development limits I am content it is able to comply under this policy. However I note that the initial consultation period of the Draft Strategy has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

In response to the issues raised by the objectors; as noted I am of the opinion that the extension in its current form will appear dominant on the neighbouring properties so I share this view raised by the objectors. In addition I agree that the proposed extension has the capacity to result in a loss of light and overshadow the neighbouring dwellings. In relation to any issues to nuisance or loss of privacy during construction, this is a matter between parties and I note that there may be nuisances during construction but this would only be for a limited time. With regards to fears to impact on the boundary walls with the view it may become unstable and cause damage to the neighbouring dwellings, again this is a matter of the applicant to ensure that all works are carried out in a safe manner to ensure no damage is caused. Finally, with regards to the potential if approved that the extension may devalue the neighbouring houses making it difficult to sell on, I

acknowledge that this may be the case however property values are deemed to be material in this planning consideration and the application has been assessed under the relevant policies and guidance.

Given the impact on neighbouring amenity I must recommend refusal as it has failed to comply under PED 9 of PPS 4.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

1. The proposal is contrary to the Department's Planning Policy Statement 4, Planning and Economic Development, in that the development would, if permitted, would harm the living conditions of the existing residents in 12 and 14 Union Place by reason of loss of light, overshadowing and dominance.

Signature(s)



Date: 18/6/19.

ANNEX	
Date Valid	20th September 2017
Date First Advertised	9th November 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 10 Union Place, Cookstown, Tyrone, BT80 8NP, The Owner/Occupier, 11 Coagh Street, Cookstown, Tyrone, BT80 8NG, The Owner/Occupier, 12 Union Place, Cookstown, Tyrone, BT80 8NP, Winnie Best 12, Union Place, Cookstown, Tyrone, Northern Ireland, BT80 8NP Winnie Best 12, Union Place, Cookstown, Tyrone, Northern Ireland, BT80 8NP The Owner/Occupier, 13 Coagh Street, Cookstown, Tyrone, BT80 8NG, Gerard Rooney 14 Union Place, Cookstown, BT80 8NP The Owner/Occupier, 14 Union Place, Cookstown, Tyrone, BT80 8NP, Gerard Rooney 14, Union Place, Cookstown, Tyrone, Northern Ireland, BT80 8NP Gerard Rooney 14, Union Place, Cookstown, Tyrone, Northern Ireland, BT80 8NP Gerard Rooney 14, Union Place, Cookstown, Tyrone, Northern Ireland, BT80 8NP The Owner/Occupier, 14a William Street, Cookstown, BT80 8NB The Owner/Occupier, 15 Coagh Street, Cookstown, Tyrone, BT80 8NG, The Owner/Occupier, 16-18 William Street, Cookstown, BT80 8NB The Owner/Occupier, 5 Coagh Street, Cookstown, Tyrone, BT80 8NG, Paul Rooney 6, Union Place, Cookstown, Tyrone, Northern Ireland, BT80 8NP The Owner/Occupier, 7 Coagh Street, Cookstown, Tyrone, BT80 8NG, The Owner/Occupier, 9 Coagh Street, Cookstown, Tyrone, BT80 8NG, The Owner/Occupier, A J2 Jewellers, 14 William Street, Cookstown, Tyrone, BT80 8NB, The Owner/Occupier, Caulfield Insurance Brokers, 8 William Street, Cookstown, Tyrone, BT80 8NB,	

Date of Last Neighbour Notification	13th February 2019
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2017/1452/F Proposal: Proposed storage extension to the rear of building Address: 12 William Street, Cookstown, Decision: Decision Date: Ref ID: I/1996/0398 Proposal: Environmental Improvement Scheme Address: OLDTOWN STREET, WILLIAM STREET, JAMES STREET, LOY STREET COOKSTOWN Decision: Decision Date: 15.11.1996 Ref ID: LA09/2016/0454/F Proposal: 2 Storey side extension to dwelling to include lounge ,WC, and utility on ground floor and bedroom ,ensuite above Address: 14 Union Place, Cookstown, Decision: PG Decision Date: 30.06.2016 Ref ID: I/2004/0407/F Proposal: Extension and renovations revised drawings to modify approved application number I/2003/0182 Address: 8 William Street, Cookstown Decision: Decision Date: 07.07.2004 Ref ID: I/2005/0544/A Proposal: Shop front signage Address: 8 William Street, Cookstown Decision: Decision Date: 29.06.2005 Ref ID: I/2005/0545/F Proposal: New shop front Address: 8 William Street, Cookstown Decision: Decision Date: 28.06.2005 Ref ID: I/2003/0183/A Proposal: Office Signage	

Address: 8 William Street, Cookstown

Decision:

Decision Date: 17.06.2003

Ref ID: I/2003/0182/F

Proposal: Partial demolition of existing offices with refurbishment of and extension to remaining office building

Address: 8 William Street, Cookstown

Decision:

Decision Date: 11.06.2003

Ref ID: I/1997/0076

Proposal: Extension to shop

Address: 12 WILLIAM STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2011/0521/A

Proposal: Replacement Shop Signage

Address: 10 12 William Street Cookstown,

Decision:

Decision Date: 13.02.2012

Ref ID: I/1988/0072

Proposal: NEW SHOP FRONT AND SHOP REFURBISHMENT

Address: 10-12 WILLIAM STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1994/0217

Proposal: Illuminated External Static Sign

Address: 10-12 WILLIAM STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1997/0446

Proposal: Erection of Flats

Address: ADJACENT TO NO. 5 COAGH STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1987/0035

Proposal: CHANGE OF USE TO INSURANCE BROKER'S OFFICE AND ALTERATIONS TO FRONT

Address: 8 WILLIAM STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1994/0383

Proposal: Alterations to office & provision of fire escape

Address: 8 WILLIAM STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1976/0014

Proposal: EXTENSION OF RESTAURANT, AND RECREATION ARCADE

Address: 8 WILLIAM STREET, COOKSTOWN

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01 9REV-1)

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Existing Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2018/0371/F	Target Date:
Proposal: Subdivision of replacement dwelling into two dwellings incorporating a proposed dwelling on a farm	Location: 89 Moneysallion Road Kilrea
Applicant Name and Address: David Gordan 46 Kilrea Road Portglenone	Agent name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
Summary of Consultee Responses: Dfi Roads now content to approve with conditions.	
Characteristics of the Site and Area: <p>The application site is located at 89 Moneysallin Road, Kilrea. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. On the site is a two storey semi-detached dwelling which does not benefit from any planning permission. The dwellings occupy a prominent and elevated position on the site, fronting onto the Fallahogy Road. There are two separate accesses into the site, one coming off the Moneysallin Road and the other coming off the Fallahogy Road. A low level hedgerow and wooden fence defines the site boundaries. There are also some semi mature trees located along the NW site boundary.</p> <p>This area is rural in character with a dispersed settlement pattern and an undulating topography. To the immediate NW of the site is a semi detached dwelling, one of which is single storey and the second being two storey. The Inverroe water course flow approx. 180m to the South of the site.</p>	

Description of Proposal

This is a full application for the subdivision of a replacement dwelling into two dwellings incorporating a proposed dwelling on a farm.

Deferred Consideration:

This application had been presented to Committee with the following refusal reason;

This proposal is contrary to policy AMP 2 of Planning Policy Statement 3, Access, Movement and Parking in that it has not been demonstrated by way of an adequate 1:500 site layout, that the proposal will not prejudice road safety or inconvenience the flow of traffic.

It was subsequently deferred for an office meeting to allow the agent to address the issues relating to PPS3.

The principle of the proposal had been agreed, and the only outstanding information was relating to AMP2 of PPS3, which had previously been requested from the agents.

Amended plans were finally received on 22 October 2018, addressing the issues raised DFI Roads, who were re-consulted on 23/10/2019. DFI roads then responded on 11/11/2019 with conditions to be attached to any approval.

As this was the only reason for refusal and it has now been overcome, an approval is recommended.

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

Conditions

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

Reason: This is a retrospective application.

2. The vehicular access including visibility splays 2.4 x 33 metres North and 2.4 x 60 metres South plus any forward sight distance, shall be provided in accordance with Drawing No 03/01 bearing the date stamp 22 Oct 2019 within 8 weeks from the date of

this permission. 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.

3 The existing access (onto Moneysallin Road) indicated on Drawing No 03/01 bearing the date stamp 22 Oct 2019 shall be permanently closed and the carriageway / verge properly reinstated to DfI Roads satisfaction within 4 weeks of the entrance unto Fallahogy becoming operational.

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

4. The existing natural screenings of the site, as indicated in green, on approved drawing 03/01, date stamped received 22 Oct 2019 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

Informatives

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

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

Signature(s):

Date



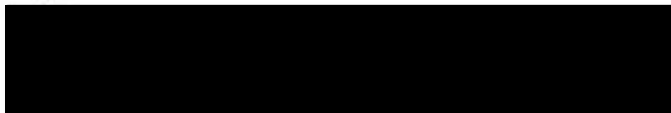
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5/3/2019	Item Number:
Application ID: LA09/2018/0371/F	Target Date: 27/6/2018
Proposal: Subdivision of replacement dwelling into two dwellings incorporating a proposed dwelling on a farm	Location: 89 Moneysallion Road Kilrea
Referral Route: Refusal recommended	
Recommendation: Refuse	
Applicant Name and Address: David Gordan 46 Kilrea Road Portglenone	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge, BT41 3SG
Executive Summary: Despite several requests for a revised site layout, one has not been forthcoming. As such, I am unable to assess this proposal from a road safety perspective in line with policy AMP 2 of PPS 3. Refusal is recommended.	
Signature(s):	

For committee decision



18 | 2 | 19

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert for this proposal was placed in local newspapers and the following adjoining landowners were consulted by letter - 87, 87a and 89 Moneysallion Road. To date, no objections have been received.

Characteristics of the Site and Area

The application site is located at 89 Moneysallion Road, Kilrea. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. On the site is a two storey semi-detached dwelling which does not benefit from any planning permission. The dwellings occupy a prominent and elevated position on the site, fronting onto the Fallahogy Road. There are two separate accesses into the site, one coming off the Moneysallion Road and the other coming off the Fallahogy Road. A low level hedgerow and wooden fence defines the site boundaries. There are also some semi

mature trees located along the NW site boundary.

This area is rural in character with a dispersed settlement pattern and an undulating topography. To the immediate NW of the site is a semi, one of which is single storey and the second being two storey. The Inverroo water course flows approx. 180m to the South of the site.

Description of Proposal

This is a full application for the subdivision of a replacement dwelling into two dwellings incorporating a proposed dwelling on a farm.

Planning Assessment of Policy and Other Material Considerations

Planning History

LA09/2016/1279/F - Pair of 2 No. Semi detached Dwellings. Refused 21/6/17

H/2013/0288/F - Proposed internal alterations (provision of stair case and internal doors) to dwelling and linked granny flat as approved under H/2010/0248. Refused 13/2/2014

H/2012/0024/F - Change of use from existing dwelling to house in multiple occupancy. Refused 19/6/2012

H/2010/0248/F - Proposed replacement dwelling and garage to include integral granny flat for residential purposes. Approved 6/1/2011

H/2005/0568/F - Change of use from private dwelling to house of multiple occupancy. Approved 19/10/2005

H/2002/0110/RM – Dwelling. Approved 12/4/2001

H/2001/0737/O - Site for Dwelling. Approved 12/10/2001

No current live enforcement.

The following policies will be considered in this assessment:

Magherafelt Area Plan 2015

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 3 – Access, Movement and Parking

PPS 21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

This site is outside any settlement defined in the Magherafelt Area Plan 2015 and is not subject to any area plan designations, therefore existing planning policy must be adhered to (ie) PPS 21

SPPS - Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. This site is located where there are no known interests of acknowledged importance. It is not adjacent to any Listed Buildings nor is it in an area of archaeological potential. There are no watercourses within or immediately adjacent to the site which could have the potential to link with a designated site.

The SPPS gives specific provision for development in the countryside subject to a number policy provisions. This includes farm dwellings. There has been no change in policy direction in the SPPS in respect of farm dwellings, therefore policy CTY 10 of PPS 21 remains my primary policy consideration in this assessment.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of two existing accesses, one onto the Moneysallion Road and the other onto the Fallyhogy Road. DFI Roads have been consulted and have requested the submission of an amended site layout clearly indicating sight splays, levels and a section through the existing carriageway. This information was requested by email on the 28th November 2018 and again by email on the 1st February 2019. To date the information has not been forthcoming so DFI Roads are unable to advise me as to the acceptability of these access arrangements from a road safety perspective.

PPS 21 – Sustainable Development in the Countryside

Policy CTY 10 – Dwellings on Farms

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

The farm business is currently active and established for at least 6 years.

DAERA have been consulted with the applicant's farm details. They have responded and have confirmed that the farm business ID has been in existence for more than 6 years and that the farm business has made claims in the last 6 years. On the basis of this response I am satisfied that the business is currently active and has been established for the required 6 year period.

No dwellings/development opportunities have been sold off the holding within 10 years of the date of application.

I have carried out a planning history search of the applicant's holding and I am satisfied

that there are no development opportunities that have been transferred/sold off within 10 years of the date of application.

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

The address of the farm business as indicated on the P1C form is 46 Kilrea Road. This is where the applicant runs his haulage business from. This is approx. 2.5 miles away from the application site. The applicant has submitted a supporting statement in which he states that he is also in ownership of the semi detached dwellings (87a and 87b Moneysallion Road) and outbuildings to the rear of the application site and he contends that these should be considered as a group of buildings on his holding. A land Registry check has confirmed they are on his holding. It is his interpretation that the farm dwelling being applied for visual links and is sited to cluster with these buildings and that there is no stipulation in Policy CTY 10 that the group of buildings on the farm should be agricultural in design or use.

In my opinion this proposal is not in keeping with the spirit of the policy for farm dwellings. It would appear that the application is an attempt to gain approval for an additional dwelling in lieu of the "granny annex" that was previously approved under H/2010/0248/F. The dwellings on the site and adjacent to the site do not appear to have any connection to the farm business at 46 Kilrea Road. The policy test does however appear to have been met with regards to siting/clustering as 87a and 87b are a group of buildings on the applicants holding.

Policy CTY 13 – Integration and Design

The site sits at a road junction between two roads and the existing dwellings do appear prominent, however any critical views are localised and short term. The original dwelling on this site was also similar in scale and massing. This site was deemed acceptable in terms of integration under previous planning applications therefore it would be difficult to recommend refusal on the basis of CTY 13.

Policy CTY 14 – Rural Character

It is my opinion that a semi-detached dwelling is not normally in keeping with the character of a rural area however the design of this semi does give the impression that it is only one dwelling. It is also acknowledged that there is a semi located to the immediate rear of the site so a precedence has already been set in the locality.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Refusal Reasons

1. This proposal is contrary to policy AMP 2 of Planning Policy Statement 3, Access, Movement and Parking in that it has not been demonstrated by way of an adequate 1:500 site layout, that the proposal will not prejudice road safety or inconvenience the flow of traffic.

Signature(s)	Kate M. M. M. M.
Date:	18/2/19

ANNEX	
Date Valid	14th March 2018
Date First Advertised	29th March 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 87 Moneysallin Road Kilrea Londonderry The Owner/Occupier, 87a Moneysallin Road Kilrea The Owner/Occupier, 89 Moneysallin Road, Kilrea, Londonderry, BT51 5SR,	
Date of Last Neighbour Notification	24th April 2018
Date of EIA Determination	N/A
ES Requested	N/A
Planning History Ref ID: LA09/2016/1279/F Proposal: Pair of 2 No. Semi detached Dwellings (Amended Description) Address: 89 Moneysallin Road, Kilrea, Decision: PR Decision Date: 21.06.2017 Ref ID: LA09/2018/0371/F Proposal: Proposed subdivision of replacement dwelling into two dwellings incorporating a proposed dwelling on a farm Address: 89 Moneysallin Road, Kilrea, Decision: Decision Date: Ref ID: H/2013/0288/F Proposal: Proposed internal alterations (provision of stair case and internal doors) to dwelling and linked granny flat as approved under H/2010/0248 Address: 89 Moneysallin Road, Kilrea, Decision: PR Decision Date: 13.02.2014 Ref ID: H/2005/0568/F	

Proposal: Change of use from private dwelling to house of multiple occupancy
 Address: 87 Moneysallin Road, Kilrea (Access on the Fallahogy Road)
 Decision:
 Decision Date: 19.10.2005

Ref ID: H/2001/0737/O
 Proposal: Site for Dwelling
 Address: Adjacent to 89 Moneysallin Road, Kilrea
 Decision:
 Decision Date: 12.10.2001

Ref ID: H/2002/0110/RM
 Proposal: Dwelling
 Address: Fallahogy Road, Kilrea (Adjacent to 89 Moneysallin Road, Kilrea)
 Decision:
 Decision Date: 12.04.2002

Ref ID: H/2010/0248/F
 Proposal: Proposed replacement dwelling and garage to include integral granny flat for residential purposes.
 Address: 89 Moneysallin Road, Kilrea
 Decision:
 Decision Date: 06.01.2011

Ref ID: H/2012/0024/F
 Proposal: Change of use from existing dwelling to house in multiple occupancy
 Address: 89 Moneysallin Road, Kilrea,
 Decision:
 Decision Date: 19.06.2012

Summary of Consultee Responses

DFI Roads – Have requested additional information
 DAERA – No objections

Drawing Numbers and Title

Drawing No. 02
 Type: Proposed Plans
 Status: Submitted

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

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2018/0454/F	Target Date: <add date>
Proposal: Retention of a mobile home for residential use	Location: Approx 170m North of 5 Doon Avenue Aughamullan Dungannon
Applicant Name and Address: Martin McCaliskey 27 Ballybeg Road Dungannon BT71 5DX	Agent name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge Antrim BT41 3SG
Summary of Issues: Enforcement action has been taken, the building is immune from action however the use of the building is not and is subject to action. The applicant has bought a site, with planning permission close by and wishes to reside in the mobile while a permanent house is constructed.	
Summary of Consultee Responses: DFI Rivers – the building may be in an area prone to flooding EHO – no objections Shared Environmental Services – will not have adverse affect on European Site DFI Roads – sight lines of 2.4m x 90.0m to be provide in accordacne with adjacent approval (LA09/2016/16022/F)	
Characteristics of the Site and Area: The site on which the modular building is located is situated in the rural countryside approx. 170 metres north of 5 Doon Avenue, Dungannon. The mobile has a rectangular floor plan measuring approx. 9m x 6m and a flat roof. The mobile is painted white; has white pvc window frames and doors; and white pvc guttering and downpipes. The mobile	

is accessed off the Ballybeg Road via a paired gravel laneway that also serves a large shed (71 Ballybeg Road) to the west and a modular dwelling (71c Ballybeg Road) to the north. A small area of curtilage to the sides and rear of the mobile is bound by a close boarded fence approx. 1.8m high.

The large shed to the west of site received approval for light industrial use. The modular dwelling to the north is immune from enforcement but is unlawful.

Land in the area is flat and below road level. The area is defined by dispersed single dwellings and farm holdings.

Flood Maps NI shows the site is located within a floodplain.

NIEA Natural Environment Division Map Viewer shows the site is in close proximity to Lough Neagh and Beg (Ramsar, SPA and ASSI) and within an area known to have breeding waders.

Planning Portal shows site within SG Defence Estates - consultation only required for buildings over 15.2m high.

Description of Proposal

This is a full planning application for the retention of an existing mobile for residential use.

Deferred 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.

Dungannon and South Tyrone Area Plan 2010

The site lies in a Countryside Policy Area as defined in the Dungannon and South Tyrone Area Plan 2010. The publication of PPS 21 – Sustainable Development in the Countryside removed the Countryside Policy Area and provided a policy for the entire countryside in the Dungannon & South Tyrone Area.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement 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 identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. No conflict arises between the provisions of the SPPS and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided in CTY9 – Residential Caravans and Mobile Homes as set out in PPS 21 – Sustainable Development in the Countryside.

This application was before the Committee with a recommendation to refuse in August 2018, where it was deferred to allow further discussion with the Planning Manager. A meeting was held and since that time the applicant has bought a site close by, which has planning permission. Information has been presented to show the applicant has purchased the land with planning permission granted under file M/2007/1409/RM on 15th January 2008. A Certificate of Lawfulness Ref LA09/2017/1049/LDE was issued for the development in the site on 4th July 2018, which establishes that the dwelling approved under M/2007/1409/RM was lawfully commenced. That development site lies 0.3km to the north of this mobile home. The applicant has advised it is their intention to progress development on the site from Spring 2020 and that they will require 14 months to build the development. I consider 24 months is therefore a reasonable time to allow the new dwelling to be ready for habitation.

Policy CTY9 allows the provision of a residential caravan or mobile home in exceptional circumstances, for a temporary period of up to 3 years. One of the exceptions relates to the provision of temporary accommodation pending the development of a permanent dwelling. The policy does not elaborate on where the temporary buildings should be and in this instance it is located away from where the new dwelling will be erected. It does however recognise that due to their design finishes the integration potential may be limited and for this reason only allows the buildings for a temporary period.

The proposal here is for the retention of the mobile home for residential use and, in accordance with the policy requirements in CTY9, once the temporary dwelling is no longer needed a condition can be imposed to require its removal from the site. Members are reminded that the temporary building is at risk from flooding and the flooding policies relate to limiting the potential impacts of flooding. In this case by limiting the period of time the mobile is on the site, this in turn could be seen as limiting the potential risk of it being flooded in the future.

Members should be aware that if temporary permission is granted for the use of the building for residential purposes, it will not remove the enforcement notice that is in effect. This will only happen if permission is granted for the permanent use of the building for residential purposes or the Council withdraws the notice. The outcome of granting planning permission for a temporary period means the enforcement notice will cease to

have effect for that period, once the temporary period elapses the notice will become effective again.

I consider the proposed retention of the mobile home for a temporary period complies with Policy CTY9. The applicant has indicated they only require the use of the building for a temporary period, and I consider it is appropriate to condition the removal of the building after that period. On the basis of the information submitted by the applicant I consider 24 months will be adequate to allow the new dwelling to be built.

I recommend this application is approved with a 24 month time limit.

Conditions/Reasons for Refusal:

Conditions

1. This permission authorises the siting and use of the mobile for residential purposes for a period of 24 months from the date of this decision. At the end of this 24 month period the mobile shall be permanently removed from the site identified in red on drawing No 01 Rev 01 bearing the stamp dated 10 May 2018

REASON: In the interest of visual amenity and to reduce the risk of flooding.

2. Within 6 weeks of the date of this decision the vehicular access including visibility splays of 2.4m x 90.0m shall be provided in accordance with the details as set out on drawing No 02(Rev1) bearing the stamp dated 10 MAY 2018. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

Informatives

The applicant is advised this temporary permission will not remove the enforcement notice from the site. The enforcement notice will cease to be effective for the period of the temporary permission.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0454/F	Target Date:
Proposal: Retention of a mobile home for residential use	Location: Approx 170m North of 5 Doon Avenue Aughamullan Dungannon
Referral Route: Recommendation to refuse	
Recommendation:	
Applicant Name and Address: Martin McCaliskey 27 Ballybeg Road Dungannon BT71 5DX	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge Antrim BT41 3SG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Characteristics of the Site and Area

The site on which the modular building is located is situated in the rural countryside approx. 170 metres north of 5 Doon Avenue, Dungannon. The mobile has a rectangular floor plan measuring approx. 9m x 6m and a flat roof. The mobile is painted white; has white pvc window frames and doors; and white pvc guttering and downpipes. The mobile is accessed off the Ballybeg Road via

a paired gravel laneway that also serves a large shed (71 Ballybeg Road) to the west and a modular dwelling (71c Ballybeg Road) to the north. A small area of curtilage to the sides and rear of the mobile is bound by a close boarded fence approx. 1.8m high.

The large shed to the west of site received approval for light industrial use. The modular dwelling to the north is immune from enforcement but is unlawful.

Land in the area is flat and below road level. The area is defined by dispersed single dwellings and farm holdings.

Flood Maps NI shows the site is located within a floodplain.

NIEA Natural Environment Division Map Viewer shows the site is in close proximity to Lough Neagh and Beg (Ramsar, SPA and ASSI) and within an area known to have breeding waders. Planning Portal shows site within SG Defence Estates - consultation only required for buildings over 15.2m high.

Description of Proposal

This is a full planning application for the retention of an existing mobile on the application site for residential use.

Planning Assessment of Policy and Other Material Considerations

Regional Development Strategy

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statements, PPS 3, PPS 6 and PPS21 refer to this application with particular relevance to Policies CTY 1, CTY 6, CTY 9 of PPS 21.

Planning History on Site

LA09/2015/1274/LDE - a certificate of lawfulness existing for a mobile home used as dwelling was refused on the 7th April 16. Whilst evidence submitted and OS maps seem to support the fact the mobile home had been on site for more than 5 years insufficient evidence was submitted to show that the use of the building specified had begun more than 5 years prior to and including the date of the applications submission (15th December 2015) as such whilst the storage of the mobile on site was immune from enforcement its use as a dwelling was not.

LA09/2016/0207/CA - Under this enforcement case an appeal has been heard by the PAC in relation to an Enforcement Notice issued for the unauthorised use of the modular building as a residential unit of accommodation; this Notice has taken effect with a compliance date of 7th July 2018.

Consultations

Rivers Agency's advice is as follows:

FLD1 - Development in Fluvial Flood Plains - The Strategic Flood Map for Northern Ireland indicates that part of the site lies within the 1 in 100 year fluvial flood plain. Due to the nature of the Strategic Flood Map for Northern Ireland the geographical extent of predicted flood areas cannot be precisely defined. The recent highest recorded flood level in the area is 13.67m O D Belfast. The return period for this flooding event is unknown. It would be prudent to only build on land above this level. DfI Rivers recommend adding a suitable freeboard (normally 600mm) to this level for all development. It should be noted that the road could get cut off if this flood level was experienced again. The applicant should initially plot this level on a topographic survey of

original site levels. Original site levels may be distorted by building works already taken place. Alternatively, the applicant could carry out a flood risk assessment to better define the 100 year floodplain extents as per D4 of Planning Policy Statement 15.

NIEA Natural Environment Division were consulted due to proximity of the site to Lough Neagh and Beg (Ramsar, SPA and ASSI) and have no objection in principle but recommended the following conditions:

1. A minimum buffer of 10m must be maintained between the location of refuelling, storage of oil/fuel/machinery/spoil, concrete mixing, washing areas and all watercourses.
2. Discharge from the septic tank and soakaway should be directed away from all watercourses.

Strategic Environmental Services were also consulted due to proximity of the site to Lough Neagh and Beg and have no objection in principle provided the following mitigation be included through conditions.

A land buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and any adjacent watercourse/land drain. To protect Lough Neagh and Lough Beg SPA/Ramsar from adverse impacts due to polluting discharges at construction phase.

Environmental Health were consulted and have no objection in principle.

Transport NI were consulted on this proposal and have returned comments seeking amended drawings.

Objections

No objections or representations have been received.

Enforcement Action on this Site

The use of the land for the storage of the mobile building itself is immune from enforcement action, however the residential use of the building is not immune from enforcement action and has been deemed to be an unlawful use as per planning enforcement case LA09/2016/0207/CA. This enforcement case resulted in the issuance of an enforcement notice seeking the permanent cessation of the unauthorised use. This Notice was appealed to the Planning Appeals Commission; the Notice was upheld with a compliance of 7th July 2018 for the unauthorised use to cease. If this the mobile is used after this, if someone was living in it they would be liable to prosecution both the landowner and occupant.

Consideration

An application has now been submitted to assess the retention of the mobile for residential use. As it is located in the rural countryside it is considered under CTY 1 of PPS21 and we have been given no overriding reasons why this development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.

There are circumstances where mobiles are permitted in the countryside outlined under CTY 9 Residential Caravans and Mobile Homes, which allows a residential caravan or mobile home, for a temporary period only, in exceptional circumstances. These exceptional circumstances include (a) the provision of temporary residential accommodation pending the development of a permanent dwelling; or (b) where there are compelling and site-specific reasons related to personal or domestic circumstances (see Policy CTY 6).

Policy CTY 6 Personal and Domestic Circumstances states, allows 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 and provided the following

criteria are met: (a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and (b) there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

But these cases have not been argued and no evidence has been submitted. And more importantly the site doesn't appear suitable for human habitation as the site is located in the flood plain as such given the level of flood risk, Rivers Agency's advice and that no information or a floodrisk assessment has been provided to demonstrate the site is not at risk in these circumstances we have no option but to refuse.

Additionally I would query the accuracy of drawing 02 (Rev.01) bearing the date stamp received 10th May 2018 as further to site inspection I drove down from road level into the site therefore am surprised the site is suggested to be higher than road level.

In the absence of a floodrisk assessment in relation to levels I'm not content the requirements of Policy FLD 1 have been met and applicant has failed to demonstrate the site is not subject to flooding.

Recommend: Refuse

The proposal is contrary to Policies CTY1 and CTY9 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal meets policy requirements and there are no overriding reasons why this mobile structure should be used as a dwelling.

The proposal is contrary to policy FLD 1 of Planning Policy Statement 15 (PPS 15) Planning and Flood Risk in that it is located within a floodplain and it has not been demonstrated that the proposed development is of overriding regional importance or that it represents development within any of the categories a-g meriting an exception.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be refused subject to the following reason

Reasons for Refusal:

1. The proposal is contrary to Policies CTY1 and CTY9 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposal meets policy requirements and there are no overriding reasons why this mobile structure should be used as a dwelling.

2. The proposal is contrary to policy FLD 1 of Planning Policy Statement 15 (PPS 15) Planning and Flood Risk in that it is located within a floodplain and it has not been demonstrated that the proposed development is of overriding regional importance or that it represents development within any of the categories a-g meriting an exception.

ANNEX	
Date Valid	30th March 2018
Date First Advertised	19th April 2018
Date Last Advertised	31st May 2018
Details of Neighbour Notification (all addresses) The Owner/Occupier, 71 Ballybeg Road, Dungannon, BT71 5DX The Owner/Occupier, 71C Ballybeg Road, Dungannon, BT71 5DX	
Date of Last Neighbour Notification	16th May 2018
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2015/1274/LDE Proposal: Mobile home used as a dwelling Address: Adjacent to 71a Ballybeg Road, Coalisland, Decision: PR Decision Date: Ref ID: LA09/2016/0935/F Proposal: Proposed Dwelling Address: Approx 180m North of 5 Doon Avenue, Aughamullan, Dungannon, Decision: PR Decision Date: 15.12.2016 Ref ID: LA09/2016/1602/F Proposal: Retrospective application for the extension to existing workshop approved under M/2004/0295 and hardcore area for turning and parking Address: 71 Ballybeg Road Ballbeg Dungannon, Decision: PG Decision Date: 28.07.2017 Ref ID: LA09/2018/0454/F Proposal: The use of a mobile home for residential accommodation. Mobile home immune from enforcement Address: Approx 170m North of 5 Doon Avenue, Aughamullan, Dungannon,	

Decision:
Decision Date:

Ref ID: M/2004/0295/F
Proposal: retention of light engineering workshop & hardstanding.
Address: 160m north of 1 Doon Avenue, Aughamullen (Ballybeg Road), Coalisland
Decision:
Decision Date: 12.04.2006

Ref ID: M/2012/0081/F
Proposal: Retention of mobile home
Address: 71a Ballybeg Road, Ballybeg, Coalisland,
Decision:
Decision Date: 06.06.2012

Ref ID: M/2014/0548/F
Proposal: Retention of modular home (Postal address: 71c Ballybeg Road, Coalisland)
Address: Number 71C Ballybeg Road, Coalisland,
Decision: PR
Decision Date: 09.07.2015

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
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Status: Submitted

Drawing No.
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Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No. 02
Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Elevations and Floor Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0141/F	Target Date:
Proposal: Proposed Agricultural Shed with Steel box Profile Facade. (amended address)	Location: 65m SE of 21 School Lane, Gulladuff Magherafelt
Applicant Name and Address: Mr Eugene Bradley 110 Boveedy Road Kilrea Coleraine BT51 5TZ	Agent name and Address: Ward Design The Gravel 10 Main Street Castledawson BT45 8AB
Summary of Issues: Following a recommendation for refusal the application was deferred to allow the applicant the opportunity to address the refusal reasons. No representations have been received in respect of this proposed development.	
Summary of Consultee Responses: Roads Service raised no issues of objection. DAERA were not consulted as the applicant failed to provide any farm business details including the Farm business ID number. Environmental Health have issues relating to distance of proposal to a third party dwelling.	
Characteristics of the Site and Area: The site is located along a private laneway, shared laneway. The boundaries of the site are post and wire fencing to the north-east (laneway) and a 2.4m high hedgerow along the	

south eastern boundary. The remaining boundaries are undefined. There is a similar size shed located at the northern corner of the field. That shed is contained within a compound which is enclosed by a 2.1m high close-boarded fence. The existing compound is used for storing builders materials such as scaffolding, security fencing, paving bricks, concrete wall copings and kerbs, roof and ridge tiles, various sizes of drainage pipes, a block grab, inspection chamber cover and timbers. The existing shed is sited immediately adjacent to a chalet bungalow with a large rear private amenity space and a domestic garage/outbuilding of a similar size to the shed. The existing shed/compound is separated from the chalet dwelling by a low concrete wall with a metal railing on top. The compound is accessed from the laneway via a pair of gates in the close-boarded fence. The laneway provides access to and can be utilised by 5 dwellings with 2 more dwellings under construction, an engineering business, the builders storage compound, a farmyard in addition to the farm lands. As the laneway can be used by the aforementioned dwellings and businesses, there is a public interest along the laneway. Therefore there are critical views of the proposed site from the laneway on approach from both the north-west and south-east.

Description of Proposal

Proposed Agricultural Shed with Steel box Profile Facade.

The proposal is for the erection of an agricultural shed with a steel box profile façade. The shed measures 10.0m x 6.0m with an eaves height of 4.0m and a ridge height of 4.8m. There is a roller shutter door in one gable end with a pedestrian door in one side. The shed is to be located in the south eastern corner of an agricultural field with an access directly onto an existing laneway which serves a number of dwellings in addition to farm lands.

Deferred Consideration:

This application was presented as a refusal to Planning Committee in May 2019, under CTY1, CTY8, CTY12 and CTY14. It was subsequently deferred for 30 days to allow the applicant to be given an opportunity to address the refusal reasons.

Amended plans were received on 31st Oct 2019 moving the shed to the further corner of the red line of the site.

The agent was asked to consider moving the proposed shed closer the existing grouping or the possibility of the existing shed being adapted or replaced with a new shed. An amended p1 form was submitted with a more accurate address. This meant the application had to be re-advertised and neighbours were re-notified, with statutory expiration date for this up on 5 July 19.

Environmental health were consulted and replied on 15/10/19 stating they have concerns regarding the close proximity of a third party dwelling located at 21a School Lane, the occupiers of this dwelling may be subjected to farm type odours and noise on occasion. It is stated the use is for 'shelter for fodder and machinery', and would ask this is conditioned as such. The most up to date plans 01/03 show the distance from the facade of the proposed agricultural unit and dwelling No.21a, is 45m. EH have requested the applicant

to relocate the shed no closer than 75m from any 3rd party if the use could not be conditioned as stated.

Although the building has moved approx. 3m, this is still felt too close to the dwelling No.21a and it will impact on their amenity and enjoyment. No objection has been received from this property.

The recommendation remains a refusal, as the proposal has not sufficiently addressed the issues raised in relation the stated refusal reasons.

Refusal under CTY1, CTY8, CTY12 and CTY14, with the addition of the detrimental impact on the amenity on No.21a School Lane.

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.
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 potential for an extension of a ribbon of development along the shared lane, by the creation of future infill development opportunities.
3. The proposal is 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;
It is essential for the efficient functioning of the agricultural holding;
the proposed building fails to satisfactorily integrate into the local landscape;
there are no suitable existing buildings on the holding or enterprise that can be used;
the proposal is sited beside existing farm or forestry buildings;
there are no alternative sites available at another group of buildings on the holding;
that health and safety reasons exist to justify an alternative site away from the existing farm buildings; and
the applicant has failed to satisfactorily demonstrate that the farm business is active and established.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
the proposed building would, if permitted, be a prominent feature in the landscape;
the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
the proposed building would, if permitted, rely primarily on the use of new landscaping for integration;
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, be unduly prominent in the landscape;
the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings;
the building would, if permitted be likely to add to a ribbon of development;

and would therefore result in a detrimental change to further erode the rural character of the countryside.

6. The proposal is contrary to the SPPS & PED9 of PPS4, in that if approved the proposal could have a detrimental impact on the residential amenity of No.21a School Lane, by means of potential noise, and other disturbance.

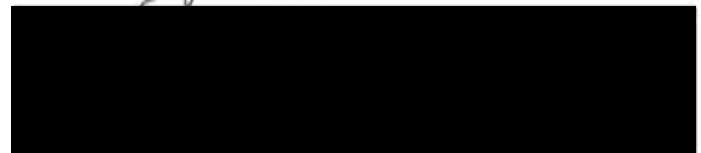
Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0141/F	Target Date:
Proposal: Proposed Agricultural Shed with Steel box Profile Facade.	Location: Adj to 21 School Lane Gulladuff Magherafelt BT45 8PE
Referral Route: This application is being presented to Committee as it is being recommended for Refusal	
Recommendation:	Refuse
Applicant Name and Address: Mr Eugene Bradley 110 Boveedy Road Kilrea Coleraine BT51 5TZ	Agent Name and Address: Ward Design The Gravel 10 Main Street Castledawson BT45 8AB
Executive Summary:	
Signature(s):	

For committee
23/5/19



23/5/19

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 including Representations

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

Description of proposal

The proposal is for the erection of an agricultural shed with a steel box profile façade. The shed measures 10.0m x 6.0m with an eaves height of 4.0m and a ridge height of 4.8m. There is a roller shutter door in one gable end with a pedestrian door in one side.

The shed is to be located in the south eastern corner of an agricultural field with an access directly onto an existing laneway which serves a number of dwellings in addition to farm lands.

Characteristics of the site and area

The site is located along a private laneway, shared laneway. The boundaries of the site are post and wire fencing to the north-east (laneway) and a 2.4m high hedgerow along the south eastern boundary. The remaining boundaries are undefined. There is a similar size shed located at the northern corner of the field. That shed is contained within a compound which is enclosed by a

2.1m high close-boarded fence. The existing compound is used for storing builders materials such as scaffolding, security fencing, paving bricks, concrete wall copings and kerbs, roof and ridge tiles, various sizes of drainage pipes, a block grab, inspection chamber cover and timbers. The existing shed is sited immediately adjacent to a chalet bungalow with a large rear private amenity space and a domestic garage/outbuilding of a similar size to the shed. The existing shed/compound is separated from the chalet dwelling by a low concrete wall with a metal railing on top. The compound is accessed from the laneway via a pair of gates in the close-boarded fence.

The laneway provides access to and can be utilised by 5 dwellings with 2 more dwellings under construction, an engineering business, the builders storage compound, a farmyard in addition to the farm lands. As the laneway can be used by the aforementioned dwellings and businesses, there is a public interest along the laneway. Therefore there are critical views of the proposed site from the laneway on approach from both the north-west and south-east.

Planning Assessment of Policy and Other Material Considerations

Relevant planning history

There is one planning history on this site as follows:-

H/2005/0612/O – Site of Dwelling for Mr E Bradley. This application was determined as being invalid on 27.07.2005.

Development Plan and key policy considerations

The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. 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 all the criteria below;

- is necessary for the businesses efficient use;

Although the applicant has provided a supporting statement, it is not accepted that there is any justification for the new shed. The existing shed, whilst it is not accepted that this is currently used for agricultural purposes, could be reduced in size and adapted to make it suitable for the proposed use.

- it is appropriate in terms of character and scale;

The proposed shed is not appropriate in terms of character. A shed erected at the proposed site would inevitably open up further infill opportunities between the proposed building and the existing dwelling at No.21. Such an arrangement would harm the rural character of the area by extending a ribbon of development along the laneway.

- it visually integrates;

The proposed site only has one sufficient boundary which has a low hedgerow. All other boundaries are either undefined or have a post and wire fence. Consequently the proposed site cannot provide a suitable sense of enclosure for the building and it would therefore suffer from a lack of integration.

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

There will be no adverse impact on natural or built heritage.

- there will be no detrimental impact on residential amenity;

The proposed building is located on a site and would be less than 40m from a neighbouring dwelling. Although the building would not be directly in front of that dwelling it will be closer than it will be to the existing dwelling at No.21.

Furthermore the policy requires that where a new farm building is proposed, the applicant needs to demonstrate that there are no existing farm buildings which can be used, the design and materials are sympathetic to the locality and the proposed building is adjacent to the existing farm buildings.

Originally no farm details were provided, however, on request a P1C form was submitted along with a planning statement to justify the proposed shed. The P1C states the name of the applicant but states the name of the farm business owner as N/A. Other than to state that the applicant does not have a farm business ID no. and that they do not submit a Single Farm Payment or other farm subsidy claim, the only other information provided is to state that this proposed shed is to replace one shed with another. Therefore it is apparent that the applicant does not have a farm business registered with DAERA and they are not an active farmer. Finally, the P1C has been signed by the agent and not the applicant as required. Therefore the P1C is invalid and does not provide any support for this proposed development.

A subsequent planning statement was provided to justify the proposed development and includes the following:-

- The proposal described in this application is the taking down of one agricultural shed and its substitution with a smaller one.

This is incorrect as the description on the P1 states, 'Proposed agricultural shed with steel box profile façade'. There is no mention of taking down the existing shed, or its substitution, although it is acknowledged that the location map indicates the 'Existing shed to be removed'. The removal of the existing shed does not require planning approval and it can therefore be removed at any time.

- There is no doubt that the subject lands have been maintained in a state making it suitable for grazing, which by itself satisfies the EU definition of active farming, and by extension satisfies the definitions used by the SPPS.

Although the subject lands may have been maintained in good agricultural condition, there is nothing within this application nor the supporting statement to suggest or to demonstrate that this has been by the applicant, who has continuously failed to provide any evidence of his agricultural business.

- Policy CTY 12 in PPS 21 is a material consideration. The drafting of this policy clearly envisages proposals for new, additional buildings. It does not make reference to substitution, or replacement.

Whilst CTY 12 does not mention substitutions or replacements, this is because a building which is a substitution, or replacement is still a new building and is therefore still assessed under this policy.

- The justification and amplification text speaks of a preference for redevelopment.

Although redevelopment might mean fixing up older buildings, it might also mean taking down a building and replacing it with a new one.'

This is incorrect, as the policy wording is implicit in requiring the applicant to satisfactorily demonstrate that 'renovation, alteration or redevelopment opportunities do not exist.' The applicant has not explored the option of renovating or altering the existing shed which could be reduced in length to a size which has a similar footprint to the proposed shed. Additionally, redevelopment would not be considered as being applicable to the erection of a new shed on an alternative site.

- The shed to be replaced is a modern form, quite large in scale by comparison with the adjacent dwelling. The proposed shed is more modest in scale.....allowing it to nestle against the field boundaries.

The existing shed has a similar size footprint to the garage of the adjacent dwelling and is considered acceptable on that site. With regards to the field boundaries, it should be noted that the only boundary with any vegetation is a low hedge along the south eastern boundary.

Therefore the proposed shed would not be acceptable on that site as it would suffer from a lack of integration and would also be out of character with the surrounding area.

- The holding has the benefit of an existing shed.....it is necessary to have shelter for fodder and machinery..... so we seek permission to replace that with a smaller unit.

Whilst there is an existing shed within the field, there is no existing farm business. In this case no verifiable evidence has been provided to satisfactorily demonstrate that the applicant has any connection with farming other than to own one field. Furthermore, no verifiable evidence has

been provided to show what fodder needs to be stored or indeed that the applicant makes any or what machinery they need to store there. Additionally there is no mention of the applicant having any livestock, so the question is asked, what is the need for fodder. Whilst the applicant is seeking to replace the existing shed with a smaller one, it would be much easier and quicker to provide such a shed on the existing site.

- The proposal reduces the scale of buildings and is sympathetic to its rural context.

It is not accepted that the proposal is sympathetic to the rural context as the proposed site suffers from a lack of integration and will have a detrimental impact on rural character.

- the location chosen achieves those aims better than the existing site. (residential amenity and integration);

It is not accepted that the proposed site improves the amenity of the existing dwelling or achieves an acceptable degree of integration. While the proposed shed would be further from the existing dwelling it is not accepted that the existing shed has an unacceptable impact on the amenity of the occupants of that dwelling. The compound is separated from the dwelling's curtilage by a concrete wall and railing. This boundary could easily be made more substantial by continuing the close-boarded fence along this boundary, thereby reducing any issue of overlooking or inter-visibility. Alternatively a hedge could be planted along the side of the existing wall. With regards integration, the existing shed integrates into the landscape with the help of the existing dwelling and associated garage, whereas the proposed shed only has one low hedgerow to provide any degree of integration, which is not sufficient in this case when viewed from the critical view points on the shared laneway.

- the two realistic possible locations for the shed are to either side of the land's frontage to the laneway. The location of the existing shed is too close to the adjacent house.....but the separation distance to a neighbouring dwelling is greater than the current situation. Betterment is offered.

The fact that the proposed shed is further from a neighbouring third-party dwelling is not sufficient justification for relocating it to an unacceptable location.

- The existing building is larger than necessary.....in terms of reduced visual impact...

If the existing building is too large then the applicant can simply reduce the size of that building which would not only be less expensive but would be more acceptable in planning terms as that site does have the same visual impact as the proposed site in terms of its potential to integrate into the landscape.

- Because of amenity concerns, and excess size, the existing building is not suitable.

The issue of amenity concerns was not an issue when the existing shed was erected by the applicant adjacent to his own dwelling. The issue of excess size has been discussed above.

- The proposed design is sympathetic to the locality and to the adjacent buildings.

Although the design of the proposed building may be traditional for a farm building, it is not sympathetic to the locality due to the inappropriate form of development at this location in terms of suffering from a lack of integration and erosion of rural character.

- Assuming that approval is granted, there will be no other buildings on the holding for the proposed building to site alongside.

This statement proves beyond doubt that the proposed building will suffer from a lack of integration as the site is unable to provide a suitable degree of enclosure. The proposed building will be seen as a stand-alone building, whereas the existing building is sited to cluster with the existing dwelling and garage and is much more acceptable in that respect.

- We propose a smaller building to replace a larger building, in the same field

Although the propose building is within the same field as the existing building, it is not on the same site. The proposed building is 40m away from the existing building and on a less favourable site.

CTY 8 – Ribbon Development – The proposal falls to be considered under Policy CTY 8. In order to assess whether or not an infill opportunity exists, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap is present. Secondly, an assessment of the gap is required in order to ascertain whether it is 'small' in the context of the policy. Although it does not purport to provide an exhaustive list of circumstances, CTY 8 states that a substantial

and built up frontage "includes a line of 3 or more buildings along a road frontage without accompanying development to the rear". The proposed building is located 40m south-east of the existing shed with no additional buildings on the same side of the shared laneway beyond the site. Therefore the site is not considered to be a gap site and is not an acceptable exception to this policy. If the existing shed were to be removed following the proposed shed being erected this would create a gap of 65m to No.21, which in effect would create a valid opportunity for an infill dwelling or possibly two dwellings. Such a scenario, is clearly contrary to policy in that it would extend a ribbon of development by as much as 50m in a south-easterly direction.

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. The proposed building fails this test due to the lack of sufficient boundary vegetation to provide a sense of enclosure. As the site only has the benefit of a single hedgerow along the south-eastern boundary, the proposed building will appear as a prominent feature in the landscape. The building would therefore rely heavily on new landscaping to achieve an acceptable degree of integration.

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. The proposed building will appear prominent in the landscape due to the lack of sufficient boundary vegetation to provide a sense of enclosure. On approach along the shared laneway, the building will be viewed in connection with the ribbon of development to the north-west and the dwelling and garage to the east. The result of this is to extend the ribbon of development further in a south-easterly direction which is contrary to this policy. Any building on the proposed site would rely heavily on proposed planting which would take a considerable time to mature and in the interim will not mitigate the impact of the building. Consequently the proposal is considered to be contrary to this policy.

Other policy and material considerations

Although the proposed building is described as an agricultural shed and does not elaborate on what its purpose is, the supporting statement states that it is required for fodder and machinery storage. Therefore it was not thought necessary to formally consult Environmental Health with regards the potential to have a detrimental impact on the residential amenity of No.21A. However, if the shed were to be approved it would be pertinent to attach a condition that the shed cannot be used for the purpose of livestock housing so as to protect the amenity of the neighbouring dwelling.

Recommendations

That planning approval be refused for the proposed development for the reasons listed below:-

Neighbour Notification Checked	Yes
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Summary of Recommendation:

The application should be refused for the reasons stated below:-

Refusal Reasons

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

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not considered to be a gap site, it would create further development opportunities for infill sites and would, if permitted, result in the extension of a ribbon of development along the shared lane.
3. The proposal is 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;
 - It is essential for the efficient functioning of the agricultural holding;
 - the proposed building fails to satisfactorily integrate into the local landscape;
 - there are no suitable existing buildings on the holding or enterprise that can be used;
 - the proposal is sited beside existing farm or forestry buildings;
 - there are no alternative sites available at another group of buildings on the holding;
 - that health and safety reasons exist to justify an alternative site away from the existing farm buildings; and
 - the applicant has failed to satisfactorily demonstrate that the farm business is active and established.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - the proposed building would, if permitted, be a prominent feature in the landscape;
 - the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
 - the proposed building would, if permitted, rely primarily on the use of new landscaping for integration;
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, be unduly prominent in the landscape;
 - the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings;
 - the building would, if permitted add to a ribbon of development; *do would be what?*
 - and would therefore result in a detrimental change to further erode the rural character of the countryside.

Signature(s)

Date:

ANNEX

Date Valid	31st January 2019
Date First Advertised	14th February 2019
Date Last Advertised	

Details of Neighbour Notification (all addresses)

The Owner/Occupier,
19a ,School Lane,Gulladuff,Londonderry,BT45 8PE
The Owner/Occupier,
19b ,School Lane,Gulladuff,Londonderry,BT45 8PE
The Owner/Occupier,
21 School Lane Gulladuff Londonderry
The Owner/Occupier,
21a School Lane Gulladuff
The Owner/Occupier,
21b ,School Lane,Gulladuff,Londonderry,BT45 8PE
The Owner/Occupier,
96 Gulladuff Road,Gulladuff,Londonderry,BT45 8QB

Date of Last Neighbour Notification	20th February 2019
Date of EIA Determination	
ES Requested	Yes /No

Planning History

Ref ID: H/2005/0183/O

Proposal: Site of Single Storey Bungalow With Garage

Address: 210M South East Of 21 School Lane, Knockloughrim, Magherafelt.

Decision:

Decision Date: 03.07.2006

Ref ID: H/2004/1020/RM

Proposal: Proposed Dwelling

Address: 320 Metres South East Of 15 School Lane, Gulladuff, Magherafelt

Decision:

Decision Date: 22.12.2004

Ref ID: H/2003/0970/O

Proposal: Site of single storey bungalow.

Address: 320m South East of 15 School Lane, Gulladuff, Knockloughrim, Magherafelt.

Decision:

Decision Date: 23.03.2004

Ref ID: H/1974/0254

Proposal: BUNGALOW

Address: MAYOGALL, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2006/0480/F

Proposal: Proposed dwelling amended to provide additional accommodation from previously approved dwelling H/2003/1493

Address: 140m E of 19 School Lane, Gulladuff

Decision:
Decision Date: 21.03.2007

Ref ID: H/1997/0085
Proposal: ERECTION OF DWELLING & GARAGE
Address: 120M. WEST OF 19 SCHOOL LANE GULLADUFF MAGHERA
Decision:
Decision Date:

Ref ID: H/1996/0493
Proposal: SITE OF DWELLING AND GARAGE
Address: 70M WEST OF 19 SCHOOL LANE GULLADUFF MAGHERA
Decision:
Decision Date:

Ref ID: H/2003/1493/F
Proposal: Proposed change of house type. (Ref:H/1998/0544).
Address: 140m East of 19 School Lane, Gulladuff.
Decision:
Decision Date: 22.06.2004

Ref ID: H/1997/0362
Proposal: SITE OF DWELLING
Address: 150M EAST OF 19 SCHOOL LANE MAYOGALL MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1998/0544
Proposal: DWELLING
Address: 140M EAST OF 19 SCHOOL LANE GULLADUFF
Decision:
Decision Date:

Ref ID: H/1998/0458
Proposal: DWELLING
Address: 140M EAST OF 19 SCHOOL LANE MAYOGALL
Decision:
Decision Date:

Ref ID: H/2007/0197/O
Proposal: Site of single dwelling and garage.
Address: Adjacent to No. 21 School Lane, Gulladuff
Decision:
Decision Date: 22.09.2010

Ref ID: H/2001/1052/F
Proposal: Roof Space Conversion & Alterations To Dwelling
Address: 21 School Lane, Mayogall Road, Gulladuff, Maghera
Decision:
Decision Date: 14.03.2002

Ref ID: H/2000/0588/F
 Proposal: Double garage
 Address: Rear of 21 School Lane, Gulladuff
 Decision:
 Decision Date: 18.10.2000

Ref ID: LA09/2019/0141/F
 Proposal: Proposed Agricultural Shed with Steel box Profile Facade.
 Address: Adj to 21 School Lane Gulladuff Magherafelt BT45 8PE,
 Decision:
 Decision Date:

Ref ID: H/2009/0594/F
 Proposal: Attic conversion to dwelling and new sunroom
 Address: 21b School Lane, Knockloughrim
 Decision:
 Decision Date: 13.01.2010

Ref ID: H/2008/0122/RM
 Proposal: Site of single storey dwelling with double garage
 Address: 210m South East of 21 School Lane, Knockloughrim
 Decision:
 Decision Date: 11.07.2008

Summary of Consultee Responses

Roads Service raised no issues of objection.
 DAERA were not consulted as the applicant failed to provide any farm business details including the Farm business ID number.
 Environmental Health were not consulted as it is not proposed to use the shed for animal housing.

Drawing Numbers and Title

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

Drawing No. 03
 Type: Proposed Plans
 Status: Submitted

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

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/0186/F	Target Date: <add date>
Proposal: Retention of mobile home for temporary accommodation under CTY9	Location: 98a Gortlenaghan Road Dungannon Co Tyrone.
Applicant Name and Address: Tony McElduff 98a Gortglenaghan Road Dungannon BT70 3AS	Agent name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Summary of Issues: Enforcement action has been taken requiring the building to be removed from the site. Planning permission has recently been granted for a new dwelling on this site.	
Summary of Consultee Responses: DFI Roads – sight lines of 2.4m x 45.0 to be provided.	
Characteristics of the Site and Area: The site comprises an agricultural field to the east and part of another field to the west. Access appears to be via an agricultural field gate at roadside where a 'beware of the dogs' sign hangs on a gate post. I did not enter the site due to potential health and safety risks. There is a mobile home visible from the roadside, located in the NW corner of the site. There does not appear to be any laneway leading to the site or area where the mobile home is situated, just a worn track in the field. Agricultural land is the predominant land use in the area, with dispersed single dwellings and farm holdings. There is evidence of dwelling foundations to both the east and west of	

the site, finished to sub floor. Cappagh village lies approx. 3km to the north with Cabragh and the A4 dual carriageway approx. 3km to the south.

Description of Proposal

This is a full planning application for the retention of mobile home for temporary accommodation under CTY9.

Deferred 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.

Dungannon and South Tyrone Area Plan 2010

The site lies in a Countryside Policy Area as defined in the Dungannon and South Tyrone Area Plan 2010. The publication of PPS 21 – Sustainable Development in the Countryside removed the Countryside Policy Area and provided a policy for the entire countryside in the Dungannon & South Tyrone Area.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement 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 identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. No conflict arises between the provisions of the SPPS and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided in CTY9 – Residential Caravans and Mobile Homes as set out in PPS 21 – Sustainable Development in the Countryside.

This application was before the Committee with a recommendation to refuse in June 2019, where it was deferred to allow further discussion with the Planning Manager. A meeting

was held on 13 June 2019 and since that time the applicant has applied for and obtained planning permission, ref LA09/2019/1017/O for a site for a dwelling on this land.

Policy CTY9 allows the provision of a residential caravan or mobile home in exceptional circumstances, for a temporary period of up to 3 years. One of the exceptions relates to the provision of temporary accommodation pending the development of a permanent dwelling. In light of the applicant recently obtaining planning permission, I consider this part of the policy has been met. Members are advised that details of the design and appearance of the new dwelling have to be agreed before the house can be built and in light of this I consider it is appropriate to allow the maximum 3 year period allowed in the policy for the temporary permission.

As the proposed retention of the mobile home for a temporary period complies with Policy CTY9, I recommend this application is approved with a 3 year time limit.

Conditions/Reasons for Refusal:

Conditions

1. This permission authorises the siting and use of the mobile for residential purposes for a period of 3 years from the date of this decision. At the end of this 3 year period the mobile shall be permanently removed from the site identified in red on drawing No 01 bearing the stamp dated 07 FEB 2019.

REASON: In the interest of visual amenity and to reduce the risk of flooding.

2. Within 6 weeks of the date of this decision the vehicular access including visibility splays of 2.4mx 45.0m and any forward sight distance shall be provided in accordance with the details as set out on drawing No 02 bearing the stamp dated 07 FEB 2019. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

Informatives

The applicant is advised this temporary permission will not remove the enforcement notice from the site. The enforcement notice will cease to be effective for the period of the temporary permission.

Signature(s):

Date



Comhairle Ceantait
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0186/F	Target Date: 24/05/2019
Proposal: Retention of mobile home for temporary accommodation under CTY9.	Location: 98a Gortlenaghan Road Dungannon Co Tyrone.
Referral Route: Recommendation to refuse	
Recommendation:	Refuse
Applicant Name and Address: Tony McElduff 98a Gortglenaghan Road Dungannon BT70 3AS	Agent Name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

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

Description of proposal

This is a full planning application for the retention of mobile home for temporary accommodation under CTY9.

Characteristics of Site and Area

The site comprises an agricultural field to the east and part of another field to the west. Access appears to be via an agricultural field gate at roadside where a 'beware of the dogs' sign hangs on a gate post. I did not enter the site due to potential health and safety risks. There is a mobile home visible from the roadside, located in the NW corner of the site. There does not appear to be any laneway leading to the site or area where the mobile home is situated, just a worn track in the field.

Agricultural land is the predominant land use in the area, with dispersed single dwellings and farm holdings. There is evidence of dwelling foundations to both the east and west of the site, finished to sub floor. Cappagh village lies approx. 3km to the north with Cabragh and the A4 dual carriageway approx. 3km to the south.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

Dungannon and South Tyrone Area Plan 2010- the site is located in open countryside on unzoned land. Until such times as an up to date area plan has been adopted, the policy provisions of SPPS and PPS21 apply.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy, and Policy CT5 - Temporary Caravans and Mobile Homes are applicable to this application. In my opinion the proposal is not in compliance with CT1 in that the temporary mobile home will not cluster or consolidate and group with existing buildings. The site is however acceptable in terms of integration and rural character. However, design is not acceptable in that it is of a temporary nature within a rural context, however should the proposal only be retained for a temporary period then I would have no objections. I have no concerns with urban sprawl.

The proposal also fails to comply with Policy CT5 in that it has not been demonstrated that the temporary mobile home is to accommodate the development of a permanent dwelling or that there are compelling and site specific reasons related to personal and domestic circumstances.

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

Relevant planning history

There is an enforcement notice on this site for the removal of the mobile home. Enforcement action is ongoing but is paused pending the outcome of this subject planning application.

There is previous enforcement on this site, where an enforcement notice required the removal of unauthorised mobile buildings from the site and other materials and structures. These have been removed.

Key Planning Policy

The proposal is for the retention of a mobile home on a site in the countryside for a temporary period. Planning Policy Statement 21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including residential caravans and mobile homes in accordance with policy CTY9.

It is important to note that the newly published Strategic Planning Policy for Northern Ireland (SPPS) states that the policy provisions of PPS21 are retained until such times as a Plan Strategy for the whole of the council area has been adopted.

Policy CTY9 states that permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances including;

- pending the development of a permanent dwelling; or
- where there are compelling site specific reasons related to personal or domestic circumstances.

A firm proposal for a dwelling for the applicant (Mr Tony McElduff) does not exist and there is no planning history on this site to support this.

To the east of the site there is foundations of a dwelling finished to sub floor. The planning history for this site is;

-M/2003/0005/O- outline approval for dwelling for Francis Rafferty, granted 24/03/2003;

-M/2003/1233/RM- reserved matters permission for dwelling and garage for Mr Gerry Small, granted 30/12/2003.

To the west of the site there is foundations of a dwelling finished to sub floor. The planning history for this site is;

-M/2001/1187/O- outline approval for a dwelling for Mr S McAleer, granted 31/12/2001

-M/2003/1231/RM- reserved matters approval for dwelling and garage for Mr Gerry Small

In terms of compelling site specific reasons relating to personal or domestic circumstances, some information has been provided (material of a sensitive nature and Members may want to discuss within closed session) in support of this but it is not clear why the applicant has to live at this particular site and could not live within a town or settlement.

A letter of support has been provided by an MLA and a Statement of Support by the Agent, but in my view this is not sufficient to warrant accommodation of a temporary nature in this mobile home. There are no compelling personal and domestic circumstances why this person has to live on this site for a temporary period or that genuine hardship would be caused if planning permission were refused therefore I advise Members that planning permission should not be granted.

The applicant/agent has also provided utility bills to show that electricity has been paid at this site for a period of over 5 years. In some cases development becomes immune from enforcement action if it has been in place for a period of over 5 years. This is not the case in this instance, as previous and current enforcement history on the site clearly demonstrates. Enforcement action is on going and a live enforcement notice exists on this site for the removal of the subject mobile home. In the past the applicant lived on a mobile home which was subsequently removed from the site. Since then a new mobile home has been brought onto the site (not sure of exact dates but some time after 07/06/2013 and before 12/05/2016 as evident from Ortho Maps).

The agent has also states in his written statement of support that the applicant grows potatoes on his land and sells these in the locality. Some hand written receipts have been provided from 2012 to 2017 which show sale of potatoes, signed by the applicant. There has been no P1C provided or verification from DAERA that this applicant is a bonafide farmer. Plus, there is no application submitted by the applicant for a dwelling on a farm therefore at present there does not seem to be any intention by the applicant to live on the land on a permanent basis. There is insufficient evidence to demonstrate that the applicant upkeeps the land in a good agricultural state. Plus the proposal is not sited to cluster with an existing group of buildings on the farm. In my view the applicant falls short in demonstrating that the temporary mobile home is a response to a farming need. No information has been proffered as to the applicants current domestic circumstances and that not living on this site would cause genuine hardship. In my view insufficient evidence has been provided to demonstrate a genuine case of need in this instance.

In terms of integration, the mobile home is well integrated onto the site and is not clearly visible when driving along this stretch of road. However, as the proposal is of a temporary nature, the design is not something that is seen as suitable for the countryside on a permanent basis. Should permission ever be granted, then the structure on site should be conditioned for removal after a specified period.

This proposal does not add or create a ribbon of development nor does it add or create or add to an unacceptable build up of development that would cause harm to the character of this area of countryside, therefore policies CTY8 and CTY10 are not offended.

Other considerations

No letters of objection have been received on this proposal.

There are no residential amenity concerns with this proposal.

The site is not subject to flooding and there are no contamination, human health or ecology issues to consider.

DfI Roads advise splays of 2.4m by 45m in both directions. In the event that Members agree this proposal I advise that these splays are put in place within 1 month from the date of the permission and permanently retained until such times as the mobile is removed from the

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission is refused for the following reasons.

Refusal Reasons

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

2. The proposal is contrary to Policy CTY9 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

-it has not been demonstrated that the proposal is for the provision of temporary residential accommodation pending the development of a permanent dwelling;

-the applicant has not provided compelling and site specific evidence that a residential caravan/mobile home is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.

Signature(s)

Date:

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0470/O	Target Date:
Proposal: Proposed site for dwelling and garage based on policy CTY8 (gap site) and policy2a new dwelling in existing clusters	Location: 25m South East of 27a Garrison Road Toberhead Knockcloghrim
Applicant Name and Address: Mr Liam O'Kane 65 Gulladuff Hill Magherafelt	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Application was deferred to further consider the proposal under policies CTY 8 (gap site) and policy CTY2a - new dwelling in existing cluster. The recommended for refusal remains unchanged.	
Summary of Consultee Responses: NO OBJECTIONS	
Characteristics of the Site and Area: The proposal site is currently a small agricultural/grazing field located on the roadside of Garrison Road. The site is relatively flat in nature and is accessed directly off Garrison Road. Immediately adjacent on the western boundary is a single storey detached dwelling with a frontage to the road while on the eastern boundary is a private access and further	

agricultural land. To the rear of the site are two detached dwellings and several domestic outbuildings however these buildings are unseen from the roadside due to the existing mature vegetation.

Description of Proposal

Proposed site for dwelling and garage based on policy CTY 8 (gap site) and policy CTY2a- new dwelling in existing cluster.

Deferred Consideration:

This application presented as a refusal to Planning committee in August 2019 and was subsequently deferred for an office meeting with the Area Planning Manager on 15th August 2019. It was agreed that the site would be re-visited to further reconsider the proposal.

A site visit was carried out on 14/10/19.

In relation to CTY8, there is no small gap sufficient to accommodate up to 2 dwellings, within an otherwise continuously and substantial built up frontage. This would require a line of 3 or more buildings along a road frontage without accompanying development to the rear. To the west is a single roadside dwelling (No.27A), next to this is the laneway leading to No.27. On the eastern side of the site is the private laneway to No.29, which is located to the rear of the proposed site. There is no road frontage for properties No. 27 and 29. These properties do not have visual linkage with each other or the site.

In terms of CTY2, a number of the criteria are not being met.

It is possible to view No.27a and the site together and then No.27 and No.27a together. However as the site is well trees and has strong boundaries this ensures it can only be viewed with No.27a. These cannot all be read together along any part of the Garrison Road.

Due to the strong boundary treatment and the setback nature of 27 and 29, neither can be viewed with the site and therefore no cluster can be identified, failing on the first 2 criteria of CTY2a.

In addition there is no focal point or crossroads -

No.29 Garrison Road objected on 26th April 2019 raising a number of issues which had been previously addressed. It had been identified by the objector that No.27a was possibility built in the wrong place, it was approved under H/2002/0840/O and would have be have been started by Nov 2007, so now would be immune from any enforcement action. However it would no difference to the outcome of this decision.

In their letter they clearly state they do not run an equestrian centre as shown on location plan 01 dated 9 April 2019. They own horses for their own personal domestic use and have stables and exercising facilities to the rear of their houses for their own horses only. At the site visit two horses was in the field adjacent to No.29 although it would not be called a business and was clearly not an identifiable focal point. This cannot be therefore considered as a focal point as part of the CTY2a criteria.

As previous concerns, CTY14 is an issue in terms of the site, when viewed with existing development would create a built up of development in the locality.

Refusal is recommended as previously under CTY1, CTY2a, CTY8 and CTY14.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Refusal Reasons

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwelling, the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point and is not located at a cross-roads and the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.
3. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside as the site is not located within a substantial and continuously built up frontage.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if would result in a detrimental change to (further erode) the rural character of the countryside by reason of build-up.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0470/O	Target Date:
Proposal: Proposed site for dwelling and garage based on policy CTY8 (gap site) and policy2a new dwelling in existing clusters	Location: 25m South East of 27a Garrison Road Toberhead Knockcloghrim
Referral Route: Refusal recommended – contrary to PPS21 CTY 1, CTY 2a, CTY 8 & CTY 14 of PPS 21	
Recommendation: Refusal	
Applicant Name and Address: Mr Liam O'Kane 65 Gulladuff Hill Magherafelt	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The proposal site is currently a small agricultural/grazing field located on the roadside of Garrison Road. The site is relatively flat in nature and is accessed directly off Garrison Road. Immediately adjacent on the western boundary is a single storey detached dwelling with a frontage to the road while on the eastern boundary is a private access and further agricultural land. To the rear of the site are two detached dwellings and several domestic outbuildings however these buildings are unseen from the roadside due to the existing mature vegetation.

Description of Proposal

Proposed site for dwelling and garage based on policy CTY 8 (gap site) and policy 2a new dwelling in existing cluster.

Planning Assessment of Policy and Other Material Considerations

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 21 - Sustainable development in the countryside

Neighbours: - Owners/Occupiers of Nos 27, 27a, 29 & 30 Garrison Road were notified of this proposal on 07.05.2019, One objection has been received from Mr Philip Campbell of 29 Garrison Road. His main points of concern are:

- no neighbourhood notification was made to him - As stated previously neighbour notifications were issued on 07.05.2019, No 29 was one of these such notifications.
- on the submitted site location plan an equestrian centre has been identified, Mr Campbell states that this is in fact his own private domestic stable and clearly states no equestrian centre exists here.
- Mr Campbell states that No 27A has been constructed in the wrong location in order to leave a larger area for future development - this point has been forwarded onto our enforcement team for investigation.
- Mr Campbell mentions wording of deeds for No27a stating that only one dwelling shall be constructed - this is a civil matter and not one that planning will be entering into.
- Mr Campbell queries where the sewerage facilities for No 27a is located, according to the plans approved under H/2002/0840/F these are located to the rear of No 27a and not located in the land located east of the 27a Garrison Road.
- Mr Campbell queries how the sewage will be dealt with for the new proposal should an approval be granted, according to the submitted P1 this will be dealt with via a sewage package treatment plant.
- Mr Campbell questions the capability of Garrison road for accommodating additional traffic from the proposed development. DfI have been asked to comment and responded on 22.05.2019 with no issues of concern subject to conditions and informatives.
- Mr Campbell is of the opinion that the proposal as submitted does not meet the criteria for granting approval for a dwelling at this location.

Consultees: Environmental Health were asked to comment and responded on 31.05.2019 with no objections subject to advice.

NI Water were asked to comment and responded on 09.05.2019 with no objections subject to advice.

DfI were asked to comment and responded on 22.05.2019 with no objections subject to conditions and advice.

In line with legislation this proposal was advertised in the local press on 25.04.2019, no further representations have been received to date apart from Mr Campbell of No 29 Garrison Road.

According to Planning Policy Statement 21 there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Two of these such types of development are a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a and the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with policy CTY 8.

Considering the requirements of CTY 2a - New dwellings in existing clusters 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 proposal site does lie outside of a farm complex, when viewing the development located immediately adjacent to the proposal site from the submitted map it does appear there is a cluster of buildings however when actually viewing the situation on the ground there does not appear to be cluster as there is no visual linkage between existing buildings due to existing vegetation, separation distances, landform and siting.
- the cluster appears as a visual entity in the local landscape - as previously mentioned when viewing the existing development on site there is no visual linkage between No 27, 27a and 29, and you are only aware of No 27a and 30 when travelling along Garrison road at this point.
- the cluster is associated with a focal point such as a social/community building/facility, or is located at a cross -roads - there is no community/social/facility, nor is the site located at a cross roads thus failing to meet this criteria.
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster- the proposal site provides a suitable degree of enclosure with mature vegetation to all sides existing as well as being bounded on two sides by existing development although when travelling along Garrison road the development to the rear of the proposal site is unseen.
- 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 - this is not recognised as an existing cluster.
- development would not adversely impact on residential amenity - the proposal would not adversely impact on residential amenity as the proposal site is large enough to facilitate a suitable degree of separation and the existing planting could provide integration.

Thus having considered all of the above it is my judgement that the proposal as presented does not comply with the requirements of CTY 2a of Planning Policy Statement 21.

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

The proposal site is located within a small agricultural/grazing field, immediately adjacent on the western boundary is a detached single storey dwelling while east is a private access serving No 29 Garrison Road and further agricultural land thus the proposal site is not located within a substantial and continuously built up frontage and fails to meet the requirements of CTY 8 of Planning Policy Statement 21.

Considering the requirements of 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; - the proposal site is not in a prominent location.
 - 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; - the site has mature and established boundaries to all sides.
 - c) it relies primarily on the use of new landscaping for integration - the site has mature and established boundaries to all sides
 - d) ancillary works do not integrate with their surroundings - as this is an outline application no ancillary works have been indicated, access would be directly off Garrison road should an approval be granted.
 - e) the design of the building is inappropriate for the site and its locality - as this is an outline application no design has been proposed at this stage.
 - f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop - the site is flat and surrounded by mature vegetation thus could comply with this criteria.
 - g) in the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm - this proposal is not a proposed dwelling on a farm.
- Thus having considered the points above the proposal adheres to the criteria of CTY 13.

Considering the requirements of 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; - the proposal site is not unduly prominent.
- b) it results in a suburban style build up of development when viewed with existing and approved buildings; - the proposal when viewed alongside the existing development would create a build up of development in the locality and therefore fails this criteria.
- c) it does not respect the traditional pattern of settlement exhibited in that area; - the existing pattern of development in this area appears to be predominantly single dwellings located on the roadside.
- d) it creates or adds to a ribbon of development; -the proposal site would not create or add to a ribbon of development.
- e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character - no ancillary works would be required should an approval be considered acceptable.

Having considered all of the information presented it is my professional opinion that the proposal does not adhere to the requirements of CTY 1, CTY 2a, CTY 8 or CTY 14 of PPS21 and as such a refusal should be issued.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal – Contrary to CTY 1, CTY 2a, CTY 8 & CTY 14 of PPS21

Refusal Reasons

1. The proposal is contrary to the SPSS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwelling, the cluster does not appear as a visual entity in the local landscape the cluster is not associated with a focal point and is not located at a cross-roads.
3. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside as the site is not located within a substantial and continuously built up frontage.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a detrimental change to (further erode) the rural character of the countryside as result of build-up..

Signature(s)

Date:

ANNEX	
Date Valid	9th April 2019
Date First Advertised	25th April 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 27 Garrison Road Knockcloghrim Londonderry The Owner/Occupier, 27a Garrison Road, Knockcloghrim, Londonderry, BT45 8RD The Owner/Occupier, 29 Garrison Road, Philip Campbell 29 Garrison Road, Knockcloghrim, Magherafelt, BT45 8RD The Owner/Occupier, 30 Garrison Road Knockcloghrim Londonderry	
Date of Last Neighbour Notification	7th May 2019
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2019/0470/O Proposal: Proposed site for dwelling and garage based on policy CTY8 (gap site) and policy2a new dwelling in existing clusters Address: 25m South East of 27a Garrison Road, Toberhead, Knockcloghrim, Decision: Decision Date: Ref ID: H/2004/1583/O Proposal: Site of dwelling. Address: Approx 67m NE of 27 Garrison Road, Curran Decision: Decision Date: 03.04.2006 Ref ID: H/2000/0003/O Proposal: Site Of Dwelling and Garage Address: Land opposite 30 Garrison Road, Curran, Castledawson. Decision:	

Decision Date: 25.05.2000

Ref ID: H/2001/0228/O

Proposal: Site of dwelling and garage

Address: Opposite 30 Garrison Road, Curran

Decision:

Decision Date: 24.10.2001

Ref ID: H/2002/0840/F

Proposal: Amendment to previously approved house type.

Address: Adjacent to 27 Garrison Road, Curran.

Decision:

Decision Date: 15.11.2002

Ref ID: H/2000/0691/F

Proposal: Dwelling and garage

Address: Garrison Road, Castledawson

Decision:

Decision Date: 21.06.2001

Ref ID: H/2010/0104/F

Proposal: Equestrian building to replace existing menage

Address: 29 Garrison Road, Castledawson

Decision:

Decision Date: 21.04.2010

Ref ID: H/1993/6050

Proposal: SITE OF DWELLING GARRISON ROAD KNOCLCLOGHRIM

Address: GARRISON ROAD

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Approved

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0569/O	Target Date:
Proposal: Proposed site for farm dwelling & domestic garage (based on Policy CTY 10)	Location: 35m East N/East of No.22 Dirnan Road Dirnan, Cookstown BT80 9XL.
Applicant Name and Address: Mr Noel Conway 26 Dirnan Cookstown BT45 9XL	Agent name and Address: Brendan Monaghan T/A Lissan Design 45 Letteran Road Moneymore BT45 7UB
Summary of Issues: Additional information provided following office meeting so Approval is now recommended under CTY10.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The proposed site is located approximately 2km North of the development limits of Churchtown from such it is located within the open countryside but it is also situated within the AONB of The Sperrins as per the Cookstown Area Plan 2010. The red line covers a portion of a larger agricultural field but also covers a portion of the agricultural yard inclusive of two agricultural buildings. The proposed application intends to create a new access and laneway onto the Dirnan Road rather than going through the existing farm yard. The eastern and southern boundaries remained undefined within the field wherein the northern is defined by a mix of mature hedging and post and wire fencing with the western boundary being defined by the farm yard and associated buildings. The	

immediate and surrounding area is predominately agricultural land uses with a scattering of residential properties.

Representations

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

Description of Proposal

This is an outline application for a proposed site for farm dwelling & domestic garage (based on Policy CTY 10) located at 35m East N/East of No.22 Dirnan Road, Dirnan, Cookstown.

Deferred Consideration:

This proposal was presented as a refusal to Committee in October 2019 due to insufficient information provide to prove an established farm business for at least 6 years in line with CTY10. It was subsequently deferred for an office meeting which was held on 10th October 2019.

The applicants grandfather, Mr Eugene Conway, rented the farm land to Helen Johnson in conacre until 2016 and she claimed payment for business in 2014/15 /16, as confirmed by DEARA. The applicant, Noel Conway, who has now taken over working the farm, got his own business No. in March 2018 and has claimed payment in 2018 and 2019.

The farm is currently active and established, and evidence was submitted relating to the year 2017 to demonstrate the continuous use of the farm business for at least 6 years. These include receipts to Noel Conway relating to the farm land for work carried out to the land and to Vets Service etc. This are deemed sufficient to show farm business activity in the year 2017 by the applicant.

A history check of surrounding properties show no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of this application.

It has been demonstrated in line with part (a) of CTY10 the farm business is currently active and has been established for at least 6 years. This had been the only issue with the proposal and since it has now been resolved, an approval is recommended.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Conditions:

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

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

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

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

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

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

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

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

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

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

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

6. The proposed dwelling shall have a ridge height of less than 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.

Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0569/O	Target Date:
Proposal: Proposed site for farm dwelling & domestic garage (based on Policy CTY 10). See attached pic form and associated farm maps.	Location: 35m East N/East of No.22 Dirnan Road Dirnan Cookstown BT80 9XL.
Referral Route: Refusal – To Committee – Contrary to CTY 10 of PPS 21.	
Recommendation:	
Applicant Name and Address: Mr Noel Conway 26 Dirnan Cookstown BT45 9XL	Agent Name and Address: Brendan Monaghan T/A Lissan Design 45 Letteran Road Moneymore BT45 7UB
Executive Summary: Refusal	
Signature(s): Peter Henry	

For Committee




17/9/19

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

Refusal – To Committee – Contrary to CTY 10 of PPS 21.

Characteristics of the Site and Area

The proposed site is located approximately 2km North of the development limits of Churchtown from such it is located within the open countryside but it is also situated within the AONB of The Sperrins as per the Cookstown Area Plan 2010. The red line covers a portion of a larger agricultural field but also covers a portion of the agricultural yard inclusive of two agricultural buildings. The proposed application intends to create a new access and laneway onto the Dirnan Road rather than going through the existing

farm yard. I note that given the red line that the eastern and southern boundaries remained undefined within the field wherein the northern is defined by a mix of mature hedging and post and wire fencing with the western boundary being defined by the farm yard and associated buildings. The immediate and surrounding area is predominately agricultural land uses with a scattering of residential properties.

Representations

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

Description of Proposal

This is an outline application for a proposed site for farm dwelling & domestic garage (based on Policy CTY 10) located at 35m East N/East of No.22 Dirnan Road, Dirnan, Cookstown.

Planning Assessment of Policy and Other Material Considerations

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

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 – Draft Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 – Dwellings on Farms

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

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 – Sustainable Development in the countryside.

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

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, in their response they confirmed that the farm business identified has been allocated in 2018 and that there has been claims in 2018 and 2019. However within the submitted design and access statement the agent confirmed that this was a continuation of his grandfather's farm business. However in the submitted information with the application it appears that the grandfather only ever has an applicant number with Farm Business Number. From this, the agent was requested to provide more clarity about what Farm ID, if any, existed for the farm holding prior to this. In which the agent provided a response to state that another farm business claimed the lands during 2014/15. DAERA were contacted to provide further light on this, in which they confirmed that the proposed site was claimed for payment by this other business up to 2016 but the field no claims by any business in 2017. From such it is clear that there are gaps to try and demonstrate that the relevant six years. In which the agent attempted to provide additional information to demonstrate this however the information submitted was discussed during group discussions and it was concluded that it is insufficient to demonstrate that there has been a farm ID established on the site for an excess of 6 years along with activity over this time nor does it appear to be any continuation of a previous business that has now ceased. From this it fails under this part of CTY 10.

With respect to (b) and upon a review of the history of the farm business, I note that the business has only been allocated in 2018 and from this I did not find any development opportunities that had been sold off the farm during this time. I note that there does not appear to be any permissions attained nor sold off by the second business number identified by the agent.

With respect to (c), it is noted that the site is located in close proximity to the registered address of the farm business but I note that there two farm buildings located within the red line with a single dwelling and another farm building beside these. From such I am content that these buildings are able to constitute as a group of existing farm buildings. And given the location of the site I am content that a dwelling located within the red line would be able to visually link with this existing group. The policy does state where practicable that access should be taken from an existing laneway, I note to do so would require going through the middle of the farm yard and between existing buildings which is not deemed as reasonable, with this in mind a new access onto the Dirnan Road

seems like the right approach. It is considered that the application has complied with criteria b and c however has failed to demonstrate that the farm business is active and established for the relevant six years therefore I am of the opinion that it fails 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 an outline application in which the exact design and siting details have not been submitted, however I am of the opinion that an appropriately designed dwelling will not appear unduly prominent in the landscape. Given the nature of the red line, new boundaries will need to be planted out along the new southern and eastern boundaries but as much of the existing landscaping should be retained and supplemented with new planting to aid integration. Therefore a landscaping plan will be necessary in any 'Reserved Matters' application. Due to the surrounding landform and surrounding development it is felt necessary to restrict the height of the dwelling to a 6.0m ridge height from finished floor level. From this I am content that the application is able to comply with CTY 13.

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

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

I have no flooding, ecological or residential amenity concerns.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded confirmed that in order for the applicant to create a safe access onto Dirnan Road which meets the standards set out in PPS3 and DCAN15 the relevant conditions must be applied.

I have no ecological, flooding or residential amenity concerns.

As the application has failed under CTY 10 of PPS 21 I must therefore recommend refusal for the application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal – To Committee – Contrary to CTY 10 of PPS 21.

Reasons for Refusal:

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

Signature(s)**Date:**

17/11/19

ANNEX	
Date Valid	25th April 2019
Date First Advertised	9th May 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 22 Dirnan Road Cookstown Londonderry The Owner/Occupier, 22a Dirnan Road Cookstown The Owner/Occupier, 22b Dirnan Road Cookstown The Owner/Occupier, 22d Dirnan Road Cookstown	
Date of Last Neighbour Notification	7th May 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/0569/O Proposal: Proposed site for farm dwelling & domestic garage (based on Policy CTY 10). See attached pic form and associated farm maps. Address: 35m East N/East of No.22 Dirnan Road, Dirnan, Cookstown, BT80 9XL., Decision: Decision Date: Ref ID: I/1978/0045 Proposal: 11KV O/H LINE Address: DIRNAN, COOKSTOWN Decision: Decision Date: Ref ID: I/2004/0993/F Proposal: New dwelling and garage Address: Adjacent to 24B Dirnan Road, Cookstown Decision: Decision Date: 08.03.2006 Ref ID: I/1987/0268 Proposal: EXTENSION AND IMPROVEMENTS TO DWELLING Address: 22 DIRNAN ROAD, DIRNAN, COOKSTOWN	

Decision: Decision Date: Ref ID: I/1998/0318 Proposal: Site for dwelling Address: REAR OF NO. 22 DIRNAN ROAD COOKSTOWN 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:

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 5 November 2019 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Mallaghan, Chair

Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, McFlynn, McKinney, D McPeake, S McPeake, Robinson

Officers in Attendance

Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Ms Doyle, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Ms McNally, Council Solicitor
Mr Stewart, Senior Planning Officer
Miss Thompson, Democratic Services Officer

Others in Attendance

Applicant Speakers

LA09/2019/0710/O Mr Monaghan
Mr Cassidy
LA09/2019/0760/O Mr Cassidy
LA09/2019/0787/O Mr Cassidy
LA09/2016/0634/O Councillor B McGuigan

The meeting commenced at 7.02 pm

P131/19 Apologies

Councillors Kearney and Quinn.

P132/19 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

Councillor S McPeake declared an interest in planning application LA09/2019/0710/O.

P133/19 Chair's Business

None.

Matters for Decision

P134/19 Planning Applications for Determination

The Chair, Councillor Mallaghan referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting/submission of further information –

Agenda Item 4.3 – LA09/2018/1648/F – Retention of open sided storage building at Blackrock Road, Toomebridge for Creagh Concrete Products Ltd.

Agenda Item 4.4 – LA09/2019/0252/O – Farm dwelling and garage 200m NE of 51 Gulladuff Road, Magherafelt for James McPeake.

Agenda Item 4.13 – LA09/2019/1069/F – Dwelling and domestic garage approx. 100m NW of 88 Washingbay Road, Coalisland for Mr Ciaran Lynch.

Proposed by Councillor Bell
Seconded by Councillor Clarke and

Resolved That the planning applications listed above be deferred for an office meeting/submission of further information.

Councillor McKinney asked why agenda item 4.3 was now being deferred at such a late stage.

The Planning Manager drew attention to the addendum and advised that the application in question was being deferred to allow for further information to be submitted as late correspondence had been received from Solicitor which raised issues of Human Rights and land ownership statements.

The Chair drew Members attention to the undernoted planning applications for determination.

LA09/2018/0462/F Agricultural shed 95m W of 65 Drumgrannon Road, Moy for Seamus Conroy

Members considered previously circulated report on planning application LA09/2018/0462/F which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Bell and

Resolved That planning application LA09/2018/0462/F be approved subject to conditions as per the officer's report.

LA09/2018/1537/F Alterations and extension to existing dwelling to include an increase in ridge height at 18 Tamlaghduff Road, Bellaghy for Dympna McPeake

Members considered previously circulated report on planning application LA09/2018/1537/F which had a recommendation for approval.

Proposed by Councillor S McPeake
Seconded by Councillor McKinney and

Resolved That planning application LA09/2018/1537/F be approved subject to conditions as per the officer's report.

LA09/2018/1648/F Retention of open sided storage building at Blackrock Road, Toomebridge for Creagh Concrete Products Ltd

Agreed that application be deferred to allow for submission of further information earlier in meeting.

LA09/2019/0252/O Farm dwelling and garage 200m NE of 51 Gulladuff Road, Magherafelt for James McPeake

Agreed that application be deferred for office meeting earlier in meeting.

LA09/2019/0468/F 2 storey side annex extension to provide granny flat, provision of 2 no. dormer windows and new retaining wall to rear garden at 40 Coolshinney Road, Magherafelt for Claire McWilliams

Members considered previously circulated report on planning application LA09/2019/0468/F which had a recommendation for approval. Members were advised, as per addendum, that a late objection had been received however it did not raise any new issues.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2019/0468/F be approved subject to conditions as per the officer's report.

LA09/2019/0710/O Off site replacement dwelling and domestic garage/store 70m SW of 11 Motalee Road, Magherafelt for Mrs Gillian Montgomery

Ms McCullagh (SPO) presented a report on planning application LA09/2019/0710/O advising that it was recommended for refusal.

The Chair advised the committee that requests to speak on the application had been received and invited Mr Monaghan to address the committee in the first instance.

Mr Monaghan stated he was speaking on behalf of an objector and would support the recommendation to refuse this application as the proposal will be sited directly in front of

the objector's dwelling. Mr Monaghan stated that Policy CTY3 only permits "off site" development in two circumstances, those being, restricted curtilage and demonstrable benefits. Mr Monaghan advised that there is enough room to accommodate a dwelling within the existing curtilage without having to move "off site" and that no evidence of the demonstrable benefits of moving off site have been provided by the applicant. Mr Monaghan further added that the land is being split between family members and that to approve this application would set a dangerous precedent as no exceptional case had been made.

The Planning Manager asked if the objector felt their amenity would be lost.

Mr Monaghan stated that the objector would suffer from loss of outlook from their property.

The Planning Manager asked if there was a boundary between the proposed site and the objector's property.

Mr Monaghan advised that there is a hedge between the two sites.

The Planning Manager asked, in terms of planning policy, if it was felt that there was an argument in relation to amenity.

Ms McCullagh stated this had not been listed as a reason for refusal.

The Planning Manager stated that ribboning had also not been listed but could be considered.

The Chair, Councillor Mallaghan invited Mr Cassidy to address the Committee.

Mr Cassidy stated that the proposal is for an off site replacement dwelling which will be 40m from the existing dwelling. Mr Cassidy stated that the existing dwelling is within the farm complex and is surrounded by farm buildings, to the north of the existing dwelling is a large pond which is susceptible to flooding and there is an old railway line which is of historic interest. Mr Cassidy advised that there is a slurry tank within 8m of the existing dwelling and that noise has a detrimental impact at this dwelling. Mr Cassidy felt that all of the above reasons demonstrate why the proposed dwelling should be moved off site.

Mr Cassidy stated that there is no issue with build up or integration at the proposed off site location and that locating the dwelling away from the farm would be of benefit. Mr Cassidy also referred to the number of similar applications, the majority of which gain approval at planning appeal.

Councillor McKinney asked who farmed the land and it was advised that the applicant is the farmer.

The Planning Manager stated that the applicant currently has an approval for a dwelling and now also wants to replace an existing dwelling with another dwelling at an off site location. The Planning Manager commented that the applicant can't live in two dwellings.

Mr Cassidy advised that the applicant's sister had been gifted the site of the approved dwelling by the applicant and similarly the applicant's other sister will be gifted the site for this application.

Councillor McKinney asked when the last site was passed.

Ms McCullagh advised that the last site was passed within the last year, it was further advised that the 10 year rule does not apply for replacement dwellings.

The Planning Manager asked who signed the certificate of ownership to which Ms McCullagh advised that the document had been signed on behalf of the applicant.

The Planning Manager stated he could understand the objector's concerns and that he found it difficult to accept that the applicant could not build on another site within the farm. The Planning Manager stated he would also have some concern regarding the build up of dwellings on the laneway and that there was a tendency towards ribboning.

Councillor Gildernew felt there were a number of grey areas in relation to this application which should be clarified before coming to Committee.

The Chair, Councillor Mallaghan advised that the site had been visited by an officer and proposed the officer recommendation to refuse the application.

Councillor McKinney seconded Councillor Mallaghan's proposal.

The Planning Manager suggested additional reasons for refusal to include ribboning and impact on amenity.

The Chair, Councillor Mallaghan and Councillor McKinney agreed that these additional reasons be added to the resolution.

Resolved That planning application LA09/2019/0710/O be refused on grounds stated in the officer's report with additional reasons for refusal to include ribboning and impact on amenity.

LA09/2019/0750/F 6 dwellings within existing Millbrook Housing Development at site 10m E of 1 Millbrook Close, Washingbay Road, Coalisland for N and R Devine

Mr Marrion (SPO) presented a report on planning application LA09/2019/0750/F advising that it was recommended for refusal.

Councillor Clarke stated that the pictures of the site included within the papers for the meeting bear no resemblance to the photographs being shown tonight.

The Chair, Councillor Mallaghan stated that this was a complaint which had been raised on numerous occasions.

The Planning Manager stated that, going forward, pictures/drawings that were as up to date as possible would be provided.

In response to question from the Planning Manager, Mr Marrion advised that some of the site had been built upon.

Councillor Gildernew referred to the site lying within a floodplain and proposed the officer recommendation to refuse the application.

Councillor Cuthbertson referred to the loss of open space if the application were to be approved and that Members often complain that there is not enough open space with developments. Councillor Cuthbertson seconded Councillor Gildernew's proposal.

Resolved That planning application LA09/2019/0750/F be refused on grounds stated in the officer's report.

LA09/2019/0760/O Site for a dwelling and domestic garage/store 65m NE of 11 Creagh Hill, Castledawson for Anne McGroggan

Ms McCullagh (SPO) presented a report on planning application LA09/2019/0760/O advising that it was recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy advised that the site opposite the application site was approved under the cluster policy and both sites were the same distance from the focal point of the Thatch Bar. Mr Cassidy stated that there are 10 dwellings and 2 businesses in the neighbouring area and that there is development on 2 sides of the application site, the application will have no impact on amenity and existing vegetation will be retained. Mr Cassidy stated that the applicant has accepted that the development will not extend into the countryside. Mr Cassidy stated that taking all this into consideration the application meets Policy CTY2a and should therefore be approved.

The Planning Manager stated that the policy in relation to clusters is about containment and rounding off/fitting in, that this application fails being within a cluster and is instead an add on to a cluster.

Councillor McFlynn stated that one of the reasons for refusal is that there is no boundary hedge and asked if a condition could be attached that hedging be planted.

The Planning Manager stated that the site should be able to integrate in its current state.

Councillor McKinney proposed the officer recommendation to refuse the application.

Councillor Gildernew seconded Councillor McKinney's proposal.

Councillor McFlynn proposed that the application be deferred to allow for further discussion.

The Planning Manager stated that the agent had requested an office meeting for this application but it was felt the case was clear cut and there was nothing to be gained in facilitating a meeting.

The Chair, Councillor Mallaghan asked for a seconder to Councillor McFlynn's proposal.

The proposal did not achieve a seconder.

Members voted on Councillor McKinney's proposal to refuse the application –

For – 12

Against - 1

Resolved That planning application LA09/2019/0760/O be refused on grounds stated in the officer's report.

LA09/2019/0787/O Site for dwelling and garage 40m SW of 44 Moyagoney Road, Portglenone for Mr Paul Madden

Ms McCullagh (SPO) presented a report on planning application LA09/2019/0787/O advising that it was recommended for refusal. Members were also advised of addendum which provided amended refusal reason to that set out in officer report.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy stated that the application was being refused as inadequate information had been provided to support a dwelling on a farm. Mr Cassidy advised that a farm business number had been supplied and DAERA have confirmed that the farm is active. Mr Cassidy advised that farm maps have been supplied and invoices for a 6 year period were also submitted which indicate ongoing upkeep of farm lands. On the basis of the information provided Mr Cassidy asked that Members reconsider the application.

The Planning Manager stated that the map submitted shows that the farm belongs to someone else. The Planning Manager stated there appeared to be some confusion with regard to the information provided and suggested that the application be deferred for an office meeting.

Councillor McKinney proposed that the application be deferred for an office meeting as the information before Members tonight was misleading.

Councillor S McPeake seconded Councillor McKinney's proposal.

Resolved That planning application LA09/2019/0787/O be deferred for an office meeting.

LA09/2019/0792/F Dwelling and garage (redesign for dwelling under construction) at 250m N of 36 Tullybroom Road, Clogher for Des Shields

Mr Marrion (SPO) presented a report on planning application LA09/2019/0792/F advising that it was recommended for refusal.

The Chair, Councillor Mallaghan stated that a late request to speak had been received to speak for the application however he was not prepared to accept this.

The Chair, Councillor Mallaghan asked what the last date of commencement was for the proposal.

The Planning Manager stated that the crucial date for commencement of the previous planning permission was 11 May 2012 and the aerial image from 24 May 2012 shows no commencement of development on the site.

In response to Councillor Gildernew, the Planning Manager stated that evidence to show the site had commenced could take the form of invoices or confirmation of inspection by Building Control.

Proposed by Councillor Colvin
Seconded by Councillor Glasgow and

Resolved That planning application LA09/2019/0792/F be refused on grounds stated in the officer's report.

LA09/2019/0895/F Conversion and reuse of existing outbuildings for residential use, with extension and internal alterations directly adjacent to 100a Claggan Lane, Cookstown for Mr and Mrs Arnold Loughrin

Members considered previously circulated report on planning application LA09/2019/0895/F which had a recommendation for approval.

Proposed by Councillor Glasgow
Seconded by Councillor Bell and

Resolved That planning application LA09/2019/0895/F be approved subject to conditions as per the officer's report.

LA09/2019/1019/A Sign to gable wall of house at 9 Springdale, Dungannon for Sinead Hagan

Application withdrawn.

LA09/2019/1069/F Dwelling and domestic garage approx. 100m NW of 88 Washingbay Road, Coalisland for Mr Ciaran Lynch

Agreed that application be deferred for office meeting earlier in meeting.

LA09/2019/1088/F Extension of curtilage and erection of domestic store, mixed martial arts studio and all associated site works at lands immediately between 218 and 220 Ballynakilly Road, Dungannon for Moussa Jaafar

Members considered previously circulated report on planning application LA09/2019/1088/F which had a recommendation for approval.

Mr Marrion stated that since the report had been issued a response from DfI Roads had been received in which they recommend refusal of the application, as set out in

addendum. Mr Marrion suggested that this application be deferred to allow the applicant/agent time to consider this response.

Proposed by Councillor Gildernew
Seconded by Councillor Bell and

Resolved That planning application LA09/2019/1088/F be deferred to allow the applicant/agent time to consider the response from DfL Roads.

LA09/2019/1169/O Dwelling and garage at lands between 33a and 33b Grange Road, Moy for Mr Andrew Smith

Members considered previously circulated report on planning application LA09/2019/1169/O which had a recommendation for approval.

Mr Marrion (SPO) referred to addendum which advised of correspondence requesting that the site be enlarged and dwelling set back further. It was noted that the correspondence sets out why the application goes against policy but is not objecting. Mr Marrion advised that the concerns cited in the correspondence had been dealt with in the officer report.

Councillor Cuthbertson stated that the correspondence asks for advice on what protocol to use if they wished to object to the application being approved. The Councillor asked if anyone went back to the person on receipt of this letter being received.

Mr Marrion advised that no one went back to the person on receipt of correspondence received on 25 October but that officers had previously advised the same person of planning protocols and how they could object if that's how they wanted to proceed.

The Chair, Councillor Mallaghan advised that planning protocols and information on how to object to an application is also freely available on Council's website.

Councillor S McPeake proposed the officer recommendation to approve the application.

The Planning Manager asked how the application meets infill policy as that is what the objection seemed to be in relation to.

Mr Marrion outlined how the application will fit in with existing dwellings and road frontages. In this case the application will be sited in a line where there are currently five dwellings with roadside frontage, the application will have development on two sides and will also have road frontage of its own.

Councillor Colvin stated that he had been asked to object to the application and that this was the fourth site the applicant had submitted and sold off.

The Chair, Councillor Mallaghan asked Councillor Colvin if he was speaking on behalf of the objector.

Councillor Colvin stated he had been asked to object to the application.

The Chair, Councillor Mallaghan invited Councillor Colvin to present the case to Members.

Councillor Colvin stated that there was already a lot of development on this road and that there were currently eleven dwellings in a line. The Councillor stated that this build up of dwellings was starting to resemble the outskirts of a town rather than the countryside. Councillor Colvin stated that the objector has a lot of experience in planning matters.

Councillor Colvin withdrew to the public gallery.

The Council Solicitor referred to the correspondence of the 25 October which states that the person is not objecting to the application but then goes on to raise a number of points. The Council Solicitor stated she would have some concerns in terms of whether that person had been provided with sufficient opportunity to object.

The Planning Manager stated that a Councillor has spoken on behalf of the objector tonight and that they were previously advised of the process of submitting an objection.

Councillor S McPeake stated he would stick by his proposal to approve the application and that the Committee needed to be fair to the applicant as well.

The Planning Manager stated he could understand the concerns of the objector but advised that the application meets policy and that just because Members may not like policy does not mean it should be disregarded.

Councillor Bell seconded Councillor S McPeake's proposal.

Councillor Cuthbertson proposed that the application be held for one month as the objector deserved an answer to the question raised in their correspondence as to how to object should the application be recommended for approval.

Councillor Brown seconded Councillor Cuthbertson's proposal.

Members voted on Councillor S McPeake's proposal –
For – 6

Members voted on Councillor Cuthbertson's proposal –
For – 6

The Chair, Councillor Mallaghan used his casting vote to vote for Councillor S McPeake's proposal and declared the proposal to approve the application carried.

Resolved That planning application LA09/2019/1169/O be approved subject to conditions as per the officer's report.

The Chair, Councillor Mallaghan stated that everyone has the same opportunity to submit an objection and did not feel the person had been disadvantaged in this case.

The Planning Manager concurred with the Chair and stated that the objector's point had been put across tonight and that arguments had been made. The Planning Manager stated he did not think the person had been prejudiced.

Councillor Cuthbertson asked if the papers circulated around the table at meeting could be included with agenda papers or papers which are issued on the Friday prior to the meeting.

The Chair, Councillor Mallaghan stated that the papers issued on the Friday prior to the meeting deal with requests to speak or for deferral and include any supplementary documentation submitted as part of that process. Councillor Mallaghan stated that all other information/documentation is available on the Planning Portal.

The Planning Manager stated that by the 25 October reports would have already have been submitted for issue of agenda papers.

The Council Solicitor reminded Members about the importance of them considering the information contained on the Planning Portal.

Councillor Colvin rejoined the meeting.

LA09/2016/0634/O Replacement of existing filling station, shop and car wash with construction of mixed use units and associated car parking and landscaping at 132 Drum Road, Cookstown for Seamus Molloy

The Head of Development Management presented a report on planning application LA09/2016/0634/O advising that it was recommended for refusal. The Head of Development Management also drew attention to the addendum which stated that an additional reason for refusal should be attached to the application relating to Policy IC15 (Roadside Service Facilities) of the Planning Strategy for rural NI.

The Chair advised the committee that a request to speak on the application had been received and invited Councillor B McGuigan to address the committee.

Councillor B McGuigan stated that the application seeks to replace an established filling station including other facilities and uses situated on the Drum Road which is a key transport corridor. The Councillor stated that the site is out of date, appears to be ramshackle and does not meet the needs of travellers and that this outline application is an opportunity to redevelop the site, to retain jobs and create further jobs. Councillor B McGuigan stated that there were no neighbouring objections to the application and that all refusal reasons could be conditioned and that the applicant was prepared to submit surveys to achieve this. The Councillor stated that the applicant purchased the site 45 years ago and that whilst the road concerns were understood he asked the Committee to reconsider and approve this application with conditions to allow full plans to be submitted.

The Planning Manager stated that the application appears to be intensification and that if the information previously requested in relation to traffic analysis survey was submitted then it could be given further consideration. The Planning Manager stated that a clear

message needs to go out to the applicant that they need to invest and submit the survey required otherwise the application could not proceed any further.

The Chair, Councillor Mallaghan stated that he had previously spoken on the application and would therefore declare an interest and withdraw to the public gallery.

Councillor Robinson took the Chair.

Councillor S McPeake stated that he had attended the site meeting and it was clear there was a business there and that it would be a planning gain to refurbish the site. Councillor S McPeake stated he would be against refusing the application and that the applicant should be given further guidance on what is required to make the application successful.

In response to the Planning Manager, the applicant's agent Mr Cassidy, indicated that he would welcome further discussion on the application.

Councillor Clarke felt that further discussion would be useful, that in the past this would have been a busy shop and that if something could be worked out to regenerate the site he would like to see it happening.

Councillor Glasgow felt that the project should not be missed and that the applicant should be given one final opportunity to submit further information.

Councillor McKinney proposed that the application be deferred to allow for further discussion and submission of further information.

Councillor Clarke seconded Councillor McKinney's proposal.

The Planning Manager stated that the Committee's message is clear, that Mid Ulster is open for business but that all necessary information needed to be submitted in order to proceed.

The Council Solicitor stated that the onus is on an applicant to make their case and submit the necessary information. The Council Solicitor stated that if the application comes back to Committee without the required information she would have concerns about the Committee overturning the recommendation to refuse the application.

Councillor S McPeake stated that the premises is currently in disrepair and that the application offers a potential gain for industrial retail in Mid Ulster.

Resolved That planning application LA09/2019/0634/O be deferred to allow for the submission of further information.

Councillor Mallaghan rejoined the meeting and retook the Chair.

LA09/2017/1368/F Off site replacement dwelling (amended proposal) 45m NE of 19 Ardagh Road, Coagh, Cookstown for Mr Tony Anderson

Councillor Bell declared an interest in this application.

Members considered previously circulated report on planning application LA09/2017/1368/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2017/1368/F be approved subject to conditions as per the officer's report.

LA09/2017/1705/F Retention of and completion to reinstatement of previous building for agriculture purposes at 200m SW of 107 Lisacclare Road (on the Aughagranna Road), Stewartstown for James Canavan

Members considered previously circulated report on planning application LA09/2017/1705/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2017/1705/F be approved subject to conditions as per the officer's report.

LA09/2018/0666/O Farm dwelling and garage approx. 40m SE of 32A Mayogall Road, Gulladuff for Mr Damon Brown

Members considered previously circulated report on planning application LA09/2018/0666/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2018/0666/O be approved subject to conditions as per the officer's report.

LA09/2018/0799/F Demolition of garage and provision of new detached dwelling adjacent to 23 Beechland Road, Magherafelt for Ashley Booth

Members considered previously circulated report on planning application LA09/2018/0799/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2018/0799/F be approved subject to conditions as per the officer's report.

LA09/2018/1179/F Erection of garage to replace existing storm damaged garage at 39 Rocktown Road, Bellaghy for N Ireland Wedding Cars

Members considered previously circulated report on planning application LA09/2018/1179/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2018/1179/F be approved subject to conditions as per the officer's report.

LA09/2019/0289/F Change of use from part ground floor bookmakers to 2no. 1 bedroom apartments and ground floor stores to 1no. 2 bedroom apartment at 11 The Diamond, Pomeroy for Patrick Keogh

Members considered previously circulated report on planning application LA09/2019/0289/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2019/0289/F be approved subject to conditions as per the officer's report.

LA09/2019/0385/O Dwelling and garage 20m N of 34 Waterfoot Road, Ballymaguigan, Magherafelt for Paul Johnson

Members considered previously circulated report on planning application LA09/2019/0385/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Brown and

Resolved That planning application LA09/2019/0385/O be approved subject to conditions as per the officer's report.

P135/19 Receive Report on Consultation by DfC regarding listing of telephone kiosk beside 67 Dergenagh Road, Dungannon

The Planning Manager presented previously circulated report which outlined the background to a consultation by Department for Communities, Historic Environment Division regarding their consideration to list a Telephone Kiosk at 67 Dergenagh Road, Dungannon.

Councillor Cuthbertson proposed that Council should respond to the consultation stating that it has no issue in relation to the listing of the telephone kiosk and that Department for Communities should proceed with the process of listing the kiosk at Dergenagh.

Councillor Gildernew asked if the telephone kiosk is to remain where is currently sited or be moved.

The Planning Manager stated that if the telephone kiosk is listed it would require listed building consent to be moved or to have a defibrillator installed.

The Chair, Councillor Mallaghan stated that if the telephone kiosk was listed it would make it difficult to move.

Councillor Gildernew seconded Councillor Cuthbertson's proposal.

The Council Solicitor stated that there needed to be a distinction drawn between the Committee taking a decision to issue (or not) a Building Preservation Notice and the Committee's role in this instance which is that of a consultee in relation to the DfC's decision to list (or not) the telephone kiosk. The Council Solicitor stated that the Members needed to be clear about the tests and considerations and whether there were similarities. Members need to provide sound reasons if they are taking a different approach now.

Councillor Cuthbertson stated that the two matters were different and that a Building Preservation Notice is temporary and that if a Notice had been agreed in August it would soon be running out in any case. The Councillor also stated that Department for Communities can proceed to list the telephone kiosk regardless of what this Committee thinks.

The Council Solicitor stated that Members needed to be clear what all issues they were considering to ensure consistency in decision making as similarities had been referenced.

Councillor Colvin felt that Members should be provided with options for moving forward.

The Planning Manager stated that the Head of Development Plan and Enforcement had previously provided a report which set out the condition of the phone box and age of the phone box and that it was considered worth preserving. At that time the Committee decided that the telephone kiosk was at great risk but was likely to be moved and did not proceed with a Building Preservation Notice at that time. The Planning Manager stated that he would have no objection to the telephone kiosk being listed but that the decision as to how they wished to respond to the consultation was ultimately up to Members.

Councillor Glasgow stated that at a previous meeting it was advised that a community group had adopted the telephone kiosk, the Councillor stated that the matter has continued to be brought back to various meetings of Committee/Council and felt that Council should be taken out of the loop and that Department for Communities should consult with the community group on the matter.

The Chair, Councillor Mallaghan asked if the Department for Communities were aware that a community group has an interest in the telephone kiosk.

The Planning Manager stated that Council can make Department for Communities aware of the community interest in the telephone kiosk.

Councillor Glasgow proposed that Council respond to the consultation stating it is content that the process of listing continues and advise of the community group interest in the telephone kiosk and that they should also be consulted on the matter.

Councillor McKinney seconded Councillor Glasgow's proposal.

Councillor Cuthbertson stated he had already made a proposal to the Committee.

Councillor Colvin stated that Councillor Glasgow's proposal was an amendment to Councillor Cuthbertson's proposal.

The Chair, Councillor Mallaghan asked Councillor Cuthbertson if he would accept an amended version of the proposal that the local community should also be included in any consultation.

Councillor Cuthbertson stated he was content with this.

The Chair, Councillor Mallaghan asked Councillor Glasgow if he would withdraw his proposal

Councillor Glasgow felt that consultation with the community group should be included in any proposal.

The Planning Manager suggested that Council respond to the consultation and state that there are arguments for the listing of the telephone kiosk but that this decision will be up to Department for Communities. Council will advise the Department for Communities of the community interest in the telephone kiosk and that the views of the community and community groups should be taken into consideration prior to taking a decision on whether the telephone kiosk is listed.

Members agreed with the way forward suggested by the Planning Manager.

Resolved That it be recommended to Council to respond to the consultation and state that there are arguments for the listing of the telephone kiosk but that this decision will be up to the Department for Communities. Council will advise the Department for Communities of the community interest in the telephone kiosk and that the views of the community and community groups should be taken into consideration prior to taking a decision on whether the telephone kiosk is listed.

Matters for Information

P136/19 Minutes of Planning Committee held on 1 October 2019

Members noted minutes of Planning Committee held on 1 October 2019.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Brown
Seconded by Councillor McKinney 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 P137/19 to P141/19.

Matters for Decision

P137/19 Receive Enforcement Report

Matters for Information

P138/19 Confidential Minutes of Planning Committee held on
1 October 2019

P139/19 Enforcement Case Live List

P140/19 Enforcement Cases Opened

P141/19 Enforcement Cases Closed

P142/19 Duration of Meeting

The meeting was called for 7 pm and concluded at 9.17 pm.

Chair _____

Date _____

Report on	Non-Determination Planning Appeal Decision 2019/E0008.
Date of Meeting	3/12/19
Reporting Officer	Melvin Bowman
Contact Officer	As above.

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	To inform members of an Appeal decision dated the 8 th Nov 2019 (2019/E0008) relating to the Non-determination of a CLUD (Certificate of Lawful use / Development) at the Jungle NI, Desertmartin Road, Moneymore.
1.2	The appeal is allowed without any costs award but with an amended description.
2.0	Background
2.1	<p>A 'CLUD' application was received by the Council on the 5th Dec 2018 and given the reference LA09/2018/1597/LDE. It proposed that the following development be determined as lawful:</p> <p>Development : Use of the underpass by visitors and staff for access to The Jungle NI and surrounding farm lands</p> <p>Location : Underpass opposite & south east of No.60, Desertmartin Road, Moneymore, Magherafelt</p> <p>Appellant : NI The Jungle</p> <p>As the Council had not determined the CLUD within time as prescribed by the Planning Act (NI) 2011 the applicant used his legislative entitlement to ask the PAC to make a decision on the certificate.</p> <p>A separate costs claim made by the appellant against the Council was not justified in this case.</p> <p>The reasoning for the Commissioner's decision to allow the appeal with an amended certificate and to deny any costs award is set out below.</p>

3.0	Main Report
3.1	The appeal site comprised an underpass below the main A29 road which links two parts of what the Commissioner refers to as a substantial farm holding. The underpass was constructed in or around 2000 to facilitate the safe movement of livestock.
3.4	Key to the Commissioners decision in this appeal is the notion of the extent of the 'planning unit'. Both parties to the appeal were provided the opportunity to comment on this matter. The Councils view was that the planning unit for the Jungle was entirely on the western side of the road (focussed around the existing farmyard etc). The commissioner, following his site visit, and in considering the evidence has concluded both the eastern and western parts of the holding comprise a single unit of occupation. He found that it was not persuasive that farmlands on the eastern side of the road is in a different planning unit to those farm buildings and yard on the western side. It was therefore reasonable to conclude that the entire holding comprises one planning unit with a mixed agricultural and recreation / training use.
3.5	In concluding the above position, it follows that it would not have been a breach of planning control for authorised outdoor recreational or training activities based on the holding to be carried out anywhere. The Commissioner goes on to observe chain saw courses, the maize field used with Halloween events and evidence provided about quad bike courses and llama trekking which it is referred to 'have extended into the eastern part of the holding'. Any use of the underpass to facilitate such activities would therefore have been lawful.
3.6	At Par. 20 of his decision the Commissioner is quite clear that the current unauthorised car park (subject to a current planning application) does not form part of his decision relating to the use of the underpass.
3.7	In allowing the appeal the description has also been modified to state the following: 'Use for pedestrian access ancillary to agricultural and recreational or training uses lawfully carried out on the land shown outlined in blue on the attached plan annotated PAC1 (excluding the fields marked A,D,E and F). For the avoidance of doubt, this did not include use in association with car parking on the eastern side of the A29 Desertmartin Road.
3.8	<u>Costs Award Decision</u> No costs were awarded in the appeal on the basis of the Commissioner's reasoning as set out below:
3.9	The e-mail exchanges at application stage and the evidence provided at appeal stage indicate that both parties proceeded on the assumption that the tunnel should be prescribed a single use, that use being agricultural from the authorities point of view and the applicant argued the use had changed to recreational. From this point of view the assessment had focussed on the time frame of the use.

3.10	The Commission had taken the view that the planning unit comprised of two uses agriculture and recreational and as both uses were involved with using the underpass then this use shall be prescribed by both. The Commission was critical that both parties had not appreciated the ancillary nature of the underpass or the importance of the planning unit.
3.11	Given that neither party placed weight on the duality of use then it cannot be said that either party acted more unreasonably than the other. A costs award would therefore not be justified.
3.12	Members will be aware that a current planning application remains under consideration and indeed will recall a visit to the site. The Council in particular await DFI Roads position the use of the underpass for the car park and on access requirements onto the A29 protected route. Whilst this appeal decision will be a material consideration in the determination of the application, consideration will still have to be given to the level of intensification of pedestrian use of the underpass and extent of vehicular movements resulting from any decision to approve the car park and its access to this eastern part of the holding.
4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial:
	Human:
	Risk Management:
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications:
	Rural Needs Implications:
5.0	Recommendation(s)
5.1	That members note the appeal decision
6.0	Documents Attached & References
6.1	Copy of PAC decision and costs decision.



Planning Appeals
Commission

Appeal Decision

Park House
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BELFAST
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Appeal Reference:	2019/E0008
Appeal by:	The Jungle NI
Appeal against:	Failure to give a decision on an application for a certificate of lawfulness of existing use or development
Development:	Use of the underpass by visitors and staff for access to The Jungle NI and surrounding farm lands
Location:	Underpass opposite and to the south east of 60 Desertmartin Road, Moneymore, Magherafelt
Planning Authority:	Mid Ulster District Council
Application Reference:	LA09/2018/1597/LDE
Procedure:	Written representations and accompanied site visit on 19 th September 2019
Decision by:	Commissioner T A Rue, dated 8 th November 2019

Decision

1. The appeal is allowed, the description of development is modified, and the attached certificate of lawfulness of existing use or development (LDC) is issued.

Claim for Costs

2. A claim for costs was made by The Jungle NI against Mid Ulster District Council. That claim is the subject of a separate decision.

Reasons

3. The main issue in this appeal is whether it has been demonstrated on the balance of probability that the use described in the application was lawful on the date of the application, 5th December 2018.
4. A use is lawful if no enforcement action may be taken against it, for example because it did not involve development or require planning permission or because the time for enforcement action has expired.
5. An LDC is declaratory as to use rights. It is not a grant of planning permission and is not concerned with the merits of the development in question. The Commission's tasks in this appeal are to understand and properly apply the law. Matters such as traffic movements, health and safety and claustrophobia are not engaged.
6. The appeal site comprises an underpass below the A29 Desertmartin Road, which links two parts of a substantial farm holding. The underpass was constructed by the Roads Service in or around 2000 to facilitate the safe movement of livestock within

the holding. A herd of 150 cows was transferred twice daily via the underpass to a milking parlour on the western side of the road. According to the appellants' evidence, farm diversification activities have been carried on within the holding since 2005 and the milking cattle were removed in 2008.

7. An invoice dated 2010 from an electrical contractor for supplying and fitting lights in the subway was submitted in the appellants' statement of case. During my site visit, I saw strip lighting in the underpass and noted that it had a clean concrete floor.
8. The application relates only to the underpass. However, it is no more meaningful to assess the use of a pedestrian underpass in isolation from that of adjoining lands than it would be to imagine a domestic access driveway having a use distinct from that of the dwelling it serves. The use of the underpass is necessarily ancillary to that of adjoining lands in the same planning unit.
9. The planning unit is a judge-made concept which has evolved as a means of determining the most appropriate physical area against which to assess the materiality of a change of use. In *Burdle v Secretary of State for the Environment* [1972] 3 All ER 240, three broad tests were suggested:-
 - When it is possible to recognise a single main (or primary) use, the whole unit of occupation should be considered.
 - It may equally be apt to consider the whole unit of occupation even if it is in a composite (or mixed) use.
 - If within a single unit of occupation, two or more physically separate areas are used for substantially different and unrelated purposes, each area ought to be considered as a separate unit.
10. The Council carried out a land registry search to ascertain land owned by Mr Robert Carmichael, the owner and director of The Jungle NI. It submitted a plan which I have annotated PAC 1. Mr Carmichael does not own the fields marked D and E. He takes Fields A and F in conacre for the purpose of his farm business but does not own them outright.
11. The farmhouse and an adjacent group of sheds are located in the larger part of the holding, on the western side of the A29. Planning permissions have been granted for the following developments within that part of the holding:-
 - retention of farm diversification project for paintball games and ancillary activities (2009);
 - indoor paintball centre (2009);
 - retention of games zone area for zorbing and paintball (2010);
 - office/reception area and ancillary facilities for paintball business (2010);
 - log cabin for reception/office use in conjunction with The Jungle (2013);
 - shed to be used in conjunction with existing Jungle business (2017); and
 - retention of shower block, toilet block and two plant rooms (August 2018).
12. Another relevant item of planning history is that in 2017, an LDC was issued for the change of use of an agricultural shed to a training and conference centre. The reason given was that the time for enforcement action had expired.
13. The planning permissions and LDC relate to recreational and training uses in identified sites in the western part of the holding. At the time of my visit, sheep,

cows and llamas were grazing in fields outside those sites and some of the sheds adjacent to the farmhouse were still in agricultural use. A gate and fencing were in place to prevent access to those sheds by visitors to The Jungle. However, people visiting The Jungle on foot must pass through the farmyard to the south of the farmhouse which also provides a principal means of vehicular access from the farm sheds to the A29. The physical separation between the recreation/training and agricultural uses is therefore incomplete.

14. Some of the recreational activities are necessarily confined to areas where supporting equipment is located. For example, there is a tree-top adventure zip wire towards the western edge of the farm. But other activities are more free-ranging. There is undisputed evidence of quod bike courses, focus farmer visits to study farm diversification, and llama trekking. In the course of my accompanied site visit, we encountered a team building group out walking. I saw a field in the western part of the holding (outside the area covered by planning permissions) where maize was being grown. This is in itself an agricultural use but its primary purpose is recreational. It is reasonable to conclude that the western part of the holding is in a composite or mixed use comprising farming and recreation/training activities.
15. The Commission wrote to both parties with a series of questions designed to elicit information to determine the extent of the planning unit within which the underpass was located. The Council replied that the planning unit for Jungle NI was entirely on the western side of the road. The appellants, perhaps surprisingly, identified only the area in respect of which the planning permissions and the LDC were issued. However, the Commission is not bound by the views of the parties.
16. The eastern and western parts of the holding comprise a single unit of occupation. It is not a persuasive proposition that the farmland on the eastern side of the road is in a different planning unit to the farmhouse and the buildings still in agricultural use on the western side of the road. It is reasonable to conclude that the entire holding comprises one planning unit with a mixed agricultural and recreation/training use.
17. The planning history information provided contains no record of any planning permission having been granted for recreational or training activities on the eastern side of the holding. However, once it is concluded that the holding comprises a single planning unit, it follows that would not have been a breach of planning control for authorised outdoor recreational or training activities based on the holding (and not dependent on stationary equipment) to be carried out anywhere on the holding.
18. During my site visit, I saw large blocks of wood close to the eastern entrance to the underpass. That is consistent with the appellants' evidence that chain saw courses have been carried out in that general area. I also saw another maize field on the eastern side of the holding, which also has a dual agricultural and recreational purpose. It is undisputed that the maize maze is used by children attending summer schemes and for activities associated with an annual Halloween "Fright Night" event. Evidence was given that the quod bike courses, focus farmer visits and llama trekking have extended into the eastern part of the holding.
19. It is not necessary for the appellants to establish that recreation/training activities on the eastern side of the holding were immune from enforcement on the day of the LDC application. Regardless of the frequency and duration of such activities, they were consistent with the mixed use character of the overall planning unit and did not

require planning permission in their own right. Any use of the underpass to facilitate such activities would therefore have been lawful.

20. According to the appellants, until 2014 there was overflow parking for Jungle visitors in the eastern part of the holding, opposite the farm house. An enforcement notice, which is now in effect, required the use of a different area for car parking to cease by 28th November 2018. That area is an extensive hard-surfaced strip alongside the A29, to the south of the eastern entrance to the underpass. On the day of my site visit, the car park seemed still available for use. There is an undetermined planning application with the Council which seeks permission to retain the car park and the pedestrian access under the road. However, it must be concluded that on the date of the LDC application, 5th December 2018, the use of the underpass in association with car parking on the eastern side of the holding was not lawful.
21. The description of the use given on the application form will be modified to reflect the conclusions set out above. Subject to that modification, I am satisfied that if the Council had refused the application, its refusal would not have been well founded.

COMMISSIONER TREVOR RUE

PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT

The Planning Appeals Commission hereby certifies that on 5th December 2018 the use described in the First Schedule to this certificate, in respect of the land specified in the Second Schedule to this certificate, was lawful within the meaning of Section 169 of the Planning Act 2011, for the reasons set out in the appeal decision to which this certificate is attached.

Trevor A Rue

COMMISSIONER TREVOR RUE

8th November 2019

FIRST SCHEDULE

Use for pedestrian access ancillary to agricultural and recreational or training uses lawfully carried out on the land shown outlined in blue on the attached plan annotated PAC 1 (excluding the fields marked A, D, E and F). For the avoidance of doubt, this did not include use in association with car parking on the eastern side of the A29 Desertmartin Road.

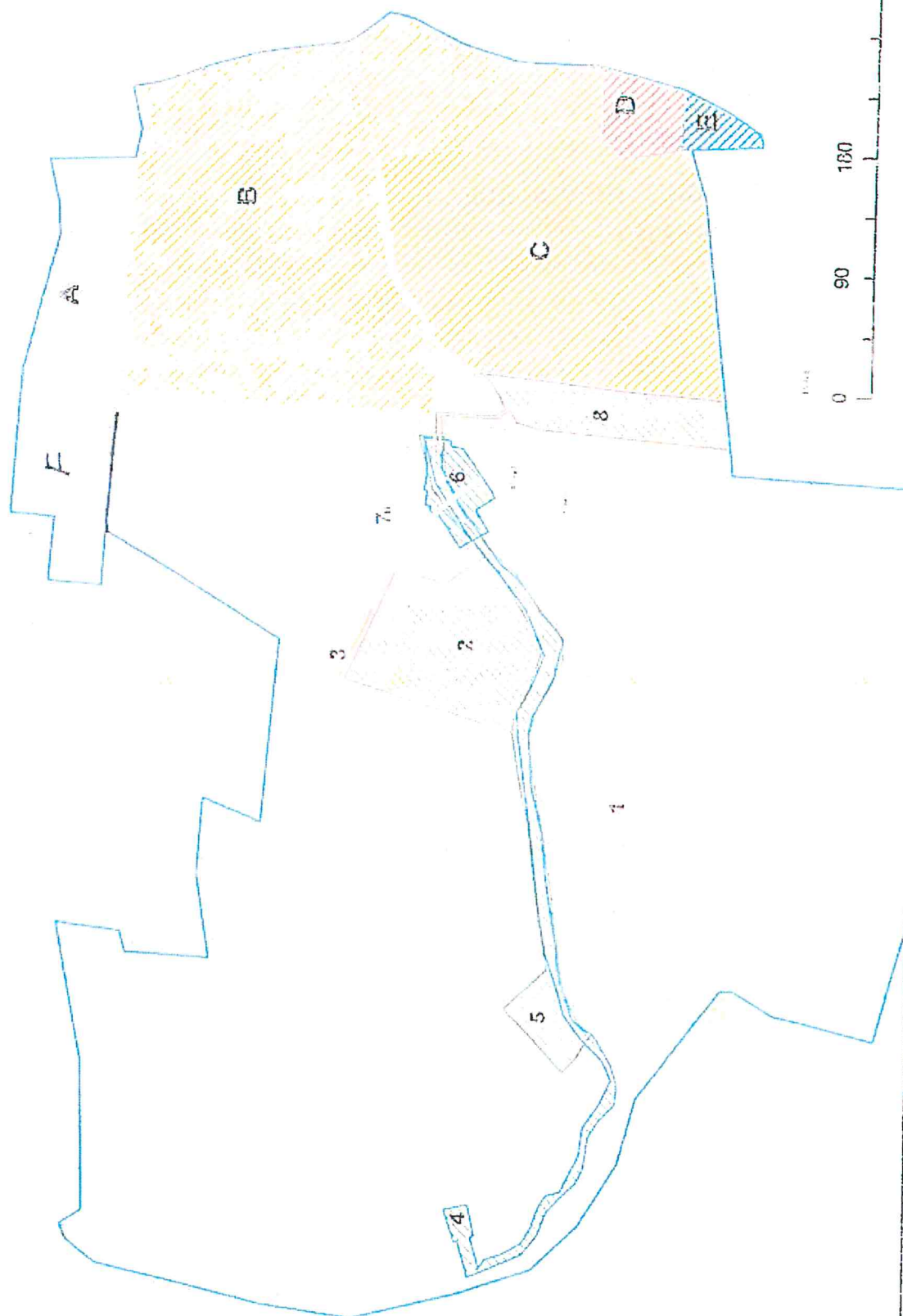
SECOND SCHEDULE

Underpass opposite and to the south east of 60 Desertmartin Road, Moneymore, Magherafelt in the location shown outlined in red on Drawing PD-01 Revision A, which was submitted to Mid Ulster District Council on 1st March 2019 and referenced 01/1.

Notes:

- (1) This certificate is issued solely for the purpose of Section 169 of the Planning Act 2011.
- (2) It certifies that the use described in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and, thus, was not liable to enforcement action under Section 138 or 139 of the Planning Act (Northern Ireland) 2011 on that date.
- (3) This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner and occupier liable to enforcement action.

PAC 1



Attendance at Site Visit

Planning Authority:- Mr M Bowman, Mid Ulster Council
Ms E McCullough, Mid Ulster Council

Appellants:- Mr A Ryan, Solicitor
Ms T Cassidy, TC Town Planning
Mr R Carmichael, owner and director

List of Documents

Planning Authority:- LPA 1 Statement of case with Appendices A to K
LPA 2 Rebuttal with Appendices A to D
LPA 3 Answers to Commission's questions

Appellants:- APP 1 Statement of case with Appendices 1 to 7
APP 2 Rebuttal statement with Appendices 1 to 8
APP 3 Answers to Commission's questions



Costs Decision

Park House
87/91 Great Victoria Street
BELFAST
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F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2019/E0008
Appeal against:	Failure to give a decision on an application for a certificate of lawfulness of existing use or development
Location:	Underpass opposite and to the south east of 60 Desertmartin Road, Moneymore, Magherafelt
Claim by:	The Jungle NI
Claim against:	Mid Ulster District Council for a full award of costs
Decision by:	Commissioner T A Rue, dated 8 th November 2019

Decision

1. An award of costs is denied.

Reasons

2. The appeal to which this claim relates was made by a party to an appeal under Section 173 of the Planning Act (Northern Ireland) 2011 and is eligible for consideration in accordance with Section 205.
3. The Commission's guidance on costs awards states that a costs claim should be made as soon as reasonably practicable after the behaviour that triggered it. In the case of an appeal proceeding by exchange of written representations with an accompanied site visit, any costs claim (unless related to behaviour at the site visit) must accompany the claiming party's final written submission. The present claim was submitted in timely fashion with the claimants' rebuttal evidence.
4. The claimants' consultants referred to e-mail exchanges with planning officers at application stage and to subsequent contacts. They argued that had the Council requested additional information that formed the claimants' appeal evidence at application stage, then it would not have been necessary to make a non-determination appeal and the Council may have issued a certificate on the basis of the substantial evidence now placed before the Commission. The claimants believed that the Council had no credible evidence to dispute that the underpass had been used continuously for more than five years for the purposes described.
5. Section 169(4) of the Planning Act places an onus on an applicant for an LDC to provide information to satisfy the Council of the lawfulness at the time of the application of the use described in the application. It was for the claimants to make their case and for the Council to assess that case. In the LDC context, the Council was not under a duty to advise the claimants what information to submit.

6. The e-mail exchanges at application stage and the evidence provided at appeal stage indicate that both parties proceeded on the flawed assumption that in order for an LDC to be granted, the claimants would have to demonstrate that the asserted use of the underpass was immune from enforcement, having begun more than five years before the date of the application. Neither party appreciated the ancillary nature of the underpass or grasped the importance of the planning unit.
7. Between them, the parties provided all the information necessary to determine the appeal but neither party properly understood the significance of the information. It cannot be said that either party acted more unreasonably than the other. A costs award would therefore not be justified.

COMMISSIONER TREVOR RUE

Documents

Claimants:-	"A"	Claim for costs by T C Town Planning
Planning Authority:-	"B"	Response to claim, with e-mail chain

Report on	Update on Ammonia and Ulster Farmer's Union
Date of Meeting	3rd December 2019
Reporting Officer	Planning manager
Contact Officer	Planning manager

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	For information
2.0	Background
2.1	Members will recall that a letter from the The Farmers Union was presented to the planning committee on 1 st October. The Farmers Union was concerned that a change in the trigger point for ammonia emissions from 1% as per NIEA guidance in the loading rate to 0.1% as proposed in guidance by the Shared Environment Service would have an impact on the industry. The Committee resolved that the Planning Manager should set up a meeting between the farmers union, members, NIEA and parties to discuss the matter.
3.0	Main Report
3.1	As instructed the Planning Manager approached SES and NIEA to organise a meeting. However, NIEA indicated that they were currently considering the issue and it was likely that within the next couple of months they would have established their position and are likely to issue new draft guidance. Therefore, a meeting would not be appropriate until they had completed their deliberations. Whilst the Shared Environment Service had no objection to a meeting when muted, I understand that they are now under threat of legal challenge and are also considering their position on the matter.
3.2	Given I have been unsuccessful in organising the proposed meeting I wrote to the Farmers union on 19 th November advising them that the Council recognised their concerns and had unsuccessfully tried to organise a meeting, because NIEA were currently reconsidering the need for new guidance. I have also advised the farmers union that the Council will continue to assess each application on its merits based on the established guidance of NIEA, unless it is demonstrated that the risk is so great on the site in question and in relation to intensity of the use of the farm building a different approach is needed (Appendix 1) .

3.3	In drafting this response I am mindful that most farm buildings such as cattle sheds are unlikely to have a significant impacts, however large intensive pig and chicken sheds close to a European designation represent a much greater of resulting in significant. Obviously I will need to reconsider our approach to assessing applications in light of any changes to guidance as issued by NIEA.
3.4	In order to assist members understand the adverse impacts of ammonia emissions on habitats, particularly bogland I have attached a DAERA presentation on air pollution in the UK. This shows that in terms of critical levels nearly all of Northern Ireland exceeds recommended levels and Mid Ulster and the areas around southern Lough Neagh is the largest concentration within the UK.
4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: N/A
	Human: N/A
	Risk Management: N/A
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: N/A
	Rural Needs Implications: N/A
5.0	Recommendation(s)
5.1	To note the report and documents attached
6.0	Documents Attached & References
6.1	Letter from Planning Manager to Ulster Farmers Union dated 19 th November 2019 Presentation on Air Pollution in the UK 2018



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Ivor Ferguson
Ulster Farmer's Union
475 Antrim Road
Belfast

Your Ref LPY/AI

19th November 2019

Dear Mr Ferguson

CHANGES TO PLANNING RULES FOR FARMS AND SHARED ENVIRONMENTAL SERVICES

In response to your letter received on 12th September 2019 to our Chief Executive, I am able to advise that your concerns were reported to the Planning Committee on 1st October 2019. The Council is also concerned that the draft practice guidance for assessing the impact of ammonia from agricultural developments on some designated habitats (Shared Environmental Service SES, 30 July 2019) would place an increased burden on farmers and could hamper investment in the industry. As I am sure you will appreciate, both agriculture and food processing are central industries to the wellbeing of Mid Ulster and therefore any changes to future practice need to be managed wisely.

The Council equally shares your view that Ammonia emissions from agriculture is an issue needing action to address it and we welcome that the Farmers Union have been engaging with DAERA over the past couple of years in order to develop an Ammonia Action Plan for NI.

In relation to your specific point on the more stringent trigger point being introduced by SES in comparison to the guidance offered by NIEA/ DEARA this is an issue which also concerns the Council. In order to help address this Members had asked if I could facilitate a liaison between the SES, DAERA, Members and the farmers union. However, NIEA/DAERA have advised that such a meeting would best left until after they have had opportunity to consider the matter further and they have indicated is anticipated that they will be issuing their own guidance on the matter in the coming months.

In the meantime, Mid Ulster Council will continue to assess each application on its merits based on the established guidance of NIEA, unless it is demonstrated to us

that the risk is so great on the site in question and in relation to the intensity of the use that a different approach is needed.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'C. Boomer', with a stylized, flowing script.

Dr Chris Boomer

Planning Manager Mid Ulster District Council



Department
for Environment
Food & Rural Affairs

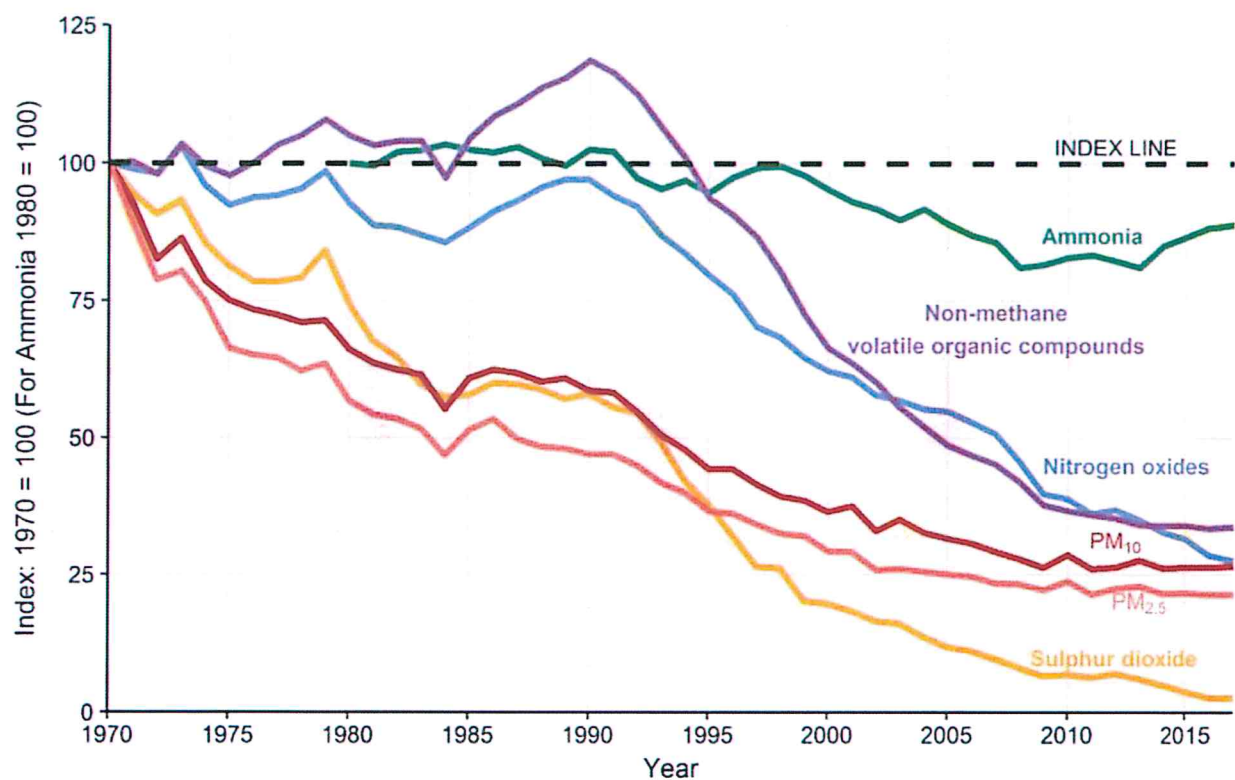
Air Pollution in the UK 2018

September 2019



**Mid & East
Antrim**
Borough Council

Figure 1: Trends in annual emissions of sulphur dioxide, nitrogen oxides, non-methane volatile organic compounds, ammonia and particulate matter (PM₁₀, PM_{2.5}) in the UK: 1970 – 2017



Source: Ricardo Energy & Environment



Trends Report 2019: Trends in critical load and critical level exceedances in the UK

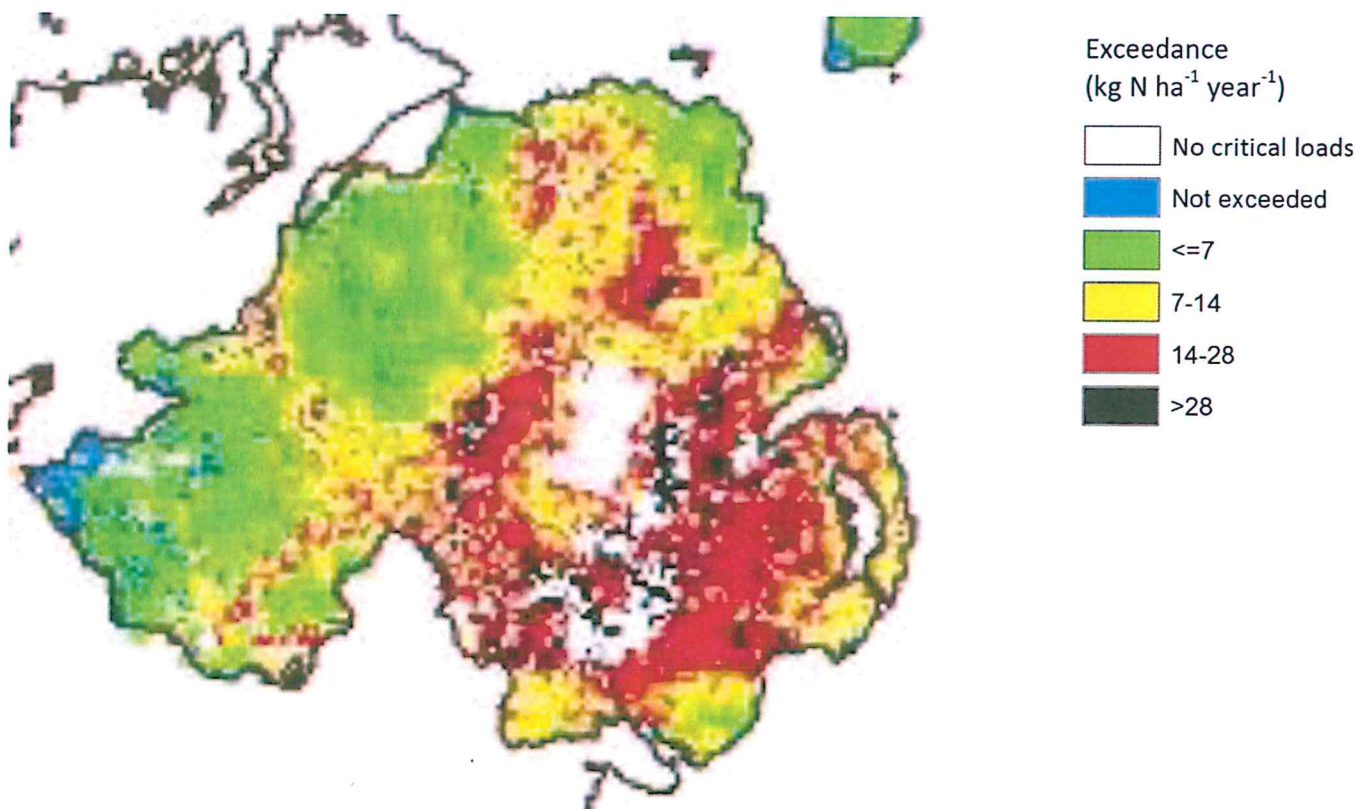
**Ed Rowe¹, Kasia Sawicka¹, Zak Mitchell¹, Ron Smith², Tony Dore²,
Lindsay F. Banin² & Peter Levy²**

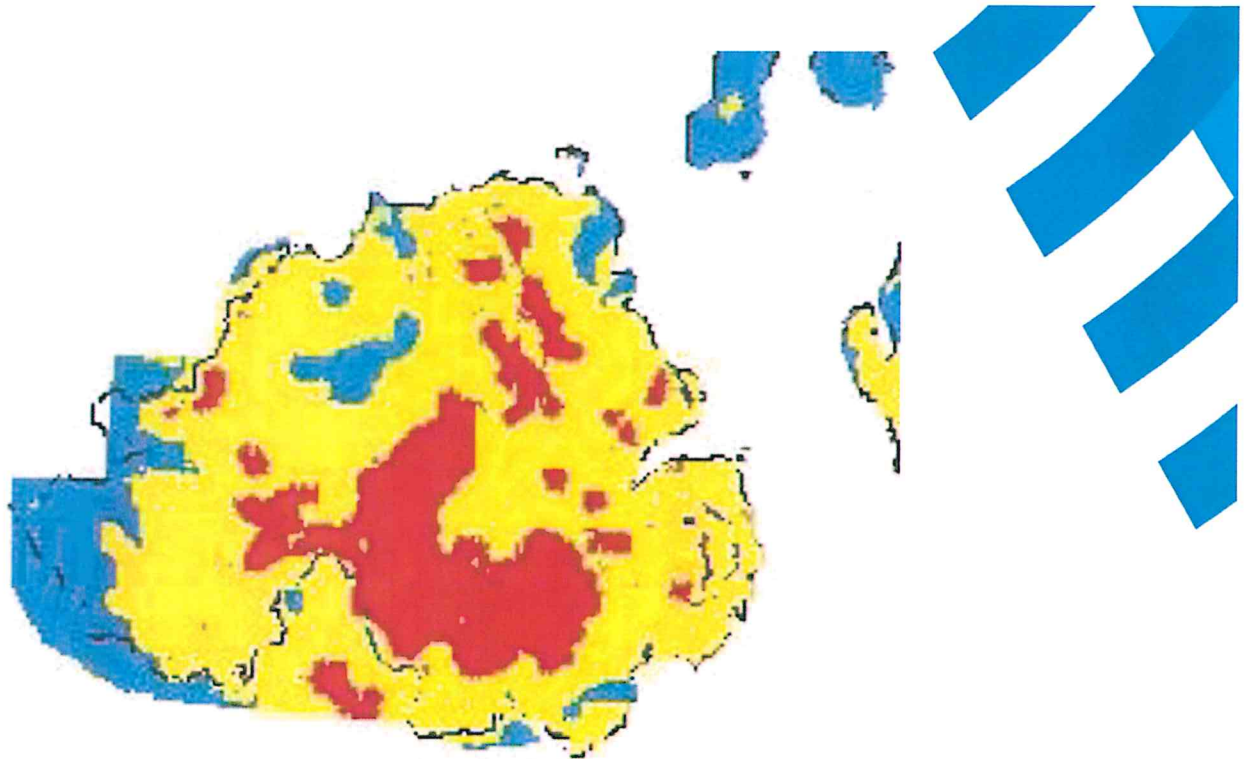
¹CEH, Environment Centre Wales, Bangor, Gwynedd, LL57 2UW

²CEH, Bush Estate, Penicuik, Midlothian, EH26 0QB



Average Accumulated Exceedance of nutrient critical loads 2015-17

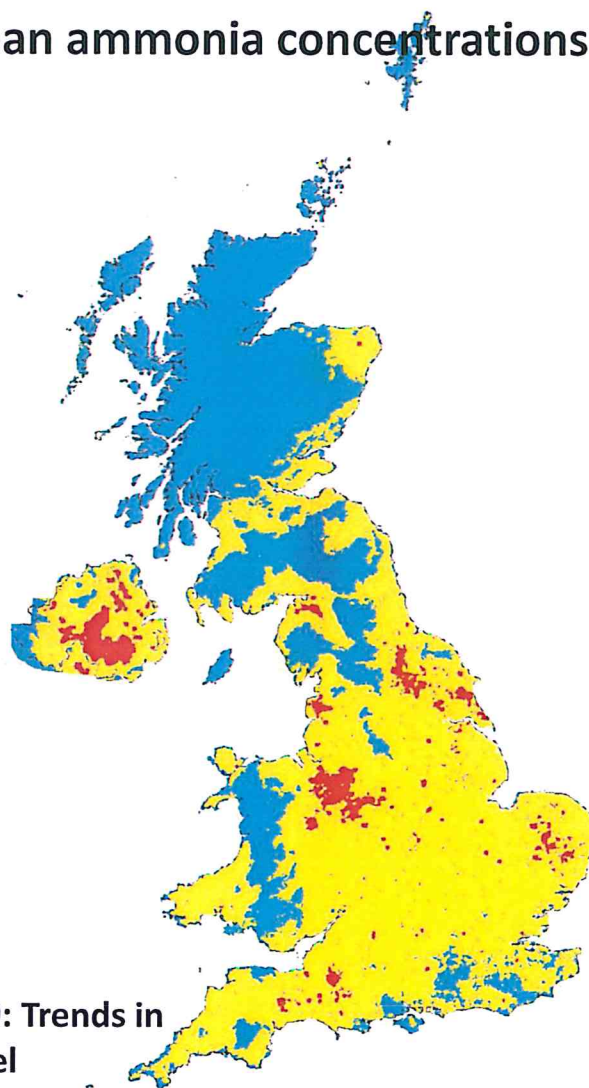




Ammonia concentrations (ug m^{-3})

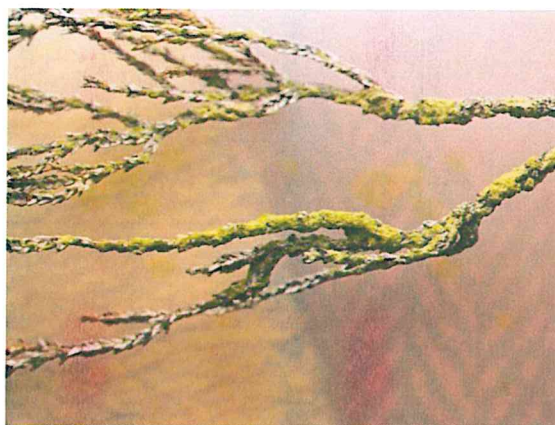
- ≤ 1 (Critical levels not exceeded)
- 1 - 3 (Critical level for lichens and bryophytes exceeded)
- > 3 (Critical levels for lichens and bryophytes, and higher plants exceeded)

FRAME 1x1 km mean ammonia concentrations for 2014-16



Source: Trends Report 2019: Trends in critical load and critical level exceedances in the UK

Northern Ireland NH₃ Emissions

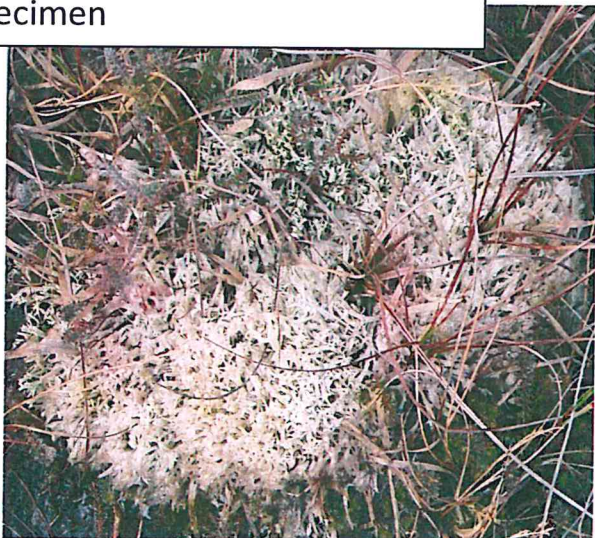


A recent study predicts that plant species richness of five widespread semi-natural habitats in the UK is approximately one-third less than it would be without nitrogen deposition (Payne et al, 2017)

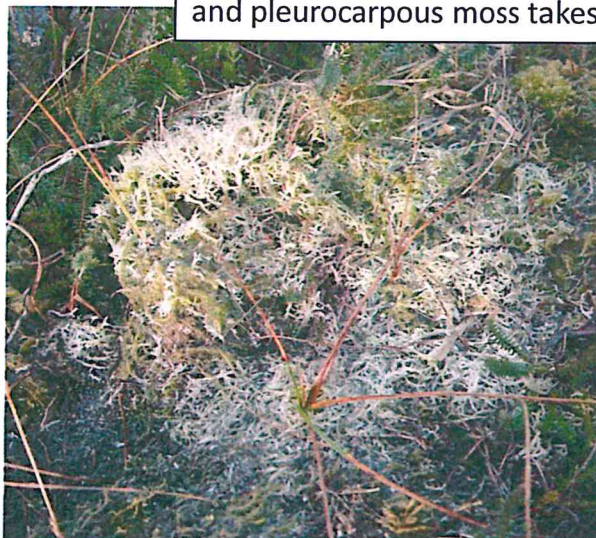
What actually happens to protected habitats?

Damage to lower plants – *Cladonia* lichen

Usually blueish – bleaching of specimen



Eventual fate – Hummock falls apart and pleurocarpous moss takes over

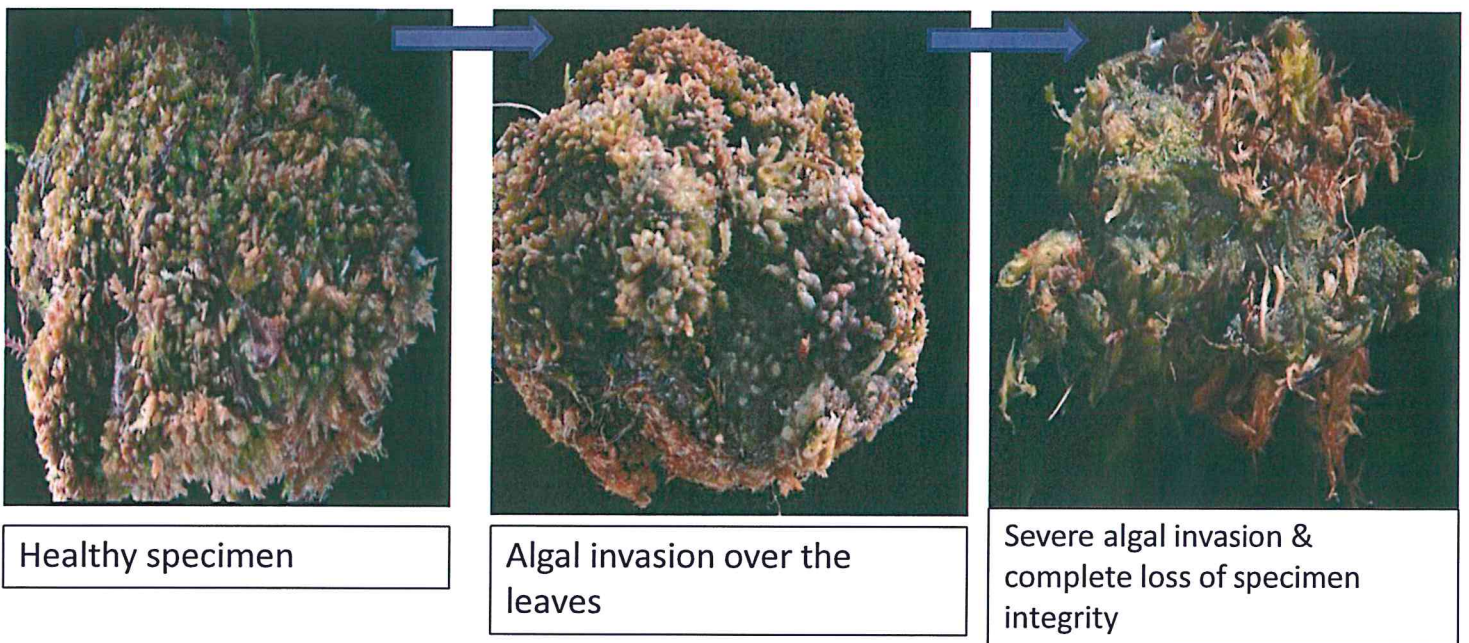


Progressive deterioration as a result of ammonia damage as shown at Moninea Bog SAC

What actually happens?

Algal Invasion

Example of progressive damage in the bog moss *Sphagnum imbricatum*, as observed at Moninea Bog.

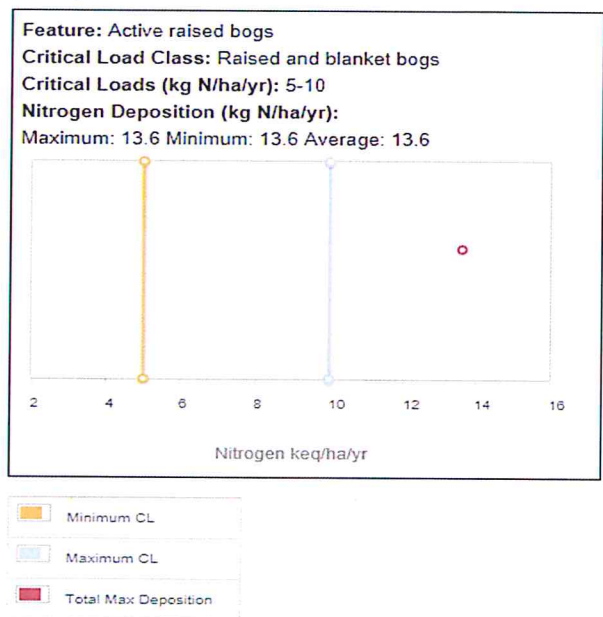


DAERA Operational Policy

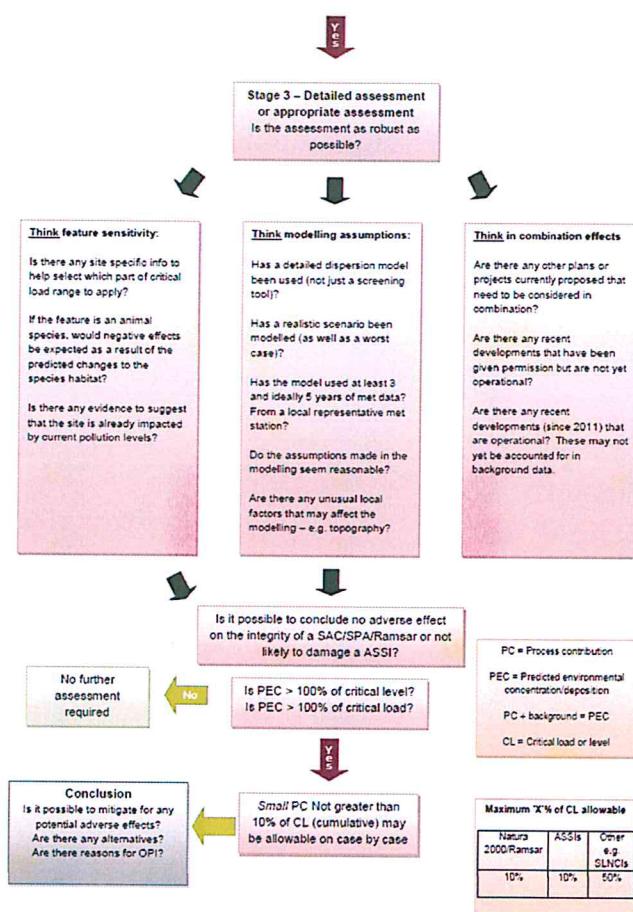
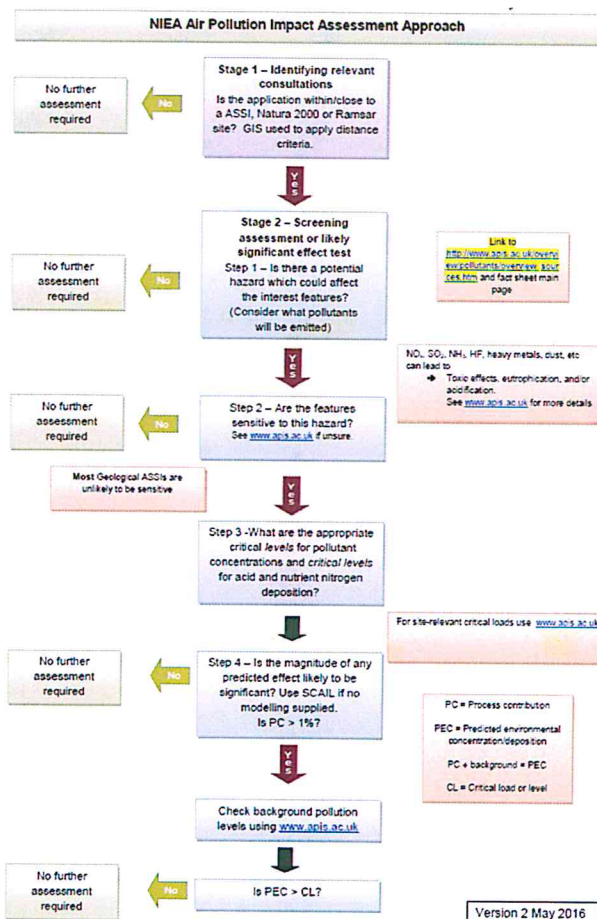
Policy in Summary;

- <1% of Critical Level (CL) - insignificant, no assessment required.
- Where CL of site is not exceeded; the Process Contribution and background should not exceed 70% of CL (rarely applies)
- Where background is exceeding, an additional 10% loading, in combination with other facilities subject to DAERA policy, is accepted

Nitrogen Critical Loads



Moninea Bog SAC – Site specific info can be found on <http://www.apis.ac.uk/>



SES Internal Guidance

SES

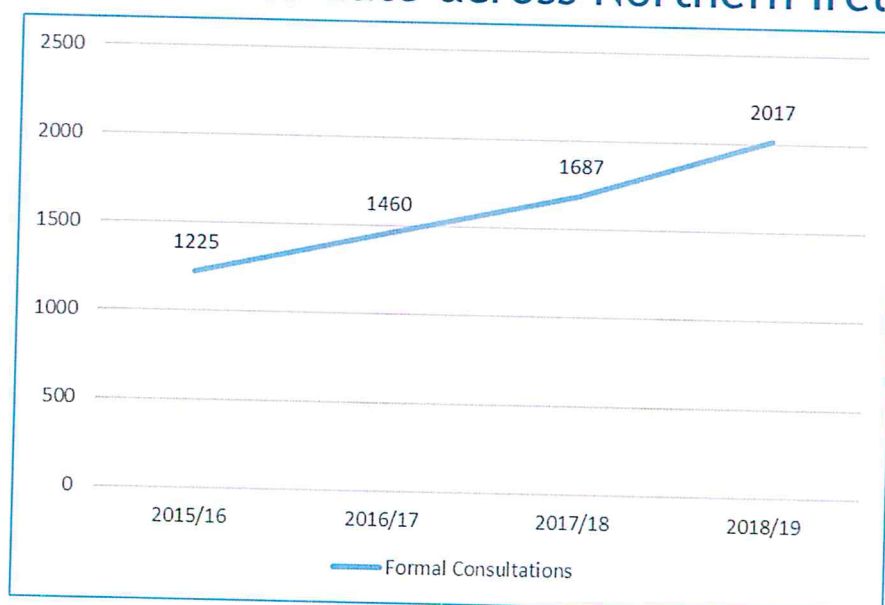
- $\leq 0.1\%$ of Critical Level (CL) - insignificant, no assessment required.
- $> 0.1\%$ Assess in-combination
- Where background is exceeded, case by case assessment

NIEA

- $<1\%$ of Critical Level (CL) - insignificant, no assessment required.
- Where background is exceeding, an additional 10% loading, in combination with other facilities subject to DAERA policy, is accepted

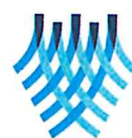
Habitats Regulations Assessments (HRA) for Planning Applications

Over 9300 cases to date across Northern Ireland



Thank You

**SHARED
ENVIRONMENTAL
SERVICE**



**Mid & East
Antrim**
Borough Council