



02 June 2020

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Tuesday, 02 June 2020 at 19:00 to transact the business noted below.

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

Yours faithfully

Anthony Tohill  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

#### Development Management Decisions

4. Receive Planning Applications 5 - 202

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2017/1226/F	Housing development of 76 units adjacent to junction of Station Road and Tullybroom Road, Clogher, for T and H Mills.	APPROVE
4.2.	LA09/2018/0484/F	Waste water treatment works including 3m security fencing, gates, underground sewer pipe, concrete range well, security light, telemetry antenna, 2 kiosks, hardstanding for vehicular access, vehicle turning area and	APPROVE

		Kingspan BN biodisc RBC unit to service housing development at approx. 43m W of 57b Station Road, Clogher and adjacent to existing NIW WWTW, for T and H Mills.	
4.3.	LA09/2018/1302/O	Housing development immediately E of 5 - 11 Cavehill Drive, Kilmascully Road, Ardboe, for M Mallon.	APPROVE
4.4.	LA09/2019/0313/F	5 detached dwellings and 12 semi-detached dwellings, detached garages, car parking, landscaping, retaining walls and other associated site works, including temporary treatment works, at lands to the NE of 3 Old Omagh Road, Ballygawley, for Dr J Gormley.	APPROVE
4.5.	LA09/2019/0317/F	2 detached bungalows and 2 semi-detached dwellings, detached garages, car parking, landscaping and all other associated site works, including temporary treatment works, at lands to the NE of 3 & 15 Old Omagh Road, Ballygawley, for Dr J Gormley.	APPROVE
4.6.	LA09/2019/0456/O	2 dwellings and associated works to the rear of 32 The Square, Stewartstown, for Kevin Campbell.	APPROVE
4.7.	LA09/2019/0766/F	Café at site 20m E of unit 7-11 Kilcronagh Business Park, Cookstown, for K E Holdings.	APPROVE
4.8.	LA09/2019/0823/F	Residential development of 13 dwellings (9 detached & 4 semi-detached), 5 garages and associated site works at 6 Tullyodonnell Road, Rock, for F P Dev Ltd.	APPROVE
4.9.	LA09/2019/0994/F	Housing development of 39 units consisting of 2 storey detached and semi-detached dwellings with open space and temporary waste water treatment works at site N of 3 Coolreaghs Road, Cookstown, for J and A Developments Ltd.	APPROVE
4.10.	LA09/2019/1276/F	Partial removal of roof of drive	APPROVE

		thru lane at KFC, 45 Killymoon Street, Cookstown, for Kirk & Bryson Co Ltd.	
4.11.	LA09/2019/1285/F	Dwelling and garage (change of house type) at 86m NW of 81 Killyliss Road, Dungannon, for Gary McCann.	APPROVE
4.12.	LA09/2019/1322/O	Site for dwelling and domestic garage approx. 30m S of 4 Killyneese Road, Castledawson, for Brendan McKenna	APPROVE
4.13.	LA09/2020/0069/F	Replacement dwelling and garage at site adjacent to 42 Dreenan Road, Drummuck, Upperlands, for Mr and Mrs Adam and Catherine Morgan.	APPROVE
4.14.	LA09/2020/0106/O	Dwelling adjacent to/N of 44A Glencrew Road, Aughnacloy, for Enda McGarrity.	APPROVE
4.15.	LA09/2020/0111/F	Single storey rear extension and single storey side carport at 10 Ballyheifer Road, Magherafelt, for Shauna Wright.	APPROVE

## 5. Receive Deferred Applications

203 - 252

	Planning Reference	Proposal	Recommendation
5.1.	H/2014/0154/F	Agricultural store 150m NE of 20 Newferry Road, Bellaghy, for Alan Mawhinney.	APPROVE
5.2.	LA09/2018/0944/O	Dwelling and garage (infill) approx. 90m SE of 43 Rocktown Road, Bellaghy, for Mr David Arrell.	APPROVE
5.3.	LA09/2019/0417/O	Dwelling and garage 180m NW of 18 Lower Grange Road, Cookstown, for Lawson Martin.	APPROVE
5.4.	LA09/2019/1220/F	Dwelling and domestic garage at 35m N of 25 Annaghmore Road, Annaghmore, for Eithne O'Neill	APPROVE

## 6. Receive Revised Statement of Community Involvement

253 - 300

## Matters for Information

### 7 Minutes of Planning Committee held on 3 March 2020

301 - 318

**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

Matters for Information

8. Confidential Minutes of Planning Committee held on 3 March 2020
9. Enforcement Live Case List
10. Enforcement Cases Opened
11. Enforcement Cases Closed

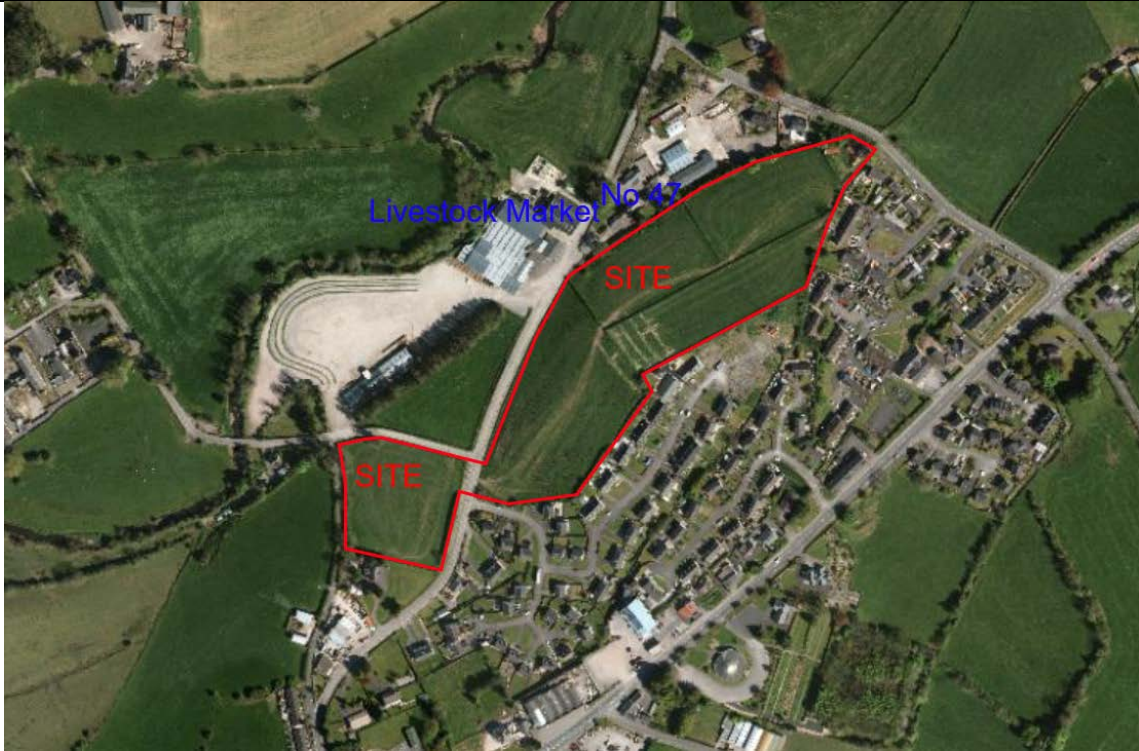


**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1226/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed residential housing development consisting of 76 no units	<b>Location:</b> Adjacent to Junction of Station Road & Tullybroom Road Clogher
<b>Referral Route:</b>  This is a Major planning application	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> T & H Mills 122 Aghintain Road Fivemiletown BT75 0RW	<b>Agent Name and Address:</b> Neil Irvine Design Ltd Unit 5 The Buttermarket 132 Main Street Fivemiletown BT75 0PW
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Rivers Agency	Advice
Statutory	NIEA	Advice
Statutory	NI Water - Multi Units West - Planning Consultations	Advice
Non Statutory	Environmental Health Mid Ulster Council	Consulted in Error
Non Statutory	Shared Environmental Services	Substantive Response Received

Statutory	NIEA	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	NIEA	Content
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	Content
Statutory	Historic Environment Division (HED)	
Statutory	DFI Roads - Enniskillen Office	
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice

**Representations:**

Letters of Support	None Received
Letters of Objection	8
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

Representations have been received from press notice or neighbourhood notification. For assessment of representations see below.

During the processing of this application, representation has been received from two sources of the public.

1. The occupiers of no 47 Station Road, a listed building dwelling located adjacent to the Station Road and to the north west of the larger development land and
2. Objection on behalf of Clogher Valley Livestock Producers Co. who operate an animal sales yard on the opposite side of Station Road.

The objections relate to the following;

- Pre application consultation process.
- Lack of cross sections. Finished floor levels
- Negative impact on listed building in terms of overlooking, overshadowing, safety of children and loss of privacy;
- Treatment of archaeological features.
- Validity and description of the application.
- Traffic implications on existing situation,
- Risk of flooding from storm water,
- Concern in relation to the design of dwellings as well as plot sizes, proposed public footpath encouraging anti-social behaviour adding to loss of privacy
- Density of development.
- Dominant retaining structures inadequate separation distances garden sizes open space layout and usability.
- Development plan context
- Does not respect ATC as required by plan
- Reinforce local identity informed and guided by etc.
- Noncompliance with Planning Policy Statement 7 (PPS 7): Quality Residential Environments.
- Non compliance with Creating Places
- Distances between existing properties.
- Contrary to PPS 8 policy OS2

All of these objection have been considered and I would comment;

- The pre application consultation process was called into question in relation to direct contact with neighbouring property however, the Pre Application Community Consultation Report has adhered to the requirements of The Planning (Development Management) Regulations (Northern Ireland) 2015. Evidence supplied advises that a leaflet drop took place on Friday 21 July 2017, which included properties on Station Road as well as the requisite press notice in local papers.
- During the processing of the application additional information was requested in order to fully assess the proposal. That information included details in relation to site cross sections and finished floor levels.
- An objection was raised in relation to the negative impact that the proposed development would have on the adjacent listed building in terms of overlooking, overshadowing, safety of children and loss of privacy. The applicant has amended the layout to allow for significant separation from the listed building to the nearest south eastern dwelling and incorporated landscaping as well as open space I therefore do not consider that the matters raised are so significant as to recommend refusal for the development. A public footpath within the development has been proposed on a natural desire line and it is my opinion that the open space provision around the footpath as well as landscaping and supervision from both the layout and dwelling designs provide a suitable degree of casual supervision. Consultation took place with Historic Environment Division of the Department for Communities. Initially concern was expressed in relation to the

impact of the proposal on the listed building however, amendments to the scheme gained consent. In addition, satisfactory comment was made in respect of the archaeological features impacted by the development and suitable conditions attached (see below).

- The validity of the application was questioned in respect of the site address, certificate of ownership and the site's identification; other matters included lack of information and policy compliance.
- I consider that application address is suitable, the site in question does not have a specific address and the road junction is a local identifiable location. In addition, the description of the proposal would advise the reader of the size of the site. *Residential housing development consisting 80 no units...*in addition I consider the location plan submitted to be in accordance with The Planning (General Development Procedure) Order (Northern Ireland) 2015. Examination of the submitted plans provides further detailed information including retaining structures, adjoining dwelling levels etc.
- An objection was raised in relation the completion of the ownership certificate, certificate A having been completed. On examination of the information submitted, in support of this assertion I consider that the correct certificate has been completed and that all parties with a possible interest in the land are aware of the proposal.
- Specific concern has been raised in relation to the impact that the proposed development would have on the existing situation in respect of traffic at the local mart. As stated above Department for Infrastructure- Roads (DfI Roads) were consulted in relation to this matter. Their comment included the following.
- That the use of a previous Traffic Assessment Form (TAF) for the Pre Application Discussion (PAD) was considered and that the removal of industrial land use from the proposal meant that those traffic figures were no longer relevant and therefore would reduce the traffic impact from that stated in the form.
- DfI Roads notes that the TAF does recognize that parking restrictions applies to the Station Road and Tullybroom Road therefore properties with direct access to Station Road will have double the in curtilage parking so that there is no additional strain placed on on-street parking by visitors.
- DfI Roads acknowledge that the TAF could have given greater recognition to the mart. However it is DfI Roads opinion that the main peak period associated with this proposal occurs during the am weekday period, outside peak period associated with the mart and therefore the increased traffic in this peak period would be minimal.
- The main road issues cited in the letter (objection) relates to congestion/parking in the local vicinity.

- It is the Department's opinion that these are traffic enforcement related matters and should be dealt with by the appropriate authorities and as previously indicated the traffic generated by the development during the hours of the mart are not likely to be significant.
- DfI Roads are aware of the parking issues in the vicinity of the Clogher Mart and have introduced parking restrictions in the form of carriageway lining and signage. DfI continuously review this situation as and when required.
- DfI Roads would advise that the submitted design is in compliance with DCAN15 / Creating Places and the infrastructure fronting the site complies with DMRB.
- Additionally it should be noted that parking restrictions exist along the eastern side of the Station Road and both sides of the Tullybroom Road. The restriction relates to Saturdays from 8.30 am until 6.00pm.
- Consultations included Department for Infrastructure- Roads and Rivers and Northern Ireland Water Service. These consultees did not object subject to conditions and informatives, which are attached below.
- Concern has been raised in relation to the design of dwellings, plot sizes and proposed public footpath encouraging anti-social behaviour adding to loss of privacy. The designs of the proposed dwellings vary and include single, two and three storey proposals; these are representative of both dwellings within the immediate area as well as building form within the settlement. The plot sizes proposed vary in size and conform to guidance. Within the development, public footpaths are proposed, some within the landscaped areas. These footpaths are in my opinion located in suitable areas, are casually supervised from within the development and provide for desire line connections. The plots are protected by suitable boundary fencing as well as areas of landscape therefore loss of privacy is not considered to be an issue.
- In addition the density of the proposed development was considered to be inappropriate, by objectors. Currently the Dungannon and South Tyrone Area Plan 2010 (DAP) is the relevant plan for the area. That plan identified the site as being within the settlement limits for Clogher and the plan advises that housing developments 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 proposed site has a density of circa 15 houses per hectare other densities of developments within the immediate area are
  - Primrose Hill circa 17 houses per hectare,
  - Ferndale circa 24 houses per hectare,
  - McCrea Park circa 30 houses per hectare and
  - Crossowen gardens circa 27 houses per hectare.

Although none of the above sites are directly comparable in terms of topography I consider the density of this proposal to be acceptable.

- Objection has been raised in relation to dominant retaining structures, inadequate separation distances, garden sizes, open space layout and usability. Initial layout design did not take sufficient recognition of the topography of the site and a number of attempts have been made, by the agent to address issues raised by both Mid Ulster Council and objectors. These amendments did achieve a considerable betterment for the layout design and reduction in retaining structures. Back to back, plot sizes now comply as well as recommended distances from dwelling to existing developments. In my opinion, public open space provision is suitable for the size of the development and has sufficient usable open space for the location.
- Concern has been expressed by objectors in relation to compliance with the development plan and adherence to comment in respect of the Area of Townscape Character, as well as local identity issues. I am aware of such plan comment, which is a material consideration. I would comment that significant development has taken place within the settlement limits over the life of the plan and to my mind the layout, building design and finishes is in keeping with the existing residential developments and the overall appearance of the settlement. The area of townscape character has various designs and finishes within it. One, two and three storey dwellings with stone and smooth plaster finishes. Even closer development such as Primrose Hill has frontages with brick finishes, Ferndale has brick dwellings and the old station accessed from Station Road is brick built. These elements, to my mind provide a variety of finishes from which to draw example.
- Objections have been raised in relation to the non compliance with Planning Policy Statement 7 (PPS7): Quality Residential Environments, Policy QD 1. Sections (a), (b), (c), (d), (h) and (i) being highlighted.

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

The site is located approximately 300 metres north west of Saint Patricks RC Church Clogher and opposite to Clogher Valley Mart. The site is large and occupies land on both sides of the Station Road. Lands to the east of Station Road have a proposed access from Station Road and lands to the west of Station Road have a proposed access from the Tullybroom Road.

The western part of the site encompasses one large field, which is elevated above both Station and Tullybroom Roads, which partially define the site boundaries. Good hedge lines define the field within the landscape. The eastern part of the site is made up of four fields of varying acreages. Again, this part of the site is elevated above the Station Road.

Land uses beyond the site are as follows;

The western part of the site;

To the north and on the opposite side of Tullybroom Road a small triangular shaped field and the access point for a car park associated with Clogher Mart. The main mart buildings lie some 145 metres to the north of Tullybroom Road. To the east and on the

opposite side of Station Road are residential units. To the west and on the opposite side of a narrow laneway lie agricultural land. To the south and adjacent a residential unit with garden beyond that an agricultural suppliers yard.

The eastern part of the site;

To the north, residential and commercial. To the east, residential. To the west, Clogher Mart on the opposite, side of Station Road. To the south, residential.

### **Description of Proposal**

Proposed housing development with the limit of development for Clogher in compliance with Planning Policy Statement 7 (PPS7) Quality Residential Environments.

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

The main policy under which the proposed development is to be considered is Planning Policy Statement 7 (PPS 7): Quality Residential Environments where Policy QD 1 sets out the main criteria which the proposal has to meet. Note that other policy considerations is required, see below.

Policy QD 1 of PPS 7 states that all proposals for residential development will be expected to conform to stated criteria:

It is my opinion that the proposal respects the surrounding context in terms of design and density and is suitable solution for the character and topography of the site of the site. The proposed site has a density of circa 15 houses per hectare other densities of developments within the immediate area are;  
Primrose Hill circa 17 houses per hectare, Ferndale circa 24 houses per hectare, McCrea Park circa 30 houses per hectare and Crossowen gardens circa 27 houses per hectare.

Within the site, archaeological features have been identified and the layout has been designed to avoid same. With the developer, having identified and recorded any evidence found, Attached conditions will safeguard the identified archaeological items.

The layout has a variety of house types and each has been provided with, what I consider to be a sufficient amount of private open space (mainly rear gardens). The size of each plot varies and few of the rear gardens fall below the recommended size however it my opinion that the recommended average garden size, of 70sqm has been achieved. Public open space provision has been located throughout the development and takes the form of passive open space, which I believe is suitable for the topography of the site. Landscaped areas have also been provided which help provide a suitable degree of privacy to the rear gardens and help subdivide the development.

Public open space has been provided by the developer as an integral part of the development and conditioned to be managed, retained and maintained. I do not consider it reasonable to require any further neighbourhood facility.

The proposed development delivers not only roads with associated footpaths, which has been approved by the Department for Infrastructure – Roads but also provides for

separate pedestrian linkages through the open space provision, connecting to the local road network.

The car parking provision is provided in the form of in plot spaces and the parking provision meets the required standard, which has been confirmed by Department for Infrastructure – Roads.

I consider that the proposals presented provide designs and details that take example from local development in the settlement and are therefore suitable.

Some plots will have more impact on adjoining proposed plots. However these areas are in my opinion acceptable given the significant variation in levels across the site and the location of such sites. Any negative impact on existing development I consider to have been addressed by way of proposed rear garden depth as well as provision of fencing, landscaping and tiering of the land form. Noise issues generally arise during the construction phase of a development, these can be controlled by means of other legislation.

This development has been designed in such a manner as to provide casual supervision from within the site, from footpaths, roads and dwellings. The dwellings have supervision over their own plots and suitable landscaping has been proposed to protect the rear of properties.

In addition to PPS7 the publication Creating Places - achieving quality in residential developments provides guidance in assessing housing proposals.

The publication advises flexibility when assessing applications whereby a balance will have to be struck between competing objectives. In addition the guide advises;

*Prescriptive requirements in the guide have been kept to a minimum to give developers as much scope as possible to produce high quality designs. Scope for flexibility is implicit in those requirements cited as being 'around' a specified numerical value.*

The guide also advises;

*The Department will consider each development on its individual merits and developers should not therefore assume that a relaxation given for one development will be applied to another.*

With regards to an assessment of the application under PPS 7 listed criteria I consider the following:

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

- It is my opinion that the proposal respects the surrounding context in terms of design and density and is suitable solution for the character and topography of

the site of the site. The proposed site has a density of circa 15 houses per hectare other densities of developments within the immediate area are: Primrose Hill circa 17 houses per hectare, Ferndale circa 24 houses per hectare, McCrea Park circa 30 houses per hectare and Crossowen Gardens circa 27 houses per hectare.

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

- Within the site, archaeological features have been identified and the layout has been designed to avoid same. With the developer, having identified and recorded any evidence found, Attached conditions will safeguard the identified archaeological items.

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

- The layout has a variety for house types and each has been provided with, what I consider to be a sufficient amount of private open space (mainly rear gardens). The size of each plot varies and few of the rear gardens fall below the recommended size and the recommended average garden size of 70sqm has been achieved. Public open space provision has been located throughout the development and takes the form of passive open space which I believe is suitable for the topography of the site. Landscaped areas have also been provided which help provide a suitable degree of privacy to the rear gardens and help subdivide the development.

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

- In this instance public open space has been provided by the developer as an integral part of the development and conditioned to be managed, retained and maintained. I do not consider it reasonable to require any further neighbourhood facility.

**(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;**

- Some plots will have more impact on adjoining proposed plots. However these areas are in my opinion acceptable given the significant variation in levels across the site and the location of such sites. Any negative impact on existing development I consider to have been addressed by way of proposed rear garden depth as well as provision of fencing, landscaping and tiering of the land form.

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

- This development has been designed in such a manner as to provide casual supervision from within the site, from footpaths, roads and dwellings. The dwellings have supervision over their own plots and in certain areas suitable landscaping is proposed to protect the rear of properties.

### **Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation**

Objection has been raised in respect of garden sizes, back to back distances (both proposed and with existing developments). It is my opinion that the design and plot sizes proposed within this development are suitable for this urban location. Back to back distances of 20 metres have been provided on the proposed layout and to my mind the proposed new properties are sufficiently located away from the common boundary with existing properties.

A range private open space is provided throughout the development, and the developer has provided an index of private open space per unit. The developer's private open space provision has been calculated including rear of building line garden plus areas to the front of garages. One should bear in mind that the private open space provision criteria is generated from the publication Creating Places, which is supplementary planning advice and provides guidelines and not prescriptive rules for residential development.

Compliance with Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation was called into question. Specifically in relation to Policy OS 2 Public Open Space in New Residential Development

Compliance with Planning Policy Statement 8, policy OS2 requires the developer to provide public open space as an integral part of the development. Exceptions are provided for; however, they do not exist in this case. The open space required for each development is a matter of negotiation with the developer, taking into consideration the specific characteristics of the development, the site and its context. A normal expectation will be at least 10% of the total site area. Due to the topography of the site, the provision of active public open space would be hard to deliver and active public open space does have its drawbacks adjacent to or in close proximity to residential properties. I consider the open space provision provided within this development to be satisfactory considering the site-specific characteristics of the site.

The open space provided in this development is in my opinion provided as an integral part of the development, has passive recreational and amenity value, it provides safe and easy access, the amenity of nearby residents is catered for by way of the passive nature of the open space, people with disabilities can access it and the important heritage features within the site will be retained and protected.

Within the application a landscape management and maintenance plan has been submitted which I consider to be suitable for its purpose. In addition, a negative condition has been attached to ensure that an appropriate management company is in place prior to the occupation of any dwelling within the development.

## **Planning Policy Statement 6 (PPS 6): Planning, Archaeology and The Built Heritage**

Within the site lies an area of archaeological interest, which the developer has identified and protected by placing same within an area of public open space. In addition, the site lies adjacent to a listed building, the old railway station. Consultation with Historic Environment Division of the Department for Communities has resulted in a positive reply on both items subject to condition and the requirements of Planning Policy Statement 6 (PPS 6): Planning, Archaeology and The Built Heritage are therefore considered to be met.

During the processing of the application, additional/amended information has been requested and submitted, that information included layout, cross sections and other details. It is my opinion that sufficient information is present to allow for the processing and determination of this application.

This application being categorised as major has complied with the requirements of the Planning (Development Management) Regulations (Northern Ireland) 2015

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies, however the policy provisions of Planning Policy Statement 7: Quality Residential Environments, Planning Policy Statement 7 (PPS 7) (Addendum): Safeguarding the Character of Established Residential Areas and Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation are retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area, no other issues have been identified.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has 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 application LA09/2018/0484/F: is an application submitted by the same applicant for a

“Proposed Waste Water Treatment Works including 3m security fencing with 4m and 1m wide gates ,associated underground uPVC sewer pipe, concrete range well, 6m security light, 3m telemetry antenna,2No GRP kiosks hard standing area for vehicular access with associated visibility splays, vehicle turning area and Kingspan BN biodisc RBC unit to service housing development LA09/2017/1226/F”

This application awaits a decision on this current application as waste water treatment is not available from Northern Ireland Water for this proposal and a separate developer constructed works is required.

It is my opinion that the proposed development meets policy criteria and therefore I recommend approval.

**Recommendation:**

I recommend that planning permission be granted subject to conditions.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve subject to the conditions listed below.

**Conditions**

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

Reason: Time Limit.

2. During the first available planting season after the occupation of any more than 50% of any of the residential units on plots 1 - 16 hereby approved, the developer shall construct, layout and plant all landscaped and open space areas in the part of the site accessed via Tullybroom Road in accordance the submitted landscaping scheme in drawing no 34/11 (Landscape scheme).

During the first available planting season after the occupation of any more than 50% of any of the residential units on plots 17 – 36, 45, 46 and 48 – 81, hereby approved, the developer shall construct, layout and plant all landscaped and open space areas in the part of the site accessed via Station Road in accordance the submitted landscaping scheme in drawing no 16 (Landscape scheme).

All hard and soft landscaping works shown on the approved plans shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape to aid the integration of the development into the local landscape in a timely manner and to assist in the provision of a quality residential environment in accordance with PPS7 Quality Residential Development and PPS8 Open Space, Sport and Outdoor Recreation.

3. All retaining structures shall be constructed in accordance with the detailed drawings, hereby approved including site sections, site layouts, elevations and wall finishes.

Reason: To ensure that the retaining structures are built in accordance with the heights proposed.

4. The open space and landscape areas as identified and agreed in accordance with condition no.2 shall be maintained in accordance with the submitted Landscape Management and Maintenance Plan, dated received 21/10/19.

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. No dwelling unit hereby approved shall be occupied until the Department agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with an appropriate management company, for all areas of public open space and landscaping (excepting adopted road/footpath) and referred to in condition 2 above. These areas shall be permanently retained as landscape/open space. (See informative 2.)

Reason: To ensure that open space is provided, maintained and managed in accordance with the Departments Policy Statements, PPS 7 - Quality Residential Environments and PPS8 - Open Space, Sport and Outdoor Recreation and to ensure its retention in perpetuity.

6. The Window System and Ventilations Systems to each of the dwelling and windows are as follows:

House ID	Required Sound Reduction dB RTra to be provided by Both Window Systems and Ventilation Systems
37, 38, 39 & 40 Front	22dB RTra
46 Front	22dB RTra
37, 38, 39 & 40 Rear	22dB RTra
10, 11 & 12 Front	22dB RTra
10, 11 & 12 Rear	22dB RTra

7. The windows to each of the dwellings shall be constructed of a material to ensure there is no degradation in the performance of the glass to be fitted within the frame.

Reason: To protect the amenity of the residents of the dwellings hereby approved.

8. No dwelling hereby approved shall be occupied until the Waste Water Treatment works, approved under LA09/2018/0484/F has been constructed and operational or other suitable method of sewage treatment has been provided.

Reason: to ensure that a satisfactory means of sewage disposal is provided for the development.

9. External materials in respect of house numbers 45 & 46 shall be as follows:

- a. Roof: natural grey/ black slate;
- b. Walls: Red rustic brick with textured finish (i.e. not smooth);
- c. Windows, doors and rainwater goods: dark coloured frames.

No road lighting shall be installed to the access road adjacent to the two single storey dwellings (House No.45 & 46);

The ridge heights of houses No.45 & 46 shall not exceed 85.0m and 86.0m respectively, as indicated on site section C-C, drawing No.43 Rev 6 (agent's ref: 001-34 revised 21.11.19).

The site shall be augmented on all sides with dense native hedge planting/ semi-mature trees as indicated on landscaped drawings No.34 Rev.11 and No.53 Rev.9 (agent's ref: 001-28 and 001-28a revised 21.11.19).

Reason: to protect the character of the setting to the listed buildings, in compliance with BH11 (a) and (b):

a) the detailed design respects the listed building in terms of scale, height, massing and alignment; and

b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building.

10. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

11. No site works of any nature or development shall take place until a fence has been erected around the area specified, on a line to be agreed with the Historic Environment Division: Historic Monuments. No works of any nature or development shall be carried out within the fenced area. No erection of huts or other structures, no storage of building materials, no dumping of spoil or topsoil or

rubbish, no bonfires, nor any use, turning or parking of plant or machinery. The fence shall not be removed until the site works and development have been completed.

Reason: to prevent damage or disturbance of archaeological remains within the application site.

12. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Council to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

13. There shall be no site clearance or development activity within 25 metres of the badger sett on site, as identified within Figure 4 of the ecology report, date stamped 27th November 2017, until badgers have been excluded and the sett has been closed under the terms of a licence issued by the Northern Ireland Environment Agency.

Reason: To protect badgers and their setts.

14. All mature ash trees along the western boundary of the site assessed as having bat roost potential within the ecology report, date stamped 27th November 2017, shall be retained.

Reason: To ensure roosting bats are not impacted by the proposed development.

15. The vehicular accesses, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 38/8 & 39/8 bearing the date stamp 19th February 2020, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

16. 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.

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

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

18. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
The Mid Ulster Council/Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No's. 38/8 & 39/8 bearing the date stamp 19th February 2020.

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.

19. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
No other development hereby permitted shall be occupied until the works necessary for the improvement (including provision of footways / carriageway widening) of a public road have been completed in accordance with the details outlined blue on Drawing Number 38/8 & 39/8 bearing the date stamp 19<sup>th</sup> February 2020.

The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

20. The visibility splays of

- 4.5 metres by 120.0 metres in both directions at the junction of the proposed main access with the (Station Road) public road
- 2.4 metres by 120.0 metres in both direction at the junction of the proposed minor accesses (numbers 37 – 40) with the Station Road public road,
- 4.5 metres by 70.0 metres to the west direction & 4.5 metres by 35.0 metres to the east direction at the junction of the proposed main access with the (Tullybroom Road) public road.

shall be provided in accordance with Drawing No. 38/8 L & 39/8 bearing the date stamp 19th February 2020, prior to the commencement of any other works or other development.

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

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

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	12th September 2017
<b>Date First Advertised</b>	28th September 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Primrose Hill Clogher Tyrone The Owner/Occupier, 10 Primrose Hill Clogher Tyrone The Owner/Occupier, 11 Crossowen Gardens Clogher Tyrone The Owner/Occupier, 11 Primrose Hill Clogher Tyrone The Owner/Occupier, 12 Mccrea Park Clogher Tyrone The Owner/Occupier, 12 Primrose Hill Clogher Tyrone The Owner/Occupier, 13 Crossowen Gardens Clogher Tyrone The Owner/Occupier, 13 Mccrea Park Clogher Tyrone The Owner/Occupier, 14 Mccrea Park Clogher Tyrone The Owner/Occupier, 14 Primrose Hill Clogher Tyrone The Owner/Occupier, 15 Crossowen Gardens Clogher Tyrone The Owner/Occupier, 15 Mccrea Park Clogher Tyrone The Owner/Occupier, 15 Primrose Hill Clogher Tyrone The Owner/Occupier, 16 Mccrea Park Clogher Tyrone The Owner/Occupier, 16 Primrose Hill Clogher Tyrone The Owner/Occupier, 17 Mccrea Park Clogher Tyrone The Owner/Occupier, 17 Primrose Hill Clogher Tyrone The Owner/Occupier, 18 Mccrea Park Clogher Tyrone The Owner/Occupier, 18 Primrose Hill Clogher Tyrone The Owner/Occupier, 19 Mccrea Park Clogher Tyrone	

The Owner/Occupier,  
19 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
20 Mccrea Park Clogher Tyrone  
The Owner/Occupier,  
20 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
21 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
22 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
23 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
24 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
25 Primrose Hill Clogher Tyrone  
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26 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
27 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
28 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
29 Primrose Hill Clogher Tyrone  
Gavyn Smyth  
2nd Floor, 7 Exchange Place, Belfast, BT1 2NA,  
The Owner/Occupier,  
30 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
31 Primrose Hill Clogher Tyrone  
The Owner/Occupier,  
34 Station Road,Clogher,Tyrone,BT76  
The Owner/Occupier,  
36 Station Road,Clogher,Tyrone,BT76 0AQ  
The Owner/Occupier,  
37 Station Road Clogher Tyrone  
The Owner/Occupier,  
39 Station Road Clogher Tyrone  
The Owner/Occupier,  
4 Tullybroom Road Clogher Tyrone  
The Owner/Occupier,  
41 Station Road Clogher Tyrone  
The Owner/Occupier,  
43 Station Road Clogher Tyrone  
The Owner/Occupier,  
47 Station Road Clogher Tyrone  
Stewart  
47, Station Road, Clogher, Tyrone, Northern Ireland, BT76 0AQ  
The Owner/Occupier,  
5 Primrose Hill Clogher Tyrone

Rachel Taylor  
 5, Oxford Street, Belfast, Antrim, Northern Ireland, BT1 3LA  
 The Owner/Occupier,  
 55 Station Road, Clogher, Tyrone, BT76 0AQ,  
 The Owner/Occupier,  
 57b Mckeown Sawmill Station Road Clogher  
 The Owner/Occupier,  
 58 Primrose Hill Clogher Tyrone  
 The Owner/Occupier,  
 59 Primrose Hill Clogher Tyrone  
 The Owner/Occupier,  
 6 Ballymagowan Road Clogher Tyrone  
 The Owner/Occupier,  
 6 Primrose Hill Clogher Tyrone  
 The Owner/Occupier,  
 7 Primrose Hill Clogher Tyrone  
 The Owner/Occupier,  
 8 Primrose Hill Clogher Tyrone  
 The Owner/Occupier,  
 9 Primrose Hill Clogher Tyrone  
 The Owner/Occupier,  
 Clogher Valley Livestock Producers Co 44 Station Road, Clogher, Tyrone, BT76 0AQ,  
 Gavyn Smyth  
 Clyde Shanks, 2nd Floor, 7 Exchange Place, Belfast, BT1 2NA  
 Gavyn Smyth  
 Clyde Shanks, 5 Oxford Street, Belfast, BT1 3LA  
 Rachel Taylor  
 Clyde Shanks, 5 Oxford Street, Belfast, BT1 3LA  
 . Clyde Shanks  
 Second Floor, 7 Exchange Place, Belfast, BT1 2NA  
 G SMYTH

<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
Ref ID: LA09/2015/1245/PAD Proposal: Residential and Commercial Development Address: Adjacent to Station Road and Tullybroom Road Junction, Clogher, Decision: Decision Date:	
Ref ID: LA09/2017/0751/PAN	

Proposal: Residential Development

Address: Junction of Station Road and Tullybroom Road, Clogher,

Decision: PANACC

Decision Date:

Ref ID: LA09/2017/0056/F

Proposal: Change of house types to No's 22-25 Primrose Hill from a terrace block a 4 two storey dwellings to 2 pairs of semi-detached 3 bedroom houses resulting in a total of 4 dwellings. These dwellings were granted permission under Planning Application M/2005/1141/F

Address: 22-25 Primrose Hill, Clogher,

Decision: PG

Decision Date: 28.02.2017

Ref ID: M/2013/0008/LBC

Proposal: Proposed alterations and improvements to existing dwelling

Address: 47 Station Road, Clogher, Co Tyrone,

Decision: CG

Decision Date: 08.07.2013

Ref ID: M/2007/0953/F

Proposal: Residential housing development consisting of 34 no. semi-detached dwellings, 4 detached dwellings and 39 no. townhouses with associated landscaping and car parking

Address: Lands to the West of 32 Station Road, Clogher

Decision:

Decision Date: 26.02.2009

Ref ID: M/2004/2141/F

Proposal: Residential housing development consisting of 109 dwellings

Address: Lands to west of 32 Station Road, Clogher

Decision:

Decision Date: 20.07.2007

Ref ID: M/2005/1141/F

Proposal: Alterations to Previously Approved Layout Ref No: M/1996/0444 To Provide 5 No. Additional Dwelling (Sites 60 - 64) and Change of House Type to 22 No. Dwellings on Sites 11 - 32 Inclusive

Address: Sites 11 - 32 Inclusive and Sites 60 - 64 Inclusive, Primrose Hill, Clogher Tenements, Clogher

Decision:

Decision Date: 09.01.2006

Ref ID: M/2011/0216/F

Proposal: Retention of Domestic Garage to rear of property and Retention of Timber Slatted Fencing around property

Address: 10 Primrosehill, Clogher, Co. Tyrone, BT76 0AF,

Decision:

Decision Date: 24.08.2011

Ref ID: LA09/2017/1226/F

Proposal: Residential housing development consisting 88no units. Comprising detached, semi detached, terraced 2 storey and 1.5 storey dwellings with associated domestic garages, landscaping, car parking, roads and services

Address: Adjacent to Junction of Station Road, & Tullybroom Road, Clogher,

Decision:

Decision Date:

### **Summary of Consultee Responses**

Consultation with Department for Infrastructure; Roads, Department of Agriculture, Environment and Rural Affairs, Department for Communities – Historic Environment Division, Northern Ireland Water, Department for Infrastructure; Rivers, Environmental Health Department and Shared Environmental Services has raised no concerns subject to conditions and informatives.

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 54/8  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 43/7  
Type: Cross Sections  
Status: Approved

Drawing No. 66/4  
Type: Cross Sections  
Status: Approved

Drawing No. 52/5  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 53/10  
Type: Landscaping Plan  
Status: Approved

Drawing No. 34/12  
Type: Landscaping Plan  
Status: Approved

Drawing No. 55/8  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 67/3  
Type: Cross Sections  
Status: Approved

Drawing No. 39/8  
Type: Road Access Plan  
Status: Approved

Drawing No. 38/8  
Type: Road Access Plan  
Status: Approved

Drawing No. 68/1

Type: Cross Sections  
Status: Approved

Drawing No. 44/6  
Type: Cross Sections  
Status: Approved

Drawing No. 74/2  
Type: Cross Sections  
Status: Approved

Drawing No. 45/6  
Type: Cross Sections  
Status: Approved

Drawing No. 75  
Type: Cross Sections  
Status: Approved

Drawing No. 73  
Type: Floor Plans  
Status: Approved

Drawing No. 72  
Type: Proposed Elevations  
Status: Approved

Drawing No. 71  
Type: Floor Plans  
Status: Approved

Drawing No. 69  
Type: Floor Plans  
Status: Approved

Drawing No. 65/1  
Type: Detailed Drawing Plans  
Status: Approved

Drawing No. 70  
Type: Proposed Elevations  
Status: Approved

Drawing No. 02/2  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 64/2  
Type: Proposed Elevations  
Status: Approved

Drawing No. 63/2  
Type: Proposed Elevations  
Status: Approved

Drawing No. 40/2  
Type: Road Access Plan  
Status: Approved

Drawing No. 41/2  
Type: Road Access Plan  
Status: Approved

Drawing No. 56/1  
Type: Roads Details  
Status: Approved

Drawing No. 58  
Type: Proposed Elevations  
Status: Approved

Drawing No. 29/2  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 60  
Type: Proposed Elevations  
Status: Approved

Drawing No. 30/2  
Type: Proposed Elevations  
Status: Approved

Drawing No. 59  
Type: Floor Plans  
Status: Approved

Drawing No. 62  
Type: Floor Plans  
Status: Approved

Drawing No. 61  
Type: Floor Plans  
Status: Approved

Drawing No. 57  
Type: Floor Plans  
Status: Approved

Drawing No. 46/1

Type: Roads Details  
Status: Submitted

Drawing No. 47/1  
Type: Roads Details  
Status: Submitted

Drawing No. 17/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 20/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 21/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 22/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 23/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 24/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 26/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 27/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 28/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 16/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 15/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 14/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 13/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 12/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 11/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 10/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 09/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 08/1  
Type: Proposed Elevations  
Status: Approved

Drawing No. 07/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 25/1  
Type: Proposed Floor Plans  
Status: Approved

Drawing No. 51  
Type: Proposed Elevations  
Status: Approved

Drawing No. 50  
Type: Floor Plans  
Status: Approved

Drawing No. 49  
Type: Proposed Elevations  
Status: Approved

Drawing No. 48

Type: Floor Plans  
Status: Approved

Drawing No. 33/2  
Type: Further Particulars  
Status: Submitted

Drawing No. 32/1  
Type: Garage Plans  
Status: Approved

Drawing No. 42  
Type: Road Access Plan  
Status: Submitted

Drawing No. 18  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 05  
Type: Block/Site Survey Plans  
Status: Submitted

Drawing No. 37  
Type: Block/Site Survey Plans  
Status: Submitted

Drawing No. 03  
Type: Block/Site Survey Plans  
Status: Submitted

Drawing No. 31  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 19  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 36  
Type: Block/Site Survey Plans  
Status: Submitted

Drawing No. 35  
Type: Block/Site Survey Plans  
Status: Submitted

Drawing No. 06  
Type: Further Particulars  
Status: Submitted

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

Drawing No. 04  
Type: Block/Site Survey Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:

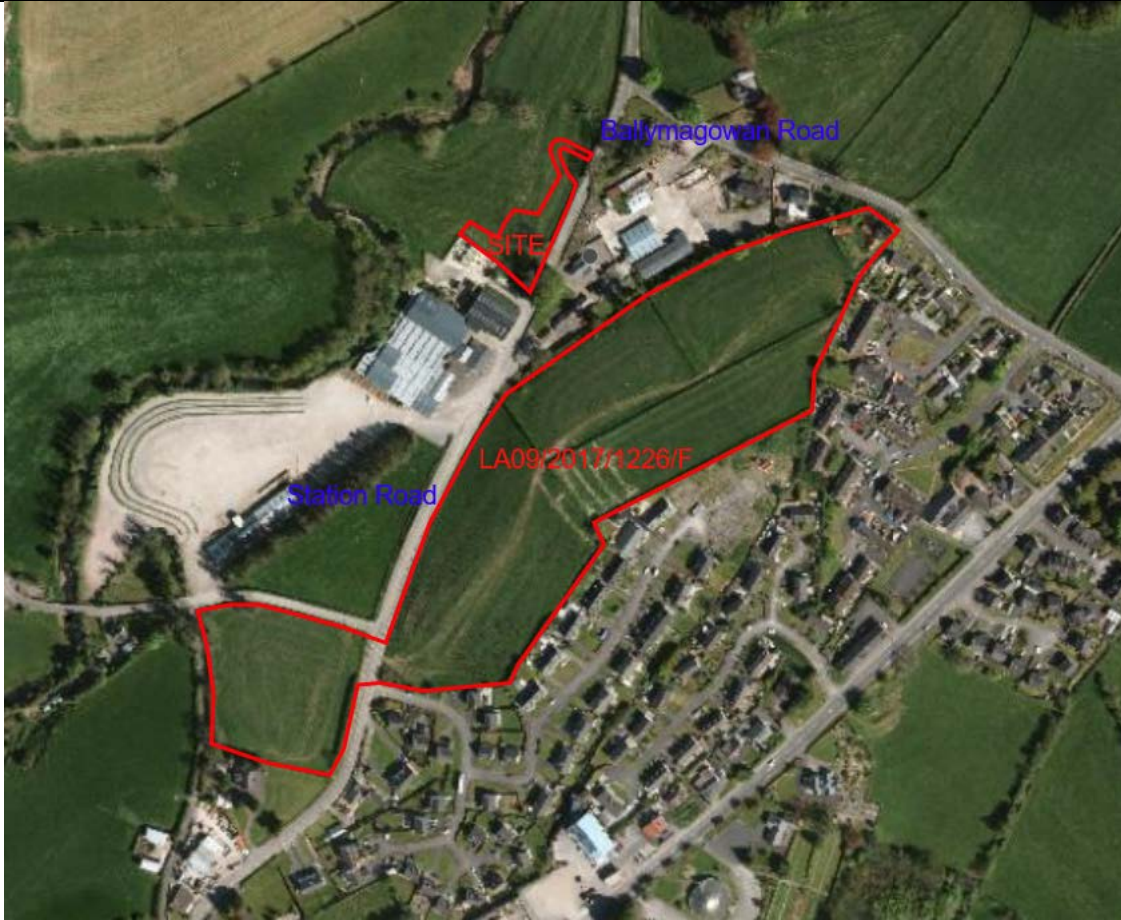


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0484/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed Waste Water Treatment Works including 3m security fencing with 4m and 1m wide gates, associated underground uPVC sewer pipe, concrete range well, 6m security light, 3m telemetry antenna, 2 No GRP kiosks hard standing area for vehicular access with associated visibility splays, vehicle turning area and Kingspan BN biodisc RBC unit to service housing development LA09/2017/1226/F	<b>Location:</b> Approx 43m west of 57b Station Road Clogher and adjacent to existing NI Water waste water treatment works
<b>Referral Route:</b> This is an application to serve a Major planning application and is being recommended to Planning Committee for consideration.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> T and H Mills 122 Aghrintian Road Fivemiletown	<b>Agent Name and Address:</b> Neil Irvine Design Limited Unit 5 The Buttermarket 132 Main Street Fivemiletown BT75 0PW
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

Non Statutory	Environmental Health Mid Ulster Council	
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
<p><b>Characteristics of the Site and Area</b></p> <p>The site is located close to the junction of the Station Road and Ballymagowan Road, Clogher. The site is immediately north of and adjacent to the existing WWTW in Clogher. The site is also in close proximity to the proposed housing development LA09/2017/1226/F which it proposed to serve.</p> <p>The site is mostly flat but it does fall away slightly in a northerly direction. The site will be accessed further to the north off the Station Road. Land uses within the vicinity of the site include the existing WWTW and Clogher Mart to the south of the site. Single dwellings and a proposed residential development which comprises agricultural fields.</p>		
<p><b>Description of Proposal</b></p> <p>Proposed Waste Water Treatment Works including 3m security fencing with 4m and 1m wide gates, associated underground uPVC sewer pipe, concrete range well, 6m security light, 3m telemetry antenna, 2 No GRP kiosks hard standing area for vehicular access with associated visibility splays, vehicle turning area and Kingspan BN biodisc RBC unit to service housing development LA09/2017/1226/F</p>		
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>Dungannon and South Tyrone Area Plan 2010  Regional Development Strategy 2035  Strategic Planning Policy Statement  Planning Policy Statement 11 - Planning and Waste Management  Planning Policy Statement 21 - Sustainable Development in the Countryside.</p> <p>The site is located outside the development limits of Clogher as identified in the Area Plan, albeit it is on the edge of the settlement limit.</p> <p>The SPPS is a statement of the Department's policy on important planning matters that should be addressed across Northern Ireland. The provisions of the SPPS are material to all decisions on individual planning applications and appeals. The SPPS states that objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. The SPPS</p>		

contains policies specific to waste management however these do not represent any change in policy direction from existing planning policies which have been retained, including PPS 11, therefore existing policies will form the basis of this assessment.

Policy WM 2 – Waste Collection and Treatment Facilities of PPS 11 states that a need must be demonstrated for a WWTW. Policy WM2 recognises that waste water is not controlled waste and therefore waste management strategies and plans do not apply to proposals for WWTW's and related facilities. The receiving WWTW in Clogher do not have any capacity for additional loads and therefore the applicant this application. There is no conflict with the proposal and PPS 21. The visual impact of the proposal is acceptable at this location. There are no concerns with regards to residential amenity, subject to the conditions suggested by EHO following consideration of the odour sampling report. The applicant submitted a Preliminary Ecological Assessment for the application which has been accepted by NIEA and there are no natural heritage concerns.

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

<b>Neighbour Notification Checked</b>	<b>Yes</b>
---------------------------------------	------------

**Summary of Recommendation:**

Approve subject to conditions.

**Conditions**

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

Reason: Time Limit.

2. The vehicular access, including visibility splays of (2.4m x 90.0m), and any forward sight distance shall be provided in accordance with Drawing No. 03 (Rev.01) bearing the date stamp 21/05/18, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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 odour concentration associated with the waste water treatment unit must not exceed 3<sub>ouE</sub>/m<sup>3</sup> at 5 m distance from the unit.

Reason: In the interests of amenity.

4. Within 4 weeks of a written request by the Planning Department, following a reasonable odour complaint the site operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of odour emissions from the unit. If the unit exceeds  $3_{ouE}/m^3$  at 5 metres suitable corrective action should be carried out to reduce the odour to below this level.

Reason: In the interests of amenity.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	9th April 2018
<b>Date First Advertised</b>	26th April 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Primrose Hill Clogher Tyrone The Owner/Occupier, 2 Primrose Hill Clogher Tyrone The Owner/Occupier, 3 Primrose Hill Clogher Tyrone The Owner/Occupier, 37 Station Road Clogher Tyrone The Owner/Occupier, 39 Station Road Clogher Tyrone The Owner/Occupier, 41 Station Road Clogher Tyrone The Owner/Occupier, 43 Station Road Clogher Tyrone The Owner/Occupier, 47 Station Road Clogher Tyrone The Owner/Occupier, 5 Primrose Hill Clogher Tyrone The Owner/Occupier, 56 Primrose Hill Clogher Tyrone The Owner/Occupier, 57 Primrose Hill Clogher Tyrone The Owner/Occupier, 57 Station Road Clogher Tyrone The Owner/Occupier, 57b Mckeown Sawmill Station Road Clogher The Owner/Occupier, 58 Primrose Hill Clogher Tyrone The Owner/Occupier, 59 Primrose Hill Clogher Tyrone The Owner/Occupier, 6 Ballymagowan Road Clogher Tyrone The Owner/Occupier, 7 Ballymagowan Road Clogher Tyrone The Owner/Occupier, 8 Ballymagowan Road Clogher Tyrone The Owner/Occupier, 8a Ballymagowan Road Clogher The Owner/Occupier, Clogher Valley Livestock Producers Co Ltd 44 Station Road Clogher	

The Owner/Occupier, Mckeown Saw Mills 55 Station Road Clogher The Owner/Occupier, Mckeown Saw Mills,55 Station Road,Clogher,Tyrone,BT76 0AQ,	
<b>Date of Last Neighbour Notification</b>	20th April 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: M/2008/1287/Q Proposal: Temporary Sites for Clogher Valley Integrated Primary School Address: Clogher Sites Decision: Decision Date:  Ref ID: LA09/2018/0484/F Proposal: Proposed Waste Water Treatment Works including 3m security fencing with 4m and 1m wide gates ,associated underground uPVC sewer pipe, concrete range well, 6m security light, 3m telemetry antenna,2No GRP kiosks hard standing area for vehicular access with associated visibility splays, vehicle turning area and Kingspan BN biodisc RBC unit to service housing development LA09/2017/1226/F Address: Approx 43m west of 57b Station Road, Clogher and adjacent to existing NI water waste water treatment works, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  <u>DfI Roads:</u>  DfI Roads initially requested the submission of an amended drawing to show existing utility poles, access drainage measures and the insertion of road notes. They have accepted a reduced Y distance and have suggested a condition should planning permission be granted.  <u>NIEA: NED</u>  NED requested the submission of a Preliminary Ecological Assessment in order to assess any potential impact on protected or priority species or habitat. From aerial photos the application site contains hedgerows that are to be removed. Hedgerows are	

priority habitats, and may contain badger setts, badgers and their places of refuge are protected under the Wildlife (NI) Order 1985 (as amended).

The applicant subsequently submitted a Preliminary Ecological Assessment and following re-consultation with NED they returned a consultation stating they are content that the proposed development is unlikely to significantly impact protected or priority species or habitat. No conditions have been suggested, only informatives.

**NIEA: Drainage and Water:**

Drainage and Water has considered the proposal and is content subject to conditions and informatives set out in Standing Advice.

**EHO:**

EHO have examined the odour dispersion model provided for the intended waste water treatment works. EHO have no objections to the proposed development subject to a number of suggested conditions.

**NIW:**

NIW have not objected to the proposal. They have commented the proposed facility will serve the proposed housing development under planning reference LA09/2017/1226/F and it will discharge to the River Blackwater.

**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. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 05  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 03 REV 01  
Type: Site Layout or Block Plan  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1302/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed Housing Development	<b>Location:</b> Immediately East of 5 to 11 Cavehill Drive on Kilmascally Road Ardboe Cookstown.
<b>Referral Route: Objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> M Mallon 5 Windermere Close Belfast BT8 6XF	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### 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

Objections have been received from some residents in Cavehill Drive and from the GAA Club. Issues raised include;

- detrimental impact on residential amenity through overlooking, loss of sunlight, lack of separation distance,
- loss of existing open space/children's play park;
- increased traffic impacts. Requirement for traffic humps along Kilmasally Road due to increase in traffic and HGV's over the years. Dangerous traffic speeds on Kilmasally Road. Unwise to allow further development onto Kilmasally Road until Transport NI assess the traffic, classification and speed of vehicles using the road and review its continuing poor maintenance.
- insufficient sewage capacity within Ardboe and potential noise and odour impacts from the proposed temporary sewage treatment plant;
- The proposal will have a detrimental impact on an area where a Priority Species has been identified on NIEA/DAERA natural Heritage Maps online.
- it would appear from poor uptake of existing new housing developments in the area that there is little appetite for any further development within the area;
- that a 6m wide road and 2m wide footpath has not been shown along the entire frontage of the GAA pavilion. This will have a detrimental impact on pedestrian safety and road users.

## Characteristics of the Site and Area

This site is located within the development limits of Ardboe, adjacent and west to the O'Donovan Rossa GAA Grounds with proposed access from Kilmascally Road. Access is proposed through a roadside agricultural field and will run parallel and adjacent to the GAA grounds. This access will serve the proposed housing development which is proposed to the rear of the existing roadside field. Along the eastern boundary of the site is a mix of fencing which also marks the boundary of the GAA Club. The SW boundary of the site is not clearly defined and open to the remainder of a larger field. Boundaries to the west of the site are shared with dwellings that back onto the site within Cluntoe View/Cavehill Drive to the West and are defined by a mix of fencing. There is a footpath running along the roadside boundary and a post and wire fence securing the road side field. A tree lined hedge runs through the site marking the boundary between the roadside field and the site.

A mix of Industrial and commercial units are found to the east of the site within the disused airfield. Agricultural land is located to the south of the site. Shops, retail, hot food, restaurants, services, school, church and residential development is located to the west and NW of the site within the village of Ardboe.

## Description of Proposal

This is an outline planning application for a proposed housing development within the limits of Ardboe.

## 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

Cookstown Area Plan 2010: within village limits of Ardboe. The area plan states the demand for housing is likely to be high within Ardboe but that the lack of sewage infrastructure is likely to be a constraint on development. The plan also states that Comprehensive development will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement. Accordingly, residential developments in excess of thirty units will not normally be permitted.

At the roadside entrance to this site it is indicated in the area plan to protect access for back land development at this point.

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

Regional Development Strategy for Northern Ireland 2035 (RDS)

Strategic Planning Policy Statement

PPS 3 - Access, Movement and Parking

PPS 7 - Quality Residential Environments

## Addendum to PPS 7- Safeguarding the Character of Established Residential Areas

### Design and Guidance

#### Creating Places- Achieving Quality in Residential Developments

#### Planning History

A PAD was submitted prior to submission of this proposal to see if the principle of access via the adjacent GAA Club was acceptable as access to back land development land seemed to be landlocked. An access was agreed in principle, subject to the provision of PPS8 being respected in terms of the loss of open space.

The access of this site also runs along the eastern boundary of planning application LA09/2018/1695/O which is adjacent and north to the proposal and is also an outline application for housing.

#### 3rd party objections

Objections have been received from some residents in Cavehill Drive and from the GAA Club.

Issues raised include;

- detrimental impact on residential amenity through overlooking, loss of sunlight, lack of separation distance,
- loss of existing open space/children's play park;
- increased traffic impacts. Requirement for traffic humps along Kilmasally Road due to increase in traffic and HGV's over the years. Dangerous traffic speeds on Kilmasally Road. Unwise to allow further development onto Kilmasally Road until Transport NI assess the traffic, classification and speed of vehicles using the road and review its continuing poor maintenance.
- insufficient sewage capacity within Ardboe and potential noise and odour impacts from the proposed temporary sewage treatment plant;
- The proposal will have a detrimental impact on an area where a Priority Species has been identified on NIEA/DAERA natural Heritage Maps online.
- it would appear from poor uptake of existing new housing developments in the area that there is little appetite for any further development within the area;
- that a 6m wide road and 2m wide footpath has not been shown along the entire frontage of the GAA pavilion. This will have a detrimental impact on pedestrian safety and road users.

#### Consideration

Initially the access to this development was proposed through the adjacent GAA Grounds. However, after an arranged office meeting between the applicant and the owner of the field to the NW of the site, also the subject of a current planning application (LA09/2018/1695/O), the access was amended to access through the existing roadside field. I suspect the proposed PAD for access through the GAA grounds was a means of bringing the landowner to the north west of the site to the negotiating table. Both application layouts now respect each other and share a proposed access, which is a better solution in planning terms and in the interest of road safety. This revised site (drawing No. 01 rev1) will be the subject of this assessment. There is no listed agent for this proposal with only the applicant listed on the P1 form.

This proposal will be assessed under the policy criteria of QD1 of PPS7 Quality Residential Environments and addendum to PPS7 which was introduced in 2010 called Safeguarding the Character of Established Residential Area. The Strategic Planning Policy Statement has not made any changes to policies contained within PPS7.

PPS7 Policy QD1 - Quality in New Residential Development 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;

This is an outline planning application. Layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas can be assessed at Reserved Matters stage.

The applicant has provided a Concept Plan (02 rev1) which shows 6 dwellings on the application site. The principle of 6 dwellings on this site is acceptable, however, layout and distances between properties will need to be looked at in more detail at reserved matters stage. A planning condition to the effect that facing first floor windows shall have a separation distance of at least 20m. This will ensure there is enough separation between properties and that privacy will be respected.

This site is relatively flat with no significant excavation requirements or the need for retaining structures.

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

There are no archaeological or built heritage features on this site or the immediate vicinity of this site. There is a tree lined hedgerow separating part of this site from the roadside field to the north. Part of this hedgerow will be removed to provide access to the site, and the remainder can be protected by condition for retention.

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.

A temporary private treatment plant is proposed. The area surrounding this plant can be landscaped and grassed, and act as an area of passive landscaping. In my view this is sufficient for a site of this size.

Should future proposals to develop land for housing beyond this site, additional thought will be given to more formal and integrated areas of open space. Landscaping provision can be assessed at RM stage. In my view, landscaping is very important to increase biodiversity within a development while also softening the impact of the development and providing a quality residential environment.

In terms of private amenity; in my view this can be assessed at RM stage. There is advice contained within Creating Places for private rear amenity provision of 70m<sup>2</sup> and a separation distance between the rear building line of proposed dwellings and rear boundary of 10m. In my view, the site can be developed in a manner that can broadly respect these figures and respect surrounding private amenity, which will 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;

In my view there is no requirement to provide local neighbourhood facilities for a development of this size. Plus, the development will link into an existing public footpath network and road network, which will provide access to local village shops and services, which are close to the site and adequate to address the needs of residents.

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 were consulted on this proposal and rise no objections to this access subject to conditions. Detailed footpath and road provision will be provided at RM stage, with road safety standards assessed and agreed with DfI Roads. I am satisfied there will be sufficient provision for all road users including walking, cycling, people whose access are impaired, and all other road users.

Traffic calming measures can be assessed at RM stage.

DfI Roads did state the requirement for a footway across the frontage of Ardboe GAA grounds. Mid Ulster Council considered this request, however are satisfied with current footpath provision to the GAA grounds within Ardboe Village. Plus, there is a sufficient road verge for pedestrians to walk in from the public road. A footpath from the site to the opposite side of the GAA frontage will not link into any other footway. Therefore it is the view of Council that this footpath provision along the entire frontage falls outside the remit of this proposal, and will not result in any significant road safety improvements beyond the current arrangements.

f) adequate and appropriate provision is made for parking;

This can be considered at RM stage.

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

This can be considered at RM 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 considered at RM stage. I am satisfied that an acceptable layout can be achieved that will respect existing and proposed amenity.

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

This can be assessed at RM stage. It is likely that this dwelling and development can be provided with secure boundaries to deter crime and promote personal safety.

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 (criteria (a), (b) and (c)).

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

This can be addressed at RM stage.

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

This can be addressed at RM stage.

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

This can be addressed at RM stage.

PPS 3 Access, Movement and Parking sets out the policies for vehicular and pedestrian access, transport assessment, protection of transport routes and parking.

DfI Roads were consulted on this proposal and are content that a safe and satisfactory access can be achieved subject to planning conditions. Internal road layout arrangements can be assessed at RM stage. In one response, DfI Roads require a footpath link across the entire frontage of the existing GAA grounds. In my view there is no requirement for a new footpath across the entire frontage of the GAA grounds, as it will not link into any other footpath network on this site of the road. Plus, there is a generous layby in place where pedestrians can walk in off the public road to access the GAA grounds through an existing pedestrian access point. It is the view of Mid Ulster District Council Planning Department that the existing footpath arrangements to the front of Ardboe GAA pitch are sufficient to cater for existing and proposed footfall, that this development will not increase footfall significantly to warrant a footpath upgrade at present. The GAA Club also stated a requirement for this footpath provision, which in my view are not required for the reasons stated. The objectors concerns in this regard are not determining.

In my view the policy provisions of AMP2 Access to Public Roads has been met.

#### PPS2 Natural Heritage

I consulted NIEA and Shared Environmental Services on this proposal. The applicant carried out a Biodiversity Checklist and Preliminary Ecological Assessment. No objections have been raised by these consultees in terms of impacts on the environment or protected species or habitats. In my view it has been demonstrated that the proposal i will not have a detrimental impact on the environment and the objectors concerns in this regard are not determining.

#### Other Considerations

Objections have been raised by residents of adjacent properties that this proposal would have a detrimental impact on their residential amenity. These objections are based on the applicant's 'Concept Drawing'. As stated above, this concept will not be stamped up as being acceptable and impacts on residential amenity can be considered at RM stage.

Neighbour Notification will be carried out along with advertisement of any future planning application on this site and people will be afforded a chance to comment on more detailed proposals at this stage.

This site is not subject to flooding.

NIW indicate that there is insufficient sewage capacity for connection to the public sewer. In response to this the applicant has demonstrated the position of the proposed private treatment plant, along with the make, capacity, noise and odour calculations. Environmental Health were consulted on this proposal and recommend that they are content with these arrangements subject to planning conditions. I consider it acceptable to attach these conditions at this stage. Should a different private treatment plant be proposed under a full or RM application, then a fresh assessment of its impacts will have to be considered at this stage.

There are no land contamination concerns with this site.

I consider that all objections have been satisfactorily considered and the public will have the opportunity to comment on more detailed plans should a full or RM application be provided in future.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

That 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.

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

3. This permission shall be for not more than 6 dwellings.

Reason: To ensure a quality residential environment, and in the interest of character and amenity.

4. There shall be a 20m separation between any facing first floor window of any dwelling hereby approved and any first floor window of any dwelling in Cavehill, unless otherwise agreed in writing by Mid Ulster District Council.

Reason: In the interests of privacy and amenity.

5. Full details of all curtilage boundary treatments shall be provided at Reserved Matters stage for approval. All agreed curtilage boundary treatments shall be put in place prior to the occupation of that dwelling approved at Reserved Matters stage.

Reason: To assist in the provision of a quality residential environment and to safeguard private residential amenity.

6. Details of existing and proposed levels and cross-sections within the site, and levels along the roadside shall be submitted at Reserved Matters stage.

Reason: To ensure that existing and proposed privacy and amenity are safeguarded.

7. A detailed Landscape Scheme shall be provided for approval at Reserved Matters stage to indicate existing landscaping to be retained and to show proposed landscaping. The existing natural boundary, indicated in yellow on drawing No. 01 rev1 date received 28 Oct 2019 shall be permanently retained. All agreed proposed landscaping shall be carried out within the first planting season after commencement of development of the reserved matters permission and permanently retained thereafter. Should any shrub, tree or hedge die or become seriously damaged or defective another tree, shrub or hedge as that previously planted shall be planted in its place.

Reason: In the interest of amenity.

8. Areas of open space provision, to be agreed at Reserved Matters stage, shall be accompanied by a landscape management plan to be agreed by Council at Reserved Matters Stage. All landscaping and public open space provision as agreed shall put in place prior to the occupation of any dwelling hereby approved.

Reason: In the interest of visual amenity and biodiversity and to ensure a quality residential environment.

9. The areas of public open space shall be managed in perpetuity by a Landscape Management Company, details of which, including signed contracts, shall be provided to Council for agreement prior to the occupation of any dwelling hereby approved.

Reason: To ensure the long term up keep of areas of public open space and for the provision of a quality residential environment.

10. The sewerage treatment plant shall be located as per Drawing No. 01 rev1 date stamped 28th October 2018 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved, unless otherwise agreed at Reserved Matters stage.

Reason: To safeguard existing and proposed residential amenity.

11. The odour concentration associated with the Biodisc treatment plant shall not exceed 5 ouE/m<sup>3</sup> directly above the unit and not more than 3 ouE/m<sup>3</sup> at 5 metres from the unit, unless otherwise agreed at Reserved Matters stage.

Reason: To safeguard existing and proposed residential amenity.

12. The noise level associated with the Biodisc treatment plant shall not exceed 5dB (A) below any background level measured at the nearest sensitive dwelling, unless otherwise agreed at Reserved Matters stage.

Reason: To safeguard existing and proposed residential amenity.

13. An adequate maintenance programme for the sewage package treatment plant, along with a signed contract of those that will be responsible

for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved.

Reason: To safeguard existing and proposed residential amenity.

14. The agreed maintenance programme shall be carried out for the lifetime of the sewerage treatment plant, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To safeguard existing and proposed residential amenity.

15. Within 4 weeks of a written request by Mid Ulster District Council, following odour or 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 immissions from the plant.

Reason: To safeguard existing and proposed residential amenity.

16. Any works required to resolve noise and/or odour issues shall be carried out by an approved operator of the temporary sewage plant and shall comply with the requirements of conditions 9 and/or 10 above. The works shall be completed within a reasonable timeframe to the agreement of Mid Ulster District Council on identification of a nuisance. On completion of the works, the operator shall provide details of a monitoring survey to Mid Ulster District Council for written approval.

Reason: To safeguard existing and proposed residential amenity.

17. The visibility splays of 2.4 metres by 90 metres at the junction of the proposed access road with the Kilmascully Road shall be indicated on a block plan of scale 1:500 for approval at Reserved Matters stage. The approved access and shall be provided prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

18. PRIVATE STREETS 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 Council's Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the Council 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.

**Informatives**

1.This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

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

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

4. The Concept Plan (drawing No. 02 rev1 date received 17-FEB-2020) showing 6 dwellings is broadly acceptable but may require some amends to siting and layout at Reserved Matters Stage so that existing and proposed private residential amenity can be respected.

5. DfI Roads have advised that;  
Where there is access onto the main development road there should be sufficient lands to the rear of the footway to protect 2 x 33 metre sightlines. This may require provision of a grass verge between footway and road edge.

- Driveways of minimum dimension 12 m x 3.2 metres should be provided clear of footway/sightlines.
- Speed control ramp should be located clear from driveways.

6.All areas that include the provision of public open space shall be accompanied with a detailed landscape plan in addition to details of how this will be managed in perpetuity, including details of the proposed Management Company along with any signed contracts.

**Signature(s)****Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th October 2018
<b>Date First Advertised</b>	18th October 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Cave Hill Drive Dungannon Tyrone The Owner/Occupier, 11 Cave Hill Drive Ardboe Dungannon The Owner/Occupier, 5 Cave Hill Drive Ardboe Dungannon Martin O'Hagan 5 Cave Hill Drive, Ardboe, Dungannon. BT71 5BT Julie O'Hagan 5 Cave Hill Drive, Ardboe, Dungannon. BT71 5BT The Owner/Occupier, 6 Cave Hill Drive Ardboe Dungannon The Owner/Occupier, 7 Cave Hill Drive Ardboe Dungannon The Owner/Occupier, 8 Cave Hill Drive Ardboe Dungannon The Owner/Occupier, 9 Cave Hill Drive Ardboe Dungannon The Owner/Occupier, Ardboe GFC, Kilmascally Road, Ardboe. Denis Bradley Email The Owner/Occupier, Email	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	<b>7/5/2020</b>
<b>ES Requested</b>	No



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0313/F	<b>Target Date:</b> 24/06/2019
<b>Proposal:</b> 5 no detached dwellings & 12 no semi-detached dwellings, detached garage, carparking, landscaping and retaining walls and all other associated site works including temporary treatment works (drainage assessment and revised plans)	<b>Location:</b> Lands to the NE of 3 Old Omagh Road Ballygawley
<b>Referral Route:</b> 3 <sup>rd</sup> party objections received	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Dr J Gormley 49 Kilmore Road Lurgan BT67 9HT	<b>Agent Name and Address:</b> Alan Patterson Design LLP Darragh House 112 Craigdarragh Road Helen's Bay BT19 1UB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## 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

-the manner in which a number of small planning applications are being made on this land, instead of one large application, suggests the entire project is being sought by stealth;

-concerns over the temporary waste water treatment plant and potential associated issues such as noise, smell, vermin, breakdown or malfunction;

-approval of a private treatment plant would mean 'the can would get kicked down the road' in relation to mains sewage upgrade, meaning the temporary treatment plant would become permanent.

-will there be a need for a right hand turning lane for this development to ensure no traffic build up on Old Omagh Road\_

-2 GP's will leave Ballygawley this year and two primary schools are at full capacity. Ballygawley currently does not have the structures in place to cater for the 30-odd families which, if approved, this development would facilitate.

### **Description of proposal**

This is a full planning application for 5 no detached dwellings & 12 no semi-detached dwellings, detached garage, carparking, landscaping and retaining walls and all other associated site works including temporary treatment works (17 units total).

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

The site is an irregular shaped plot cut from the northern portion of a larger agricultural field which is located within the settlement limits of Ballygawley, with access from Old Omagh Road. Access is proposed to the north east of No 15 Old Ballygawley Road with the proposed development site set back from roadside by approx.. 300m. This part of the site is elevated from roadside with the boundaries to the E, NE and NW being defined by mature tree lined hedgerows. The southern boundary of the site to the north is not clearly defined. The roadside boundary is defined by a 2m wide footway, grass verge, hedgerow and fencing and an agricultural field gate. The boundary to the west of the proposed access road for most part is shared with the curtilage boundary of No. 15 which is defined by a post and wire fence beyond which is a row of mature leyandii approx. 5-6m high. To the east of the proposed access road the boundary is not currently defined and is open to the remainder of the field.

To the east of the site is Richmond Primary School and 1no single detached 2 storey dwelling. Part of the field to the east, within blue land, has the following planning history;

-M/2015/0162/O- Proposed residential development comprising of 7 no. detached dwellings with detached garages, car parking, landscaping and all associated site works, permission granted 20.10.2015.

-LA09/2016/0887/RM- Erection of 5 detached dwellings with detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works, granted 08.06.2018

-LA09/2019/0247/F- Erection of 4 semi detached dwellings with 3 detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works, permission granted 25.11.2019.

Adjacent and SW of the subject site there is another proposal for housing under consideration, which will use part of the same access road that form part of this proposal;

LA09/2019/0317/F 2 detached bungalows and 2 semi-detached dwellings, detached garages, carparking, landscaping and all other associated site works including temporary treatment works (decision pending).

Development has not commenced on the above developments..

Land rises from the public road to the north of the site. There are panoramic views of the surrounding countryside at the north of this site.

South of the site are 2 dwellings, which are horse-shoed by the agricultural field of which this application site forms part.

Opposite the site are some roadside plots with single dwellings, and there is a Church of Ireland to the SE. A new housing development is under construction to the SE (LA09/2017/0293/F), with the Village centre of Ballygawley lying further to the east, and Richmond Park to the west.

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

### **Planning Act 2011**

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

### **Area Plan**

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

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.

### **3rd Part Objections**

One 3rd party objection was made and the following concerns raised;

- the manner in which a number of small planning applications are being made on this land, instead of one large application, suggests the entire project is being sought by stealth;
- concerns over the temporary waste water treatment plant and potential associated issues such as noise, smell, vermin, breakdown or malfunction;
- approval of a private treatment plant would mean 'the can would get kicked down the road' in relation to mains sewage upgrade, meaning the temporary treatment plant would become permanent.
- will there be a need for a right hand turning lane for this development to ensure no traffic build up on Old Omagh Road\_
- 2 GP's will leave Ballygawley this year and two primary schools are at full capacity. Ballygawley currently does not have the structures in place to cater for the 30-odd families which, if approved, this development would facilitate.

### **Relevant Planning History**

M/2015/0162/O- Proposed residential development comprising of 7 no. detached dwellings with detached garages, car parking, landscaping and all associated site works, permission granted 20.10.2015.

LA09/2016/0887/RM- Erection of 5 detached dwellings with detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works, granted 08.06.2018

LA09/2019/0247/F- Erection of 4 semi detached dwellings with 3 detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works, permission granted 25.11.2019.

LA09/2019/0317/F- 2 detached bungalows and 2 semi-detached dwellings, detached garages, car parking, landscaping and all other associated site works including temporary treatment works (Live application, decision pending)

The residential proposal lies within the settlement limit of Ballygawley and therefore PPS 7, Quality Residential Environments is the relevant policy consideration. The SPPS makes no material change to this policy.

**PPS 7 policy QD1 states;**

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

It is my opinion that the proposal layout respects the surrounding context and is appropriate in terms of layout and appearance of buildings and landscaped areas. The proposal will match the design of buildings permitted under LA09/2016/0887/RM and LA09/2019/0247/F, are of similar plot size, private rear amenity size, with in curtilage parking for vehicles. The proposed dwellings will not have a detrimental impact on the amenity of dwellings granted under LA09/2016/0887/RM and LA09/2019/0247/F, in that there will be no overlooking or overshadowing of proposed private rear amenity. Access to the development, which will also serve permissions LA09/2016/0887/RM and LA09/2019/0247/F, will be close to the eastern curtilage boundary of numbers 13 and 15 Old Ballygawley Road.

Proposed 2 storey dwellings will be on land to the north of these properties on higher ground, which may cause concern for over dominance or overlooking of private amenity space, or glare of headlights from cars. There is a good separation between existing and proposed amenity, plus there is an open space buffer proposed between the proposed access and existing private amenity. An existing landscape buffer of mature leylandi hedgerows of between 10ft to over 30ft high also envelopes the curtilage of these two existing properties which provides excellent protection for existing amenity. There is sufficient separation distance between existing and proposed dwellings. Orientation of dwellings on this development means they will either be gable on or rearing onto the existing properties. For these reasons it is my view that there will be no detrimental impact to existing or proposed private residential amenity and the residential character of the area will be protected.

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

No features of the archaeological /built heritage have been identified in the application site. Existing mature trees along the boundaries of the site have been identified and will be retained as part of the overall development. Levels are steep at certain points within the site, and some low retaining walls are proposed. As the retaining walls are low, with earth grading (see drawings 19 rev2 and 21 rev2), the impact of cutting into the hill for development is not dominated by large retaining wall structures which can have a detrimental impact on the overall amenity and environmental quality of an area. In this case, the retaining wall structures are acceptable.

(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;

An acceptable landscape drawing has been presented (see 19 rev2), where existing vegetation will be retained and protected where possible and additional planting of trees carried out. An area of open space is proposed along the western side of the proposed access road, along with an area of open space located to the south of site No. 25 (indicated on drawing No. 19 rev2) has been proposed. On viewing cross-sections (drawing 21 rev2) it is clear that the proposed area of open space to the south of site No. 25 is relatively flat and will be usable. Sometimes, remaining areas within a development that are steeply sloping and are not suitable for development are

designated as open space areas. These steeply sloping areas of open space are not readily usable by new residents, but this is not that case in this instance.

In my view there are acceptable private rear garden areas. In Creating Places, there is a recommendation for new housing development to have private rear garden areas of at least 70m<sup>2</sup>. All proposed dwellings within this development meet this recommended standard.

(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 close to the village of Ballygawley. A development of this size does not require its own neighbourhood facilities and there is sufficient neighbourhood facilities within Ballygawley to cater for a development of this size.

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

A footpath runs along site frontage towards Ballygawley village. Footpaths are provided for under this proposal which will connect to the wider public footpath network. This will support walking and cycling. Sharp corners are proposed within this development which will slow down traffic, and a speed bump will also reduce vehicle speeds within this development. No rights of way will suffer detriment from this proposal. DfI Roads raise no objection subject to adequate splays being put in place along with appropriate PSD works, which can be controlled by condition. Access to public transport is located within the village, not far from the development.

(f) adequate and appropriate provision is made for parking;  
DfI Roads are content in this regard. All parking is in-curtilage which is in keeping with the character of surrounding development in the area.

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

The design of the dwellings are similar to what has been granted previously, and are reflective of building design found in the area, with a mix of symmetrical and hipped roof pitches and traditional building materials. In my view the design is of a high quality.

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

The surrounding land uses are residential and a primary school. This residential development will not conflict with those land uses with careful consideration given to dwellings behind 15 Old Omagh Road to avoid any loss of amenity/overlooking. The proposal will not have a detrimental impact on the amenity of dwellings granted permission to the south and south-east of the site. There is sufficient separation between dwellings, sufficient private amenity space, no unacceptable loss of privacy and/or amenity, no overlooking or over dominance. With the primary school adjacent there will be noise from children at break times during term time. This will not be continuous and will only be at certain times of the day. Purchasers of the dwellings will be aware of this existing land use when buying the property.

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

The development would appear to be designed to deter crime and promote personal safety in that open areas are 'policed' in that nearby dwellings will front said areas. No back alley ways exist or pathways that are poorly lit or not overlooked exist in this development. These types of areas that seem to promote anti-social behaviour do not exist within this development. Private rear amenity areas are also protected by secure fencing/boundary walls.

**PPS15 Planning and Flood Risk**

A Drainage Assessment was provided by the agent. Rivers Agency are content with its findings subject to drainage measured being carried out and maintained in accordance with details contained within the Drainage Assessment date stamp received 20 MAY 2019.

**Other considerations**

The objector raised concern that permission for housing on this wider piece of land was being divided up so that permission would be gained through stealth. To ensure that this was the case I requested an overall concept plan to show development of the wider site. Through discussion with senior officers it was felt that this approach was acceptable, and that each proposal could be a stand alone quality development, regardless of which phase was built first, that there was enough protections built into the conditions of each application to ensure a quality residential environment with appropriate Drainage, sewage provision, safe and satisfactory access to the public road and footpath provision, and adequate public open space provision.

In terms of the temporary waste water treatment plant, it has been demonstrated by the applicant/agent that the proposed plant will have an acceptable noise and odour output that will not have any detriment on existing or proposed residential amenity. Environmental Health raise no concern in this regard. Separate permissions will have to be applied for to operate and maintain this private treatment plant to an adequate standard either through NIEA or NIW. A planning condition(s) can be attached to ensure adequate permissions are in place prior to the occupation of any dwelling hereby approved being occupied, with the plant removed and the development connected to mains sewage line when the necessary improvements are made to Ballygawley WwTW. The objectors concerns in relation to detrimental impact of the private plant to residential amenity are not determining in this instance.

The objector also raised concern that the introduction of this private treatment plant would delay the upgrade of Ballygawley WwTW. I am not aware of where Ballygawley sits in relation to capital grants for sewage infrastructure improvements. The main issue of concern for me in assessing this application is that the agent can demonstrate a suitable form of sewage provision that will not have a detrimental impact on existing or proposed amenity. This has been satisfactorily demonstrated in my view.

A right hand turning lane for this development was also requested by the applicant/agent for this proposal. DfI Roads were consulted on this proposal and are aware of the surrounding planning history which also proposes to access from this proposed access point onto the Old Ballygawley Road. DfI Roads do not raise any need for a right-hand-turning-lane at this time. I am satisfied that acceptable road safety can be achieved in this case. This stretch of road is relatively flat and straight with good forward sight distance and visibility when travelling in both directions leaving safe braking distances, especially when leaving Ballygawley Village towards the application site. I am satisfied that a turning lane is not required in this instance.

Concern is also raised by the objector that an additional potential 30 new families will put pressure on an existing GP service and that there is insufficient capacity at existing primary schools in the area to cater for any more children. GP provision per head of population within this catchment is not something that can be delivered by either approving or refusing this application and can only be controlled by the health service. In my view the size and scale of this development does not require inclusion of any more community facilities or local services. People with children have to apply to a primary school before sending their children. If there is no room at the nearest school then arrangements are made for them to attend a school that has sufficient space. The fact that a primary school is at capacity should not be a reason to refuse permission for a development of this size and scale. The objectors concerns in this regard are

not determining in this regard. It is also important to not that an expanding population is important to sustain and expand existing local services, especially in small villages where some services and schools are under threat from closure.

NIW have indicated that sewage capacity within Ballygawley waste water treatment plant is not capable of accepting waste from this development. As detailed above, the agent has demonstrated that satisfactory alternative arrangements can be met for dealing with sewage. Environmental Health have provided comment on the package treatment plant and raise no objection subject to certain noise and odour levels being maintained, which I find reasonable to attach as planning conditions so as to protect existing and proposed amenity in this area.

A Preliminary Ecological Appraisal was carried on this site and NIEA requested further badger info which was supplied by the agent. NIEA now have no further concern with the impacts of this proposal on the environment.

Shared Environmental Services are satisfied that this proposal will not have a detrimental impact on any designated European designated site or its selection habitat features.

No issues of land contamination or risk to human health have been raised by any consultees.

Beyond the site to the east, and adjacent and north of Richmond Primary School, is land that is included within the development limits of Ballygawley. To ensure that this parcel of land is not landlocked from future potential development Council asked the applicant/agent to demonstrate suitable access to this land. The agent has demonstrated that because of recent expansions to the Primary School that there is no reasonable prospect of accessing this land through the application site as the access would be outside development limits. Plus, the agent has also demonstrated that an alternative can be achieved via an existing right of way between the School and Hall on Old Ballygawley Road. It may also be the case that the School could further extend into this parcel of land in the future. Council are content to proceed on this basis.

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

That planning permission is granted subject to the following conditions.

#### **Conditions**

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

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

2. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed, completed and permanently retained, as detailed on drawings No. 18 date stamp received 11/03/2019 and 19 rev2 date received 27/09/2019, unless otherwise agreed by Council.

Reason: To assist in the provision of a quality residential environment and to safeguard existing and proposed residential amenity.

3. All hard and soft landscaping within the curtilage of each boundary, indicated on drawing No. 19 rev2 date received 27/09/2019, shall be put in place prior to the occupation of the dwelling within that curtilage, unless otherwise agreed in writing with Mid Ulster district Council.

Reason: To provide a quality residential environment.

4. Prior to the occupation of any of the dwellings hereby approved, the developer shall provide the proposed public open space as indicated on the approved plan drawing No. 19 rev2 date stamp received 27/09/2019, 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.

5. During the first available planting season after the commencement of development on site, all trees indicated in drawing No 31 date stamp received 14/10/2019, shall be planted as shown and be permanently retained thereafter.

Reason: In the interest of visual amenity.

6. The existing natural screenings of this site, as indicated on drawing No 31 date stamp received 14/10/19, shall be permanently retained, otherwise agreed by Mid Ulster Council in writing.

Reason: In the interest of visual amenity.

7. A maintenance plan and legal agreement for all areas of open space shall be submitted to 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.

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

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

9. All drainage mitigation measures and maintenance proposals shall be carried out in accordance with details indicated in Doc1: Drainage Assessment date stamp received 20/05/19 and shall be permanently retained and maintained thereafter in accordance with that assessment.

Reason: To ensure that the site will not flood and to prevent flooding elsewhere.

10. No dwelling hereby approved shall be occupied until the waste water treatment plant as shown on drawing no. 19 rev2 date stamp received 27/09/2019 is installed and is fully operational. The developer shall satisfy him/herself that all necessary agreements are in place for the private treatment plant and that it is management and maintained to an acceptable standard.

The private treatment plant shall remain in place until such times as the necessary improvements are made to Ballygawley 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.

11. Noise from the private sewage package treatment plant shall not exceed 53 dB(A) LAeq, when measured 5 metres from source.

Reason: To safeguard existing and proposed residential amenity.

12. The vehicular access, including visibility splay of 2.4 metres by 90.0 metres in both directions, shall be provided in accordance with Drawing No 22 rev3 date stamp received 4/12/19 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

13. 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.

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

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

15. Private Street Conditions  
The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
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 22 rev3 date stamp received 4/12/19.

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.

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

No other development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 22 rev3 date stamp received 4/12/19.

The Department for Infrastructure hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

17. No dwelling hereby approved shall not be occupied until the road works (including widening of the existing footway) as indicated on Drawing No. 22 rev3 date stamp received 4/12/19 have been fully completed in accordance with the approved plans.

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

### **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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	11th March 2019
<b>Date First Advertised</b>	28th March 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 13 ,Old Omagh Road,Ballygawley,Tyrone,BT70 2AA The Owner/Occupier, 15 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA The Owner/Occupier, 2 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA Francis Kelly 3 Old Omagh Road Ballygawley Tyrone The Owner/Occupier, 4 Old Omagh Road Ballygawley Tyrone The Owner/Occupier, Richmond Primary School, 1 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA	
<b>Date of Last Neighbour Notification</b>	30th May 2019
<b>Date of EIA Determination</b>	<b>14/01/20</b>
<b>ES Requested</b>	No
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7th April 2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0317/F	<b>Target Date:</b>
<b>Proposal:</b> 2 detached bungalows and 2 semi-detached dwellings, detached garages, carparking, landscaping and all other associated site works including temporary treatment works (Drainage Assessment and revised plans)	<b>Location:</b> Lands to the NE of 3 & 15 Old Omagh Road Ballygawley
<b>Referral Route: Objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Dr J Gormley 49 Kilmore Road Lurgan BT67 9HT	<b>Agent Name and Address:</b> Alan Patterson Design LLP Darragh House 112 Craigdarragh Road Helen's Bay BT19 1UB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## 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

One 3rd party objection was made and the following concerns raised;

- the manner in which a number of small planning applications are being made on this land, instead of one large application, suggests the entire project is being sought by stealth;
- concerns over the temporary waste water treatment plant and potential associated issues such as noise, smell, vermin, breakdown or malfunction;
- approval of a private treatment plant would mean 'the can would get kicked down the road' in relation to mains sewage upgrade, meaning the temporary treatment plant would become permanent.
- will there be a need for a right hand turning lane for this development to ensure no traffic build up on Old Omagh Road\_

-2 GP's will leave Ballygawley this year and two primary schools are at full capacity. Ballygawley currently does not have the structures in place to cater for the 30-odd families which, if approved, this development would facilitate.

### **Description of proposal**

This is a full planning application for 2 detached bungalows and 2 semi-detached dwellings, detached garages, carparking, landscaping and all other associated site works including temporary treatment works.

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

The site is an irregular shaped plot cut from the western portion of a larger agricultural field which is located within the settlement limits of Ballygawley, with access from Old Omagh Road. Access is proposed to the east of No 15 Old Ballygawley Road, which will wrap around the existing curtilage boundary of No. 15, with the proposed development site set to the west. This part of the larger field is low lying, and slightly below the level of roadside. The boundaries to the N, W and S benefit from natural hedge rows and trees. The southern boundary of the site to the west is also adjacent to roadside, while the roadside boundary to the east is defined by a 2m wide footway, grass verge, hedgerow and fencing and an agricultural field gate. The boundary to the SE is shared with an existing business (now called Zebra Salvage) and is defined as 2m high concrete post and wire fence security boundary.

This site wraps around an existing business and dwelling curtilage. Further to the east of the site is a Richmond Primary School and 1 no single detached 2 storey dwelling. The remaining part of the field, indicated within blue land, has the following planning history; -M/2015/0162/O- Proposed residential development comprising of 7 no. detached dwellings with detached garages, car parking, landscaping and all associated site works, permission granted 20.10.2015.

-LA09/2016/0887/RM- Erection of 5 detached dwellings with detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works, granted 08.06.2018

-LA09/2019/0247/F- Erection of 4 semi detached dwellings with 3 detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works, permission granted 25.11.2019.

Adjacent and NE of the subject site there is another proposal for housing under consideration, which will use part of the same access road that forms part of this proposal;

LA09/2019/0313/F application for 5 no detached dwellings & 12 no semi-detached dwellings, detached garage, carparking, landscaping and retaining walls and all other associated site works including temporary treatment works (17 units total- decision pending).

Development has not commenced on the above developments.

Opposite the site are some roadside plots with single dwellings, and there is a Church of Ireland to the SE. A new housing development is under construction to the SE (LA09/2017/0293/F), with the Village centre of Ballygawley lying further to the east, and Richmond Park to the west with a single dwelling adjacent to the NW of the site.

### **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- within development limits of Ballygawley, no zoning. In the plan it states that housing development will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement.

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.

### **3rd Part Objections**

One 3rd party objection was made and the following concerns raised;

- the manner in which a number of small planning applications are being made on this land, instead of one large application, suggests the entire project is being sought by stealth;
- concerns over the temporary waste water treatment plant and potential associated issues such as noise, smell, vermin, breakdown or malfunction;
- approval of a private treatment plant would mean 'the can would get kicked down the road' in relation to mains sewage upgrade, meaning the temporary treatment plant would become permanent.
- will there be a need for a right hand turning lane for this development to ensure no traffic build up on Old Omagh Road\_
- 2 GP's will leave Ballygawley this year and two primary schools are at full capacity. Ballygawley currently does not have the structures in place to cater for the 30-odd families which, if approved, this development would facilitate.

### **Relevant Planning History**

M/2015/0162/O- Proposed residential development comprising of 7 no. detached dwellings with detached garages, car parking, landscaping and all associated site works, permission granted 20.10.2015.

LA09/2016/0887/RM- Erection of 5 detached dwellings with detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works, granted 08.06.2018

LA09/2019/0313/F- 5 no detached dwellings & 12 no semi-detached dwellings, detached garage, carparking, landscaping and retaining walls and all other associated site works including temporary treatment works (decision pending).

LA09/2019/0247/F- Erection of 4 semi detached dwellings with 3 detached garages, car parking, landscaping and retaining walls and all other associated site works including temporary treatment works, permission granted 25.11.2019.

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

There remains a presumption in favour of development within the settlement limit subject to satisfying a number of criteria. The proposal is for 4 no. dwellings (2 detached bungalows and one set of semi-detached 2 storey dwellings) on spacious plots.

**PPS 7 states;**

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

It is my opinion that the proposal layout respects the surrounding context and is appropriate in terms of layout and appearance of buildings and landscaped areas. The proposal will match the design of buildings permitted under surrounding permissions, are of similar plot size, private rear amenity size, with in curtilage parking for vehicles. The proposed dwellings will not have a detrimental impact on existing or proposed amenity, in that there will be no overlooking or overshadowing of existing or proposed private rear amenity. Although these dwellings are hipped roof in design, they are low lying in the landscape and this site is well screened from public views. This design will not have a detrimental impact on the character of this area or on any features of archaeological or built heritage.

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

No features of the archaeological /built heritage have been identified in the application site. Existing mature trees along the eastern boundary have been identified and will be retained as part of the overall development. Levels are relatively flat and low lying within the site.

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

An acceptable landscape drawing has been presented, where existing vegetation will be retained and protected where possible and additional planting of trees carried out. A significant area of open space has been identified to the south of the site, with its maintenance to be agreed in writing at a later stage, before any dwelling is occupied. This area of open space is overlooked by the proposed dwellings and its provision and maintenance can be controlled by planning condition, in a timely manner.

(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 close to the village of Ballygawley and will be connected through the public footpath network. A development of this size does not require its own neighbourhood 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;

A footpath runs along site frontage towards Ballygawley village, this connects to one annotated on the concept plan in to the heart of the development. No rights of way are shown on site location plan. DfI Roads raise no objection subject to adequate splays being put in place along with appropriate private street works, its provision can be controlled by condition.

(f) adequate and appropriate provision is made for parking;  
DfI Roads are content in this regard.

(g) the design of the development draws upon the best local traditions of form, materials and detailing;  
The design of the dwellings are similar to what has been granted previously. In my view the design is of a high quality and respects local traditions and will not have a detrimental impact on the local character of this area.

(h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;  
The surrounding land uses are residential, primary school and business. This residential development will not conflict with those land uses with careful consideration given to surrounding properties to avoid any loss of amenity/overlooking, given the levels through the site. The proposal will not have a detrimental impact on the amenity of dwellings granted permission north east of the site.

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

The development would appear to be designed to deter crime and promote personal safety in that open areas are `policed?', in that nearby dwellings all front said areas and provide no alley ways or other areas for congregation and potential crime. Rear boundaries are also protected by secure fencing/boundary walls.

### **PPS15 Planning and Flood Risk**

While this policy does not require a Drainage Assessment, due to the size of the development, I felt it important that drainage requirement for this site were fully explored, given that this is one of 4 piecemeal developments submitted on this larger field, each connecting into the other, giving a total of 30 units. The site is also relatively flat and low lying so I felt it important to consider the impacts of one part of the development on the other, and on surrounding land. The agent provided a Drainage Assessment for the overall development, and Rivers Agency are content with its findings. Drainage for this site can be controlled through a planning condition.

**Other considerations**

The objector raised concern that permission for housing on this wider piece of land was being divided up so that permission would be gained through stealth. To ensure that this was the case I requested an overall concept plan to show development of the wider site. Through discussion with senior officers it was felt that this approach was acceptable, and that each proposal could be a stand alone quality development, regardless of which phase was built first, that there was enough protections built into the conditions of each application to ensure a quality residential environment with appropriate Drainage, sewage provision, safe and satisfactory access to the public road and footpath provision, and adequate public open space provision.

In terms of the temporary waste water treatment plant, it has been demonstrated by the applicant/agent that the proposed plant will have an acceptable noise and odour output that will not have any detriment on existing or proposed residential amenity.

Environmental Health raise no concern in this regard. Separate permits/licences will have to be sought to operate and maintain this private treatment plant to an adequate standard either through NIEA or NIW. A planning condition(s) can be attached to ensure adequate maintenance agreements are in place prior to the occupation of any dwelling hereby approved. The plant can be removed and the development connected to mains sewage line when the necessary improvements are made to Ballygawley WwTW. The objectors concerns in relation to detrimental impact of the private plant to residential amenity are not determining in this instance.

The objector also raised concern that the introduction of this private treatment plant would delay the upgrade of Ballygawley WwTW. I am not aware of where Ballygawley sits in relation to capital grants for sewage infrastructure improvements. The main issue of concern for me in assessing this application is that the agent can demonstrate a suitable form of sewage provision that will not have a detrimental impact on existing or proposed amenity. This has been satisfactorily demonstrated in my view.

A requirement for a right hand turning lane for this development was also requested by the objector, as a number of other planning applications will potentially access from the same proposed access point. DfI Roads were consulted on this proposal and are aware of the surrounding planning history. DfI Roads do not raise any need for a right-hand-turning-lane at this time. I am satisfied that acceptable road safety can be achieved in this case. This stretch of road is relatively flat and straight with good forward sight distance and visibility when travelling in both directions leaving safe braking distances, especially when leaving Ballygawley Village towards the application site. I am satisfied that a right hand turning lane is not required in this instance.

Concern is also raised by the objector that an additional potential 30 new families will put pressure on an existing GP service and that there is insufficient capacity at existing primary schools in the area to cater for any more children. GP provision per head of population within this catchment is not something that can be delivered by either approving or refusing this application and can only be controlled by the health service. In my view the size and scale of this development does not require inclusion of any more community facilities or local services. People with children have to apply to a primary school before sending their children. If there is no room at the nearest school then arrangements are made for them to attend a school that has sufficient space. The objectors concerns in this regard are not determining. It is also important to note that an

expanding population is important to sustain and expand existing local services, especially in small villages where some services and schools are under threat from closure.

NIW have indicated that sewage capacity within Ballygawley waste water treatment plant is not capable of accepting waste from this development. As detailed above, the agent has demonstrated that satisfactory alternative arrangements can be met for dealing with sewage. Environmental Health have provided comment on the package treatment plant and raise no objection subject to certain noise and odour levels being maintained, which I find reasonable to attach as planning conditions so as to protect existing and proposed amenity in this area.

A Preliminary Ecological Appraisal was carried on this site and NIEA requested further badger info which was supplied by the agent. NIEA now have no further concern with the impacts of this proposal on the environment.

SES are satisfied that this proposal will not have a detrimental impact on any designated European designated site or its selection habitat features.

No issues of land contamination or risk to human health have been raised by any consultees.

Beyond the site to the north is an existing agricultural field that is included within the development limits of Ballygawley. To ensure that this parcel of land is not landlocked from future potential development Council asked the applicant/agent to demonstrate suitable access to this land. The agent provided an indicative plan to show where future potential access to this land could be provided to this land through this proposed development. I consulted DfI Roads for their opinion on this potential access point to ensure it could be delivered if access was required in the future. DfI Roads indicated that a future access could be accommodated at the location shown. In my view this proposed access point would (if ever developed) have limited impact to existing or proposed residential amenity or on open space provision. I am content that potential future access to future development land has been demonstrated satisfactorily and that this development will not land lock potential development land within Ballygawley. Council are content to proceed on this basis. DfI Roads did indicate that should this land to the north be accessed via this point, that there may be some requirement in the future for a right hand turning lane. Council will assess this requirement based on any future proposals on a case by case basis.

**Neighbour Notification Checked**

**No**

**Summary of Recommendation:**

That planning permission is granted subject to the following conditions.

**Conditions**

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

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

2. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed, completed and permanently retained, as detailed on drawing No. 24 date stamp received 14/10/2019, unless otherwise agreed by Council.

Reason: To assist in the provision of a quality residential environment and to safeguard existing and proposed residential amenity.

3. All hard and soft landscaping within the curtilage of each boundary, indicated on drawing No. 24 date stamp received 14/10/2019, shall be put in place prior to the occupation of the dwelling within that curtilage, unless otherwise agreed in writing with Mid Ulster district Council.

Reason: To provide a quality residential environment.

4. Prior to the occupation of any of the dwellings hereby approved, the developer shall provide the proposed public open space as indicated on the approved plan drawing No. 24 date stamp received 14/10/2019, 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.

5. During the first available planting season after the commencement of development on site, all trees indicated in drawing No. 24 date stamp received 14/10/2019, shall be planted as shown and be permanently retained thereafter.

Reason: In the interest of visual amenity.

6. The existing natural screenings of this site, as indicated on drawing No 03 rev1 date stamp received 27/09/19, shall be permanently retained, otherwise agreed by Mid Ulster Council in writing.

Reason: In the interest of visual amenity.

7. A maintenance plan and legal agreement for all areas of open space shall be submitted to 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.

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

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

9. All drainage mitigation measures and maintenance proposals shall be carried out in accordance with details indicated in Doc1: Drainage Assessment date stamp received 20/05/19 and shall be permanently retained and maintained thereafter in accordance with that assessment.

Reason: To ensure that the site will not flood and to prevent flooding elsewhere.

10. No dwelling hereby approved shall be occupied until the waste water treatment plant as shown on drawings no. 02 rev1 date stamp received 27/09/2019, No. 24 date stamp received 14/10/2019, and, 17 and 18 date stamp received 11/03/2019 is installed and is fully operational. The developer shall satisfy him/herself that all necessary agreements are in place for the private treatment plant and that it is management and maintained to an acceptable standard.

The private treatment plant shall remain in place until such times as the necessary improvements are made to Ballygawley 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.

11. Noise from the private sewage package treatment plant shall not exceed 53 dB(A) LAeq, when measured 5 metres from source.

Reason: To safeguard existing and proposed residential amenity.

12. The vehicular access, including visibility splay of 2.4 metres by 90.0 metres in both directions, shall be provided in accordance with Drawing No 16 Rev 3 stamp date 4 December 2019 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

13. 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.

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

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

### **Private Street Conditions**

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

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 16 Rev 3 stamp date 4 December 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.

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

No other development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 16 Rev 3 stamp date 4 December 2019.

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

17. The Department for Infrastructure hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

18. No dwelling hereby approved shall be occupied until the road works (including widening of the existing footway) as indicated on Drawing No 16 Rev 3 stamp date 4 December 2019 have been fully completed in accordance with the approved plans.

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

**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.

**Signature(s)****Date:****ANNEX**

<b>Date Valid</b>	11th March 2019
<b>Date First Advertised</b>	28th March 2019
<b>Date Last Advertised</b>	

**Details of Neighbour Notification** (all addresses)

The Owner/Occupier,  
13 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA

The Owner/Occupier,  
14 Old Omagh Road Ballygawley Tyrone

The Owner/Occupier,  
15 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA

The Owner/Occupier,  
2 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA

The Owner/Occupier,  
23 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA

Francis Kelly  
3 Old Omagh Road Ballygawley Tyrone

The Owner/Occupier,  
3 Richmond Manor, Ballygawley, Tyrone, BT70 2ES

The Owner/Occupier,  
4 Old Omagh Road Ballygawley Tyrone

The Owner/Occupier,  
4 Richmond Manor, Ballygawley, Tyrone, BT70 2ES

The Owner/Occupier,  
Richmond Primary School, 1 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA

The Owner/Occupier, Zebra Salvage, Old Omagh Road, Ballygawley, Tyrone, BT70 2AA -	
<b>Date of Last Neighbour Notification</b>	4th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0456/O	<b>Target Date:</b>
<b>Proposal:</b> 2no. Dwellings to the rear of No. 32 and associated works.	<b>Location:</b> 32 The Square Stewartstown Co Tyrone.
<b>Referral Route:</b> Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Kevin Campbell 112 Lisacclare Road Stewartstown BT71 5QH	<b>Agent Name and Address:</b> Building Design Solutions 76 Main Street Pomeroy BT70 2QP
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

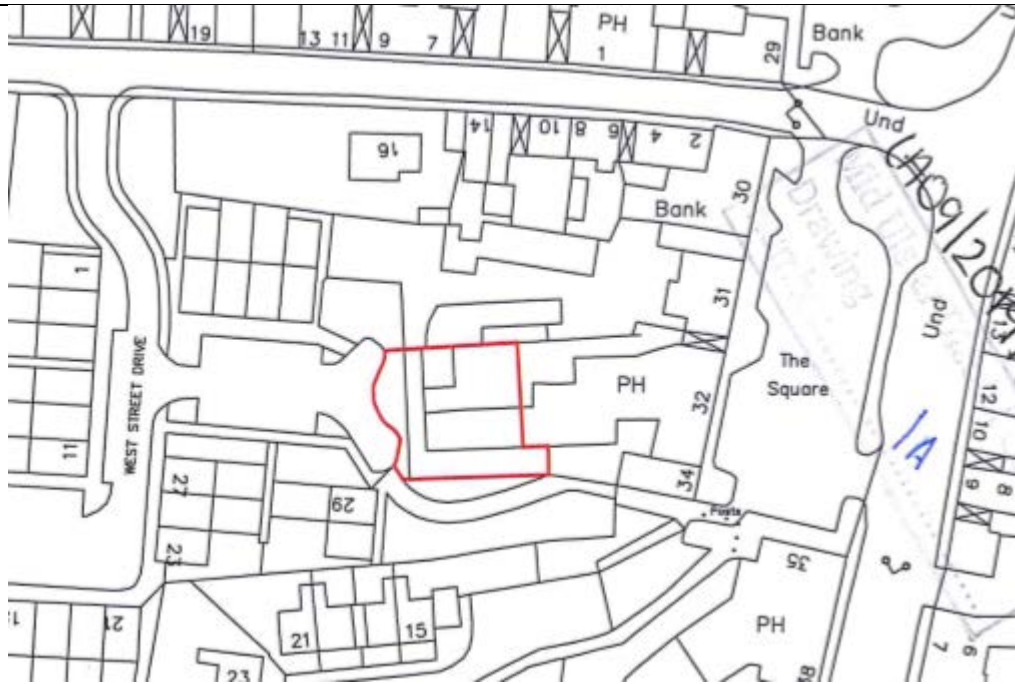
One objection was received from the owner of the adjoining property. The objector has submitted a land registry map which he claims shows an overlap in the area within the red line of the application site and the area within the objectors control. He suggests that were the correct red line be submitted the site would be too restricted.

### Characteristics of the Site and Area

The site comprises a square shaped plot of land located to the rear of the main square in Stewartstown. It is located immediately to the rear of number 32 The Square, Stewartstown. The site includes the rear yard to existing commercial buildings which were previously a licenced premises. Within the site there are a number of outbuildings and small stores, as well as a paved area which at the time of site visit was run down and overgrown with weeds. The southern and western boundary are defined by a 3 metre high palisade fence, the northern boundary is the wall between the site and number 31 and to the east is the boundary wall of the existing commercial building.

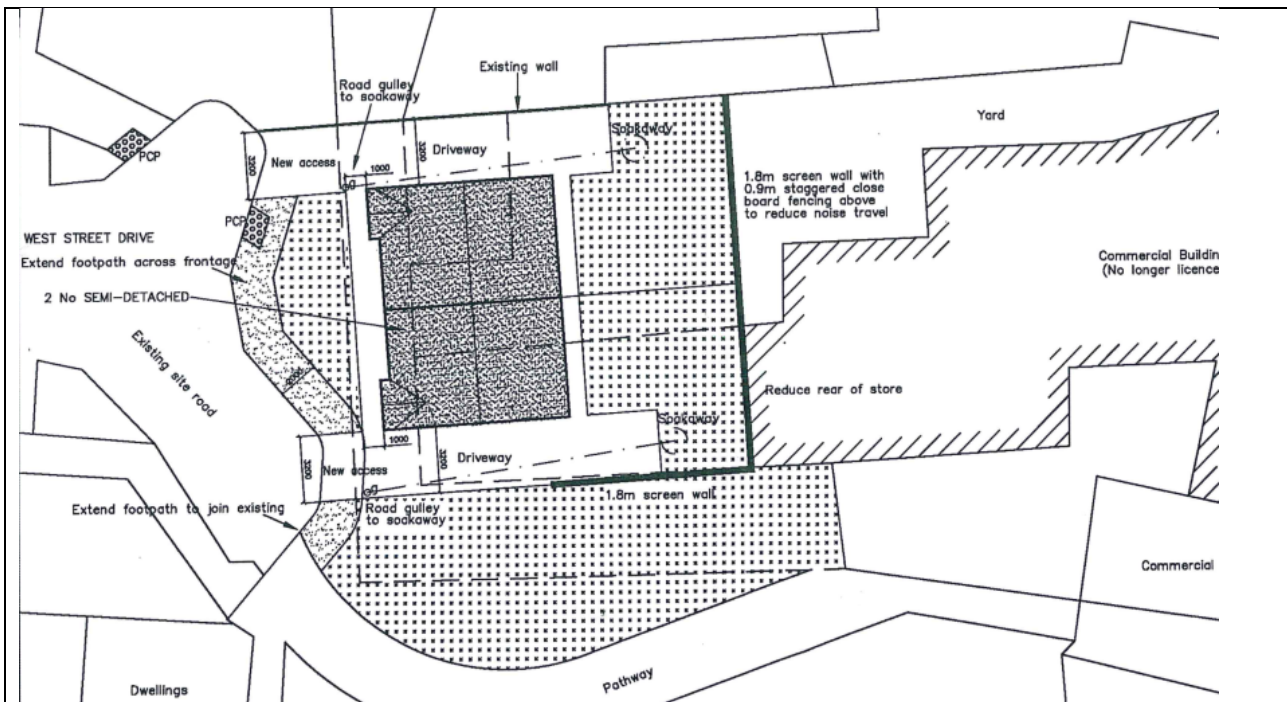


The site lies within the settlement limits of Stewartstown, with the proposed frontage of the site facing into the existing Westfield drive development, which comprise two rows of terraced two storey dwellings, there is a footway and a grassed area to the south and to the north the site is enclosed by the rears of number 31 and 32 the Square. The site itself can be accessed off the Main Square via an existing archway.



### Description of Proposal

The proposal seeks outline planning permission for a site for two dwellings to face onto and become part of the existing Westfield Drive development.



## 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 - No land zoning on this site, located within the development limits of Stewartstown.

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.

**Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation was due to close at 5pm on 21<sup>st</sup> May 2020.**

**In light of this the draft plan cannot currently be given any determining weight.**

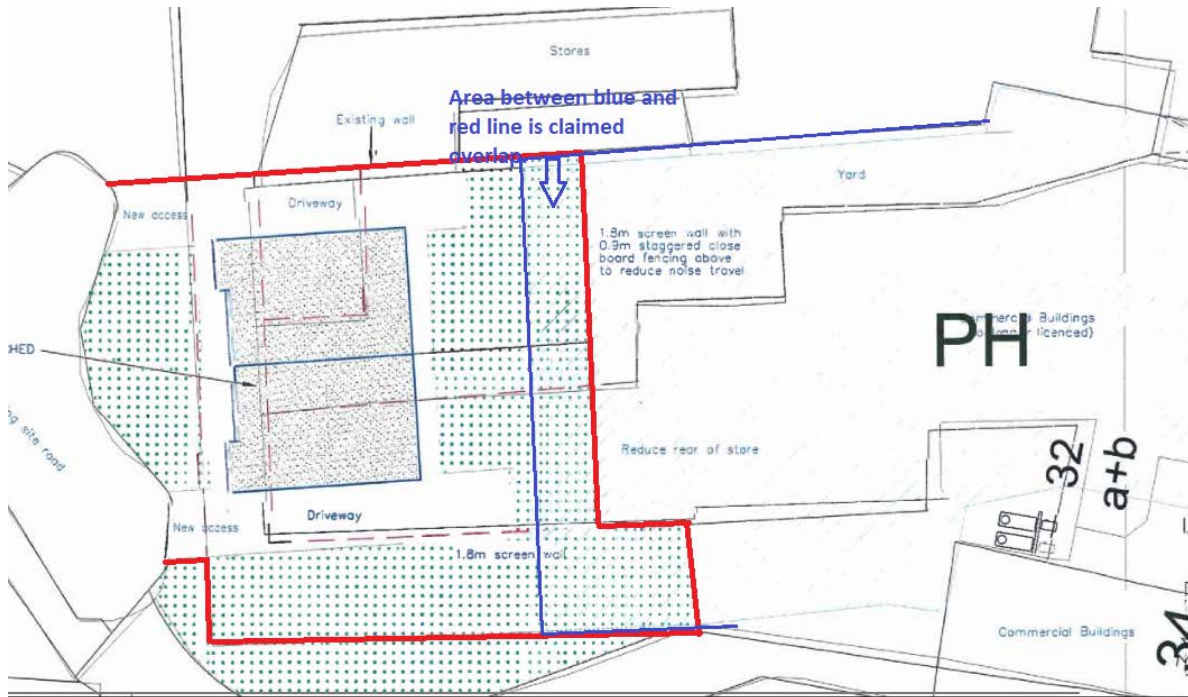
### Planning History

I/2007/0590/F – 6 apartments – Withdrawn whilst facing refusal.

I/2009/0270/O – 2 Dwellings – Withdrawn whilst facing refusal.

### Representations

One objection was received from the owner of the adjoining property. The objector has submitted a land registry map which shows an overlap in the area within the red line of the application site and the area within the objectors control. He suggests that were the correct red line be submitted the site would be to restricted.



The agent has rebutted this objection and has stated that the objectors overlays have been done incorrectly and has submitted his own overlays to show there is adequate amenity space remaining, he did however, agree that the original red line was to be reduced at the rear. Subsequently, a new site location and site layout was submitted with a reduced red line. As seen below, the remaining amenity space on the recent drawing read 55m<sup>2</sup> and 56m<sup>2</sup>.



As both the applicant and the agent are aware, planning permission does not confer title and it is the responsibility of the developer to satisfy himself that the red line of the site is correct.

#### Relevant Planning Policy

Regional Development Strategy for Northern Ireland 2035 (RDS)

PPS 3 - Access, Movement and Parking

PPS 7 - Quality Residential Environments

Addendum to PPS 7- Safeguarding the Character of Established Residential Areas

Improving the Quality of Housing Layouts in Northern Ireland

DCAN 8 - Housing in Existing Urban Areas

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

#### Consideration

##### PPS7 - Quality in New Residential Developments

Policy QD1 of PPS 7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas. The current proposal is for a single detached dwelling. The Policy sets out nine criteria which all residential development proposals are expected to meet.

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

This is an outline application and as a result I am unable to determine the development in terms of scale, massing etc. this would be an issue for a reserved matters applications if approval was granted. However, the indicative plan would suggest the layout and character is similar to that found in the wider residential area of this relatively newly built development which it faces, this proposal involves adding a pair of semi detached dwellings to an existing cul de sac and in my opinion this does respect this pattern in the area.

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

There are no archaeological features or landscaped features on this site, or the immediate vicinity of this site.

c)adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along

site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area.

A development of this size and scale does not need to make provision for public open space, there is however a small playground within the near vicinity of the site. There is a small green area to the south of the site which can be used by the existing residents, the proposal would not result in a detrimental loss of this open space.

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

The size and scale of this development does not require it to make provision for local neighbourhood facilities. There are existing transport links in the area.

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

A footpath is provided and the location of this site within the village of Stewartstown enables convenient access to public services and transport.

f) adequate and appropriate provision is made for parking;

There is adequate in-curtilage space for parking provided for each dwelling proposed. Transport NI were consulted and responded with no objections to the proposal subject to planning conditions.

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

This is an outline application therefore no design has been submitted however if approved it will be conditioned that the design will draw upon the best local traditions of form, materials and detailing.

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

The orientation of the dwellings does take into consideration other existing dwellings in the immediate vicinity of the site. The dwellings will not overlook, contribute to loss of light, overshadow, or create noise or other disturbance between themselves or other properties. The addition of these 2 proposed dwellings does not create a conflict nor have an adverse effect on the amenities enjoyed by the existing residents.

However, one objection was received from the owner of the adjoining property. The objector has submitted a land registry map which shows an overlap in the area within the red line of the application site and the area within the objectors control. He suggests that were the correct red line be submitted the site would be too restricted. The adjoining land use to the rear is a disused commercial premise, Environmental health were consulted and responded with no objections in terms of noise or other disturbance. The back to back distance is minimal however, the proposed dwellings would be backing onto the rear wall of the existing commercial premise.

In relation to residential amenity, taking into account the land registry maps from the objector, the actual private rear amenity space would be reduced to 36m<sup>2</sup> and 27m<sup>2</sup> respectively and would in that case not be considered acceptable in planning terms. However, according to the amended drawings received

there is approx. 56m<sup>2</sup> private rear amenity space to proposed dwelling no.1 and 55m<sup>2</sup> for proposed dwelling no.2. This would be acceptable in planning terms.

The agent has rebutted this objection and has stated that the objectors overlays have been done incorrectly and has submitted his own overlays to show there is adequate amenity space remaining, he did however, agree that the original red line was to be reduced at the rear. Subsequently the remaining amenity space on the recent drawing read 55m<sup>2</sup> and 56m<sup>2</sup>.

As both the applicant and the agent are aware, planning permission does not confer title and it is the responsibility of the developer to satisfy himself that the red line of the site is correct.

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

No issues or concerns in this regard.

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. I do not think it is incongruent with the surrounding area.

(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. I do not think this proposal is conflicting with the character of the existing residential area.

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

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

PPS 3 -

Access, Movement and Parking sets out the policies for vehicular and pedestrian access, transport assessment, protection of transport routes and parking.

DfI Roads were consulted and after various amended drawings they have responded with no objections.

Recommendation; considering all of the above it is my opinion that the proposal would not result in an unacceptable damage to local character, environmental quality or residential amenity of these areas.

The proposal will in actual fact improve the visual amenity of the exiting area in that, at present what is an unsightly disused waste ground to a redundant commercial premise surrounded by a palisade fence will be replaced with a pair of semi detached dwellings. This will in my opinion round off the end of the existing development approving the appearance of the area.

Therefore approval is recommended

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Conditions</b>	
<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 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: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.</p>	
<p>3.A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.</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.The proposed dwelling shall have a ridge height of less than 8 metres above finished floor level.</p>	
<p>Reason: To ensure that the development is not prominent in the landscape with regards to the adjacent residential dwellings.</p>	
<b>Informatives</b>	
<p>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.</p>	
<p>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.</p>	
<p>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.</p>	
<p>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.</p>	

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:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th April 2019
<b>Date First Advertised</b>	18th April 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 West Street Drive Stewartstown Tyrone The Owner/Occupier, 10 West Street, Stewartstown, Tyrone, BT71 5HT The Owner/Occupier, 11 West Street Drive Stewartstown Tyrone The Owner/Occupier, 12 West Street, Stewartstown, Tyrone, BT71 5HT The Owner/Occupier, 14 West Street, Stewartstown, Tyrone, BT71 5HT The Owner/Occupier, 15 Ard Stewart Stewartstown Tyrone The Owner/Occupier, 15 West Street Drive Stewartstown Tyrone The Owner/Occupier, 16 West Street, Stewartstown, Tyrone, BT71 5HT The Owner/Occupier, 17 Ard Stewart Stewartstown Tyrone The Owner/Occupier, 17 West Street Drive Stewartstown Tyrone The Owner/Occupier, 19 Ard Stewart Stewartstown Tyrone The Owner/Occupier, 19 West Street Drive Stewartstown Tyrone The Owner/Occupier, 1st Floor Flat, 32a, The Square, Stewartstown, Tyrone, BT71 5HX The Owner/Occupier, 1st Floor Flat, 32b, The Square, Stewartstown, Tyrone, BT71 5HX The Owner/Occupier, 2 West Street Drive Stewartstown Tyrone The Owner/Occupier, 2 West Street, Stewartstown, Tyrone, BT71 5HT The Owner/Occupier, 21 Ard Stewart Stewartstown Tyrone The Owner/Occupier, 21 West Street Drive Stewartstown Tyrone The Owner/Occupier, 23 West Street Drive Stewartstown Tyrone The Owner/Occupier, 25 West Street Drive Stewartstown Tyrone	

The Owner/Occupier,  
 27 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 29 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 3 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 30 The Square Stewartstown Tyrone  
 The Owner/Occupier,  
 30 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 31 The Square Stewartstown Tyrone  
 The Owner/Occupier,  
 31 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 31a ,The Square,Stewartstown,Tyrone,BT71 5HX  
 The Owner/Occupier,  
 31b ,The Square,Stewartstown,Tyrone,BT71 5HX  
 The Owner/Occupier,  
 31c ,The Square,Stewartstown,Tyrone,BT71 5HX  
 The Owner/Occupier,  
 32 The Square Stewartstown Tyrone  
 The Owner/Occupier,  
 32 The Square,Stewartstown,Tyrone,BT71 5HX  
 The Owner/Occupier,  
 33 The Square Stewartstown Tyrone  
 The Owner/Occupier,  
 33a ,The Square,Stewartstown,Tyrone,BT71 5HX  
 The Owner/Occupier,  
 34 The Square Stewartstown Tyrone  
 The Owner/Occupier,  
 34 West Street Drive,Stewartstown,Tyrone,BT71 5HL  
 The Owner/Occupier,  
 35 The Square Stewartstown Tyrone  
 The Owner/Occupier,  
 4 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 4 West Street,Stewartstown,Tyrone,BT71 5HT  
 The Owner/Occupier,  
 5 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 6 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 6 West Street,Stewartstown,Tyrone,BT71 5HT  
 The Owner/Occupier,  
 6a ,West Street,Stewartstown,Tyrone,  
 The Owner/Occupier,  
 7 West Street Drive Stewartstown Tyrone  
 The Owner/Occupier,  
 8 West Street Drive Stewartstown Tyrone

The Owner/Occupier, 9 West Street Drive Stewartstown Tyrone Peter Mulgrew 96 Lisaclare Road, Stewartstown,Dungannon,BT71 5QJ The Owner/Occupier, Caravan,31 The Square,Stewartstown,Tyrone,BT71 5HX The Owner/Occupier, Gnd,32a ,The Square,Stewartstown,Tyrone,BT71 5HX The Owner/Occupier, Gnd,32b ,The Square,Stewartstown,Tyrone,BT71 5HX	
<b>Date of Last Neighbour Notification</b>	15th April 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/0456/O Proposal: 2no. Dwellings to the rear of No. 32 and associated works. Address: 32 The Square, Stewartstown, Co Tyrone., Decision: Decision Date:  Ref ID: I/2008/0291/F Proposal: Proposed two storey dwelling house (Amended Drawings) Address: 35m west of the Square, Stewartstown, Dungannon Decision: Decision Date: 23.09.2008  Ref ID: I/2001/0398/F Proposal: Proposed housing development Address: Adjacent to St Mary's Primary School 22 West Street Stewartstown Decision: Decision Date: 18.12.2002  Ref ID: I/1999/0031 Proposal: Proposed Housing Development Address: ADJACENT TO ST. MARY'S PRIMARY SCHOOL 22 WEST STREET STEWARTSTOWN Decision: Decision Date:  Ref ID: I/2001/0249/Q Proposal: Housing Development Address: West Street Stewartstown Decision: Decision Date:	

Ref ID: I/2009/0170/O

Proposal: Demolition of existing store and construction of 2 no dwellings and associated site works

Address: Lands immediately to the rear of 32 The Square, Stewartstown, Co Tyrone

Decision:

Decision Date: 30.09.2009

Ref ID: I/1978/0458

Proposal: CHANGE OF USE OF EXISTING STORAGE AREA TO EXTENSION TO LICENSED PREMISES

Address: THE SQUARE, STEWARTSTOWN

Decision:

Decision Date:

Ref ID: I/2007/0590/F

Proposal: Demolition of existing store and construction of 6no. apartments and associated site works

Address: Lands immediately to the rear of 32 The Square, Stewartstown

Decision:

Decision Date: 28.03.2008

Ref ID: I/1993/0009

Proposal: Extension to public house and conversion of vacant property to office accommodation

Address: 32 THE SQUARE STEWARTSTOWN

Decision:

Decision Date:

Ref ID: I/1974/0115

Proposal: LOUNGE BAR ACCOMMODATION

Address: THE SQUARE, STEWARTSTOWN

Decision:

Decision Date:

Ref ID: I/1988/0534

Proposal: Temporary Health Centre

Address: ADJACENT TO 34 THE SQUARE, STEWARTSTOWN

Decision:

Decision Date:

Ref ID: I/2013/0005/F

Proposal: Retention of change of use from single first floor flat into two individual first floor flat units.

Address: 32-33 The Square, Boyds Farm, Stewartstown, Dungannon Co Tyrone,

Decision: PG

Decision Date: 29.05.2013

**Drawing Numbers and Title**

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

Development Management Officer Report  
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0766/F	Target Date:
Proposal: Erection of cafe	Location: Site 20m East of unit 7-11 Kilcronagh Business Park Cookstown
Referral Route:  This application is being presented to Committee as it has attracted objections.	
Recommendation:	APPROVE
Applicant Name and Address: K E Holdings 79 Tulnacross Road Cookstown	Agent Name and Address: C Q Architects 23 Dunamore Road Cookstown BT80 9NR
Executive Summary:	
Signature(s):	

## 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

## 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

One objection has been received in respect of this application and relates to the following issues:-

- The proposal will have a detrimental impact on the objectors cafe;  
Competition between similar businesses is not a planning issue;
- The proposed building is to be contained within a building which has been approved for industry and mixed business use under LA09/2018/0119/F;  
This is a stand-alone building which has been purposely designed as a cafe and is not located within a building used as an industrial nor mixed business use;
- The proposed cafe has a capacity of at least 80 patrons and should be described as a restaurant;  
There is no set limit on the number of seats which a cafe can have. The main difference between a cafe and a restaurant is primarily, a cafe remains a place to be served different types of coffee while a restaurant is a commercial establishment where meals are served.  
The proposed development is described as a cafe and is being assessed as such.
- Contrary to the area plan zoning and the SPPS and will prejudice the orderly development of an area zoned for industrial and mixed business use;  
This has been discussed in the main body of the case officers report below.
- Restaurants are sui-generis and do not fall within any specific planning use class. There is no relevant regional planning policy but they should be treated as a form of leisure and entertainment therefore the SPPS is applicable. Retailing includes the sale of food;  
Use for the sale of food or drink for consumption on the premises is excluded from any class specified in the Planning (Use Classes ) Order (Northern Ireland) 2015 and the use for the retail sale of hot food is explicitly excluded from Class 1 (Shops) of the Schedule to the Order. Although retailing may include the sale of food, as detailed by DCAN 4 – Restaurants,  
Cafes and Fast Food Outlets, in terms of their uses, restaurants, cafes and fast food outlets are therefore quite distinct from retail shops and are Sui Generis.
- Contrary to the claim that the existing coffee bar sets a precedent, the objectors existing coffee bar was approved to be ancillary to the main fireplace shop. It is dependent on that business and is not capable of operating on its own;  
The existing coffee bar is not being used as a precedent is the assessment of this application.
- The proposed use will operate as an independent retail facility some distance from the town centre and retail core;  
As discussed above, the proposed use is Sui Generis and is not regarded as a retail facility.
- Weight must be attached to the Cookstown Area Plan 2010 and the supporting statement does not justify departure from the current zoning.  
This is discussed in the main body of the case officers report below.

### Characteristics of the site and environs

The application site is a 0.6 hectare parcel of undeveloped land located just East and North-East of units A19 and A1 Kilcronagh Business Park, Cookstown respectively. It is within the development limits of Cookstown as defined in the Cookstown Area Plan 2010 and is zoned for Industry and Mixed Business in the Plan (I1). Access to the site is obtained via an existing estate Road, which is utilised by several other businesses. The site is flat and is void of any established boundary treatment, with the exception of a band of semi mature trees along a section of the Western boundary.

The units approved under LA09/2018/1119/F are currently under construction with the site having been cleared and the foundations in place, with the exception of the subject site.

This area is characterised primarily by a mix of industrial and Mixed Business and Office uses. The following businesses are located within Kilcronagh Business Park ? Cookstown Cycles, Century Electrical Wholesale, NI Fire and Rescue, AES Global, Tanks and Skinnys, Country Stoves, My Lovely Stoves, Mid Ulster Rotating Electrics, O2 Hair and Beauty, Lumina, RE Sure Intelligence Ltd, Quinns Gelato, Geon, Surface Form, Cross-Fit Cookstown, R and M Greenkeepers, TES NI Ltd, CDE Global. There is also one residential property located within the Business Park. The Fairy Burn Watercourse flows some 90m to the West of the site, adjacent to existing business units.

### Description of Proposal

The proposal was originally submitted as a proposed amendment to previously approved application LA09/2018/1119/F to change use of 1 unit from industrial and business use to a cafe along with 24msq increase to floor area. However, as the building as previously approved did not exist, the proposal was amended to the erection of a cafe.

The proposed cafe has a circular footprint with a small side annex providing an entrance lobby and toilets. The gross external floor area extends to approximately 149m<sup>2</sup>. The floor plan indicates notional seating for approximately 80 persons. The building has a low set flat roof set at 3.2m above ground level. The external finishes are blue brickwork with a concrete band around the roofline and with dark grey aluminium doors and windows.

### Planning Assessment of Policy and Other Material Considerations

#### Relevant planning history

LA09/2018/1119/F – Proposed Provision of 10 No. Units (Mix of B1: Business, B2 Light Industrial and B4: Storage and Distribution) including associated landscaping and vehicular parking – Approved 03.04.2019.

#### Development Plan and key policy considerations

The main policy considerations in the assessment of this proposal are:

Strategic Planning Policy Statement;

Cookstown Area Plan 2010;

PPS 4 – Planning and Economic Development;

#### DCAN 4 – Restaurants, Cafes and Fast Food Outlets;

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 use as a cafe, which by nature, is a place for the sale of food or drink on the premises and therefore it is a sui generis use in that it doesn't fall within a prescribed use class. The site lies within the settlement development limit of Cookstown in an area zoned for industry/mixed business use as identified within the Cookstown Area Plan 2010.

PPS 4 – Planning and Economic Development advises that 'the policy approach and associated guidance contained within this document may be useful in assessing proposals for other sui generis employment uses'. However, as the proposal is for a cafe and although that use is a sui generis use, it will provide only limited employment, as the P1 states that only 2 persons will be employed, in that sense and therefore in my opinion, PPS 4 is of limited material consideration.

DCAN 4 – Restaurants, Cafes and Fast Food Outlets applies throughout Northern Ireland to development proposals (including new buildings and changes of use) for the sale of food for consumption on the premises or of hot food for consumption off the premises. Such uses are excluded from any class specified in the Planning (Use Classes) Order (Northern Ireland) 1989, and use for the retail sale of hot food is explicitly excluded from Class 1 (Shops) of the Schedule to the Order. In terms of their uses, restaurants, cafes and fast food outlets are therefore quite distinct from retail shops. In its broadest sense, retailing refers to the sale of goods individually, or in small quantities to consumers, and it would therefore include the sale of food for consumption on the premises, or of hot food for consumption off the premises.

The purpose of Development Control Advice Note 4 is to provide supplementary planning guidance in accordance with Planning Policy Statement 5 – Retailing and Town Centres, and to support development plan policies relating to the location of restaurants, cafes and fast food outlets. However, as PPS 5 has been cancelled by the introduction of the SPPS, DCAN 4 now provides support for the SPPS.

DCAN 4 advises that the preferable locations for cafes include:

- town centres;
- district centres and local centres; and

that any planning application received for a cafe, which is not in any of the above locations, will be determined on its particular merits, in accordance with broader rural policy, relevant development plans and other material considerations.

Applications for restaurants, cafes or fast food outlets generally give rise to a number of issues and objections which are specific to these particular categories of land use. As a result, the likely impact of such proposals on the character and amenity of the adjoining

or surrounding area will be an important concern when determining applications. In assessing this impact, a number of factors need to be taken into account i.e. noise disturbance, smells and fumes, refuse and litter, traffic considerations/car parking and provision for people with disabilities.

In the absence of a specific policy relating to cafes, restaurants or hot food outlets, the overarching criteria for a proposal for a cafe use on land which is zoned as industrial land is therefore the SPPS.

Policy PED 7 – Retention of Zoned Land and Economic Development Uses; advises that development which would result in the loss of land or buildings which are zoned for economic use, to another use will not be permitted unless the zoned land has been substantially developed for alternative uses but an exception can be made for a sui generis use subject to the compatibility, scale and nature of the use and provided it will not lead to the diminution of the industrial/employment level. In my view, this use would be compatible as the existing uses within the industrial site include a number of retail units, a gym and another cafe. The scale of the building is reasonable given the proposal is very similar in design and size to the extant approved building and also taking into consideration the size of the adjacent industrial premises. The site is within the ownership of the adjacent industrial premises, currently under construction and as it is being provided on a green field site, it will not displace jobs or industrial activity and it will result in additional employment, albeit limited. The proposed site occupies 0.66ha within an overall zoned area of 26.72ha. While some of the zoned land has already been developed, the remainder of the zoning can still be utilised as industrial land.

Notwithstanding what is discussed above in relation to the limited use of PPS 4 in assessing this proposal in terms of it being a sui generis use, in assessing the proposed use under Policy PED 9 – General Criteria for Economic Development the proposal satisfies all the criteria of this policy and therefore is not considered to be contrary to PPS 4.

Policy PED 9 – General criteria for economic development; states that a proposal, in addition to other policy provisions of this PPS, will be required to meet a range of criteria which are addressed below:

As this is a sui generis use located within the settlement limits, the application can be considered on its merits. Although PED 9 does not strictly apply, it does provide a framework against which to assess the merits/impact of the proposal, which has been undertaken below:-

- It is considered to be compatible with the surrounding landuses which are mainly industrial/office/retail uses. The site is within an area of existing industry as identified within the Cookstown Area Plan 2010.
- There is one dwelling located close to the proposed site. That dwelling is located at 9 Kilcronagh Road and is approximately 70m to the south west. The dwelling is bounded by tall mature hedgerows, with an access road between the site and the dwelling leading to existing business units within Kilcronagh Business Park. The dwelling is not visible from the proposed site. Therefore it is not anticipated that the proposed cafe will have a detrimental effect on the amenity of the dwelling. Environmental Health have not raised any issues regarding impact on residential amenity.

- The proposed development will not have any adverse affect on natural or built heritage nor will it be at risk from, nor cause flooding.
- The proposed development will not create a noise nuisance and this has not been raised by Environmental Health.
- The proposed development will not result in the discharge of any emissions or effluent and Environmental Health have not raised any issues of concern.
- Likewise, Transport NI have not raised any concerns regarding the increase of traffic nor the proposed access and parking arrangements.
- Although the site is located on the edge of the settlement it has good access via public footpaths and is accessible by foot or by cycling.
- The proposal layout and the building design are of an acceptable quality.
- The site is currently secured by existing security fencing and a new hawthorn hedge is to be provided around the site boundary in the first planting season following the commencement of the building works on the construction of the units approved under LA09/2018/1119/F.
- In general, the proposal will deter crime and promote personal safety.

The Committee may also wish to note that Transport NI and Environmental Health have been consulted and have advised that they have no objections to the proposal.

#### Recommendation

The SPPS (Town Centres and Retailing) makes no reference to sui-generis uses generally or places for the consumption of food and drink on the premises specifically and although the list of 'main town centre uses' is not exhaustive, there is no reason to assume that the likes of a cafe should be subject to the 'town centre first' approach. However, this is where the majority of cafes are located and where one would expect to find such a use. Notwithstanding this, it should be noted that there is an existing coffee shop approved and currently operating within Kilcronagh Business Park. That approval, LA09/2017/0791/F, granted permission for the use to operate as ancillary to the main use of the premies, Country Stoves. Although the coffee shop is conditioned to remain as ancillary, it has its own access and toilet facilities which can be used without the need for customers to enter Country Stoves or to be customers of that business and therefore in essence, the coffee shop can operate independently of the main use.

In my opinion, the proposed use will predominantly serve the immediate area within the Kilcronagh Business Park and it unlikely that customers shopping in Cookstown Town Centre will leave the town centre to drive to this location for the purpose of having something to eat, especially when there are a number of quality cafes within the town centre. On consideration of the above, it is my opinion that planning permission should be granted for the proposed development subject to the following conditions:-

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. All proposed planting as indicated on the stamped approved drawing no. 02/2 stamped received May 2020 shall be undertaken during the first available planting season following occupation of the dwelling hereby approved.

Reason: In the interests of visual amenity.

3. 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: In the interests of visual amenity.

Signature(s)

Date:

ANNEX	
Date Valid	5th June 2019
Date First Advertised	20th June 2019
Date Last Advertised	25th February 2020
Details of Neighbour Notification (all addresses) Carol Gourley C Mcllvar Ltd, Unit 7 Derryloran Industrial Estate, Sandholes Road, Cookstown, BT80 9LU C. Mcllvar Ltd Chartered Planning Consultants, Unit 7, Cookstown Enterprise Centre, Sandholes Road, Cookstown, BT80 9LU C. Mcllvar Ltd Chartered Planning Consultants, Unit 7, Cookstown Enterprise Centre, Sandholes Road, Cookstown, BT80 9LU The Owner/Occupier, Cross Fit, Kilcronagh Business Park, Cookstown, Tyrone, BT80 9DG The Owner/Occupier, Unit 1 Kilcronagh Business Park, Cookstown, Tyrone, BT80 9DG The Owner/Occupier, Unit A19, Kilcronagh Business Park, Cookstown, Tyrone, BT80 9DG	
Date of Last Neighbour Notification	4th October 2019
Date of EIA Determination	N/A
ES Requested	No
Planning History  Ref ID: LA09/2018/1371/NMC Proposal: Reduction in verge width from 3m to 1m adjacent to main carriageway on one side Address: Kilcronagh Business Park, Sandholes Road, Cookstown, Decision: CG Decision Date:  Ref ID: LA09/2017/0912/PAD Proposal: Extension to Industrial Lands Address: Kilcronagh Business Park, Cookstown, Decision: Decision Date:  Ref ID: LA09/2018/1119/F	

Proposal: Proposed Provision of 10 No. Units (Mix of B1: Business, B2 Light Industrial and B4: Storage and Distribution) including associated landscaping and vehicular parking

Address: Site 20M East of Unit 7 - 11 Kilcronagh Business Park,

Decision: PG

Decision Date: 03.04.2019

Ref ID: LA09/2019/0766/F

Proposal: Proposed amendment to previously approved application LA09/2018/1119/F to change use of 1 unit from industrial and business use to a cafe along with 24msq increase to floor area (Amended description)

Address: Site 20m East of unit 7-11 Kilcronagh Business Park, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2019/0566/F

Proposal: Proposed provision of 3no. units (2no. B2: Light Industrial and 1no. B4: Storage and distribution all with associated B1: Offices) Landscaping and vehicular parking.

Address: Site 50m West of entrance to G1 Kilcronagh Business Park, Cookstown, BT80 9HJ.,

Decision:

Decision Date:

Ref ID: I/2004/1101/O

Proposal: Development of land for industrial use.

Address: Agricultural land bounded by Sandholes Road, Kilcronagh Road and Fairy Burn river

Decision:

Decision Date: 29.06.2005

Ref ID: I/2007/0611/RM

Proposal: Proposed light industrial workshop inc. ancillary offices at ground and mezzanine level, landscaping, car parking and associated site works (Amended plans).

Address: Site 14, Kilcronagh Business Park, Sandholes Road, Cookstown, Co. Tyrone

Decision:

Decision Date: 22.04.2008

Ref ID: I/2006/0806/F

Proposal: Proposed light industrial workshop inc. ancillary offices at ground and mezzanine level, landscaping, car parking and associated siteworks.

Address: Site 14, Kilcronagh Business Park, Sandholes, Cookstown

Decision:

Decision Date: 16.01.2007

Ref ID: I/2005/0959/F

Proposal: Proposed 2 no. light industrial units to be further sub-divided into 6 separate internal units, with combined mezanine floors and provision of car parking, new service road access inclusive of site works and landscaping.

Address: Kilcronagh Business Park at Sandholes Road, Kilcronagh Road & Fairy Burn River.

Decision:

Decision Date: 25.09.2006

Ref ID: I/2006/1227/RM

Proposal: Proposed 1830 sq/m Industrial unit to be sub-divided into 5 no. units and 2 no. Storage Units to be sub-divided into 8 units with carparking and associated siteworks, including carparking.

Address: Kilcronagh Business Park @ Sandholes Road, Kilcronagh Road & Fairy Burn River. Site approx 100m North West of 9 Kilcronagh Road, Cookstown

Decision:

Decision Date: 28.08.2007

Ref ID: I/2004/1190/F

Proposal: New access (service road) and earthworks and land levelling to facilitate the development of industrial land (amended plans)

Address: Agricultural land bounded by Sandholes Road, Kilcronagh Road, and Fairy Burn river.

Decision:

Decision Date: 29.06.2005

Ref ID: I/2003/1169/Q

Proposal: Development for Industrial Complex

Address: Sandholes Road, Cookstown

Decision:

Decision Date:

Ref ID: I/2008/0095/F

Proposal: Single storey vehicle maintenance workshop/store

Address: Site 14, Kilcronagh Business Park, Sandholes Road, Cookstown

Decision:

Decision Date: 19.08.2008

Ref ID: I/2007/0629/A

Proposal: Freestanding Waymarking Signage.

Address: Kilcronagh business park, Sandholes Road, Cookstown

Decision:

Decision Date: 22.11.2007

Ref ID: I/2006/0856/F

Proposal: Day Care Nursery.

Address: Site 11, Kilcronagh Business Park, Sandholes Road, Cookstown

Decision:

Decision Date: 25.07.2007

Ref ID: I/2007/0052/F

Proposal: Proposed 2 storey high technology office building and ancillary siteworks inc. Landscaping and carparking.

Address: Site 12, Kilcronagh Business Park, Sandholes Road, Cookstown, Co.Tyrone.

<p>Decision: Decision Date: 26.06.2007</p> <p>Ref ID: I/2009/0207/F Proposal: Proposed amendments to road layout from turning circle, as approved under previous application ref no I/2004/1190/F, to round-a-bout with junctions off Address: Kilcronagh Business Park @Sandholes Road, Kilcronagh Road, &amp; Fairy Burn River, BT80 9HG Decision: Decision Date: 22.09.2009</p>
<p>Summary of Consultee Responses</p> <p>All consultees responded positively.</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 03/1 Type: Floor Plans Status: Submitted</p> <p>Drawing No. 04/1 Type: Elevations and Floor Plans Status: Submitted</p> <p>Drawing No. 02/1 Type: Block/Site Survey Plans Status: Submitted</p> <p>Drawing No. 01/1 Type: Site Location Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0823/F	<b>Target Date:</b> 26/09/2019
<b>Proposal:</b> Residential development consisting of 13 no dwellings (9 detached & 4 semi-detached) & 5 no garages & associated siteworks	<b>Location:</b> 6 Tullyodonnell Road, Rock
<b>Referral Route:</b> 2 no. objections received	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> F P Dev Ltd 6A Tullyodonnell Road Rock Cookstown	<b>Agent Name and Address:</b> Building Design Solutions 76 Main Street Pomeroy BT70 2QP
<b>Executive Summary:</b>  This development complies with all relevant planning policy and the Cookstown Area Plan 2010. 2 no. objections have been received. Both objections to the proposal have been fully considered and the issues raised do not merit the refusal of the application. Approval is recommended.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	14
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**

All relevant neighbours have been notified of this application and it has been advertised in local press. To date, 2 letters of objection and 14 letters of support have been received in respect of the proposal.

The issues raised by the objectors are summarised and considered below.

### **1. Occupant of number 5 Tullyodonnell Road**

- Lack of management of surface water/drainage discharge onto public road
- The proposal will increase surface run off which will impact objectors property
- This inadequate drainage can lead to traffic accidents on public road as well as exacerbating flooding experienced at objectors property.

### **2. Occupant of number 101 Rockdale Road**

- No research into the need for new housing carried out
- The site is a green field site
- Impact on the village of Rock
- Impact on the village from the new GAA facility
- Resistance to the use of the adjacent laneway
- Flooding and sewage concerns

### **Consideration:**

Issues have been raised about flooding, drainage and sewage capacity. NIW have been consulted and have confirmed that there is existing WWTW capacity in the village to accommodate this development of 13 dwellings. Following consultation with Rivers Agency and according to the Rivers Agency Strategic Flood Maps it has been determined that this site is not in a fluvial flood Plain. A Drainage Assessment was submitted with the application and Rivers Agency do not disagree with its conclusions from a drainage or flood risk perspective. The Drainage Assessment states that the storm water system will be designed to NIW water standards and it will be the responsibility of NIW to ensure this is the case. DFI Roads have also been consulted and have raised no concerns about road safety.

In terms of a need for housing being established, this is not a planning policy requirement for this type of development within the development limits of a settlement. The objector refers to this site as being a green field site. This is factually incorrect. The site is within the development limits of Rock village. Whilst it is not zoned for housing, it is what is referred to as white land (ie) unzoned land that can be developed for a variety of uses. Concern has been raised about the impact of the proposal on the village. The impact of the proposal on local character will be considered further in this report. The GAA facility is not a material consideration in this assessment. This proposal does not include or incorporate the use of the adjacent laneway.

Members are advised that in considering all material planning issues raised by the objectors it is my opinion that they do not merit the refusal of this application. The 14 letters of support for the development have been duly noted.

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

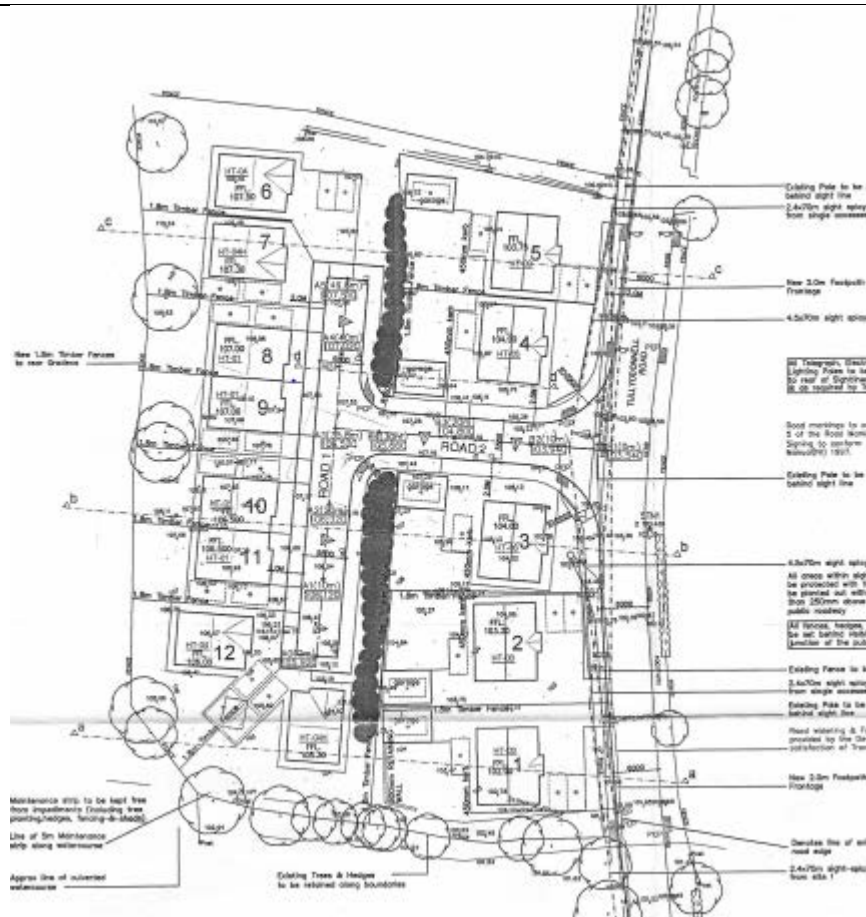
The application site takes in a 0.5 hectare plot of land located at 6 Tullyodonnell Road, Rock Cookstown. It is the site of the Old Parochial House in Rock. The site is within the development limits of Rock village as defined in the Cookstown Area Plan 2010. The two storey Parochial House still dominates the site but is currently in the process of being demolished. The site rises quite steeply from the level of the public road, with the dwelling occupying the highest point of the site. The roadside boundary with the Tullyodonnell Road is defined by a wooden post fence and a grass verge. The Southern boundary of the site is defined by a thick band of mature vegetation. The Western boundary is defined by a wire and post fence and the Northern boundary is defined by a high domestic leylandii hedgerow. There is a detached dwelling located to the immediate North of the site, another to the SW of the site and another the SE of the site.

The Rock is located at a crossroads approximately 7km SW of Cookstown. It is a small rural village with a dispersed settlement pattern. The application site is located approx. 2 miles North of the village centre. This area is recognised as being an area of archaeological importance (TYR 038:039)



### **Description of Proposal**

This is a full application for a housing development of 9 detached dwellings and 4 semi detached dwellings. 5 of the detached dwellings which are closest to and front onto the Tullyodonnell Road have detached garages.



## Planning Assessment of Policy and Other Material Considerations

### Planning History

There are no relevant planning histories on or adjacent to this site to be considered in this assessment.

The following policies will be considered in this assessment

- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- PPS 3 - Access, Movement and Parking
- PPS 6 - Planning, Archaeology and Built Heritage
- PPS 7 - Quality Residential Environments
- PPS 15 - Planning and Flood Risk
- Creating Places (Guidance)
- Parking Standards

### **Strategic Planning Policy Statement (SPPS)**

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.

Paragraph 4.12 of the SPSS states other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

Compliance with the Cookstown Area Plan 2010 will be discussed further in this report. Design considerations and the impact on residential amenity will be considered further in this report. Consultation with NIW has confirmed that there are no WWTW Capacity issues currently in Rock therefore a Temporary Treatment Plant is not required to facilitate this development. The applicant submitted a Drainage Assessment with this application and following consultation with Rivers Agency, no concern has been raised about drainage. Environmental Health have been consulted and they have advised that they have no objection in principle to the proposal. They have recommended an informative to be attached to any decision to advise that noise during the construction period should be expected and that plant/equipment should be operated in accordance with the principals of BS5228:2009

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

### **Cookstown Area Plan 2010**

This site is located within the development limits of The Rock as defined in the Cookstown Area Plan 2010. It is not zoned for any specific use and as such is not subject to any key site requirements. The Area Plan states that the capacity of the sewage treatment works in the village is an overriding constraint on growth in the settlement. I have consulted with NIW who have advised that there are currently no capacity issues in the settlement and as such, there is no requirement for a temporary treatment plant to be incorporated into the development.

The Area Plan goes on to state that comprehensive development within the village 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 development in excess of 10 units will not normally be permitted. This application is for 13 units. This is in excess of the 10 units recommended in the Area Plan. However it is noted that the plan states "normally", so this allows some degree of flexibility with regards to density. In this particular case it is my opinion that 13 units is acceptable. Only 100m to the South of the site is a development on 12 units, so this proposal would not be out of character in this part of the village. The layout is such that there are 5 detached dwellings fronting onto the Tullyodonnell Road. This replicates the pattern of development along this

road. The density increases to the rear of the site where visual impact will be to a lesser extent.

The Area Plan makes reference to the Area of Townscape Character and Local Landscape Policy Area designated in the village. This site sits outside both of these designations. The site is not subject to any other Plan designation.

I am satisfied that this development is not at conflict with the Cookstown Area Plan 2010.

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

The relevant Draft Plan Strategy Policies in this assessment are (ie) GP1 - General Principles Policy and HOU 2 - Quality Residential Development. This proposal is not at conflict with either GP 1 or HOU 2. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March 2020 for 8 weeks. The re-consultation is due to close at 5pm on 21st May 2020. In light of this the draft plan cannot currently be given any determining weight.

### **Planning Policy Statement 3 - Access, Movement and Parking.**

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the alteration of an existing access along with the construction of 3 new domestic accesses onto the Tullyodonnell Road. DFI Roads have been consulted and following the submission of revised plans are now satisfied with the proposal from a roads perspective. PSD's have been agreed and signed and Roads have recommended several standard PSD conditions to be attached to any decision. Each dwelling unit provides in-curtilage parking for 2 cars and this is in line with Parking Standards.

### **PPS 6 - Planning, Archaeology and Built Heritage**

This site is located in an area of archaeological importance (TYR 038:039). Historic Environment Division (HED) have been consulted and have no objections to this proposal on archaeology grounds.

### **PPS 7 - Quality Residential Environments.**

PPS 7 is a material planning policy for this type of development. All proposals for residential development will be expected to conform to a number of criteria laid out in Policy QD 1 of PPS 7. I will deal with these as they appear in the policy.

**The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas -** The proposed development is residential in nature, low density and is located in a village location where there are varied densities of residential development. The site is also outside the designated Area of Townscape Character. I am therefore content that the proposal will not impact negatively on the existing character of the area. The proposed layout is generally acceptable. The dwellings to the front of the development are detached dwellings, with adequate private amenity space and in-curtilage parking. The dwellings to

the rear of the site comprise a mix of detached and semi's. All have adequate private amenity space and in-curtilage parking. The site rises from the level of the Tullyodonnell Road in a Westerly direction. The dwellings to the rear of the site (units 6-13) will have finished floor levels approximately 3m higher than the dwellings closest to the road (units 1-5). There is a separation distance of approx 25m between units 6-13 and units 1-5. This is acceptable on a sloping site like this. The scale, proportions, massing and appearance of all 13 dwellings are acceptable for this rural settlement. The Western boundary of the site forms the edge of the settlement limit, where it is normally expected to be planted up with buffer of planting approximately 8-10m in width. This buffer has not been provided in this layout. Instead, existing trees are shown to be retained without any augmentation. In other cases I would insist on this buffer being implemented however given the limited visibility of this boundary from any public vantage point I would not object to its omission in this instance.

**Features of the archaeological and built heritage, and landscape features should be identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development** - The site is in an area of archaeological importance (TYR 038:039). HED have been consulted and have no objections to the proposal from an archaeological perspective. There are no Listed Buildings close to the site. There is a mature boundary of thick vegetation along the Southern boundary of the site which can be conditions to be retained. There are no TPO trees or important landscape features within the site to be retained or protected.

**Adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area** - Each dwelling has adequate private amenity space in excess of the 40m<sup>2</sup> recommended in Creating Places. This scheme is for 13 units which is below the threshold for providing an area of public open space as part of the overall scheme. Existing vegetation along site boundaries will be conditioned to be retained to help soften the visual impact of the development in the local landscape.

**Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development** - The site is within the development limits of The Rock and there are existing neighbourhood facilities already available in the locality (eg) shops, School etc. The small scale of the development does not merit the provision of any new standalone facilities.

**A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures** - As the site is within a small rural settlement there is an existing movement pattern (eg) foot paths and bus routes. The level of traffic travelling through the settlement would be fairly low and would be travelling at a low speed. DFI Roads have been consulted and have no objections to the proposal in terms of road safety

**Adequate and appropriate provision is made for parking** - Each dwelling has in-curtilage parking for 2 cars. This is in line with Parking Standards Guidance.

**The design of the development must draw upon the best local traditions of form, materials and detailing** - The design and finish of each dwelling does not give me any cause for concern and are reflective of the type of design found in settlements throughout the District

**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** - There is a detached dwelling to the immediate North of this site. Units 5 and 6 will be the closest dwellings to this property. The presence of a domestic leylandi hedge and the fact that new dwellings will be gabled onto this existing dwelling will ensure there are no issues with privacy/overlooking. The existing dwellings to the SE and SW of the site are sited far enough away from the site to ensure they won't be impacted upon by overlooking, overshadowing or loss of light. Within the proposed development there will be at least a 25m separation distance between units 1-5 and units 6-13, along with a buffer of planting. This will ensure an acceptable degree of privacy will be achieved in the rear gardens of units 1-5. Generally, residential developments do not generate any unacceptable noise, odours or emissions.

**The development is designed to deter crime and promote personal safety** - I am satisfied that the overall development is considered to be designed to deter crime and promote personal safety. In-curtilage parking will be provided and street lighting will be provided.

Planning Policy Statement 15 - Planning and Flood Risk

This site is not within a recognised flood plain. A Drainage Assessment was submitted with this application as the proposal is for more than 10 dwelling units. Rivers Agency have been consulted with this DA and have advised that they do not object to the conclusions of this Assessment. I am therefore content that the proposal is in keeping with FLD 3 of PPS 15.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve subject to standard conditions and informatives

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 11rev1 bearing the date stamp 05 March 2020

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.

3. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number No 11rev1 bearing the date stamp 05 March 2020. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

4. No other development hereby permitted shall be commenced until the road works comprising generally road widening and footway provision as indicated on Drawing No 11rev1 bearing the date stamp 05 March 2020 have been fully completed in accordance with the approved plans.

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

5. The visibility splays of 4.5 x 70 metres at the junction of the proposed development access road with the public road, shall be provided in accordance with Drawing No. 11rev 1 bearing the date stamp 05 March 2020, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

6. The visibility splays of 2.4 x 70 metres at the junctions of the private accesses to sites 1,2 and 5 with the public road, shall be provided in accordance with Drawing No. 11rev 1 bearing the date stamp 05 March 2020, prior to the commencement of any other works or other development.. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

7. The 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.

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

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

9. 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 and to ensure the protection of residential amenity

10. The existing vegetation along the site boundaries shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

## **Informatives**

1. The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the DfI Roads to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

The developer, future purchasers and their successors in title should note that DfI Roads will not adopt any street as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992 until

such time an Article 161 agreement between the developer and NI Water for the construction of foul and storm sewers including any attenuation holding tanks and discharge pipes has been fully implemented and works upon completion approved by NI Water Service .

Separate approval must be received from DfI Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from DfI Roads Street Lighting Consultancy, Marlborough House, Central Way, Craigavon, BT64 1AD. The Applicant is advised to contact DfI Roads Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

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

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. 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 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.

Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges. In exceptional circumstances Departures from Standard maybe necessary and shall be supported by a full technical, safety, environmental and economic justification. All details shall be submitted to DfI Roads Network Services through the relevant Division.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system

2.The Drainage Assessment indicates the storm water system will be designed to NIW standards, therefore NIW will be responsible for checking design calculations, adoption and maintenance of the system.

Consequently DfI Rivers, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

It should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Drainage 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).

3.No plant or equipment used in the construction of these properties should be operated in a manner so as to cause disturbance to the occupants of surrounding properties. Any noisy work should be undertaken in accordance with the principals of BS5228: 2009.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	13th June 2019
<b>Date First Advertised</b>	27th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Tullyodonnell Road Dungannon Tyrone George Watson 101 Rockdale Road,Rock,Dungannon,BT70 3JD KIERAN MULLAN 4 Rockdale Close Dungannon Tyrone The Owner/Occupier, 4 Tullyodonnell Road Dungannon Tyrone The Owner/Occupier, 5 Tullyodonnell Road Dungannon Tyrone The Owner/Occupier, 5 Tullyodonnell Road, Dungannon, Tyrone, BT70 3JE Tim Bursby 5, Tullyodonnell Road, Dungannon, Tyrone, Northern Ireland, BT70 3JE The Owner/Occupier, 6 Tullyodonnell Road Dungannon Tyrone Michaela Kilpatrick 6a Tullyodonnell Road Dungannon Peter Kilpatrick 6a Tullyodonnell Road, Dungannon, Tyrone, Northern Ireland, BT70 3JE The Owner/Occupier, 8 Tullyodonnell Road Dungannon Tyrone Clerkin Cathal 8 Tullyodonnell Road, Dungannon, Tyrone, Northern Ireland, BT70 3JE Sarah Kolbohm Email Address Cara Hayden Email Address Cait Cunningham Email Address Karl Kolbohm Email Address Ronan Lagan Email Address Donna Cotter Email Address Rita Mullan Email Address Gary Clerkin Email Address	

Donna Cotter Email Address Megan McKenna Email Address	
<b>Date of Last Neighbour Notification</b>	22nd November 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/0823/F Proposal: Residential development consisting of 13 no dwellings (9 detached & 4 semi-detached) & 5 no garages & associated siteworks Address: 6 Tullydonnell Road, Rock, Decision: Decision Date:  Ref ID: I/1990/0120B Proposal: Dwelling and Garage Address: BETWEEN NO6 AND NO8, TULLYDONNELL ROAD, ROCK, COOKSTOWN. Decision: Decision Date:  Ref ID: I/1990/0120 Proposal: Dwelling and Garage Address: BETWEEN 6 & 8 TULLYDONNELL ROAD ROCK COOKSTOWN Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - No objections EH - No objections Rivers - No objections NIW - No issues	
<b>Drawing Numbers and Title</b>	

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

Drawing No. 09  
Type: Site Layout or Block Plan  
Status: Submitted

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

Drawing No. 03 rev 4  
Type: Proposed Plans  
Status: Submitted

Drawing No. 08  
Type: Longitudinal Sections  
Status: Submitted

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

Drawing No. 06  
Type: Proposed Plans  
Status: Submitted

Drawing No. 07  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 10 rev 1  
Type: Proposed Plans  
Status: Submitted

Drawing No. 11 rev 1  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 2nd June 2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0994/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed development of 39 units consisting of 2 storey detached and semi detached dwellings with open space and temporary waste water treatment works	<b>Location:</b> North of 3 Coolreaghs Road, Cookstown
<b>Referral Route:</b> 14 no. objections received	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> J and A Developments Ltd 55 Coagh Road Stewartstown	<b>Agent Name and Address:</b> APS Architects LLP 4 Mid Ulster Business Park Sandholes Road Cookstown, BT80 9LU
<b>Executive Summary:</b> This proposal for a housing development of 39 dwellings is located on zoned phase 1 housing land in Cookstown. It meets all the key site requirements set out in the Cookstown Area Plan in respect of this zoning. It also complies with all relevant planning policy - the SPPS, PPS 3, PPS 7, PPS 8 and PPS 15. There has been 14 letters of objection submitted. All material planning issues have been fully considered and do not merit the refusal of this application. Approval is recommended subject to conditions.	
<b>Signature(s):</b>	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	NIEA	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	NI Water - Multi Units West - Planning Consultations	Advice
Statutory	NIEA	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	DFI Roads - Enniskillen Office	Content
Representations:		
Letters of Support	None Received	
Letters of Objection	14	
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. To date there have been 14 no. objections		

received. The material planning issues raised in each objection are summarised and addressed below:

**No. 4 Coolreaghs Road, dated 15th August 2019**

- Failure to be notified - NN letter issued on receipt on this objection.
- Application is a Major Development - This is not correct. This is a Local Application and does not meet any of thresholds set out in the Planning (Development Management) Regulations 2015 for Major Development.
- Density - This is considered further in this report in my policy consideration
- Impact on Character of area - This is considered further in this report in my policy consideration
- Traffic Impact - DFI have been made aware of the objection and have no objections to the proposal in terms of roads safety
- Storm and Wastewater Drainage System - Temporary treatment plant being implemented. EH, NIEA and NIW all consulted and have not objections in terms of capacity or drainage.
- Lack of detail in respect of Temporary Treatment Works - Detail was submitted during the processing on the application and all relevant neighbours notified of this.
- Japanese Knotweed on the site - NIEA have been consulted and have provided advice in terms of removal.
- Request for an audit to ascertain demand for housing in this area - This is not normal practice
- Request that the Planning Committee meet with local residents to discuss their concerns - This is not normal practice

**No. 17b Lissan Road, dated 19th August 2019**

- Use of outdated maps - Maps submitted give a proper indication of location of site. I am aware, following a site visit or all adjacent development
- Danger from increased traffic - DFI have been made aware of the objection and have no objections to the proposal in terms of roads safety
- Electricity and drainage protected - This will be the responsibility of the developer during construction phase.
- Additional planting provided - This has been requested where necessary.
- Connection to Moneymore Road - This development will not provide a vehicular connection to the Moneymore Road. It will provide an option of a pedestrian link.
- Density and character - will be considered further in my report
- Need - This is phase 1 Housing Land, zoned in the Area Plan for Housing. The applicant is not required to demonstrate a need.

**No. 12 Coolreaghs Road, dated 15th August 2019 (Submitted same letter twice)**

- Failure to be notified - NN letter issued on receipt on this objection.
- Application is a Major Development - This is not correct. This is a Local Application and does not meet any of thresholds set out in the Planning (Development Management) Regulations 2015 for Major Development.
- Density - This is considered further in this report in my policy consideration

- Impact on Character of area - This is considered further in this report in my policy consideration
- Traffic Impact - DFI have been made aware of the objection and have no objections to the proposal in terms of roads safety
- Storm and Wastewater Drainage System - Temporary treatment plant being implemented. EH, NIEA and NIW all consulted and have no objections in terms of capacity or drainage.
- Lack of detail in respect of Temporary Treatment Works - Detail was submitted during the processing on the application and all relevant neighbours notified of this.
- Japanese Knotweed on the site - NIEA have been consulted and have provided advice in terms of removal.
- Request for an audit to ascertain demand for housing in this area - This is not normal practice
- Request that the Planning Committee meet with local residents to discuss their concerns - This is not normal practice

**Date received 19th August 2019**

- Lack of Community Consultation - This is not a Major Planning Application and as such there is no statutory duty on the applicant to consult with the local community.
- Flooding and Strain on sewers - This site is not in a flood plain. A temporary treatment plant is proposed to deal with capacity issues.
- Impact of Temporary Treatment Plant on Health - EH have been consulted and have raised no concern in this regard
- Running Sand - NIEA and EH have been consulted and have raised no concerns about running sand.
- No. 10 Claggan Lane, dated 16th August 2019
- Failure to be notified - This property doesn't meet the criteria for NN
- Appropriate maps not submitted - I am satisfied that adequate plans have been submitted at an appropriate scale
- Impact on character - This will be considered further in my report
- Inappropriate design - This will be considered further in my report
- Density - This will be considered further in my report
- Query of adjacent approvals - Not material to this application
- Layout concerns - This will be considered further in my report
- Impact of Temporary Treatment Plant - Details have been provided. EH and NIEA have been consulted and have no objections
- Impact from Traffic - DFI have been made aware of the objection and have no objections to the proposal in terms of roads safety
- Future development of the remainder of the site - There is nothing in legislation to prevent the applicant applying in a phased approach.
- Presence of Japanese Knotweed - NIEA have been consulted and have provided advice in terms of removal.
- Request for the protection of trees on site boundaries - This was considered by the Councils tree officer who has said there is no merit in placing a TPO on any of the boundary trees
- Flooding and Strain on sewers - This site is not in a flood plain. A temporary treatment plant is proposed to deal with capacity issues.

**No. 29 Coolreaghs Road, dated 19th August 2019**

- Failure to be notified - NN letter issued on receipt on this objection.
- Application is a Major Development - This is not correct. This is a Local Application and does not meet any of thresholds set out in the Planning (Development Management) Regulations 2015 for Major Development.
- Density - This is considered further in this report in my policy consideration
- Impact on Character of area - This is considered further in this report in my policy consideration
- Traffic Impact - DFI have been made aware of the objection and have no objections to the proposal in terms of roads safety
- Storm and Wastewater Drainage System - Temporary treatment plant being implemented. EH, NIEA and NIW all consulted and have no objections in terms of capacity or drainage.
- Lack of detail in respect of Temporary Treatment Works - Detail was submitted during the processing on the application and all relevant neighbours notified of this.
- Japanese Knotweed on the site - NIEA have been consulted and have provided advice in terms of removal.
- Request for an audit to ascertain demand for housing in this area - This is not normal practice
- Request that the Planning Committee meet with local residents to discuss their concerns - This is not normal practice

**No. 3 Coolreaghs Road, dated 23rd August 2019**

- Density and Design - These matters are considered further in this report in my policy consideration
- Impact on Privacy - Original layout of development and house types were revised during the processing of this application and I now have no concerns about impact on the privacy of these occupants.
- Impact of Temporary Treatment Plant - EH have been consulted and have raised no concern in this regard. Visually this plant will have minimal impact as it will be submerged.
- Traffic Impact - DFI have been made aware of the objection and have no objections to the proposal in terms of roads safety
- Noise - EH have no objections on the basis of unacceptable noise levels

**No. 14 Coolreaghs Road, dated 17th August 2019**

- Failure to be notified - NN letter issued on receipt on this objection.
- Density - This will be considered further in my report
- Traffic Impact - DFI have been made aware of the objection and have no objections to the proposal in terms of roads safety
- Presence of Japanese Knotweed - NIEA have been consulted and have provided advice in terms of removal.
- Impact of Temporary Treatment Plant - Details have been provided. EH and NIEA have been consulted and have no objections
- Running Sand - NIEA and EH have been consulted and have raised no concerns about running sand.

**No. 14 Coolreaghs Road, dated 12th September 2019**

Flooding and Drainage concerns - NIW, NIEA and Rivers Agency have been consulted and have no objections to the proposal on these grounds.

**No. 10 Coolreaghs Road, dated 2th September 2019**

- Failure to be notified - NN letter issued on receipt on this objection.
- Impact on character - This will be considered further in my report
- Traffic Impact - DFI have been made aware of the objection and have no objections to the proposal in terms of roads safety
- Impact of Temporary Treatment Plant - Details have been provided. EH and NIEA have been consulted and have no objections
- Noise - EH have no objections on the basis of unacceptable noise levels

**No. 16 Coolreaghs Road, dated 9th September 2019**

- Capacity and flooding issues - Relevant consultees notified and no objections or concerns raised

**2 no. objections dated 16th September 2019 9 (no name or address provided)**

- Impact on character and road safety - These will be considered further in my report.
- Request for TPO on existing trees - matter passed to the Councils Tree Officer, who has determined that the existing trees do not require a TPO.

Having considered all the material planning issues raised in these objection letters, Members are advised that it is my opinion that the matters raised do not merit the refusal of this application.

**Characteristics of the Site and Area**

The application site comprises 1.4 hectares of a larger 2.62 hectare plot of undeveloped Phase 1 Housing Land (H03), located just North of Number 3 Coolreaghs Road, Cookstown. It is within the development limits of Cookstown as defined in the Cookstown Area Plan 2010, but outside the Town Centre Boundary. The overall site is relatively flat but the host field sweeps gently towards its Northern section where it meets Claggan Lane. The Southern boundary of the site abuts number 3 Coolreaghs Road, which is a two storey semi-detached dwelling. The boundary treatment here is defined in part by a domestic wall and in part by a low level domestic hedgerow. The remaining Southern boundary is defined by thick native species hedgerow. The SE boundary runs adjacent to Weavers Care Home and is also defined by thick native species hedgerow. The Northern boundary cuts through the middle of the host field and is undefined on the ground. In the extreme East of the site, where it abuts Claggan Park, the boundary is defined by thick native hedgerow and a mature tree. The red line boundary of the site encroaches into the extreme NW portion of the host field. Here the roadside boundary is defined by low level maintained hedgerow. This hedgerow runs along the Western boundary, which is parallel

to the Coolreaghs Road. There is a footpath running along this boundary and a small electricity sub-station situated half way along it. An overhead 3 phase electricity line cuts through the Northern portion of the host field.

This area is characterised primarily by residential development of different densities. Along the Coolreaghs Road there are a mix of detached and semi-detached dwellings fronting onto the public road. These are two storey or chalet type dwellings. Claggan Lane has mainly larger detached dwellings fronting onto the public road. Further along Claggan Lane is Claggan Park which is comprised of a mix of semi detached 2 storey chalets and detached dwellings. Further to the North of the site is Coolmount Development which is comprised of detached and semi-detached two storey dwellings and further to the North West is The Ash which is primarily detached bungalows. Weavers Care Home, a large 3 storey building and an adjacent housing development comprised of a mix of detached, semis and town houses are located to the SE of the site. As referred to above, this site is part of a larger Phase 1 House Zoning. A designated walkway and cycle route is zoned along the SE boundary of the site but this no longer exists on the ground. Along this route there is a designated access point to be protected.

### **Description of Proposal**

This is full application for a housing development of 39 units consisting of 2 storey detached and semi detached dwellings with open space and temporary waste water treatment works.

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

#### **Planning History**

There are no relevant planning histories on this site or adjacent to this site to be considered in this assessment.

#### **Policy Consideration**

The following policies will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Cookstown Area Plan 2010
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 7 - Quality Residential Environments.
- Planning Policy Statement 8 - Open Space, Sport and Outdoor Recreation
- Planning Policy Statement 15 - Planning and Flood Risk
- Creating Places

### **Strategic Planning Policy Statement (SPPS)**

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.

Paragraph 4.11 of the SPPS states that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. For example, the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development. Following the submission of amended plans I am satisfied that this proposal, its layout and house designs will not have an adverse impact on residential amenity. This will be discussed in detail further in this report.

Paragraph 4.12 of the SPPS states other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

Design Considerations and the impact on residential amenity will be considered further in this report. Consultation with NIW has confirmed that there are no WWTW Capacity issues currently in Cookstown however a Temporary Treatment Plant has been proposed to facilitate this development. The applicant submitted a Drainage Assessment with this application and following consultation with Rivers Agency, no concern has been raised about drainage.

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

This development is located on Zoned Housing Land as set out in the Cookstown Area Plan 2010 and a proposal for housing is acceptable in principle subject to all key site requirements being met. These will be considered further in this report.

### **Cookstown Area Plan 2010**

This site is located within the development limits of Cookstown in what is a predominantly residential area of the Town. The site itself is zoned for Phase 1 Housing (H03 ? Land East of Coolreaghs Road and South of Claggan Lane). This zoning encompasses the whole 2.62 hectare host field. It benefits from trees and hedgerows along the NE and SW boundaries. Access is available from both Coolreaghs Road and Claggan Lane. The plan

sets down 6 key site requirements for development on this zoning. This proposal complies with all 6.

**A full tree condition survey should be carried out and mature trees and hedgerows on the boundaries should be retained.**

The Councils Tree Officer has considered the condition of the existing trees along the site boundaries, of which there are a very limited number. It has been deemed that they do not merit the protection of a Tree Preservation Order. Existing hedgerow and trees are shown to be retained on the Landscape Plan and their retention will be a condition of approval.

**The layout should be designed to ensure that houses do not back onto Claggan Lane or Coolreaghs Road.**

No dwellings back onto Coolreaghs Road. This application does not include any dwellings that directly abut Claggan Lane. It is envisaged these will be incorporated in a second phase and this key site requirement will be applied at that time.

**At least 0.25 hectares of open space for children's play provision should be provided**

Adequate useable open space is being provided as part of this proposal

**Pedestrian Access to link with Claggan Park, and pedestrian/cycle access to the lane to the South of the site, should be provided.**

The red line of this application does not allow for a pedestrian link to Claggan Park to be considered under this application. A pedestrian/cycle link to connect the site to the Moneymore Road has been provided for within the red line of this application. The lane to the South referred to in this key site requirement is no longer in existence and has been integrated into the Curtilage of Weavers Care Home.

**If access is constructed from Claggan Lane, a footway will be required to link the access to the existing public footway network.**

Access from Claggan Lane does not form part of this proposal.

**Access, including provision of public transport and pedestrian/cycle access should be made available to link Coolreaghs Road or Claggan Lane through H03 to neighbouring housing land to the East H04**

DFI Roads have advised that there is no strategic benefit in providing a public transport link from H03 through to H04. I would agree with this given the short distance it would take to travel the existing route. An opportunity has been provided to develop a pedestrian/cycle link between both sites (between units 24 and 25). It is unlikely that this will ever be competed due to a parcel of third party land between both sites.

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

The relevant Draft Plan Strategy Policies in this assessment are (ie) GP1 - General Principles Policy and HOU 2 - Quality Residential Development. This proposal is not at conflict with either GP 1 or HOU 2. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation is due to close at 5pm on 21st May 2020. In light of this the draft plan cannot currently be given any determining weight.

### **Planning Policy Statement 3 - Access, Movement and Parking.**

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the creation of a new access onto the Coolreaghs Road. DFI Roads have been consulted and following the submission of a Traffic Survey and revised plans are now satisfied with the proposal from a roads perspective. PSD's have been agreed and signed and Roads have recommended several standard PSD conditions to be attached to any decision. Each dwelling unit provides in-curtilage parking for 2 cars and this is in line with Parking Standards.

It is noted that objectors to the application raised road safety concerns which could be caused by this development. These objections have been fully considered by DFI Roads in their response to MUDC.

### **Planning Policy Statement 7 - Quality Residential Environments.**

PPS 7 is a material planning policy for this type of development. All proposals for residential development will be expected to conform to a number of criteria laid out in Policy QD 1 of PPS 7. I will deal with these as they appear in the policy

### **The development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas**

The proposed development is residential in nature and is sited on phase 1 zoned housing land within the development limits of Cookstown. It is surrounded by residential developments of varying densities - detached dwellings along Coolreaghs Road and Claggan Lane, Semis in Claggan Park and three storey town houses adjacent to Weavers Nursing home. On this basis I have no concerns about the impact of this development in terms of the residential character of this area. It is a medium density development comprised of detached dwellings along the site frontage and semis in the remainder of the site. There is a slight slope within the site, rising gently in a Northern direction towards Claggan Park, but it is minimal and does not result in the need for any retaining structures. The layout has been amended during the processing of the application which has resulted in the reduction of the number of units. It has also ensured that the front of the development comprises large feature detached dwellings which makes it a more attractive scheme. The scale, proportion and massing of each dwelling is acceptable and not over dominant. The development is not dominated by hard surfacing with all dwellings having in-curtilage parking. The development is also softened by the provision of a central area of open space which most dwellings look towards. All units have acceptable levels of private amenity space, in excess of the minimum 40m<sup>2</sup> recommended in Creating Places. Phase 2 will have to ensure acceptable back to back separation distances where it will abut units 27-

38. I am however content that most of the dwellings have just short of the 10m required in Creating Places.

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

The site is not in an area of archaeological importance and there are no Listed Buildings nearby. There are no TPO'd trees within the site to be retained or protected. There are a few mature trees which will be conditioned to be retained.

**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.**

Each dwelling has adequate private amenity space in excess of the 40m<sup>2</sup> recommended in Creating Places. This scheme is for 39 units and should incorporate an area of public open space with equates to 10% of the site area in line with PPS 8. An area of an appropriate size is being provided in a central location within the development. A detailed Landscape Plan has also been submitted which shows how the development will be landscaped in order to soften its visual impact.

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

The site is within the development limits of Cookstown and there are existing neighbourhood facilities already available in the locality (eg) shops, Schools etc. The scale of the development does not merit the provision of its own stand alone facilities.

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

As the site is within an urban settlement there is an existing movement pattern (eg) foot paths and bus routes. The level of traffic travelling through the settlement would be fairly high and would be travelling at a low speed. Traffic calming measures by way of speed ramps have been incorporated into the estate road. DFI Roads have been consulted and have no objections to the proposal.

**Adequate and appropriate provision is made for parking**

Each dwelling has in-curtilage parking for 2 cars. This is in line with Parking Standards Guidance.

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

The design and finish of each dwelling does not give me any cause for concern and are reflective of the type of design found in urban developments throughout the District.

**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 proposal is residential in nature and is surrounded by residential developments. As such I have no concerns about conflict with adjacent landuses. There is 1 property, which in my opinion had the potential to be impacted the most by this development - number 3 Coolreaghs Road, which is a two storey semi detached dwelling situated along the Southern boundary of the site. The occupants of this dwelling have objected to the proposal. The initial layout, which included a chalet type bungalow fronting directly into the Kitchen of number 3, has been amended to reduce the impact on the privacy of the occupants of this property. The dwelling on this site is now a two storey dwelling fronting onto the Coolreaghs Road (see drawing below). There are no first floor windows on the gable of this dwelling which prevent any overlooking into number 3. There is a sunroom on the ground floor which has a window fronting onto the Coolreaghs Road rather than on the gable. This is an acceptable design solution in order to reduced any impact on their privacy. Whist the sun room runs quite close to the gable of number 3, it is single storey and is not of the dimensions or location which will result in a loss of light, cause over shadowing or appear over dominant on number 3. There is also patio doors on the ground floor gable of the proposed dwelling. These sit further back than the sun room and have an acceptable separation distance from number 3. I do appreciate that the occupants of this dwelling have for years experienced open and uninterrupted views across this host field however there is no legal entitlement to views and the loss of views cannot be a material consideration in assessing the proposal in terms of residential amenity. I do consider that the amendments made to the layout will ensure that there will be minimal impact on the residential amenity of number 3 Coolreaghs Road and that the refusal of the application on the basis of its impact on number 3 would not be justified I policy terms.



Generally, residential developments do not generate any unacceptable noise, odours or emissions which would impact on residential amenity. This development does incorporate a temporary treatment plant. The details of this plant have been forwarded to EH who have advised that they have no concerns in respect of noise or odours coming from this plant- which is submerged.

### **The development is designed to deter crime and promote personal safety**

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

### **Planning Policy Statement 15 - Planning and Flood Risk**

This site is not within a recognised flood plain. A Drainage Assessment was submitted with this application as the proposal is for more than 10 dwelling units. Rivers Agency have been consulted and have advised that Chapter 4.2 of the Drainage Assessment states: This section details measures which have been incorporated into the proposal submitted in support of the planning application, and to be further developed in any detailed design or variation post-determination of the planning application. Prior to the commencement of any of the approved development on site a final detailed drainage design, based on the discharge rate from NI Water should be submitted to the Planning Authority for their consideration and satisfaction. I am content to deal with this by way of applying a condition to any decision. This will safeguard against any potential flood risk.

Approval subject to conditions is recommended	
<b>Neighbour Notification Checked</b>	<b>Yes</b>
<p><b>Summary of Recommendation:</b></p> <p>This proposal for a housing development of 39 dwellings is located on zoned phase 1 housing land in Cookstown. It meets all the key site requirements set out in the Cookstown Area Plan in respect of this zoning. It also complies with all relevant planning policy - the SPPS, PPS 3, PPS 7, PPS 8 and PPS 15. There has been 14 letters of objections submitted. All material planning issues have been fully considered and do not merit the refusal of this application. Approval is recommended subject to conditions.</p>	
<p><b>Conditions</b></p> <p>1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.</p> <p>Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</p> <p>2. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.</p> <p>The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 22 rev 2 bearing the date stamp 06 May 2020</p> <p>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.</p> <p>3. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.</p> <p>No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road including footway improvements along the Coolreaghs Road have been completed in accordance with the details outlined blue on Drawing No 22 rev 2 bearing the date stamp 06 May 2020</p> <p>The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).</p> <p>Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.</p> <p>4. The visibility splays of 4.5 metres by 90 metres to the north and 2.4 x 72 metres to the south at the junction of the proposed residential access road with the Coolreaghs Road, shall be provided in accordance with Drawing No</p>	

22 rev 2 bearing the date stamp 06 May 2020, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

5. The vehicular access from Site 1 to Coolreaghs Road including visibility splays shall be provided in accordance with Drawing No 22 rev 2 bearing the date stamp 06 May 2020 prior to the commencement of any other development associated with Site 1 hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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. No dwelling 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. Should adoption of the proposed temporary treatment plant not be feasible by Northern Ireland Water (NI Water), then an adequate and effective maintenance programme shall be put in place for a period not less than 20 years. The programme should be submitted and agreed for approval prior to the occupation of any of the dwellings hereby approved.

Reason: To ensure the protection of residential amenity

9. Prior to the commencement of any of the approved development on site a final detailed drainage design, based on the discharge rate from NI Water should be submitted to the Planning Authority for their consideration and satisfaction.

Reason: To safeguard against flood risk.

10. The existing trees and vegetation along the entire site boundaries shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

11. All planting and boundary treatment comprised on drawing number 19 rev 4, bearing date stamp 6th May 2020 shall be carried out prior to the occupation of any of the dwellings hereby approved and any trees or shrubs which, within a period of 5 years from the occupation of the dwellings, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

12. No dwelling hereby approved shall be occupied until Mid Ulster 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 central area of public open space identified on drawing No. 19 rev 4, bearing date stamp 6th May 2020. This area shall be permanently retained as landscape/open space.

Reason: To ensure that open space is provided, maintained and managed in accordance with PPS 7 - Quality Residential Environments and PPS8 - Open Space, Sport and Outdoor Recreation and to ensure its retention in perpetuity.

13. A 3m strip of land between units 24 and 25 and running to the rear of unit 24, as shown in green on drawing no 18 rev 5 bearing date stamp 6th May 2020 shall not be developed nor included in the domestic curtilage of unit 24 or 25.

Reason: To provide and retain an opportunity for a footway/cycle path onto the Moneymore Road in line with the key site requirement detailed in the Cookstown Area Plan 2010

### **Informatives**

1. The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the DfI Roads to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern

Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

The developer, future purchasers and their successors in title should note that DfI Roads will not adopt any street as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992 until such time an Article 161 agreement between the developer and NI Water for the construction of foul and storm sewers including any attenuation holding tanks and discharge pipes has been fully implemented and works upon completion approved by NI Water Service .

Separate approval must be received from DfI Roads in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from DfI Roads Street Lighting Consultancy, Marlborough House, Central Way, Craigavon, BT64 1AD. The Applicant is advised to contact DfI Roads Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

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

Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges.

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

It is a DfI Roads requirement that all structures which fall within the scope of the current version of BD 2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted to the Technical Approval Authority through the relevant Division.

Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant Division. Geotechnical Certification shall be in accordance with the Department for Infrastructures Geotechnical Certification procedures as laid down in the current version of HD 22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges

2.The package sewage treatment plant shall be constructed to a standard capable of adoption by Northern Ireland Water (NI Water) and whose effluent discharge quality meets with the satisfaction of the Water Management Unit within the Northern Ireland Environment Agency. Such an arrangement will require a consent to discharge as issued under the requirements of the Water (NI) Order 1999.

3.With regards to the Running Sand concern, Water Management Unit would advise that when assessing soakaways the main criteria is whether or not the percolation rate of the ground is suitable. This can only be determined when all the necessary documentation has been submitted along with an application for discharge consent from NIEA

Water Management Unit would advise that if there are noted pollution incidents, the NIEA Emergency pollution Hotline 0800 80 70 60 should be contacted for further investigation.

The applicant should refer and adhere to all relevant precepts in DAERA Standing Advice on Pollution Prevention Guidance.

Water Management Unit recommends that the applicant refer to DAERA Standing Advice on Sustainable Drainage Systems for advice on the use of Sustainable Drainage Systems.

The applicant should refer and adhere to all relevant precepts in DAERA Standing Advice on Discharges to the Water Environment.

The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.

Conviction of such an offence may incur a fine of up to 20,000 and / or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	22nd July 2019
<b>Date First Advertised</b>	8th August 2019
<b>Date Last Advertised</b>	26th November 2019
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Coolreaghs Road Cookstown Tyrone The Owner/Occupier, 10 Claggan Lane Cookstown Tyrone David Murray 10 Claggan Lane, Cookstown, Tyrone, Northern Ireland, BT80 8PX The Owner/Occupier, 10 Coolreaghs Road Cookstown Tyrone Samuel Colvin 10 Coolreaghs Road, Cookstown, Tyrone, Northern Ireland, BT80 8EP The Owner/Occupier, 11a Lissan Road, Cookstown, Tyrone, Northern Ireland, BT80 8EP The Owner/Occupier, 12 Claggan Lane Cookstown Tyrone The Owner/Occupier, 12 Coolreaghs Road Cookstown Tyrone Harold Farrell, Maureen Farrell and George Farrell 12 Coolreaghs Road, Cookstown, Tyrone, Northern Ireland, BT80 8EP Harold & Maureen Farrell 12 Coolreaghs Road, Cookstown, Tyrone, Northern Ireland, BT80 8EP The Owner/Occupier, 14 Claggan Lane Cookstown Tyrone The Owner/Occupier, 14 Coolreaghs Road Cookstown Tyrone Joan Kempton 14 Coolreaghs Road, Cookstown, Tyrone, Northern Ireland, BT80 8ER Joan Kempton 14 Coolreaghs Road, Cookstown, Tyrone, Northern Ireland, BT80 8ER The Owner/Occupier, 16 Claggan Lane Cookstown Tyrone Stephen Donaghy 16 Coolreaghs Road, Cookstown, BT80 8ER Stephen Donaghy 16 Coolreaghs Road, Cookstown, Tyrone, Northern Ireland, BT80 8ER The Owner/Occupier, 16 Coolreaghs Road, Cookstown, Tyrone, BT80 8EP The Owner/Occupier, 17 Lissan Road Cookstown Tyrone The Owner/Occupier, 17B Lissan Road, Cookstown, Tyrone, BT80 8EN	

Thomas Dripps 17b Lissan Road, Cookstown, Tyrone, Northern Ireland, BT80 8EN The Owner/Occupier, 18 Claggan Lane Cookstown Tyrone The Owner/Occupier, 18 Coolreaghs Road, Cookstown, Tyrone, BT80 8EP The Owner/Occupier, 19 Claggan Park Cookstown Tyrone The Owner/Occupier, 19 Lissan Road Cookstown Tyrone The Owner/Occupier, 2 Coolreaghs Road Cookstown Tyrone The Owner/Occupier, 21 Claggan Park Cookstown Tyrone The Owner/Occupier, 23 Claggan Park Cookstown Tyrone Phillip and Margaret Brisbane 29 COOLREAGHS ROAD, COOKSTOWN, TYRONE, Northern Ireland, BT80 8ER The Owner/Occupier, 29 Coolreaghs Road Cookstown Tyrone The Owner/Occupier, 3 Coolreaghs Road Cookstown Tyrone N Cahoon 3 Coolreaghs Road, Cookstown, Tyrone, Northern Ireland, BT80 8EP The Owner/Occupier, 4 Coolreaghs Road Cookstown Tyrone William G. Shaw and Moira E. Shaw 4 Coolreaghs Road, Cookstown, Co Tyrone, BT80 8EP The Owner/Occupier, 40 Moneymore Road Cookstown Tyrone The Owner/Occupier, 42 Claggan Park Cookstown Tyrone The Owner/Occupier, 45 Coolreaghs Road, Cookstown, Tyrone, BT80 8EP The Owner/Occupier, 6 Coolreaghs Road Cookstown Tyrone The Owner/Occupier, 8 Coolreaghs Road Cookstown Tyrone The Owner/Occupier, No Address Supplied Unknown	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No

## Planning History

Ref ID: LA09/2019/0994/F

Proposal: Proposed development of 41 units consisting of 2 storey detached and semi detached dwellings with open space and temporary waste water treatment works

Address: North of 3 Coolreaghs Road, Cookstown,

Decision:

Decision Date:

Ref ID: I/1977/0204

Proposal: ERECTION OF PRIMARY SCHOOL NURSERY UNIT, SCHOOL MEALS KITCHEN TOGETHER

Address: COOLREAGHS ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1998/0109

Proposal: 4 no.semi-detached dwellings with garages

Address: REAR OF 17 LISSAN ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1999/0086

Proposal: Proposed 2 No. Dwellings and Garage

Address: TO THE REAR OF 17 LISSAN ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1997/0414

Proposal: Site for Dwelling

Address: REAR OF 17 LISSAN ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2006/0979/F

Proposal: Proposed Sun Room

Address: 42 Claggan Park, Cookstown

Decision:

Decision Date: 16.02.2007

Ref ID: I/1987/0181

Proposal: DWELLING WITH GARAGE

Address: SITE NO 22A CLAGGAN PARK, COOKSTOWN

**Summary of Consultee Responses**

DFI Roads - No objections  
EH - No objections  
NIW - No issues  
Rivers - No objections  
NIEA - No objections

**Drawing Numbers and Title**

Drawings No's - 01, 02, 03, 04, 05, 06 rev 1, 07 rev 1, 08 rev 2, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18 rev 5, 19 rev 4, 20, 21, 22 rev 2

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1276/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed partial removal of roof of drive thru lane.	<b>Location:</b> KFC 45 Killymoon Street Cookstown BT80 8JZ.
<b>Referral Route:</b> Approval – Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Kirk & Bryson Co. Limited 605 Lisburn Road Belfast BT9 7GS	<b>Agent Name and Address:</b> Coogan & Co. Architects Ltd. 122 Upper Lisburn Road Finaghy Belfast BT10 0BD
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
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	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

There was one objection received in relation to this proposal. The main issues raised in this objection included: noise, fumes, nuisance and light disturbance. The objection will be discussed in more detail later in the report.

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

The application site is located at 45 Killymoon Road, Cookstown. The current use of the site is for a restaurant, namely 'KFC'. From the site visit it was evident that the building was vacant and this use was no longer in operation at present. The building is single storey in height and the exterior consists mainly of a flat roof design. There is existing car parking available within the site also. The building is located beside residential buildings to the northern and western boundaries and beyond this there is a mix of other uses found within the Cookstown Settlement Limit. There is a McDonalds restaurant with a drive thru facility adjacent and to the south of the site. Other nearby uses include ASDA shop and filling station, Tyre Safety Centre and Toymaster amongst many others.

### **Description of Proposal**

Full planning permission is sought for the proposed partial removal of roof of drive thru lane.

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

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 1 Sweep Road, 43 Killymoon Street, 72 and 74 Gortlowry Park. At the time of writing, one third party representation has been received from No. 72 Gortlowry Park, one of the properties which bound the site to the North West. The exact same objection from the same address was received via email and via post, it was only uploaded once to the system. The main points raised in this objection were:

- Noise and disturbance to their property
- Exhaust fumes
- Light Pollution

#### Planning History

There is quite an extensive history associated with this site, the history which I feel is relevant to this application includes:

I/2013/0121/F - 45 Killymoon Street, Cookstown - Erection of Restaurant - PERMISSION GRANTED

I/2013/0377/F - 45 Killymoon Street, Cookstown, Erection of restaurant with drive thru - PERMISSION GRANTED

I/2013/0378/F - 45 Killymoon Street, Cookstown, BT80 8JZ - Refurbishment and conversion of existing building to accommodate new restaurant with drive thru (Amended Plans, Supporting Statement and Noise Impact Assessment) - PERMISSION GRANTED

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

- Cookstown Area Plan 2010
- Regional Development Strategy 2035
- Strategic Planning Policy Statement (SPPS)

- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 - Draft Plan Strategy
- DCAN 4 - Restaurants, Cafes and Fast Food Outlets

Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation was due to close at 5pm on 21st May 2020. In light of this the draft plan cannot currently be given any determining weight.

The Cookstown Area Plan 2010 identify the site as being within Cookstown Settlement Limit. It has no other zonings or designations within the Plan.

The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.

The proposal is for the partial removal of the existing drive thru lane. This removal would include the western section and some of the northern section of the existing drive thru structure. The roof was deemed necessary to protect adjacent residential amenity as part of the previous application (I/2013/0377/F) and was conditioned as part of the previous planning approval (Condition 6). Therefore, for this application it was deemed necessary to consult with Environmental Health given the history on the site and as they are the competent professional body who deal with the main issues which were raised within the objection letter.

Following Environmental Health's initial response dated 29th November 2019, a noise impact assessment was subsequently received from the applicant/agent on 9th December 2019 and the neighbours were re-consulted on 20th December 2019. No further objections or representations were received from the objector or any other of the neighbouring properties in light of the additional information received. Environmental Health provided a further response dated 6th February 2020 with comment on the Noise Impact Assessment. The applicant/agent followed this by submitting a rebuttal statement for Environmental Health's consideration.

In Environmental Health's most recent responses dated 24th March 2020 and 2nd April 2020, they have noted conditions which they feel would be appropriate to attach to any forthcoming approval should planning be granted. There was a very slight change in the wording from the conditions provided from Environmental Health and the conditions which have been attached below. These changes were conversed via email with the case officer, Environmental Health and the agent. Section 45 of the Act gives us the power to impose such conditions 'as we think fit.' Given that the changes are minor and given that I have already liaised with EHD regarding the wording and it appears that they have no objection to the subtle amendments suggested, I am content that we do not need to re-consult with them again in this instance.

It is considered that given the information provided from Environmental Health, the proposed partial removal of the existing drive thru is unlikely to impact the amenity of nearby receptors however they noted that the proposal may remove some of the

additional protection afforded to nearby receptors. They noted that the assessment carried out by RPS on behalf of the agent/applicant complied with the noise levels set out within World Health Organisation and British Standard 8233: 2014 guidance.

There are no proposed changes to the existing parking on site or the existing access arrangement and therefore it was not felt necessary to consult with DfI Roads on this application.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Approval is recommended, subject to conditions.

**Conditions/Reasons for Refusal:**

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. No business or operations shall take place outside the hours of 08:00 hours to 23:00 hours each day.

Reason: To protect residential amenity.

3. No deliveries shall be taken or dispatched from the site outside the hours of 08:00 to 18:00, nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect residential amenity.

4. Within 4 weeks of a written request by the Council following a reasonable noise or odour 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 or odour from the development. Details of any noise or odour 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 or odour 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 12 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.

<b>Signature(s)</b>
<b>Date:</b>

<b>ANNEX</b>	
<b>Date Valid</b>	27th September 2019
<b>Date First Advertised</b>	8th October 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Sweep Road, Cookstown, Tyrone, BT80 8JW The Owner/Occupier, 43 Killymoon Street, Cookstown, Tyrone, BT80 8JZ Agnes Corrigan 72 Gortalowry Park, Cookstown, Tyrone, BT80 8JJ Agnes Corrigan 72, Gortalowry Park, Cookstown, Tyrone, Northern Ireland, BT80 8JJ The Owner/Occupier, 74 Gortalowry Park, Cookstown, Tyrone, BT80 8JJ	
<b>Date of Last Neighbour Notification</b>	3rd January 2020
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/1276/F Proposal: Proposed partial removal of roof of drive thru lane. Address: KFC, 45 Killymoon Street, Cookstown, BT80 8JZ., Decision: Decision Date:  Ref ID: LA09/2016/0643/NMC Proposal: Minor Alterations to Previously Approved Housing Development I/2008/0773/F Address: Adjacent to Castle Road and to the Rear of 1-13 Castle Road and 6-12 Dungannon Road, Cookstown, Decision: CG Decision Date:	

Ref ID: I/2013/0377/F

Proposal: Erection of restaurant with drive thru

Address: 45 Killymoon Street, Cookstown,

Decision: PG

Decision Date: 10.07.2014

Ref ID: I/2006/0586/A

Proposal: Fascia, Entrance Feature, Pylon & Flags

Address: 45 Killymoon Street Cookstown

Decision:

Decision Date: 11.09.2006

Ref ID: I/1993/0028

Proposal: 3 No Flag Signs, 2 No Fascia Signs and 1 No Pylon Sign

Address: 45 KILLYMOON STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2008/0404/F

Proposal: Single storey extension to accommodate a disabled bedroom to rear of dwelling and alteration to front porch

Address: 43 Killymoon Street, Cookstown

Decision:

Decision Date: 19.08.2008

Ref ID: I/2013/0378/F

Proposal: Refurbishment and conversion of existing building to accommodate new restaurant with drive thru (Amended Plans, Supporting Statement and Noise Impact Assessment)

Address: 45 Killymoon Street, Cookstown, BT80 8JZ,

Decision: WITHDR

Decision Date: 09.07.2014

Ref ID: I/2001/0703/A

Proposal: Proposed entrance awning, pole sign

Address: 45 Killymoon Street, Cookstown, Co. Tyrone

Decision:

Decision Date: 25.07.2002

Ref ID: I/1982/0374

Proposal: EXTENSION TO CAR SHOWROOM AND WORKSHOP

Address: 45 KILLYMOON STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2013/0121/F  
Proposal: Erection of Restaurant  
Address: 45 Killymoon Street, Cookstown,  
Decision: PG  
Decision Date: 26.11.2013

Ref ID: I/1995/0328C  
Proposal: Retail Stores  
Address: SWEEP ROAD COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/2008/0773/F  
Proposal: Proposed residential development comprising detached dwellings, semi detached dwellings and townhouses, associated landscaping, site works and upgrading of Castle Road (as per previous approval I/2001/0862/F) (total 67 units).  
Address: Site adjacent to Castle Road, Cookstown and to the rear of 1-13 Castle Road and 6-12 Dungannon Road  
Decision: PG  
Decision Date: 23.10.2014

Ref ID: I/2014/0262/A  
Proposal: Totem sign  
Address: 45 Killymoon Street, Cookstown BT80 8JZ,  
Decision: CG  
Decision Date: 07.10.2014

Ref ID: I/2014/0388/A  
Proposal: Totem sign  
Address: 45 Killymoon Street, Cookstown BT80 8JZ,  
Decision: CG  
Decision Date: 08.12.2015

Ref ID: I/2014/0387/A  
Proposal: 7 no wall mounted and 2 no roof mounted signs  
Address: 45 Killymoon Street, Cookstown BT80 8JZ,  
Decision: CG  
Decision Date: 09.03.2015

Ref ID: I/2015/0010/F  
Proposal: Car hardstanding to front of dwelling  
Address: 1, Sweep Road, Cookstown,  
Decision: PG  
Decision Date: 31.03.2015

Ref ID: LA09/2015/1259/NMC

Proposal: Amendment to extent of area coloured red on private streets determination (PSD) drawing stamped approved drawing No98 (Lisbane consultants reference Dwg No 12-012-H10c)

Address: Site adjacent to Castle Road, Cookstown and to the rear of 1-13 Castle Road and 6-12 Dungannon Road, Cookstown,

Decision: CG

Decision Date:

Ref ID: LA09/2015/1030/F

Proposal: Provision of a car hardstanding and ramped access to front of the dwelling with a footpath crossing over verge

Address: 1 Sweep Road, Gortalowery, Cookstown,

Decision: PG

Decision Date: 08.12.2015

### Summary of Consultee Responses

Env Health: Content subject to conditions.

### Drawing Numbers and Title

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 03

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 05

Type: Existing 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	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1285/F	<b>Target Date:</b>
<b>Proposal:</b> Dwelling, garage and associated site works (change of house type)	<b>Location:</b> 86m NW of 81 Killyliss Road Dungannon
<b>Referral Route: Objections</b>	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Mr Gary Mc Cann 75 Killyliss Road Dungannon	<b>Agent Name and Address:</b> Black Architecture 164 Tirnascobe Road Richhill BT61 9RF
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

### Summary of Issues

Two objections were received from a Joe Hughes, who resides at 65 Killybracken Road a short distance to the East of the site.

The objectors main concern was the need for a dwelling as the applicant has previous approvals.

### Characteristics of the Site and Area

The application site is located approx. 86 metres NW of 81 Killyliss Road, Dungannon, approximately 1.65km north west of the village of Eglish. It is in an area which is largely characterised by agricultural land, farm holdings and dispersed settlement. The site to the direct north comprises 2 no two storey semi-detached dwellings. The two dwellings occupy an L shaped plan, with one orientated to face

northwards and the other fronting the road to the east. This site access has been put in place with two block pillars formed at the roadside with an agricultural gate across. The foundations of the previous approval are in place however, the area has been overgrown with weeds and vegetation. Site boundaries are marked to the North, west and east by existing hedgerows. To the south the site boundary is defined by a post and wire fence with the shell of a large agricultural building also under construction.

### **Description of Proposal**

The proposal seeks full planning permission for a dwelling, garage and associated site works (change of house type)

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

Regional Development Strategy  
Dungannon Area Plan (CAP) 2010

PPS1

PPS3

PPS21

-Policy CTY 1 - Development in the Countryside

-Policy CTY 13 - Integration and Design

-Policy CTY 14 - Rural character

Strategic Planning Policy Statement (SPPS)

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered

Objections / comment received from 3rd Parties;

Two objections have been received from a Joe Hughes, who resides at 65 Killybracken Road a short distance to the East of the site.

The objectors main concern was the need for a dwelling as the applicant has previous approvals. In addition he has raised concerns over the access, traffic flow and overpopulation.

#### **RELEVANT PLANNING HISTORY**

M/2009/0417/RM - 75 Killyliss Road, Dungannon - Proposed replacement dwelling and new access to the Killyliss Road, including domestic garage - Permission Granted 16/09/09

M/2006/2062/O - 75 Killyliss Road, Dungannon - Proposed replacement dwelling with new access to Killyliss Road - Permission Granted 20/03/07

M/2014/0295/F - 75 Killyliss Road, Dungannon - Construction of two 2 storey dwellings with detached garages and associated site works-change of previously approved house types - Permission Granted 29/07/14

This site access has been put in place with two block pillars formed at the roadside with an agricultural gate across and sight splays have been cleared. The foundations of the previous approval are in place however, the area has been overgrown with weeds and vegetation. I am satisfied that the previous development has commenced.

#### Assessment of design

In this case the applicant has proposed a change of house type which involves moving the footprint of the dwelling a few metres to the North, with the switch in position of the garage from the North to the South of the main body of the dwelling, making it more central on the site. The proposal also seeks the same access, however, the overall size of the dwelling proposed is slightly smaller than previously approved. The proposed ridge height and dwelling width remain the same, the two storey element has remained, the dwelling footprint has been slightly reduced by approximately 35m<sup>2</sup>.

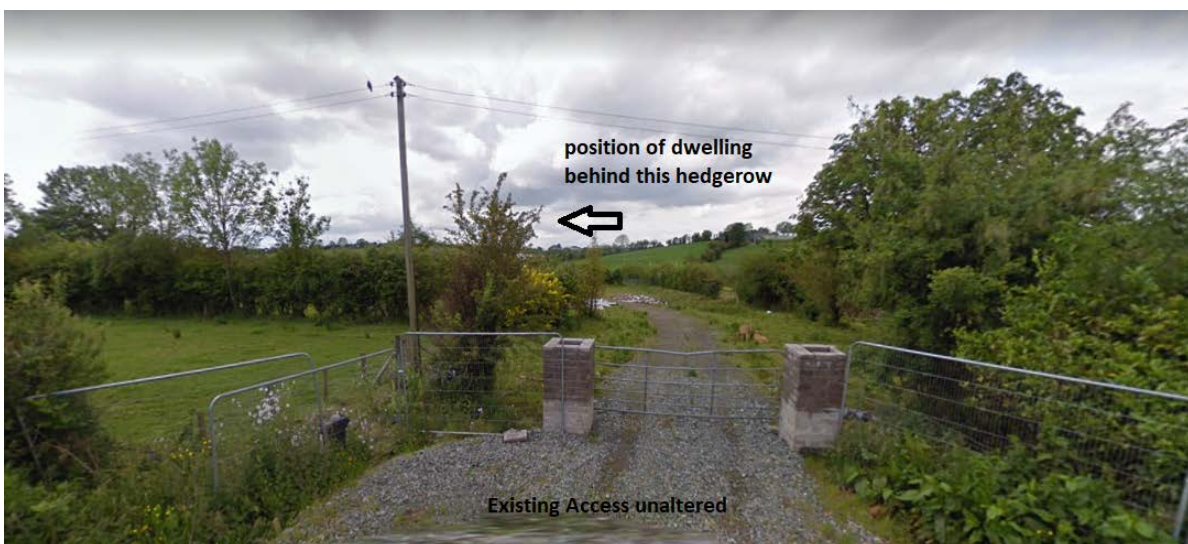


#### Proposed elevations



### Approved elevations –M/2014/0295/F

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that with the size of the dwelling, it would blend in successfully with its immediate and wider surroundings and is comparable to other buildings in the vicinity. Furthermore as the site has decent boundary vegetation, and the proposal includes a landscaping plan, therefore it is considered that the site has the capacity to absorb a dwelling of this size and scale. There are limited views onto the site due to the mature vegetation and the position of the dwelling to the North and the silo and further buildings to the south. I have no concerns regarding integration.



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

size and scale, as this proposal is slightly smaller than the previous approval I see no issues. The design was discussed at group and it was agreed that the proposal is suitable for this site.

#### Access Considerations

The application confirms that the access point is the same as that previously approved in the recent change of access application. I am content that the existing parking provision on the site can adequately accommodate the proposed development. The proposal will not prejudice road safety nor will it inconvenience the flow of traffic. It therefore accords with the SPPS, PPS 3 and Parking Standards.

With regards to the points raised by the objectors, it is not our responsibility to consider the need for a dwelling when the application complies with the policy context and planning permission is not dependant on the amount of properties or planning approvals the applicant may already have. With regards to the impact on traffic flow and the access point, the application seeks no alteration to the existing approved access and no intensification is sought therefore we have no issues.

**Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation was due to close at 5pm on 21<sup>st</sup> May 2020.**

**In light of this the draft plan cannot currently be given any determining weight.**

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.Prior to commencement of the development hereby permitted, visibility splays of 2.4m x 80m shall be provided in accordance with the approved drawing No.02A bearing date stamp 22 JAN 2020, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained 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. All existing trees and hedgerows within the site and on the site boundaries shall be permanently retained intact and no lopping, topping, felling or removal shall be carried out without the prior written approval of the Mid Ulster Council unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing within one week of the work being carried out.

All new landscaping as indicated on drawing 02A date received 22 JAN 2020 shall be carried out in the first planting season following the commencement of any of the development hereby

approved and any trees or shrubs that die within 5 years of planting 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.

### **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:**

<b>ANNEX</b>	
<b>Date Valid</b>	30th September 2019
<b>Date First Advertised</b>	15th October 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Joe Hughes 65 Killybracken Road,Dungannon,Tyrone,BT70 1NU Joe Hughes 65 Killybracken Road,Dungannon,Tyrone,BT70 1NU The Owner/Occupier, 65 Killyliss Road Dungannon Tyrone The Owner/Occupier, 73 Killyliss Road,Dungannon,Tyrone,BT70 1NX The Owner/Occupier, 75 Killyliss Road,Dungannon,Tyrone,BT70 1NX The Owner/Occupier, 75 Killyliss Road,Dungannon,Tyrone,BT70 1NX The Owner/Occupier, 75a, Killyliss Road,Dungannon,Tyrone,BT70 1NX The Owner/Occupier, 81 Killyliss Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	4th October 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1285/F Proposal: Proposed dwelling and garage and associated site works change of house type Address: 86m NW of 81 Killyliss Road, Dungannon, Decision: Decision Date:  Ref ID: LA09/2018/0346/F Proposal: Retention of dwelling in substitution for dwelling approved under M/2006/0855 and retention of dwelling on applicant's farm holding Address: 120m NW of 81 Killyliss Road, Dungannon, Decision: PG Decision Date: 08.11.2018	

Ref ID: LA09/2019/0369/NMC

Proposal: Increase the approved farm building from 5.5m to 6.5m

Address: 40m N.W. of 81 Killyliss Road, Cookstown,

Decision: CG

Decision Date:

Ref ID: LA09/2017/1423/F

Proposal: Retention of two dwellings - first dwelling in substitution for previous planning permission M/2006/0855 and second as a dwelling on a farm.

Address: 75 Killyliss Road, Dungannon,

Decision: PR

Decision Date: 19.01.2018

Ref ID: LA09/2016/1034/F

Proposal: Change of house type from previously approved 2 Storey Dwelling and Storey and a Half Garage (Ref M/2014/0295/F) to 2 no Semi-Detached Units within same curtilage, footprint and same scale/massing (Retrospective Application)

Address: 75 Killyliss Road, Dungannon,

Decision: PR

Decision Date: 12.06.2017

Ref ID: M/2014/0295/F

Proposal: Construction of two 2 storey dwellings with detached garages and associated siteworks-change of previously approved house types

Address: 75 Killyliss Road, Dungannon,

Decision: PG

Decision Date: 29.07.2014

Ref ID: LA09/2017/1532/F

Proposal: Proposed farm building

Address: 40m N.W. of 81 Killyliss Road, Dungannon,

Decision: PG

Decision Date: 27.02.2019

Ref ID: M/2009/0417/RM

Proposal: Proposed replacement dwelling and new access to the Killyliss Road, including domestic garage

Address: 75 Killyliss Road, Dungannon

Decision:

Decision Date: 16.09.2009

Ref ID: M/2006/2062/O

Proposal: Proposed replacement dwelling with new access to Killyliss Road

Address: 75 Killyliss Road, Dungannon

Decision:

Decision Date: 20.03.2007

Ref ID: M/2006/0182/O

Proposal: Proposed two storey dwelling and garage

Address: 50m North West of 75 Killyliss Road, Dungannon

Decision:

Decision Date: 03.05.2006

Ref ID: M/1994/4030

Proposal: Repairs to dwelling

Address: 75 KILLYLISS ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1994/0416

Proposal: Alterations to dwelling

Address: 75 KILLYLISS ROAD DERRYGORTREVEY DUNGANNON

Decision:

Decision Date:

Ref ID: M/2006/0581/O

Proposal: Proposed site for new dwelling & garage

Address: Adjacent to 75 Killyliss Road, Derrygortrevy, Dungannon

Decision:

Decision Date: 27.09.2006

### **Drawing Numbers and Title**

Drawing No. 06

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 05A

Type: Garage Plans

Status: Submitted

Drawing No. 04A

Type: Proposed Elevations

Status: Submitted

Drawing No. 02A

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03A

Type: Proposed Floor Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1322/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and domestic garage, based on Policy CTY10 (dwelling on a farm).	<b>Location:</b> Approx 30m South of No 4 Killyneese Road Castledawson
<b>Referral Route:</b> 1 objection received.	
<b>Recommendation:</b>	APPROVAL
<b>Applicant Name and Address:</b> Mr Brendan McKenna 11 Carraloan Road Magherafelt BT46 6NW	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	DAERA - Coleraine	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

A number of issues were raised in one objection received which are addressed in this report.

### Characteristics of the Site and Area

The site is located within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is situated just outside the settlement limits of Magherafelt. The application site is situated up a private laneway just off the main Killyneese Road. The levels of the site are uneven and the site forms part of a larger agricultural field. The north-eastern and north western boundaries of the site are defined by wire and post fencing. As the site is a part of a larger agricultural field, the southern boundaries remain undefined. The proposed access onto the site is shown as from the existing private laneway. The site shares a boundary with no. 4 Killyneese Road.

The immediate surrounding are is largely defined by residential uses as well as some agricultural uses.

### **Description of Proposal**

The applicant seeks outline planning approval for a dwelling and domestic garage, based on Policy CTY10 (dwelling on a farm).

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

#### **Planning History**

There is no relevant planning history on the site.

#### **Neighbour Notification**

2 neighbours were notified of this planning application including nos. 4 & 8 Killyneese Road, Magherafelt.

One letter of objection was received on this application. The objection raises a number of issues including the objector stating that the farm business associated with this application is not an active business and the objection raised that the applicant gained a planning approval with the same business ID number under planning application reference H/2013/0268/O. The objector also raises the fact that this site does not cluster with a group of agricultural buildings.

These issues will be addressed throughout this report.

#### **Development Plan and Key Policy Consideration**

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.

Magherafelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

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

PPS3: Access, Movement and Parking (Revised 2005) and PPS3 (Clarification 2006): sets out planning polices for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning polices for development in the countryside. Policies CTY1, CTY10, CTY13 and CTY14 are applicable.

CTY1 of PPS21 states that planning permission will be granted for a dwelling on a farm in accordance with CTY10.

CTY10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria have been met:

Criteria (a) the farm business is currently active and has been established for at least 6 years. Following consultation with DAERA it can be confirmed that this farm has been established for more than 6 years and has been in business since 1991.

Criteria (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 this planning application. There was a previous planning application approval under reference H/2013/0268/O. After raising the issue with the agent, it was stated that the applicant was unable to obtain a mortgage on the site and the application did not progress any further than the outline stage. I am content that this application complies with criteria (b) of CTY10.

Criteria (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm where practicable, access to the dwelling should be obtained from an existing lane. There is one agricultural building located at the north-eastern boundary of the site. Although the building is not within the applicant's blue land, the agent submitted a letter from the owner of the building stating that he gave permission for the applicant to use this building for his application.

I am content that the proposal complies with CTY10 if PPS21.

### **Integration**

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore, no design details have been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape ? as the site is of a higher level, I will condition the siting of the dwelling at the end of this report. A detailed landscaping plan should also be submitted at the Reserved Matters stage of this application. Finally, due to the existing dwelling at no. 4 Killyneese Road and the existing landform, I will condition a ridge height of 6m here. From this, I am content that this proposal complies with CTY13.

### **Rural Character**

CTY14 states that planning permission will be only granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of the area. As noted, an appropriately designed dwelling will not appear prominently in the landscape wherein it will be able to respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. On a whole I am content that the proposed development complies with CTY14.

**Other Material Considerations**

I am content that this proposal will not cause a detrimental impact on third party amenity. DfI Roads were consulted on the application and are content, subject to condition.

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

Approval, subject to condition.

**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 Mid Ulster District Council, in writing, before any development is commenced.

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

3. The dwelling hereby permitted shall have a ridge height not exceeding 6 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

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

4. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

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

Reason: To ensure the dwelling integrates into the landform.

6. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the commencement of the development.

Reason: In the interests of visual amenity.

7. The proposed dwelling shall be sited in the area shaded orange on the approved plan 01 which was received on 10th October 2019.

Reason: To ensure that the development is integrated into the landscape.

8. 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.

### **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.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	10th October 2019
<b>Date First Advertised</b>	22nd October 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 4 Killyneese Road Castledawson Londonderry Boal Anderson & Co Solicitors 56, High Street, Ballymena, Antrim, Northern Ireland, BT43 6UH The Owner/Occupier, 8 Killyneese Road Castledawson Londonderry	
<b>Date of Last Neighbour Notification</b>	16th October 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/1322/O Proposal: Proposed site for a dwelling and domestic garage, based on Policy CTY10 (dwelling on a farm). Address: Approx 30m South of No 4 Killyneese Road, Castledawson, Decision: Decision Date:  Ref ID: H/1999/0541 Proposal: ALTS. & ADDS. TO DWELLING Address: 4 KILLYNEESE ROAD CASTLEDAWSON Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
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	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0069/F	<b>Target Date:</b>
<b>Proposal:</b> Replacement dwelling and garage	<b>Location:</b> Site adjacent to No.42 Dreenan Road Drummuck Upperlands Maghera BT46 5TZ
<b>Referral Route:</b> 2 objections received.	
<b>Recommendation:</b>	APPROVAL
<b>Applicant Name and Address:</b> Mr & Mrs Adam & Catherine Morgan 42 Dreenan Road Upperlands Maghera BT46 4TZ	<b>Agent Name and Address:</b> Mark Bloomer 38 Ballygowan Road Hillsborough BT26 6EJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Content
<b>Representations:</b>		
Letters of Support	1	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b> 2 objections received which have been summarised in this report. The proposal complies with SPPS and PPS21.		
<b>Characteristics of the Site and Area</b>  The site is located within the open countryside and there are no further designations on the site, as designated by the Magherafelt Area Plan 2015. The site is located adjacent to no. 42 Dreenan Road. All boundaries of the site are currently defined by mature hedging / trees and there is currently an existing access located at the south-eastern boundary of the site - it appears to be an agricultural access here. Located on the site is the dwelling which is to be replaced and an outbuilding. There is a large mature tree located on the site at present and what appears to be amenity space to the eastern portion of the site. The building which is to be replaced is currently partly used as a domestic garage by the occupants of no. 42 Dreenan Road. It is evident that the building has not been lived in for a considerable amount of time. The immediate surrounding area is currently characterised by single dwellings and a number of agricultural uses.		
<b>Description of Proposal</b>		
Full planning permission is sought for a replacement dwelling and garage.		

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

### **Planning History**

There is no relevant planning history on the site.

### **Neighbour Notification**

1 neighbour was notified of this planning application which was no. 42 Dreenan Road.

2 letters of objection were received on the application and 1 letter of support.

The letter of objection received on 31st January 2020 raised the following issues:

- 1) The applicant has a relative who works in Mid Ulster District Council and this was not stated on the P1 application form.
- 2) No.42 Dreenan Road was a replacement building for those buildings already.
- 3) Concerns were raised about the height / massing of the house and how it may look out of character on the Dreenan Road.
- 4) The Dreenan Road wouldn't withstand heavy machinery during construction.
- 5) Concerns were raised about the wildlife within the local area.

The letter of objection which was received on 12th February raised the following issues:

- 1) The applicants do not reside at no. 42 Dreenan Road - if they did this should be a householder application.
- 2) The architect is not local and does not appreciate the beauty of the location.
- 3) The building was never used as a dwelling ? only sheds and outbuildings.
- 4) There is no existing access to a public road.
- 5) The applicant's parents / grandparents own the adjoining lands.
- 6) The application relates to a dwelling on a farm as the site was and is used as sheds / stables for animals.
- 7) The applicant has a relative who works at Mid Ulster District Council and this was not stated on the P1 form.
- 8) The applicants are not in possession of all the lands as it is owned by their parents.
- 9) No other neighbours were notified except for no.42 Dreenan Road.

In relation to concerns raised about a relative working in Mid Ulster District Council, this issue has been resolved and an amended P1 was received on 11/03/2020. As the objections received were anonymous, the objectors could not be informed that such information was received.

In terms of the scale, massing and design of the dwelling, this will be assessed under policies CTY13 and CTY14 of PPS21 throughout this report.

With regards to the previous use of the building which is to be replaced this will be assessed under policy CTY3 of PPS21 in this report.

This proposal will not cause impact on wildlife as none are present on the site.

The application does not relate to a dwelling on a farm and will not be assessed as such.

A householder planning application relates to applications for extensions and alterations of existing dwellings therefore this application does not relate to householder development.

An existing access to the site does exist at the south-eastern boundary of the site.

With regards to the applicant not being in full ownership of the lands to which the application relates to, I have been in contact with the agent who stated that the lands have been transferred to the applicant legally and it is currently with land registry to be mapped. This conversation was via email on 20/03/2020.

One letter of support was received on 05th February 2020 which stated that they had no objection to this planning application.

### **Development Plan and Key Policy Consideration**

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.

Magherafelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation was due to close at 5pm on 21st May 2020. In light of this the draft plan cannot currently be given any determining weight at this time.

PPS3: Access, Movement and Parking (Revised 2005) and PPS3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. Policies CTY1, CTY3, CTY13 and CTY14 are applicable.

Policy CTY1 of PPS21 states that planning permission will be granted for a replacement dwelling in accordance with Policy CTY3.

Policy CTY3 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. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings.

I am content that the building which is to be replaced was previously used as dwelling. It is currently used as a domestic garage by the occupants however upon an internal inspection of the building, it is evident that chimneys did once exist inside the building. Window openings have been filled in with bricks currently and a new roof has been placed on the building. All original external walls are substantially intact.

I am content that this proposal complies with CTY3 of PPS21.

### **Integration**

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

The proposed dwelling is to have a ridge height of approx. 7.2m. I am content that this ridge height is considered acceptable due to the existing landform and boundary definition already present on the site.

The proposed external materials are smooth white render to the external walls with feature cladding to be blue/grey slate and the roof to be black slate / tile. I am content that these materials are considered acceptable within the setting of the site and within the open countryside.

The proposed landscaping plan submitted indicates that the site is not only already well integrated by existing hedging but that this hedging is also going to be retained. The site benefits from an abundance of mature hedging which is approx. 2m high therefore I am content that a new dwelling here will integrate well into the site.

On a whole I am content that this proposal complies with CTY13.

**Rural Character**

Policy CTY14 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. I am content that this proposal will not be unduly prominent in the landscape as it is a replacement dwelling. This proposal does not result in a suburban style build-up of development when viewed with existing and approved buildings and I am content that it respects the traditional pattern of settlement exhibited in the area. This proposal does not create or add to a ribbon of development and the impact of ancillary works will not damage the rural character.

**Other Material Considerations**

I am content that this proposal will not have an impact on any third party amenity. DfI Roads were consulted in error as the proposal is to use an existing access to the property.

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

Approval, subject to condition.

**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 scheme of planting hereby approved shall be carried out in accordance with drawing no. 03 date stamped 16.01.2020 during the first available planting season after the commencement of 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 Mid Ulster District Council gives written consent to any variation.

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

3. The existing building coloured green on the approved 1:2500 scale site location plan, Drawing No.01, date stamp received 16/01/2020, is to be demolished within 6 weeks of the occupation of the new dwelling and all rubble and foundations removed from the site.

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

**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 DRD's Roads Service has pointed out that the existing vehicular access to the dwelling is sub-standard and that, in your interests and that of other road users, measures should be taken to provide acceptable visibility.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	16th January 2020
<b>Date First Advertised</b>	28th January 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 42 Dreenan Road Upperlands Londonderry Seamus Henry 42, Dreenan Road, Upperlands, Londonderry, Northern Ireland, BT46 5TZ Unknown  Unknown	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0069/F Proposal: Replacement dwelling and garage Address: Site adjacent to No.42 Dreenan RoadDrummuckUpperlandsMagheraBT46 5TZ, Decision: Decision Date:  Ref ID: H/1981/0088 Proposal: BUNGALOW WITH GARAGE Address: DREENAN ROAD, UPPERLANDS, MAGHERA Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

Drawing No. 6  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 7  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 4  
Type: Existing Elevations  
Status: Submitted

Drawing No. 3  
Type: Site Layout or Block Plan  
Status: Submitted

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

Drawing No. 08  
Type: Existing Elevations  
Status: Submitted

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

Drawing No. 5  
Type: Proposed Elevations  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0106/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling house within existing rural cluster	<b>Location:</b> Adjacent to / north of 44A Glencrew Road Aughnacloy
<b>Referral Route: Objection</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Enda McGarrity 19 Glassdrummond Road Aughnacloy BT69 6DE	<b>Agent Name and Address:</b> J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	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

### Description of Proposal

This is an outline application for a dwelling to be located on lands adjacent to / north of 44A Glencrew Road Aughnacloy.

### Characteristics of the Site and Area

The site which comprises a relatively rectangular shaped field is located in the rural countryside as defined by the Dungannon and South Tyrone Area Plan approx. 1½ miles north east of Aughnacloy. It sits immediately adjacent and in the southeast corner of the Glencrew Road and Rehaghey Road crossroads.

The site's western roadside boundary (onto Glencrew Road), northern boundary (onto Rehaghey Road) and southern boundary are all defined by post and wire fencing with the eastern boundary defined by a mix of mature trees and hedgerow vegetation.

The landform within the site and wider vicinity rises in a north to south direction as such a relatively new 1 ½ storey dwelling of bungalow appearance bounding the site to the south (no. 44a Glencrew Rd) is located on lands just above the level of the site.

Critical views of this site are over a short distance on the southern and western approach to the crossroads and when passing along both roadside frontages of the site. Views of the dwelling are limited on the northern approach and western approach to the site due to its location to the south of no. 44a Glencrew Road and the existing vegetation along the eastern boundary of the site respectively which will screen it.

This area of countryside is typically rural in nature consisting by enlarge of agricultural land interspersed by single dwellings. That said it has come under development pressure in recent years with a number of dwellings clustered circularly around the Glencrew and Reahaghey crossroads immediately north of the site including a relatively recently constructed dwelling located on a small triangular field immediately west/southwest of the site no. 44b Glencrew Road.

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

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement (PPS) 3: Access, Movement and Parking

Development Control Advice Note (DCAN) 15: Vehicular Standards

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

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

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd Feb 2019. It is currently going through a further consultation period which commenced on 25th March 2020. Due to the COVID19 Pandemic there is currently no end date or Timetable for public events in relation to this re-consultation. During the initial consultation period, a number of objections to Policies contained in the Plan were received. In light of this, the Draft Plan cannot be given any determining weight at this time.

### Planning History

- M/2006/0935/O – Dwelling and private garage – Reahaghy Rd Aughnacloy 100m south east of junction with Glencrew Rd – Refused 4<sup>th</sup> April 2007 (Gained outline approval at appeal)
- M/2013/0039/RM – Dwelling and private garage – Reahaghy Rd Aughnacloy 100m south east of junction with Glencrew Road – Granted 16<sup>th</sup> April 2013

The above applications related to a dwelling approved to be constructed on lands immediately to the rear/east of no. 44A Glencrew Rd.

### Consultees

1. Transport NI were consulted in relation to access arrangements and have no objection subject to standard conditions and informatives.

Dungannon and South Tyrone Area Plan - The site is located in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement (SPPS) for Northern Ireland - advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside which deals with development such as proposed, are retained.

Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside - PPS 21 is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 of PPS21. One instance which I am of the opinion this proposal falls under is a new dwelling in an existing cluster in accordance with Policy CTY2a New Dwellings in Existing Clusters.

Policy CTY 2a – New Dwellings in Existing Clusters states planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria bullet pointed criteria are met:

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

I believe the site lies within a small cluster of development lying outside of a farm and consisting of four or more buildings of which more than three are dwellings. It comprises 7 dwellings clustered circularly around the Glencrew and Rehaghey crossroads immediately north of the site. 3 located to the north side of the rehaghey road and 4 located to the south side.

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

I believe the cluster appears as a visual entity in the local landscape when viewed both on the approaches to and panoramically from the Glencrew and Rehaghey crossroads.

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

The site is associated with the Glencrew / Rehaghey crossroads to the north of the site.

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

The site is afforded an adequate degree of enclosure by a mix of mature tree and hedgerow vegetation running along its eastern boundary and it is bound on two sides by existing residential development in the form of a large two storey dwelling (44b Glencrew

Road) located immediately to its west and a 1 ½ storey dwelling of bungalow appearance (44A Glencrew Road) located immediately to its east.

- 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.

Due to the enclosed nature of the site and location towards the centre of existing residential development in the immediate vicinity a dwelling could be absorbed into the existing cluster through consolidation with no significant impact on the existing character, or visually intruding into the open countryside.

- Development would not adversely impact on residential amenity.

As this is an outline application the details of the siting, size, scale and design of the dwelling and garage can be considered further under any subsequent reserved matter application. However I believe subject to a 5.5 metre ridge height a suitably designed dwelling on this site should not have any unreasonable impact on the neighbouring properties in terms of over looking or overshadowing. I believe adequate separation distances can be retained between the proposed dwelling and existing properties including no. 44a Glencrew Road to its south side. A planting scheme can be conditioned and planting along the southern boundary of the site with no. 44a considered further at this reserved matters stage alongside the design.

### Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 1 third party objection had been received from Simon and Loretta Edwards the owner / occupiers of no. 44a Glencrew Road the dwelling immediately adjacent the southern boundary of the site.

The objectors requested the planning application be refused on the grounds that:

- As the site is less than ½ an acre a dwelling on it would be very close to their property and as a result would overlooking them which would have a massive impact on their privacy both inside and outside their home. They noted their master bedroom and en suite windows will face the dwelling and that the private and peaceful enjoyment of their garden would be taken away by this proposal.
- The area is getting overcrowded and becoming more urban than rural

The objection above has been taken into consideration in the assessment of this proposal but the opinion has not changed.

In relation to bullet point 1 above, the site is considered to be an adequate size to accommodate a suitably designed 6m ridge height dwelling that should not have any unreasonable impact on neighbouring property no.44a Glencrew in terms of over looking or overshadowing. That subject to a suitable designed dwelling and scheme coming forward for further consideration under any subsequent reserved matters application adequate separation distances can be retained between the proposed dwelling and the objectors property. Noted the master bedroom and ensuite windows referred to are located at ground floor as detailed above a planting scheme can be conditioned to be provided under any outline approval hereby granted. A planting scheme would enable

planting along the southern boundary of the site adjacent no. 44a to be considered further under any subsequent reserved matters application in the interests of protecting the private amenity space to the rear of no. 44a enjoyed by the occupiers.

In relation to bullet point 2, above whilst it is noted this area has come under development pressure in recent years with a number of dwellings clustered circularly around the Glencrew and Rehaghey crossroads immediately north of the site this proposal has been assessed against and complies with the relevant policy tests for a dwelling in the countryside namely.

#### Other Policy and Material Considerations

Flood Maps NI indicate the site is not subject to flooding.

The site is not located within an area of known natural or built heritage significance.

#### Recommendation

Approve

**Neighbour Notification Checked:**

Yes

**Summary of Recommendation:**

Approve

#### **Conditions**

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

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

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

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

3. Full particulars, detailed plans, sections and elevations 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. The proposed dwelling shall have a ridge height of no greater than 6 metres above finished floor level.

Reason: In the interest of visual amenity

5. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

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

Reason: In the interest of visual amenity.

7. The existing mature trees and vegetation along the western boundary of the site as indicated in pink 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.

8. 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. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 and shall include sight splays of 2.4m x 45m to the south ensuring no blind spots exist where access is on the inside of a bend and 2.4m to the junction to the north; and a forward sight distance of 45m. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

**Informatives**

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

**Signature(s)**

**Date:**



**Development Management Officer Report**  
**Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0111/F	<b>Target Date:</b>
<b>Proposal:</b> Provision of single storey rear extension and single storey side carport to improve access and comfort for a disabled child	<b>Location:</b> 10 Ballyheifer Road Magherafelt BT45 5EQ
<b>Referral Route:</b> Objection received.	
<b>Recommendation:</b>	APPROVAL
<b>Applicant Name and Address:</b> Shauna Wright 10 Ballyheifer Road Magherafelt BT45 6EQ	<b>Agent Name and Address:</b> Gerard Scullion Architects Ltd 23 Hawthorne Road Maghera BT46 5FN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	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 was received and will be addressed throughout this report. The proposal complies with SPPS and Addendum to PPS7 - Residential Extensions and Alterations.

### Characteristics of the Site and Area

The site is located within the settlement limits of Magherafelt and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is located at no. 10 Ballyheifer Road, Magherafelt. Located on the site is a small single storey, detached dwelling finished in dash render. There is a substantial amount of amenity space to the front and rear of the property. The boundaries of the site are defined by wooden fencing which is approx. 1m in height. Mature hedging defines the northern boundary. Car parking is currently available within the curtilage of the property. The immediate surrounding area is predominantly characterised by dwellings.

## **Description of Proposal**

Full planning permission is sought for the provision of single storey rear extension and single storey side carport to improve access and comfort for a disabled child.

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

### **Planning History**

H/2011/0205/F - Proposed single storey extension to side of dwelling - Permission Granted 07/06/2011.

### **Neighbour Notification**

One neighbour was notified of this planning application including 8a Ballyheifer Road. One letter of objection was received and one non-committal letter was received on the application.

The letter of objection received on the 17th February 2020 raised 2 issues which related to the ownership of the property:

- 1) The planning application has been submitted under the name of Mr & Mrs Wright who have no legal entitlement to this property.
- 2) The objector states that they are a joint owner of this property and have neither been advised on renovation work nor have they given it their approval.

I am of the opinion that the issues raised relate to a civil matter and are not material to the planning process of this application. The co-owner of the dwelling has not been prejudiced and has had a chance to comment on the application.

The applicant submitted a non-committal letter on this application which stated that the issues raised by the objector are civil issues and not a planning matter. The letter goes on to state that the applicant obtained planning permission for a single storey extension under planning application reference H/2011/0205/F. The objector did not object to this application therefore cannot understand why this is now an issue.

Again, I am of the opinion that all issues raised above are a civil matter and are not material to this planning application.

### **Development Plan and Key Policy Consideration**

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan 2015
- Addendum to PPS7 - Residential Extensions and Alterations
- PPS3: Access, Movement and Parking
- Local Development Plan 2030 - Draft Plan Strategy

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

The application is seeking consent for an extension to an existing dwelling and as such the proposal must be assessed in accordance with the Addendum to Planning Policy Statement 7 - Residential Extensions and Alterations. Policy EXT1 is the relevant planning policy to this application.

Policy EXT1 states that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

(a) Deals with scale, massing, design and external materials of the proposal. The proposal is single storey and is considered subordinate to the existing dwelling, therefore I am content that the massing and scale of the proposal is . appropriate. The proposed external materials are to match the existing dwelling therefore are considered acceptable.

(b) The proposal does not unduly affect the privacy or amenity of neighbouring residents. As previously mentioned, the proposal is considered subordinate to the existing dwelling therefore will not appear prominent in the landscape, nor will it dominate any existing properties. Although 8a sits adjacent to the host property, I am content that there is a considerable distance between the two dwellings and the proposed extension will not cause detrimental harm to the amenity of the dwelling.

(c) The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features. No trees will be lost / damaged as a result of this proposal.

(d) Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles. A small portion of amenity space will be taken from the rear of the property however the proposal includes a carport which is where the car will be parked. Sufficient amenity space remains.

#### **Other Material Considerations**

I am content that this proposal will not cause any detrimental impact on third party amenity. No consultations were required 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.

#### **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.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	27th January 2020
<b>Date First Advertised</b>	11th February 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Ballyheifer Road, Magherafelt, BT45 5EQ The Owner/Occupier, 11A Ballyheifer Road, Magherafelt, BT45 5EQ The Owner/Occupier, 2 Ballyheifer Road, Magherafelt, BT45 5EQ May Hancock 21 Grange Road, Magherafelt, BT45 5EL The Owner/Occupier, 4 Ballyheifer Road Magherafelt Londonderry The Owner/Occupier, 6 Ballyheifer Road Magherafelt Londonderry The Owner/Occupier, 7 Ballyheifer Road, Magherafelt, BT45 5EQ The Owner/Occupier, 8 Ballyheifer Road Magherafelt Londonderry The Owner/Occupier, 8a Ballyheifer Road Magherafelt The Owner/Occupier, 9 Ballyheifer Road, Magherafelt, BT45 5EQ Shauna Wright Email	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No

## **Planning History**

Ref ID: LA09/2020/0111/F

Proposal: Provision of single storey rear extension and single storey side carport to improve access and comfort for a disabled child

Address: 10 Ballyheifer Road, Magherafelt, BT45 5EQ,

Decision:

Decision Date:

Ref ID: LA09/2018/1670/F

Proposal: New hedgerow and fencing to field boundary and new gates to existing laneway

Address: Lands 250m SE of 16 Ballyheifer Road, Magherafelt,

Decision: PG

Decision Date: 15.05.2019

Ref ID: H/1977/0270

Proposal: SITE OF DWELLING

Address: BALLYHEIFER ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1978/0360

Proposal: SITE OF DWELLING

Address: BALLYHEIFER, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2011/0205/F

Proposal: Proposed single storey extension to side of dwelling

Address: 10 Ballyheifer Road, Magherafelt,

Decision:

Decision Date: 08.06.2011

## **Summary of Consultee Responses**

## **Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> H/2014/0154/F	<b>Target Date:</b>
<b>Proposal:</b> New agricultural store	<b>Location:</b> 150m NE of 20 Newferry Road, Bellaghy
<b>Applicant Name and Address:</b> Alan Mawhinney 49 Ballyscullion Road Bellaghy	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera
<b>Summary of Issues:</b>  Following an amended scheme from a poultry unit to an agricultural store, recommend approval based on CTY12.	
<b>Summary of Consultee Responses:</b>  No objections to a new agricultural store.	
<b>Characteristics of the Site and Area:</b> The site is relatively flat and sits slightly below the level of the road. It is accessed via an exiting laneway.  Site is located within a flood plain, and is associated with Ballymacombs More ASSI, River Bann and Lough Beg.  Two existing poultry are located to the west of the site, approved under H/2010/0384/F, approved for 8,700 birds in each unit.	

**Description of Proposal**

The proposal has been changed from an additional poultry unit to a full application for a new agricultural store. It will be used for storage of feed, bedding and machinery.

**Deferred Consideration:**

The application was previously presented as a refusal to Planning Committee in December 2019 for the following reasons;

The proposal was contrary to CTY1, CTY12 and PPS2 and the potential impact on an ASSI.

It was subsequently deferred for additional information to be submitted.

Following a number of discussions with the agent, it was finally decided by the applicant that he would amend his proposal to a new agricultural store.

The store will be located adjacent to the existing two larger poultry sheds. It will be 50m x 14.8m, with profile roof cladding, the lower half will be block wall, and the upper profile cladding sheers. There is a roller shutter door on the front elevation. This is an acceptable design and typical for this type of proposal. It will remain in keeping with the character of this area. Its size and scale are acceptable and it will not be prominent from public viewpoints.

The same access will be used and DFI Roads have provided a condition and offer no objections.

The refusal reasons related to the fact that the original proposal was for an additional poultry unit, however these have now been overcome that the fact there will be no poultry unit built but rather an agricultural store so the issues raised are no longer of concern. NED now state they have considered the impacts of the amended proposal and have no concerns.

There was one objection to the original proposal, and the majority of these issues are no longer relevant as it is no longer a poultry unit. Flooding has been raised as a potential issue as the site was located within a floodplain. However a flood risk assessment was submitted with the original and Rivers Agency had no objection at time, as this proposal is now for a smaller shed with a less intensive use, flooding would be even less of an issue and so the same informatives and conditions would be applied to this amended proposal for a shed. The objector, along with relevant neighbours, was notified with the amended scheme in Feb 2020 and no further objections have been received.

Water Management Unit notes from the information available from the agent in relation to this proposal that there will be no livestock housed or silage stored in this agricultural building, and it is to be used purely for the storage of farm Machinery and Dry Agricultural materials/foodstuffs only. Water Management Unit's response is therefore based on:

Any feed materials being stored are dry/compound feeds and not silage.

No animals are to be housed.

Any farm machinery is for storage and the premises are not being used as a commercial repair / end of life facility. They have no objection to the use proposed.

The proposal for the agricultural shed would be assessed under CTY12 of PPS21. Planning permission will be granted under his policy on an active and established farm, where certain criteria can be demonstrated. DEARA have confirmed this farm has been active and established for at least 6 years. It has been shown it is necessary for the efficient use of the holding, as the applicant requires somewhere to store feed and machinery and there is nowhere suitable on the farm at present. In terms of character and scale it is appropriate to the location, it visually integrates, it will have no impact on the natural or built heritage, and it will not result in any detrimental impact on the amenity of nearby residential dwellings.

As this is a new building, the applicant has also confirmed there are no suitable building on the holding that can be used, the exiting poultry houses are fully utilised. Even if they were available, they would be too low to accommodate the agricultural equipment to be stored. The design and materials to be used are sympathetic to the locality and adjacent poultry buildings, which it will be sited directly beside.

Therefore, all the criteria for a new shed under CTY12 has been met.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation is due to close at 5pm on 21<sup>st</sup> May 2020. In light of this the draft plan cannot currently be given any determining weight.

The amended proposal is now acceptable in policy terms and the previous issues have been overcome, and approval is recommended with the following conditions.

### **Conditions**

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

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

2. The building hereby approved, shall be used only for the storage of agricultural machinery and dry materials/ foodstuffs, and for no other purpose.

Reason: To prohibit a change to an unacceptable use.

3. The vehicular access including visibility splays 2.4 x 90 metres and any forward sight distance, shall be provided in accordance with Drawing No 02 bearing the date stamp 29 April 2014 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Signature(s):**

**Date**

# Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: H/2014/0154/F	Target Date:
<b>Proposal:</b> Proposed additional 1no poultry house and feed bins to house approximately 8000 birds to accompany existing houses on site	<b>Location:</b> 150m North East of 20 Newferry Road Bellaghy BT45 8ND
<b>Referral Route:</b>  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.	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Mr Alan Mawhinney CO/AGENT	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

For planning committee decision



19/1/19

## 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"><li>- habitat loss/fragmentation</li><li>- increased risk of flooding</li><li>- pollution of air, ground and water</li><li>- Waste from poultry houses and the impact on adjacent habitats</li><li>- emissions of ammonia, nutrient enriched runoff and dust.</li></ul> <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		
<p>The site is a large portion of land to the rear and approx. 150m NE of 20 Newferry Road, Bellaghy.</p> <p>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.</p> <p>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.</p>		

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



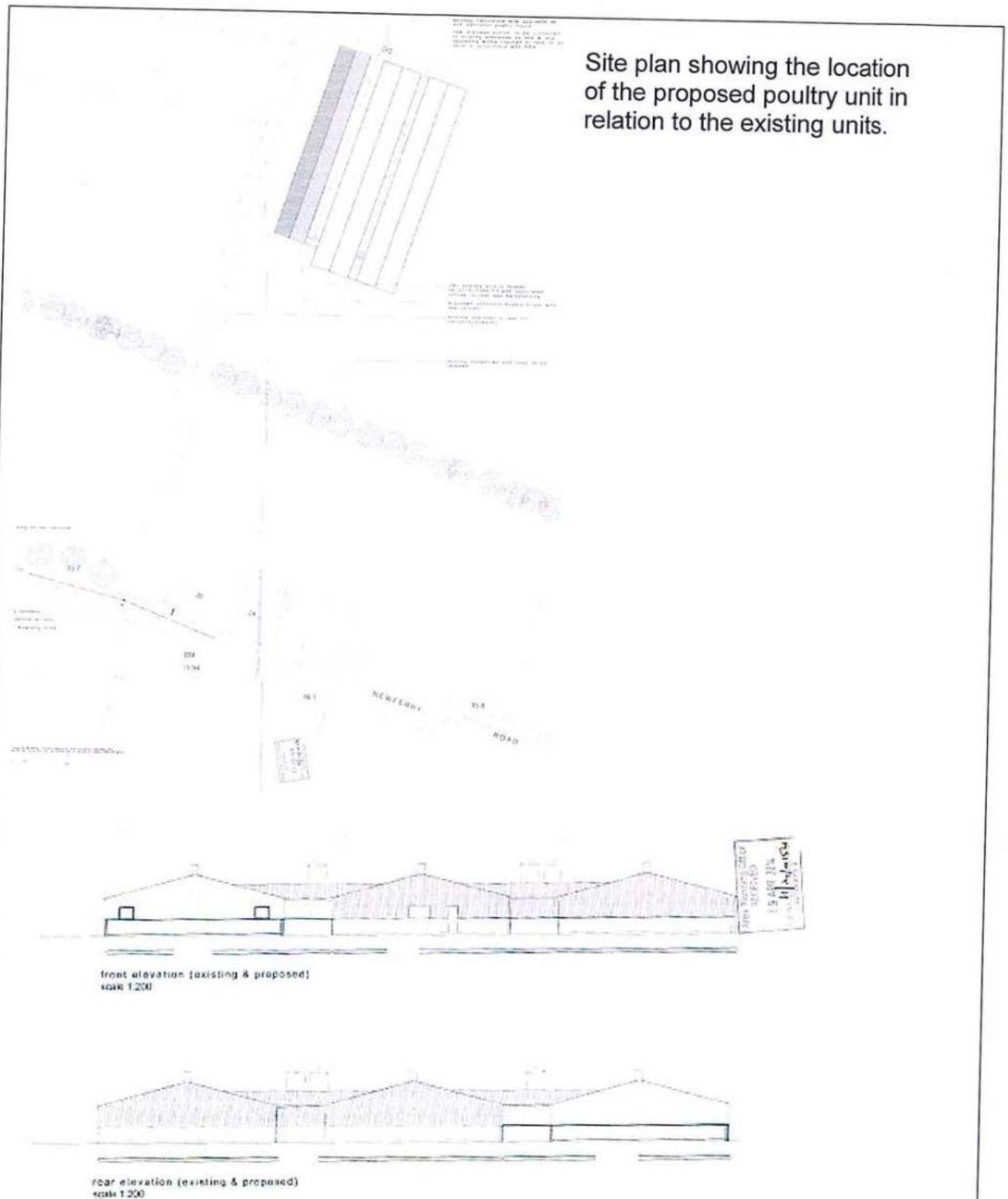
The site in association with Ballymacombs More ASSI, The River Bann and Lough Beg.

#### 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 take 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.

The shed has a floor area of approx. 1337.36m<sup>2</sup> (measured externally), with an eaves height of 3.0m and a ridge height of 3.8m, and will be positioned adjacent to the existing sheds.



Site plan showing the location of the proposed poultry unit in relation to the existing units.

front elevation (existing & proposed)  
scale 1:200

rear elevation (existing & proposed)  
scale 1:200

## Proposed elevations

## 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
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#### 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	
<p>Details of Neighbour Notification (all addresses)</p> <p>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</p>	
Date of Last Neighbour Notification	13 <sup>th</sup> May 2014
Date of EIA Determination	21st May 2014
ES Requested	No
<p>Planning History</p> <p>Ref ID: H/1992/0228            Proposal: PEAT EXTRACTION(MILLED METHOD)            Address: BEHIND 20 NEWFERRY ROAD BELLAGHY            Decision:            Decision Date:</p> <p>Ref ID: H/1978/0077            Proposal: EXTENSION TO FARM BUNGALOW            Address: 25 NEWFERRY ROAD, BELLAGHY            Decision:            Decision Date:</p> <p>Ref ID: H/2003/0810/F            Proposal: Replacement Dwelling &amp; Garage            Address: 25 Newferry Road, Bellaghy.            Decision:            Decision Date: 09.03.2004</p> <p>Ref ID: H/2004/1354/O            Proposal: Site of dwelling and garage</p>	

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: Response of Department:</p>



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/0944/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and Garage (Infill)	<b>Location:</b> Approx. 90M SE of 43 Rocktown Road Bellaghy.
<b>Applicant Name and Address:</b> Mr David Arrell 17 Taylorstown Hill Toomebridge BT41 3RL	<b>Agent name and Address:</b> J E McKernan & Son 12 Cennick Road Gracehill Ballymena BT42 2NH
<b>Summary of Issues:</b>  Site now meets criteria for infill under CTY8 due to substantially built dwelling adjacent to site.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The proposal site is located within agricultural land located on Rocktown Road, Bellaghy. The proposal site is located immediately adjacent two recently constructed dwellings, a large two storey on the western boundary and a detached single storey on the eastern boundary. The dwelling on the eastern boundary has a detached garage to the rear of it. The access to the proposed site is via an existing agricultural lane. The proposal site is bounded on all sides by mature vegetation and planting.	

**Description of Proposal**

Dwelling and Garage (infill)

**Deferred Consideration:**

This application was previously presented as a refusal to Planning Committee in Feb 2019, and following a deferral by Committee members, an office meeting was held on 14th Feb 2019.

At this meeting it was agreed 3 months would be allowed for the adjacent approved dwelling to be constructed in order to be counted as part of the built up frontage for the site to comply with policy CTY8 of an infill gap.

Following a number of site visits in October, November and Dec 2019 the dwelling still had not reached a significant level to be considered as part of the continuous and substantial built up frontage. However on 26th Feb 2020 sufficient evidence was shown that the dwelling was up to roof level and could be now counted as part of the infill. The dwelling under construction and its completed garage can be viewed as two separate buildings, and along with the dwelling to the west, therefore can be counted as a line of three buildings as per policy CTY8.

Approval is now recommended as CTY8 has been met, as this site would be considered an exception and be permitted as a small gap site.

A 6m ridge height restriction should be imposed to remain in keeping with the character of the area and the adjacent dwelling approved under H/2005/0285/0 at Planning appeal ref 2009/A0160.

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. Minimum visibility splays of 2.0m x 33m at the access should be put in place and parking should be designed to Creating Places standard.

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

5. The proposed dwelling shall have a ridge height of less than 6.0 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.

6. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the commencement of the development.

Reason: In the interests of visual amenity.

**Signature(s):**

**Date**



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

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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0944/O	<b>Target Date:</b>
<b>Proposal:</b>  Dwelling and Garage (Infill)	<b>Location:</b> Approx. 90M SE of 43 Rocktown Road Bellaghy.
<b>Referral Route:</b> Contrary to CTY 1, CTY 8 & CTY 14 of PPS 21	
<b>Recommendation:</b> <b>Refusal</b>	
<b>Applicant Name and Address:</b> Mr David Arrell 17 Taylorstown Hill Toomebridge BT41 3RL	<b>Agent Name and Address:</b> J E McKernan & Son 12 Cennick Road Gracehill Ballymena BT42 2NH
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

For committee  
decision



21/1/19

## 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
Non Statutory	NI Water - Single Units West - Planning Consultations	

#### Representations:

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

**Summary of Issues**

Refusal recommended – contrary to CTY 1, CTY 8 & CTY 14 of PPS21.

**Characteristics of the Site and Area**

The proposal site is located within agricultural land located on Rocktown Road, Bellaghy. The proposal site is located immediately adjacent two recently constructed dwellings, a large two storey on the western boundary and a detached single storey on the eastern boundary. The dwelling on the eastern boundary has a detached garage to the rear of it. The access to the proposed site is via an existing agricultural lane. The proposal site is bounded on all sides by mature vegetation and planting.

**Description of Proposal**

Dwelling and Garage (infill)

**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 43 & 45 Rocktown Road, Bellaghy were notified on 15.08.2018

Consultees: - Environmental Health were asked to comment and responded on 05.09.2018 with no objections to the proposal.

DfI were asked to comment and responded on 15.10.2018 stating:

'Council planning should note that the proposed access is onto a private road, as such DfI Roads have no formal response to give. We would advise the applicant ensure in the interest of pedestrian safety, road safety and convenience of road users, DfI would recommend that the minimum visibility splays of 2.0m x 33m at the access should be put in place and parking be designed to Creating places standard.'

NI Water were asked to comment and responded on 20.12.2018 with no objections subject to advice.

In line with legislation this proposal was advertised in the local press on 19.07.2018. No objections have been received to date.

According to policy 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 types of development is the development of a gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development however an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of environmental requirements.

This proposal site is located immediately adjacent to a large detached 2 storey dwelling on the western side and a newly constructed single storey dwelling and detached garage on the eastern. The dwelling and garage on the eastern boundary are not read as two buildings as the garage is set to the back of the dwelling and subordinate in size and when viewing the property. The proposed site is accessed via an existing agricultural laneway. Having considered the development surrounding the proposal site it is my consideration that the proposal site is not located within a substantial and built up frontage in a line of 3 or more buildings along a road frontage without accompanying development to the rear and as such fails to meet the requirements of policy CTY 8.

In addition the proposal should be assessed against the requirements of CTY 13 - Integration and Design of Buildings in the Countryside, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This proposal is an outline application and as such no design has been indicated at this stage. The criteria under CTY 13 also states that the proposed new building must not be a prominent feature in the landscape, this proposal site is not a prominent site and due to the surrounding development and accessibility there would be no issues regarding prominence. Integration has to be considered against CTY 13 also. This proposal site is defined by mature vegetation on all sides and as such the proposal adheres to this criteria of the policy.

Finally the proposal should be assessed against the requirements of CTY 13 - Integration and Design of Buildings in the Countryside whereby it is stated that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously discussed the proposal site is not located within a substantial or built up frontage and as a dwelling located within the proposal site would create a ribbon of development along the laneway.

Having considered all of the above it is my opinion that the proposal does not meet the requirements of Planning Policy Statement 21 in that the proposed building would create a ribbon of development and as such cause a detrimental change to the rural character of the area.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal recommended

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Rocktown Road.
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 create a ribbon of

development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th July 2018
<b>Date First Advertised</b>	19th July 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 43 Rocktown Road Bellaghy Londonderry The Owner/Occupier, 45 Rocktown Road, Bellaghy	
<b>Date of Last Neighbour Notification</b>	15th August 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0944/O Proposal: Dwelling and Garage (Infill) Address: Approx. 90M SE of 43 Rocktown Road, Bellaghy., Decision: Decision Date:  Ref ID: LA09/2016/1403/F Proposal: Replacement Dwelling and Garage (Amendments Approved under H/2010/0424/F) (Amended drawings submitted) Address: 45 Rocktown Road, Bellaghy, Decision: PG Decision Date: 09.03.2018  Ref ID: H/2005/0285/O Proposal: Site of Dwelling and Garage Address: Approximately 110m South East of, 45 Rocktown Road, Bellaghy Decision: Decision Date:  Ref ID: H/2000/0699/O Proposal: Site of dwelling and garage Address: Site adjacent to 43 Rocktown Road, Knockloughrim Decision:	

Decision Date: 21.11.2000

Ref ID: H/2005/0288/O

Proposal: Site of Replacement Dwelling.

Address: 45 Rocktown Road, Bellaghy

Decision:

Decision Date: 03.02.2006

Ref ID: H/2001/0114/RM

Proposal: Dwelling And Garage

Address: Adjacent To 43 Rocktown Road, Knockloughrim

Decision:

Decision Date: 27.03.2001

Ref ID: H/2008/0553/RM

Proposal: Replacement Dwelling & Garage

Address: 45 Rocktown Road, Bellaghy.

Decision:

Decision Date: 21.01.2009

Ref ID: H/2010/0424/F

Proposal: Change of house type to that previously approved application

H/2008/0553/RM

Address: 45 Rocktown Road, Bellaghy

Decision:

Decision Date: 05.05.2011

Ref ID: H/2013/0335/RM

Proposal: Dwelling and garage

Address: Approx 110m South East of 45 Rocktown Road, Bellaghy,

Decision: PG

Decision Date: 06.11.2013

### 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:



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/0417/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage.	<b>Location:</b> 180m NW of 18 Lower Grange Road Cookstown.
<b>Applicant Name and Address:</b> Lawson Martin 2 Killycolp Road Cookstown BT80 9AD	<b>Agent name and Address:</b> Henry Marshall Brown Arcitectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Summary of Issues:</b>  Recommend approval based on CTY10.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The proposed site is located approximately 0.7km North East of the development limits of Grange from such it is located within the open countryside as per the Cookstown Area Plan 2010. The red line covers a large portion of a large agricultural field which is accessed via an existing laneway that accesses directly onto Lower Grange Road. I note that directly north and adjacent of the site is two small agricultural buildings that are in need of some repairs. The site along the southern and eastern boundaries remain undefined given the nature of the red line with the northern boundary being defined by a line of mature trees and hedging with the western boundary being defined by a mix of post	

and wire fencing with hedging. The immediate and surrounding area is predominately agricultural land uses with a scattering of residential properties.

**Relevant planning history**

LA09/2018/0207/LDP - Proposed cattle shed and fodder store. - Land approx. 100m South of 32 Lower Grange Road, Cookstown,- Permission Granted 02.08.2018

**Representations**

There were no representations received in connection with this application.

**Description of Proposal**

This is an outline application for a proposed dwelling and garage. The site is 180m NW of 18 Lower Grange Road, Cookstown.

**Deferred Consideration:**

The application was previously presented as a refusal to Planning Committee in Sept 2019 for the following reason;

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.

It was subsequently deferred for an office meeting which was held on 10th Sept 2019 with the Area Planning Manager. The agent was advised that he needed to demonstrate the farm business was active and established in the years 2014-2015.

Receipts were submitted, and following discussion these were deemed sufficient to prove farm business in the missing years 2014-2015 in relation to Mr Reid. The P1c form has been signed by the owner of the Farm Bus ID and the applicant. Therefore criteria c of CTY10 can be met and approval is being recommended with the conditions stated.

The proposed dwelling shall be sited in the area hatched red on the approved plan 01 date stamped 28 March 2019, to the north to ensure that the development is satisfactorily integrated into the landscape and sited to cluster/visually link to the existing farm buildings, in accordance with the requirements of Planning Policy Statement 21. There should be ridge height condition of 6.5m to ensure it integrates satisfactorily into this rural area.

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

Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation is due to close at 5pm on 21<sup>st</sup> May 2020.

In light of this the draft plan cannot currently be given any determining weight.

### **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. The proposed dwelling shall have a ridge height of less than 6 .5 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.

6. The proposed dwelling shall be sited in the area hatched red on the approved plan 01 date stamped 28 March 2019

Reason: To ensure that the development is satisfactorily integrated into the landscape and sited to cluster/visually link to the existing farm buildings, in accordance with the requirements of Planning Policy Statement 21

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

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

8. No development shall take place until there has been submitted to and approved by the Council a landscaping scheme providing for the planting of a new native species hedgerow/trees and shrubs of mixed woodland species along the southern and eastern boundaries of the site.

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

**Signature(s):**

**Date**

Development Management Officer Report  
Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0417/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage.	<b>Location:</b> 180m NW of 18 Lower Grange Road Cookstown.
<b>Referral Route:</b> Refusal – To Committee – Contrary to CTY 10 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Lawson Martin 2 Killycolp Road Cookstown BT80 9AD	<b>Agent Name and Address:</b> Henry Marshall Brown Arcitectural Partnersip 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b> Refusal	
<b>Signature(s):</b> Peter Henry	

For committee decision

17/9/2019

for committee decision

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Refusal – To Committee – Contrary to CTY 10 of PPS 21.

### Characteristics of the Site and Area

The proposed site is located approximately 0.7km North East of the development limits of Grange from such it is located within the open countryside as per the Cookstown Area Plan 2010. The red line covers a large portion of a large agricultural field which is accessed via an existing laneway that accesses directly onto Lower Grange Road. I note

that directly north and adjacent of the site is two small agricultural buildings that are in need of some repairs. The site along the southern and eastern boundaries remain undefined given the nature of the red line with the northern boundary being defined by a line of mature trees and hedging with the western boundary being defined by a mix of post and wire fencing with hedging. The immediate and surrounding area is predominately agricultural land uses with a scattering of residential properties.

#### Relevant planning history

LA09/2018/0207/LDP - Proposed cattle shed and fodder store. - Land approx. 100m South of 32 Lower Grange Road, Cookstown,- Permission Granted 02.08.2018

#### Representations

There were no representations received in connection with this application.

### Description of Proposal

This is an outline application for a proposed dwelling and garage. The site is 180m NW of 18 Lower Grange 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 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 2016 and that there has been claims in 2016, 2017 and 2018. From this the agent was asked to provide additional information to show the business has been active and established for 6 years as per policy. Initially the agent tried to argue that the fact they got a carrel shed through LA09/2018/0207/LDP that this shows that Mr Reid has been farming for more than 6 years, unfortunately all this application shows that it complies with the permitted development rights for a farm and has not shown that the business has been established for an excess of 6 years. From this, the agent confirmed that the lands were previously farmed by a Mr Armstrong until Mr Reid purchased them, however DAERA later confirmed that Mr Armstrong is still currently actively farming, from this I am of the opinion that this does not constitute as continuation and does not show Mr Reid's business to operating for an excess of six years. From such, the agent provided another statement in which stated that Mr Reid has been farming for the last 30 years, in that he has a very keen interest in farming from a very young age and started off by helping and working with Mr Stanley Faulkner under his business number. In 2018, he made a CLUD application to provide a shed on the farm land which he inherited from Mr Faulkner prior to his death. After further conversations with DAERA it was concluded that Mr Faulkner's farm was changed to A. Reid & H. Gourley following Mr Faulkner's death. Mr Reid formed a new business on 13/06/2016, with Basic Payment Scheme entitlements were leased from Mr Faulkner's Business to Mr Reid and another farm business, in which these entitlements were transferred by actual inheritance to these two businesses in 2018. The agent went on to submit what was noted to be farm invoices however all these receipts were addressed to Reid Engineering and after discussions with the Principal Planner these were agreed to be sufficient in demonstrating that the Farm Business was established. Finally, the agent provided documents showing leasing of lands but this just reinforces what DAERA had already confirmed and provides no new evidence. All of this information was taken to group and it was concluded that it was acknowledged that the lands were probably farmed for an excess of 6 years, however there farm business is not established for long enough and that it has not been

reasonably shown that this is a continuation of another farm business that is 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 appears to be only three years old and I did not find any development opportunities that had been sold off the farm during this time.

With respect to (c), I note that the proposed site is located some distance from the registered address of the farm business which upon review appears to be a single dwelling and not seen as a group. As noted there is a number of buildings directly north lying adjacent to the site which after group discussions have been agreed to be seen as a group of farm buildings. I note that there appears to another group of farm buildings to the south of the site however it has been agreed that the buildings to the north of the site is sufficient for grouping with. With this in mind it felt that a dwelling located within the northern half of the site would be able to group with these buildings. The policy does state where practicable that access should be taken from an existing laneway, I note that the site uses an existing laneway and intends to create an access point onto the laneway and appears to own all lands around the site to provide splays. 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 6.5m ridge height from finished floor level. Finally, as noted the dwelling and curtilage would need to be restricted to the northern section of the site to ensure that it visually links with the farm buildings. 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 want it noted that additional land to the NE of the access will be required in order to deliver the required sightlines in accordance with DCAN 15. In order for the applicant to create a safe access onto Lower Grange 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:** 17/9/19.

<b>ANNEX</b>	
<b>Date Valid</b>	28th March 2019
<b>Date First Advertised</b>	11th April 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/0417/O Proposal: Proposed dwelling and garage. Address: 180m NW of 18 Lower Grange Road, Cookstown., Decision: Decision Date:  Ref ID: I/1996/0086 Proposal: 11 kv rural spur (system improvement) Address: APPROX 180M SE OF JUNCTION OF LOWER GRANGE ROAD & TULLYVEAGH ROAD COOKSTOWN Decision: Decision Date:  Ref ID: I/1997/0459 Proposal: Site for Replacement Dwelling Address: LOWER GRANGE ROAD COOKSTOWN Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2019/1220/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Dwelling and domestic garage.	<b>Location:</b> 35m N of 25 Annaghmore Road, Annaghmore Coalisland.
<b>Applicant Name and Address:</b> Ms Eithne O'Neill 32 Columbus Villas Coalisland	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b> The size and scale of the proposed dwelling was excessive for this area site and as a result would not integrate. The site is of an excessive depth and does not respect the character of the adjoining site depths. Amended plans have been received to reduce the size of the dwelling, these are now of a scale appropriate to the area.	
<b>Summary of Consultee Responses:</b> DFI Roads – access to be provided as proposed with sight lines of 2.4m x 33.0m GSNI –no records of mines	
<b>Characteristics of the Site and Area:</b> With the exception the site has increased slightly to the west and a new dwelling is in the latter stages of construction further to the north of the site at the other side of an existing stable block abutting the site there does not appear to be any other 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 LA09/2016/1204/O. The site is located in the rural countryside as defined by the Dungannon and South Tyrone Area Plan approx. 300 metres south of Annaghmore village and 35 metres north of no. 25 Annaghmore Rd, Coalisland (a single storey dwelling). The red line of the site which encompasses part of the curtilage of the aforementioned no. 25 Annaghmore Rd and a portion of a larger agricultural field that runs to its rear is a	

roadside plot situated within an existing line of development running along the Annaghmore Rd.

As the red line of the site encompasses two parcels of land the site boundaries are largely undefined. To the south the site is bounded by no. 25 Annaghmore Rd and to the north a horse stable. A hedgerow bounds the roadside boundary of the site.

The topography of the site rises from north to south and from west to east.

The area surrounding the site is largely characterised by agricultural land interspersed by single dwellings and farm holdings with this immediate stretch of Annaghmore Rd having come under some development pressure in recent years

### **Description of Proposal**

This is a full application for a proposed dwelling and garage. The dwelling is single storey, 6.5m ridge height with a frontage of 15m, gable depth of 9.8m and a rear return that extends 12m back from the rear wall. It is proposed to finish the dwelling with black slate roof tiles and grey stone chip to the walls with locally sourced natural stone detail to at small front projection in the middle of the front elevation. The proposed garage is detached and set to the rear of the dwelling, it is similar in size and appearance to the dwelling and is 9m x 11m with a ridge height of 6.4m. It has a pitched roof with the gables facing NE and SW.

### **Deferred Consideration:**

This application was before the Planning Committee in February 2020 where it was deferred to allow the applicants to submit an amended design.

Amended plans were received on 28 February 2020, these reduced the rear return by 8m and removed 2 bedrooms, a bathroom and a kitchen dining area. The rear return is now 12 metres in length and when added to the gable depth the house extends 21.4m from the front wall. The proposal is now for a 4 bedroom dwelling, one of which is a large master with ensuite and walk-in wardrobe room. The dwelling has a kitchen/dining/lounge area at the front with a playroom off it, a large utility room, large bathroom and small gym area are contained in the rear return. The front door is at the side of the dwelling and the front projection, whilst having the appearance of a storm porch, does not have any doors in it. The garage is detached and set to the rear of the proposed dwelling. It has a 9m x 11m footprint. It has 2 garage doors facing NE and has gables facing NE and SW. The garage is 6.4m to the ridge and will be finished as the dwelling.

Following a request to amend the siting of the dwelling and the garage, to pull it forward on the site and reduce the curtilage size, the agent advised there is a storm drain that traverses the front part of the site. The agent advised the drain is piped from outside the applicants land and it would not be possible to re-route the pipes as it could cause problems.

CTY8 requires infill dwellings to respect the existing development pattern and sets out 4 criteria that must be measured against, which are size, scale, siting and plot size. It also states that other environmental considerations must be met but does not elaborate on these.

The proposed design is still for a large dwelling on this site, however, from the critical views of the dwelling from the north, the proposed dwelling is similar in appearance, scale and massing to the development to the south. The development to the south, no 25

Annaghmore Road, is on higher ground and provides a backdrop to the proposed development.

The front wall of the proposed dwelling will be set back from the buildings immediately adjacent to it, however CTY8 does allow for this as it recognises that buildings sited back, staggered or at angles can still represent ribbon development, if they have a common frontage or are visually linked. I consider this proposal meets with the exception in CTY8 and I consider the revised design and siting is reflective of the surrounding area.

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd Feb 2019. It is currently going through a further consultation period which commenced on 25th March 2020. Due to the COVID19 Pandemic there is currently no end date or timetable for public events in relation to this re-consultation. During the initial consultation period a number of objections to Policies contained in the Plan were received. In light of this the Draft Plan cannot be given any determining weight at this time.

I recommend that planning permission is granted.

Conditions:

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

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

2. Prior to the commencement of the development hereby approved the vehicular access including sight visibility splays of 2.4m x 90.0m in both directions shall be provided in accordance with the details on drawing No 01 Rev3 bearing the stamp dated 7 FEB 2020. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing hedgerows and vegetation along the boundaries and within the site outlined in red on drawing No 01 Rev3 bearing the stamp dated 7 FEB 2020 shall be retained unless otherwise agreed in writing with the Council.

Reason: To ensure the maintenance of screening to the site.

4. The landscaping scheme as detailed in drawing No 01 Rev3 bearing the stamp dated 7 FEB 2020 shall be carried out in the first available planting season following the commencement of the development hereby approved. Any tree, shrub or plant that dies within the first 5 years of planting shall be replaced in the same position with a tree, shrub or plant of a similar size or species.

REASON: In the interests of visual amenity of this rural location

5. One dwelling only shall be erected within the site outlined in red on drawing no 01 bearing the stamp dated 16 SEP 2019.

Reason: This permission is in substitution for planning permission LA09/2016/1204/O and is not for an additional dwelling.

**Signature(s)**

**Date:**



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

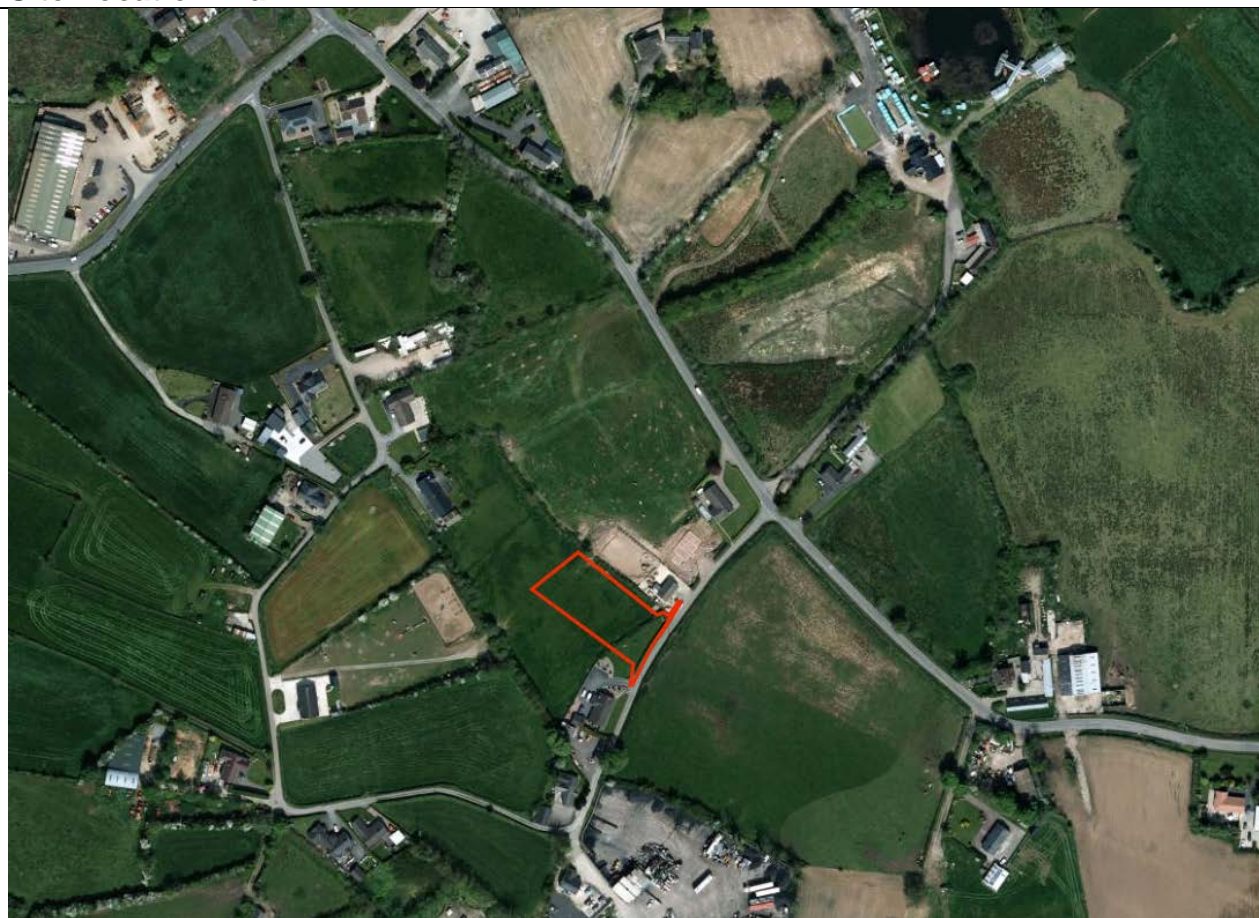
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1220/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and domestic garage (gap site under policy CTY 3)	<b>Location:</b> 35m North of 25 Annaghmore Road Annaghmore Coalisland
<b>Referral Route:</b> Application is being recommended as refusal.	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ms Eithne O'Neill 32 Columbus Villas Coalisland	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	No Objection
Non Statutory	DETI - Geological Survey (NI)	No Objection

#### Representations:

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

#### Description of Proposal

This is a full application for a proposed dwelling and domestic garage (gap site under policy CTY3) to be located on lands 35m North of 25 Annaghmore Road Coalisland

An outline approval for a dwelling and domestic garage was granted on this site on the 10.01.2017 under application LA09/2016/1204/O.

It is noted the current site is slightly larger than that previously approved as it takes in a small strip of land to its immediate west previously identified in blue (under LA09/2016/1204/O) as land under the control of the applicant.

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

With the exception the site has increased slightly to the west and a new dwelling is in the latter stages of construction further to the north of the site at the other side of an existing stable block abutting the site there does not appear to be any other 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 LA09/2016/1204/O.

The site is located in the rural countryside as defined by the Dungannon and South Tyrone Area Plan approx. 300 metres south of Annaghmore village and 35 metres north of no. 25 Annaghmore Rd, Coalisland (a single storey dwelling).

The red line of the site which encompasses part of the curtilage of the aforementioned no. 25 Annaghmore Rd and a portion of a larger agricultural field that runs to its rear is a roadside plot situated within an existing line of development running along the Annaghmore Rd.

As the red line of the site encompasses two parcels of land the site boundaries are largely undefined. To the south the site is bounded by no. 25 Annaghmore Rd and to the north a horse stable. A hedgerow bounds the roadside boundary of the site.

The topography of the site rises from north to south and from west to east.

The area surrounding the site is largely characterised by agricultural land interspersed by single dwellings and farm holdings with this immediate stretch of Annaghmore Rd having come under some development pressure in recent years.

### **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 and Guidance**

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Access Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

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

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.

## **Representations**

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

## **Planning History**

### On Site

LA09/2016/1204/O – Dwelling and Domestic Garage (gap site under policy CTY3) – 35m North of 25 Annaghmore Road Coalisland – Granted 10.01.2017

### Adjacent Site

M/1996/0103 – Stables and Haystore (Agriculture use) – Adjacent to 23 Annaghmore Road Coalisland – Granted

LA09/2017/0945/O - Dwelling on Infill Site Replacing Existing Stables – Land between 23 and 25 Annaghmore Road Coalisland – Granted 06.12.2017

LA09/2018/1497/RM – Dwelling and Domestic Garage – Land between 23 and 25 Annaghmore Road Coalisland – Granted 22.01.2019

## **Consultees**

1. Transport NI were consulted in relation to access arrangements and have no objection to the proposal subject to minor revisions to the block plan submitted (to show a detail of 'D' rail fence proposed to the rear of visibility splays and increased vehicular turning within the site), standard conditions and informatives. I am content subject to the aforementioned revisions to the block plan this proposal is satisfactory to the provisions of Planning Policy Statement 3: Access, movement and Parking.
2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings. A search of their "Shafts and Adits Database" indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

## **Key Policy Considerations**

Dungannon and South Tyrone Area Plan – The Dungannon and South Tyrone Area plan identifies the site as being in the rural countryside outside any settlement limit.

It is situated within an existing line of development made up of (from south to north along the Annaghmore Rd): no.27 Annaghmore Rd a single storey dwelling with associated garage; a building finished in corrugated metal cladding on small individual plot; no. 25 Annaghmore Road a single storey dwelling with associated garage; the subject site; a stable for horses; a new single storey dwelling in the latter stages of construction approved under LA09/2017/0945/O and LA09/2018/1497/RM respectively (see 'Planning History'); and no.23 Annaghmore Rd another single storey dwelling.

It is noted that the corrugated metal clad building is shown on google street view in April 2011, therefore has been in place for more than 5 years and immune from planning

enforcement. The stable building is constructed in masonry blockwork and has a tiled roof.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) – The SPPS retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

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

I believe the principle of this development has already been considered and established under one these instances under outline planning application LA09/2016/1204/O which granted permission for a dwelling and garage on this site under the provisions of CTY 8 of PPS 21 – Ribbon Development .

Policy CTY 8 states that: exceptionally planning permission will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage 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 purposes of this policy, the definition of a substantial and continuous built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

I agree with the previous case officer's report that the proposed site is an obvious gap within an existing line of development. It has at least 3 no. buildings to its south (with associated garages to their rear) and whilst at the time of the previous report there was 1 building, the sable block to its north, there are now 3 (the stable block; a new dwelling in the latter stages of construction; and a bungalow which did exist but only now linked by the new dwelling under construction).

I am content the site which has a roadside frontage of approx. 30m does have the capacity to accommodate a dwelling and garage of a suitable design with a ridge height of no greater than 5m as conditioned under the previous application. However, I consider the proposal as it currently stands contrary to Policy in that it does not respect the existing development pattern of low ridge roadside bungalows of simple rural form, located on modest plots, running along the Annaghmore Rd, by reason of its size, scale, design, siting and increased plot size.

The dwelling whilst single storey has a 6.2m ridge height above FFL, approx. 1.7m higher than that conditioned under the previous outline approval on site, the neighbouring properties and in my opinion considered acceptable. Similarly the garage which is also single storey has a 5.6m ridge height above FFL, approx. 0.6m higher than considered acceptable.

The dwelling which is off a size and scale approx. twice that of the neighbouring properties for all intents and purposes with its internal layout could be subdivided into 2. I note there are 2 kitchen / dining areas at either end of the dwelling for example

The dwelling sits back from and extends the existing building line along the Annaghmore Rd excessively to the west due to its extensive depth. Notably the current site extends approx. 15 – 20m further west than the previously approved site. The proposed dwelling extends to the very back / western boundary of the previously approved site with the proposed garage located within the additional land taken in under the current application extending the overall development further west again.

Not only in my opinion does the dwelling not respect the existing development pattern along the Annaghmore Rd in terms of size, scale, siting and plot size but in general terms its design is not considered consistent with simple rural form particularly by reason of its glazed front projection and extensive depth of approx. 32.5m.

Furthermore, the extensive gable depth of the dwelling, which has a number of windows in both its side elevations, could impact on the amenities of the neighboring residents to its north by reason of overlooking. Although I note the degree of separation between the site and new dwelling being constructed.

Critical views of this dwelling from the surrounding road network. These views will be when passing along its roadside frontage and from the Annaghore Rd running diagonally further to its northeast, particularly when travelling in a northwest to southeast direction passing between nos. 18 and 23 Annaghmore Rd whereby there will be clear unbroken views of the dwelling, including its size, scale and extensive depth which alongside the existing garage extends the existing building line west.

The agent has been contacted on two occasions via email firstly on the 14/10/2019 and then again on the 11/11/2019 and offered the opportunity to submit an amended scheme to address the issues raised. To date no amendments have been received however in support of the application the agents via email on the 17/01/2020 submitted a photomontage (see below) of what the proposed dwelling would look like on site with few paragraphs as to how they considered it to integrate.



The photomontage was taken from what the agents considered the most critical view of the site when travelling due south along the main Annaghmore Rd. The agents said this demonstrated that it would be in no way dominant within the existing setting / landscape, combined with the existing stables building adjacent, the nearside hedgerow and the mature trees / hedgerow as a backdrop beyond. That the proposal integrates well into it's surrounds. They noted the photomontage does not take into account the recently approved infill / dwelling to the northern side of the stables (LA09/2018/1497) which will add to the build up of this short stretch of road further integrating the proposal into it's surrounds.

The supporting information submitted by the agents has been take into consideration unfortunately the opinion remains as before.

### **Other Policy/Considerations**

In addition to checks on the planning portal DAERA's Natural Environment Division and DfC's Historic Environment Division Map Viewers both available online have been checked. No significant natural heritage features or built heritage assets were identified on or in close proximity to the site.

Flood Maps NI does not indicate flooding on site.

**Taking all of the above into consideration I would recommend the refusal of this application as contrary to CTY13 and CTY 14 of PPS 21**

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:** Refusal as contrary to CTY13 and CTY 14 of PPS 21

### **Reasons for Refusal:**

1. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal as a result of its design and layout fails to achieve a satisfactory degree of integration and relies primary upon new landscaping.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building as a result of the sites excessive plot depth does not respect the established form of development in this rural location.

**Signature(s)**

**Date:**

<b>Report on</b>	Revised Statement of Community Involvement for the new Mid Ulster Local Development Plan and Development Management functions.
<b>Date of Meeting</b>	2 <sup>nd</sup> June 2020
<b>Reporting Officer</b>	Sinead McEvoy
<b>Contact Officer</b>	Chris Boomer

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

<b>1.0</b>	<b>Purpose of Report</b>
1.1	The purpose of the report is to provide members with a revised Statement of Community Involvement (SCI) for the main planning functions undertaken by Mid Ulster Council.
<b>2.0</b>	<b>Background</b>
2.1	Section 4 of the 2011 Planning Act requires a council to prepare a SCI. The SCI Regulations set out the requirements for the preparation, form, content and publicity of the SCI. Regulation 6 of the Planning (Statement of Community Involvement) Regulations (Northern Ireland) 2015 requires that the SCI is approved by resolution of the council prior to submission to the Department for its agreement. It also requires that the council keep the statement of community involvement under regular review, and any revision must comply with the requirements of these Regulations. This is the second review of our SCI.
2.2	The purpose of the Statement of Community Involvement (SCI) is to outline how a council proposes to engage the community and stakeholders in exercising its planning functions. It should set out a council's policy as to the involvement, in the exercise of a council's functions under the development management and local development plan provisions of the 2011 Act, of persons who appear to a council to have an interest in the matters relating to development in its area.
<b>3.0</b>	<b>Main Report</b>
3.1	In addition to the legal requirement to keep the SCI under review, this revision has largely been driven by the current situation that we face with Covid19. The revised SCI explains how the community and stakeholders will be involved in the preparation of the Local Development Plan as well as the development management and enforcement processes and includes information on how we intend to communicate with the community during the current Covid19 pandemic.

3.2	The SCI sets out the steps that the Council will take to facilitate community involvement and sets out a vision and strategy for involving the community and stakeholders at various stages of the planning process.
3.3	The SCI sets out the standards to be met by a council in terms of community involvement, building upon the minimum requirements set out in both the Planning (Local Development Plan) Regulations (NI) 2015 and the Planning (Statement of Community Involvement) Regulations 2015.
3.4	<p>The most notable proposed changes to the attached revised SCI include:</p> <ul style="list-style-type: none"> <li>a) The inclusion of a section to explain how we will involve the community in the preparation of the LDP during a pandemic crisis (paragraphs 2.5-2.6).</li> <li>b) Throughout the document, we have removed the specific names of the local newspapers that we will advertise in, and replaced this with a line to say that we will advertise in at least one local newspaper circulating in Mid Ulster District.</li> <li>c) The inclusion of a section to explain the re-consultation on the LDP Draft Plan Strategy.</li> <li>d) The inclusion of a section relating to the revised position on pre-application community consultation (PAAC) on Major Applications during the Covid19 pandemic.</li> <li>e) Minor changes to the wording of the development management section to explain the approach to file viewing during a scenario such as the Covid19 pandemic.</li> </ul>
3.5	<p>Regulation 5 of the SCI Regulations state that before preparing a statement of community involvement, a council must also consider whether it is appropriate to invite representations from persons who have an interest in development in its area. This also applies to any revision to the SCI. In preparing the initial SCI, consultation was undertaken in the form of a public notice and letters were issued to an extensive number of local community groups and organisations. In preparing this revised SCI, representations have not been sought. It is our recommendation that we progress these revisions that are Covid19 related without seeking representation.</p> <p><b>Next Steps</b></p>
3.6	<p>The next step in progressing the attached revised SCI is to submit it to the Department for agreement. Following agreement by the Department, the SCI Regulations require that we make available for inspection at our principal offices during normal office hours and give notice by local advertisement that the statement is available for inspection and the place and times at which it can be inspected. We are also required to publish the revised statement on our website.</p> <p><b>Future Revisions</b></p>
3.7	<p>Members views are also sought on the cancellation of the weekly planning clinic in Cookstown where file inspection is facilitated by appointment. Demand for appointments at the Cookstown planning clinic have been down to two or three appointments every couple of weeks. This revision has not been included in the attached revised SCI as we are of the opinion that representations on such a revision should be invited from the public by way of a 4 week consultation on our council</p>

	website. Following that, we would then bring a further paper before committee to provide an update on the position of any representations received.
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: Cost of advertisement of the revised SCI in the local newspapers.
	Human: None identified.
	Risk Management: None identified.
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: The SCI lists those Section 75 groups (List 3) that will be contacted in accordance with the preparation of the Local Development Plan.
	Rural Needs Implications: None identified.
<b>5.0</b>	<b>Recommendation(s)</b>
<b>5.1</b>	Members are requested to note the contents of this report and agree that we submit the attached revised SCI to the Department for their agreement.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
	- Revised SCI (and attached appendices).



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

**REVISED STATEMENT OF COMMUNITY INVOLVEMENT (SCI) FOR  
THE NEW MID ULSTER LOCAL DEVELOPMENT PLAN 2030 AND  
DEVELOPMENT MANAGEMENT FUNCTIONS**

**June 2020**

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#### **4.0 Review of the Council's Statement of Community Involvement**

**Appendix 1** Groups to be consulted when preparing the new Local Development Plan

**Appendix 2** Groups to be consulted when determining a Planning Application.

## STATEMENT OF COMMUNITY INVOLVEMENT (SCI) FOR THE NEW MID ULSTER LOCAL DEVELOPMENT PLAN 2030 AND DEVELOPMENT MANAGEMENT FUNCTIONS

### 1.0 What is the purpose of the Statement of Community Involvement (SCI)?

#### Purpose of the Statement

- 1.1 The purpose of this SCI is to set out policy for involving and engaging with the community in the production of the new Mid Ulster Local Development Plan (LDP) 2030, in the consideration of planning applications and in planning enforcement. It is required to ensure compliance with the Planning Act (Northern Ireland) 2011 and the Planning (Statement of Community Involvement) Regulations (Northern Ireland) 2015. It describes who, how and when the community will be invited to participate in the different stages of the Local Development Plan formulation, the determination of planning applications, in planning enforcement and a range of other planning matters.
- 1.2 This SCI is not intended to be a source of definitive legal advice. Reference should be made to the actual legislation referred to in this statement and if any discrepancy exists the provisions of the legislation will prevail.

#### A Vision of Participation

- 1.3 *“A sustainable society must be instilled with democratic values. Its citizens must share a sense of effective participation in the decision making process. They must feel they have a say in their society’s development and the skills, knowledge and ability to assume responsibility for that development”* – **The Sustainable Development Strategy for Northern Ireland. First Steps Towards Sustainability (DOE 2006)**
- 1.4 This is a shared vision of participation in decision making and it is therefore aimed to ensure that:
  - Everyone has an early and informed opportunity to express their views on the development of the area and have it considered before decisions are made;
  - All groups in our community, regardless of religious belief, political opinion, racial group, age, sex, marital status, physical ability, sexual orientation, and those with and without dependents are enabled and empowered to participate;
- 1.5 The Mid Ulster District Council Corporate Plan 2015 – 2019 sets out the visions, values and priorities for Mid Ulster District Council up to 2019 and the Community Plan further expresses that vision. The interests of the community are at the centre of these visions, values, and priorities and accordingly the SCI will reflect

this by placing the community at the heart of all planning related matters in Mid Ulster. The council recently consulted on the draft Corporate Plan 2020-2024 and once published in final form will set out the vision, values and priorities for the Council up to 2024.

- 1.6 It is intended to adopt a proactive and timely approach to community involvement through a process of providing clear information and encouraging participation during plan preparation and the submission, assessment and determination of a planning application. The process must therefore be informative, user friendly, as inclusive as possible, and conducted in an open and transparent way. Every effort is to be made to engage the community, record views and provide feedback.

### **Principles of Community Involvement**

- 1.7 It is vital that the Council is committed to uphold the following principles of community involvement and that these are reflected in the methods of consultation described throughout this SCI.

- **A culture of engagement** - People should know that they are encouraged to take part in the planning process and that decision makers are genuinely interested in their views.
- **Early involvement or “frontloading”**- The community should be involved at an early stage in the preparation of Local Development Plan documents and major development proposals.
- **Continuing involvement** - The community should be involved throughout the process, both formally and informally, of preparing Local Development Plan documents and major development proposals.
- **Reaching out** - Methods used to encourage involvement should be appropriate to people’s experience and needs.
- **Fit for purpose** - Arrangements for consultation need to be appropriate for the type of document or application being considered and being realistic in terms of available resources.
- **Clarity** - The planning process and timetables for producing or reviewing Local Development Plan documents should be clear so that people are able to participate in a timely and effective manner.

## **2.0 Local Community involvement in the preparation of the Mid Ulster Local Development Plan 2030**

### **Purpose and structure of the Local Development Plan**

- 2.1 The purpose of the Mid Ulster Local Development Plan, comprising the Plan Strategy and Local Policies Plan, is to inform the general public, statutory authorities, developers and other interested bodies of the policy framework and land use proposals that will implement the strategic objectives of the Regional

Development Strategy and guide development decisions within Mid Ulster up to 2030.

- 2.2 The preparation of the Local Development Plan will take account of the Mid Ulster District Council Corporate Plan 2015-2019, and the Community Plan so that there is a shared vision for the Council area and communities and it will set out the long term social, economic and environmental objectives for the district. The Local Development Plan will also take account of regional policy context set by the Northern Ireland Executive and Central Government Departments. This includes, amongst others, the Sustainable Development Strategy, the Regional Development Strategy, the Strategic Planning Policy Statement and Planning Policy Statements.
- 2.3 The Mid Ulster Local Development Plan will replace the Cookstown Area Plan 2010, Dungannon and South Tyrone Area Plan 2010 and the Magherafelt Area Plan 2015. The Plan will be produced in two stages consisting of two separate documents, which will shape development within our district in the period to 2030. The first stage will be a Plan Strategy followed by Local Policies Plan
- 2.4 Prior to the preparation of the Plan Strategy and Local Policies Plan the Council will identify key issues in the plan area and will formulate a series of options for dealing with them. This information will be published as a Preferred Options Paper, which will indicate a Council's preferred options for growth and development in their area and will be the basis for consulting with the public and stakeholders who will have an opportunity to put forward their views and influence the plan from the outset.
- 2.5 The Plan Strategy will establish the strategic direction of the plan in order to provide a level of certainty on which to base key development decisions in the area as well as the necessary framework for the preparation of the local policies plan. The Strategy will set the aims, objectives, overall growth strategy and associated subject policies applicable to the plan area.
- 2.6 Prior to the publication of the Local Policies Plan (LPP) the Council will publish a Local Policies Plan 'Key Issues' Paper identifying the key issues in the area and will provide the public with the opportunity to comment them to inform the preparation of the LPP.
- 2.7 The Local Policies Plan (LPP) will be consistent with the Plan Strategy. In contrast to the Plan Strategy the LPP will deal with site specific policies and proposals associated with settlement limits, land use zonings and environmental designations required to deliver the council's vision, objectives and strategic policies.
- 2.8 A Sustainability Appraisal (SA), including a Strategic Environmental Assessment (SEA) of the Local Development Plan will run in parallel with the preparation of various stages of the plan and will be an ongoing process. The purpose of the Sustainability Appraisal is to promote sustainable development through the integration of social, environmental and economic considerations into the preparation of the Local Development Plan. The purpose of the SEA is

to assess the potential environmental impacts of the Plan to ensure protection of the environment. Reports from the various stages of the Sustainability Appraisal (including SEA) will be published at the key stages of the plan preparation.

### **Who can get involved?**

2.9 Mid Ulster Council will involve the community at an early stage in the planning process and anyone who wishes to get involved is encouraged to do so at the opportunities provided. In particular, the views of the following groups of people will be sought however, this list is not intended to be exhaustive and in no way restricts other individuals, groups and organisations from participating in the planning process.

- People living within the Mid Ulster area
- Elected Representatives
- Voluntary Groups
- Community Forums/Groups/Umbrella Organisations
- Environmental Groups
- Residents Groups
- Business Interests
- Developers/Landowners
- All individuals and groups with an interest in the area

2.10 Elected members, forums, community and residents groups provide a voice for the local community. Other voluntary and interest groups also bring a special knowledge and can ensure that important concerns are addressed. Lists of these groups are contained within Appendix 1.

### **Empowering disadvantaged and under-represented groups**

2.11 Section 75 of the Northern Ireland Act 1998 requires a public authority, in carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- men and women generally
- persons with a disability and persons without; and
- persons with dependents and persons without

2.12 In addition, without prejudice to the above obligations, public authorities are required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or race. The above “Section 75 groups” are important participants within the planning process and include people who traditionally have been under represented or disadvantaged. These groups will be targeted through the consultation process on the local development plan in order to obtain their views and contribute to the consideration of equality issues under Section 75. Their views on any equality

screening documents or draft Equality Impact Assessments will also be sought in accordance with the councils published Equality Scheme. A list of Section 75 groups is also contained within Appendix 1.

- 2.13 In order to ensure the Local Development Plan and consultation documents are accessible to everyone, they will be made available upon request in alternative formats. All documents will be published in plain English and will also be available on our council website. A telephone number and email address will be stated on each document for people with hearing or speech impairment. If for any reason, a request for a document in a particular required alternative format cannot be met, other formats will be explored.

### **How and when will the community be involved?**

- 2.14 A Local Development Plan is made in different stages, each presenting opportunities for community involvement. Each of these stages are identified below with the actions that are to be taken to involve the community. The actions will fulfil and in some cases exceed the statutory requirements on public consultation. The Timetable for when the different stages are to be reached will be obtainable from the Mid Ulster Council Offices in Dungannon, Cookstown and Magherafelt at the addressed detailed below and also on the Council website [www.midulstercouncil.org](http://www.midulstercouncil.org).

Cookstown Office  
Burn Road  
Cookstown  
BT80 8DT

Dungannon Office  
Circular Road  
Dungannon  
BT71 6DT

Magherafelt Office  
Ballyronan Road  
Magherafelt  
BT45 6EN

It will also be advertised in local press that this timetable is available for inspection in the above Council Offices during normal office hours. When the timetable is revised it will also be advertised and will be available for inspection in the same way.

### **Community Involvement during a Pandemic Crisis**

- 2.15 During the time of a pandemic, or other crisis similar to Covid19, we will be unable to fulfil some of the actions/governance set out below at the different stages of the process. Temporary changes will be needed to protect the health of our communities, residents and staff.
- 2.16 Following the relaxation of any government required 'lock down' period, when we are required to adhere to social distancing, we will be unable to facilitate public meetings and public exhibitions. Instead, during a consultation period we will make officers available for telephone calls where you can ask questions in the same manner as you would at a public meeting or exhibition. We can also make the information that would have been on display at the public exhibition available as a printed document that we can post to you on request. Additionally, we will also place the exhibition display information on our council website for viewing.

## Developing an Evidence Base

- 2.17 Surveying and information gathering will be an ongoing function of the Council, however, it will be particularly important at this early stage of plan preparation. Information obtained at this stage will be used to establish the social, economic and environmental characteristics of the plan area and enable the Council to determine the issues which need to be addressed and the options for addressing them. This will be undertaken using a topic based approach accompanied with a Countryside Assessment.

### Actions/Governance

- Formation of a **Steering Group** comprising the Mid Ulster Planning Committee, the Chief Executive and the Planning Manager. This will be the high level co-ordinating body that will ensure an overview and strategic input on behalf of the whole community, as well as from the planning professionals
- Formation of a **Project Management Team (Multi-Disciplinary Steering Group)** comprising Mid Ulster Council Planning Manager, Principal Planning Officer, Chair of the Planning Committee, Vice Chair of the Planning Committee, Mid Ulster Council Director of Business and Communities, Director of Culture and Leisure, Director of Environment and Property, Director of Public Health and Infrastructure, Shared Environmental Service and representatives from the relevant Northern Ireland Government Departments. The Project Management team will be consulted on and will act as the screening and scoping group for the Sustainability Appraisal (SA), including Strategic Environmental Assessment (SEA) and Equality Impact Assessment (EQIA);
- **Key Consultees** will receive written invitation requesting them to participate in the plan making process by providing information on the key strategic issues that the Local Development Plan should address.
- **Under represented (section 75) groups** will be invited to identify whether there are any types of planning policies which are likely to have significant impact on the groups they represent. They will also be provided opportunity to identify any particular issues or needs which they feel the plan should address. Where requested this can be done through a face to face meeting with a planning official. Any comments received will be taken into account when screening and scoping the EQIA.
- The scoping report of the SA (including SEA) will be sent to the statutory consultation body and if necessary, the **Department for Infrastructure – (DfI – previously DoE)** may be requested to undertake trans-boundary consultation with the Republic of Ireland.
- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District, confirming the publication of the Mid Ulster Council Timetable for the preparation of the new Local Development Plan as well as other supporting information. The notice will state that the agreed timetable and supporting

information will be made available for inspection during normal office hours in all three Council Offices and such other places within the district considered appropriate as well as being available on the Council website [www.midulstercouncil.org](http://www.midulstercouncil.org)

- The SCI will be kept under review and any new groups or bodies wishing to be included or added to the lists contained in the appendices may request to have their details added. This will be subject to Council agreement.

### **Preferred Options Paper**

2.18 This is the first formal stage in the preparation of our Local Development Plan. This stage commences with the publication of the Preferred Options Paper (POP). The POP is a consultation paper to promote debate on issues of strategic significance which are likely to influence the shape of future development within Mid Ulster. The intention is to stimulate a wide-ranging, yet focused, debate and encourage feedback from a wide variety of interests. Any representations or views received as a consequence of its publication will be considered in formulating the Draft Plan Strategy.

2.19 The POP is subject to a Sustainability Appraisal (SA), including the Strategic Environmental Assessment (SEA) and Equality Impact Assessment (EQIA). The SA/SEA is a continual process which runs parallel with the preparation of the POP and Local Development Plan (LDP). An SEA Interim Report (consisting of SA Scoping Report and assessment of alternatives) will be published with the POP.

### **Actions/Governance**

- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette and on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) for two consecutive weeks. This notice will state:
  - i) The intention to prepare a Local Development Plan, accompanied by a Sustainability Appraisal, including Strategic Environmental Assessment, and Equality Impact Assessments;
  - ii) Publication of the Prepared Options Paper inviting comment within 12 weeks;
  - iii) Details of community meetings, exhibitions and pop-in information sessions;
  - iv) Publication of the initial stages of Sustainability Appraisal, including SEA, and invite comment as considered necessary.
- Publish the POP on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) and invite comments within 12 weeks. Also make the POP available at the Council Offices in Magherafelt, Dungannon and Cookstown and provide hard copies upon request (Tel: 03000 132 132) at a specified price.
- Issue a **Press Release** in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette about the intention to prepare a new plan, drawing attention to the Preferred Options Paper and the public consultation.

This will allow individual residents, developers, landowners and any other person with a stake in the LDP to make representation.

- Hold a **Launch and Exhibition** to announce the publication of the Preferred Options Paper;
- Hold **Public Meetings and Exhibitions** with drop in sessions in Dungannon, Cookstown and Magherafelt. Other locations will include Ardboe, Coalisland, Clogher, Draperstown, Galbally, Maghera and Pomeroy.
- Write to **Key Consultees** and **Elected Members** providing them with a copy of the Preferred Options Paper and invite them to attend the launch, provide comments within 12 weeks, inform them of the public meetings, exhibition and drop-in information sessions;
- Write to **local community groups** and **section 75 groups** advising them that the POP has been published and that it is available to view on the Councils website and that hard copies can be obtained from the Planning Department (Tel: 03000 132 132) where requested. The opportunity of a meeting with a planning officer to record their views will also be given. They will be asked to provide comments within 12 weeks.
- A **Public Consultation Report** will be presented to elected members following the 12 week consultation. This will contain a summary of each representation and professional comment, recording where members take a different view and rationale for that view. This will be taken into account whilst formulating the Draft Local Development Plan;
- The **Project Management Team** will be given opportunity to comment on emerging policy for inclusion in the Draft Plan Strategy and will be an integral part of testing emerging policy through the Sustainability Appraisal, including Strategic Environmental Assessment and the Equality Impact Assessment process.

## **Publication of Draft Plan Strategy**

2.20 The draft Plan Strategy is a public consultation document and is not the final plan. It is an indication of the Council's intentions regarding the future development of the area, and is a key part of the public participation process.

### **Actions/Governance**

- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette and on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) for two consecutive weeks. This notice will state:
  - i) Publication of Draft Plan Strategy and accompanying Sustainability Appraisal including the SEA, Habitats Regulations Assessment (HRA) and Equality Impact Assessment (EQIA), Rural Proofing and how to view or obtain copies;

- ii) The dates and locations of Public Exhibitions;
  - iii) The 8 week period and closing date for receipt of representations to the Draft Plan Strategy and accompanying Sustainability Appraisal including SEA, Habitats Regulations Assessment (HRA), Rural Proofing and Equality Impact Assessment (EQIA). This will be followed by an 8 week period for counter representations.
- Make the Draft Plan Strategy, the Sustainability Appraisal including the SEA, HRA and EQIA and the Public Consultation Report available on the website [www.midulstercouncil.org](http://www.midulstercouncil.org) and at the Council Offices in Magherafelt, Dungannon and Cookstown and provide hard copies upon request at a specified price;
  - Hold **Launch and Exhibition** to announce the publication of the Draft Plan Strategy and **Issue Press Releases**;
  - Hold **Public Exhibitions** in Mid Ulster Towns, Villages and Settlements. Planning Officers will be available to answer any questions;
  - Write to **Key Consultees** and **Elected Members** informing them of; the publication of the Draft Plan Strategy and providing them a copy; the dates of the public exhibitions; the 8 week period and closing date for representations;
  - Write to all who submitted a representation to the POP informing them of the publication of the Draft Plan Strategy and accompanying documents advising how they can view or obtain copies; the dates of the public exhibitions; the 8 week period and closing date for representations;
  - Representations will be reported to the Elected Members

### **Re-Consultation on Local Development Plan 2030 – Draft Plan Strategy**

- 2.21 A consultation exercise was previously carried out on the Local Development Plan 2030 – Draft Plan Strategy (February to April 2019). However, the council has since identified a procedural error in relation to the original consultation and a re-consultation was set for a period of 8 weeks commenced at 10am on 25<sup>th</sup> March 2020 and was due to close at 5pm on 21<sup>st</sup> May 2020.
- 2.22 In light of the issues being faced with COVID19, the re-consultation period was extended.
- 2.23 Given that it is unknown for how long government will be discouraging groups to congregate, the council will issue a public notice of the extended re-consultation closing date once it becomes available. We will issue the **Public Notice** in local newspapers circulating in Mid Ulster District, and the Belfast Gazette and on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) for two consecutive weeks.
- 2.24 In line with advice on social distancing as a response to COVID-19, planned exhibitions and drop-in sessions are no longer taking place.
- 2.25 Instead, during the extended re-consultation period we will make officers available for telephone calls where you can ask questions in the same manner as you would at a public meeting or exhibition. On request, we will make the information that would have been on display at the public exhibition available as a printed document which we can post or email to you. Additionally, we will also place the exhibition display information on our council website for viewing.

### **Public Inspection of Representations**

- 2.26 All representations which are made to the Draft Plan Strategy will be made available for public inspection as part of the public consultation process. Interested parties may also comment on the site specific representations that have been received (counter-representations). Counter-representations must not propose any changes to the development plan document. Both the representations and counter-representations will be considered at the Independent Examination (IE).

### **Actions/Governance**

- Make copies of representations available for inspection in the Council Offices in Magherafelt, Dungannon and Cookstown and on the website

[www.midulstercouncil.org](http://www.midulstercouncil.org). Hard copies of representations can also be provided upon request at a specified price.

- Write to **Key Consultees, Elected Members and any person who has made (and not withdrawn) a representation** informing them that representations are available for inspection and the places and times at which they can be inspected;
- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette for two weeks, and on the Mid Ulster Council website of the availability of representations for inspection and the eight week period including closing date for counter- representations;
- Make the counter-representations available on website and at the Mid Ulster Council Offices in Magherafelt, Cookstown and Dungannon for inspection;
- Representations and counter-representations will be fully considered by the Council before it submits the Draft Plan Strategy to the DfI for Independent Examination (IE)

### **Submission of Development Plan Documents**

- 2.27 Following the submission of all Development Plan documents to the DfI and prior to Independent Examination, Council will also make all submitted documents available for inspection at the Mid Ulster Council Offices in Magherafelt, Cookstown and Dungannon and other such places the Council considers appropriate. Council will notify all consultation bodies and any person who has made (and not withdrawn) a representation that these documents are available for inspection in the Mid Ulster Council Offices during normal office hours. A notice will also be placed in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette, stating that the Development Plan documents have been submitted to DfI. This notice will also be published on the Council website – [www.midulstercouncil.org](http://www.midulstercouncil.org).

### **Independent Examination**

- 2.28 The Council will not submit the Draft Plan Strategy to DfI unless it considers that it is ready for IE. The purpose of the Independent Examination is to determine the soundness of the Draft Plan Strategy, taking into account representations or counter representations. The Council will be available to answer any question of the Independent Examiners and provide comment on the representations and counter representations. Following the IE, the examiner will issue a report of its findings to the DfI which will in turn consider this and issue a binding report to a Council. On this basis, a Council must incorporate any changes outlined in the binding report and subsequently adopt the Plan Strategy.

### **Actions/Governance**

- Continue to make the Draft Plan, and all accompanying documentation available on the website [www.midulstercouncil.org](http://www.midulstercouncil.org);
- Advertise dates, times and venues for the Independent Examination at least 4 weeks before the Examination is to be held indicating that representations and counter representations are available for inspection; and
- Notify all persons who submitted representations and counter representations of the arrangements for the Independent Examination indicating that representations and counter representations are available for inspection;
- Request Key Consultees to provide comment on the representations and counter-representations for consideration at the Independent Examination.

### **Adoption of Plan Strategy**

2.29 Following the Independent Examination, Dfl will issue a Direction to the Council, requiring it to adopt the draft Plan Strategy as originally prepared or with modifications. The Council may also be directed to withdraw the draft Plan Strategy. In either scenario, Dfl will be expected to give reasons for their decisions.

### **Actions/Governance**

- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette and on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) for two consecutive weeks. This notice will confirm:
  - i) adoption of the Plan Strategy;
  - ii) where to get copies of the Plan Strategy, the Dfl direction and the accompanying independent examination report
- Make the Plan Strategy and any accompanying documents, the Dfl Direction and accompanying Independent Examiner's Report available on the website [www.midulstercouncil.org](http://www.midulstercouncil.org). A hard copy will be available on request (Tel: 03000 132 132) for a specified price;
- Write to key consultees and those submitting representations and counter-representations advising of the adoption of the Plan Strategy, and where to obtain copies together with the Dfl Direction and the Independent Examiner's Report. Also advise them of the commencement of work on the Local Policies Plan.

### **Local Policies Plan**

2.30 The Local Policies Plan is the second document comprising the Local Development Plan. The Draft Local Policies Plan is a public consultation document and is not the final part of the plan. The Draft Local Policies Plan will be consistent with the adopted Plan Strategy and will be the Council's detailed land use proposals regarding the future development of the area; this draft

document is a key part of the public participation process. The Plan Strategy must be adopted before the Draft Local Policies Plan is published for consultation, subjected to IE and adopted.

### **Local Policies Plan - Key Issues Consultation**

- 2.31 Prior to the publication of the Local Policies Plan (LPP) the Council will publish a Local Policies Plan 'Key Issues' Paper identifying the key issues in the area and will provide the public with the opportunity to comment them to inform the preparation of the LPP. The document will outline key issues such as settlement limits, location of housing and economic development land within the towns, town centre boundaries etc. and invite comments on them.

#### **Actions/Governance**

- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette and on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) for two consecutive weeks. This notice will state:
  - i) Publication of the Key Issues Paper and how to view or obtain copies;
  - ii) The 8 week period and closing date for receipt of representations to the Key Issues Paper.
- Publish the Key Issues Paper on the website [www.midulstercouncil.org](http://www.midulstercouncil.org) and invite comments within 8 weeks. Make the Key Issue Paper available at the Council Offices in Magherafelt, Dungannon and Cookstown and provide hard copies upon request.
- Write to **local community groups** and **section 75 groups** advising them of the publication of this document and how they can make representations to it.
- Write to **Key Consultees** and **Elected Members** informing them of; the publication of the Key Issues Paper and providing them a copy, the 8 week period and closing date for representations.

### **Publication of Local Policies Plan**

#### **Actions/Governance**

- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette and on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) for two consecutive weeks. This notice should confirm:
  - i) Publication of Draft Local Policies Plan and accompanying Sustainability Appraisal including SEA, HRA, EQIA and Rural Proofing and how to view or obtain copies;
  - ii) The dates and locations of Public Exhibitions;
  - iii) The 8 week period and closing date for receipt of representations to the Draft Plan Local Policies Plan and accompanying Sustainability Appraisal

including SEA, HRA and EQIA. This will be followed by an 8 week period for counter representations.

- Make the Draft Local Policies Plan and the Sustainability Appraisal including the SEA, HRA and EQIA available on the website and at the Council Offices in Magherafelt, Dungannon and Cookstown and provide hard copies upon request (Tel: 03000 132 132) at a specified price.
- Hold **Launch and Exhibition** to announce the publication of the Draft Local Policies Plan and **Issue Press Releases**;
- Hold **Public Exhibitions** in Mid Ulster Towns, Villages and Settlements. Planning Officers will be available to answer any questions;
- Write to **Key Consultees** and **Elected Members** informing them of; the publication of the Draft Local Policies Plan and providing them a copy; the dates of the public exhibitions; the 8 week period and closing date for representations;
- Write to all who submitted a representation and counter-representation to the draft Plan Strategy informing them of the publication of the Draft Local Policies Plan and accompanying documents and advising how they can view or obtain copies; the dates of the public exhibitions; the 8 week period and closing date for representations;
- Representations will be reported to the Elected Members

### **Public Inspection of Representations**

- 2.32 All representations to the Draft Local Policies Plan will be made available for public inspection as part of the public consultation process. Interested parties may also comment on the site specific representations that have been received (counter-representations). Counter-representations must not propose any changes to the development plan document. Both the representations and counter-representations will be considered at the Independent Examination (IE).

### **Actions/Governance**

- Make copies of representations available for inspection in the Council Offices at Magherafelt, Cookstown and Dungannon and on the website. Hard copies of representations can also be provided upon request at a specified price.
- Write to **Key Consultees, Elected Members and any person who has made (and not withdrawn) a representation** informing them that representations are available for inspection and the places and times at which they can be inspected;

- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette and on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) for two consecutive weeks. This notice will state the availability of representations for inspection and the eight week period including closing date for counter representations;
- Make the counter-representations available on website and at the Mid Ulster Council Offices in Magherafelt, Cookstown and Dungannon for inspection. Hard copies of counter representations can also be provided upon request at a specified price.
- Representations and counter representations will be fully considered by the Council before it submits the Draft Local Policies Plan to the DfI for Independent Examination (IE).

### **Submission of Development Plan Documents**

- 2.33 Following the submission of all Development Plan documents to the DfI and prior to Independent Examination, Council will also make all submitted documents available for inspection at the Mid Ulster Council Offices in Magherafelt, Cookstown and Dungannon and other such places the Council considers appropriate. Council will notify all consultation bodies and any person who has made (and not withdrawn) a representation that these documents are available for inspection in the Mid Ulster Council Offices during normal office hours. A notice will also be placed in at least one local newspaper circulating in Mid Ulster District, and the Belfast Gazette that the Development Plan documents have been submitted to the DfI. This notice will also be published on the Council website [www.midulstercouncil.org](http://www.midulstercouncil.org)

### **Independent Examination**

- 2.34 Again, the Council will not submit the Draft Local Policies Plan to DfI unless it considers that it is ready for IE. The purpose of the Independent Examination is to determine the soundness of the Draft Local Policies Plan taking into account representations and counter representations. The Council will be available to answer any question of the Independent Examiners and provide comment on the representations and counter representations. Following the IE, the examiner will issue a report of its findings to the DfI which will in turn consider this and issue a binding report to a Council. On this basis, a Council must incorporate any changes outlined in the binding report and subsequently adopt the Local Policies Plan.

### **Actions/Governance**

- Continue to make the Draft Local Policies Plan, and all accompanying documentation available on the website;
- Advertise dates, times and venues for the Independent Examination at least 4 weeks before the Examination is to be held indicating that representations and counter representations are available for inspection; and

- Notify all persons who submitted representations and counter representations of the arrangements for the Independent Examination indicating that representations and counter representations are available for inspection;
- Request Key Consultees to provide comment on the representations and counter-representations for consideration at the Independent Examination

### **Adoption of Local Policies Plan**

- 2.35 Following the Independent Examination, DfI will issue a Direction to the Council, requiring it to adopt the Draft Local Policies Plan as originally prepared or with modifications. The Council may also be directed to withdraw the Draft Local Policies Plan. In either scenario, DfI will be expected to give reasons for their decisions.

### **Actions/Governance**

- Issue a **Public Notice** in at least one local newspaper circulating in Mid Ulster District and the Belfast Gazette and on the Mid Ulster Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) for two consecutive weeks. This notice will confirm:
  - i) adoption of the Local Policies Plan;
  - ii) where to get copies of the Local Policies Plan, the DfI Direction and the accompanying Independent Examiner's Report;
- Make the Local Policies Plan and accompanying documents, the DfI Direction and Independent Examiner's Report available on the Council website with hard copies available on request for a specified price;
- Write to key consultees and those submitting representations and counter-representations advising of the adoption of the Local Policies Plan, and where to obtain copies together with the DfI Direction and the Independent Examiner's Report.

### **Next Steps**

- 2.36 Following the adoption of the Plan Strategy and Local Policies Plan the Council will identify its work priorities for the next five years in a new timetable. It may also issue a new Statement of Community Involvement if considered appropriate. In addition the Council will engage in monitoring and review which are essential in establishing how the objectives in the Local Development Plan are being achieved and whether any changes are required. This should be done every five years.

### **3.0 Local Community Involvement in Mid Ulster Development Management Functions**

#### **Purpose**

- 3.1 The Council as the local planning authority for the area deals with the majority of planning applications in the district. Planning applications are now categorised on receipt as local, major or regionally significant. The council are responsible for the local and major applications whilst the DfI processes those applications that are regionally significant. The Council also deals with Listed Building applications and applications for works in Conservation Areas, works to Protected Trees and Advertising Consent. Development management is the process through which such applications are considered. An important part of the process is to provide information and advice to applicants and to seek and take into account the views of the general public and statutory consultees on all planning applications. The statutory requirements for consultation on planning applications are set out in legislation. These requirements vary according to the type of proposal but include notification to specified bodies and the general public. It is also worth noting that there is provision within the Planning Act (Northern Ireland) 2011 for the DfI to call in a planning application, an application for Listed Building Consent and an application for Hazardous Substance Consent; although this is to be the exception.
- 3.2 The Council receives a wide variety of planning applications and therefore needs to involve the community to differing degrees, according to the scale and complexity of the application.  
This section of the SCI looks at:
- how the public can become involved at the various stages of the application process; and
  - how the level of community involvement will depend on the scale of the application.

#### **Pre-Application Stage**

##### Pre-Application Discussions (PADs)

- 3.3 Pre-application discussions are encouraged for a range of types of applications, both major and local. The objective of pre-application discussions should be to confirm whether the principle of development is acceptable and to clarify the format, type and level of detail required to enable the council to determine an application. For major applications it will also enable the applicant to discuss with the council details of how the community should be involved in the decision-making process.

### 3.4 **Major Applications - Pre-Application Community Consultation (PACC) during Covid19 pandemic**

Due to the Covid19 pandemic, there has been a temporary change to the process for major applications, temporarily removing the requirement to hold a public event as part of the pre-application community consultation.

The changes come into effect on 1 May and will apply for five months. The changes are accompanied by guidance for applicants, which can be obtained on the Department for Infrastructure website (Covid19 Emergency Planning Guidance - Pre-Application Community Consultation (PACC) -Temporary Removal of Public Event Requirement).

The Departments guidance helps applicants suggest alternatives to this important element of the consultation process in respect of major applications.

Applicants will still need to comply with other requirements to ensure communities are aware of and can input to major development proposals for their areas. (See paragraphs 3.5 - 3.7 below)

This suspension of the requirement to hold a public event as part of the PACC will apply where:

- the Proposal of Application Notice (PAN) relating to an application was, or is, submitted prior to the end of the emergency period (including if it was submitted before the emergency period began); and
- the application for planning permission itself is made during the emergency period or within 6 months following the end of the emergency period.

### 3.5 **Major Planning Applications – Pre-Application Community Consultation (PAAC)**

The council strives to inform and involve the wider community in helping to create better quality developments and place making. Applicants who submit major applications to the council or as the case may be, the Department must undertake community consultation before submitting their application.

The Council will require the following actions to be undertaken before the application is submitted (Please see paragraph 3.4 above regarding requirement for a public event during period of Covid19 pandemic) :

- **Notify the Council** by way of a “proposal of application notice” (PAN), at least 12 weeks in advance, that an application for a major planning application is to be submitted.

- Hold at least one **public event** where the community will be afforded the opportunity to make comment.
  - **Publish details** of the proposal in the local press, outlining where further details can be obtained and the date, time and location of a public event.
  - Submit a pre-application community consultation report to accompany the application.
- 3.6 Pre-application consultation is likely to be more successful if the applicant makes significant efforts to open lines of communication with, and provide feedback to local communities and work with them to secure development proposals which are acceptable to everyone.
- 3.7 As previously stated the Council would recommend all applicants considering submitting development proposals that fall within the definition of major development to seek a Pre-Application Discussion with planning officers. Where applicants fail to fully meet the pre-application community consultation requirements the Council will decline to determine the application.

### **Application Stage**

- 3.8 When a planning application is submitted for determination the Council will involve the community in the decision making process. If you feel you will be affected by development proposals you will have an opportunity to consider what is proposed and how it will affect you. You will also have the opportunity to make your views known before a final decision is made on the application.

### **Advertising and Neighbour Notification**

- 3.9 The Council undertakes statutory public engagement in accordance with current legislation. Government may change the statutory requirements and our future approach will reflect any changes that are made.

### Advertising

- 3.10 The Council will advertise all new applications on a weekly basis in at least one local newspaper circulating in Mid Ulster District (in accordance with **Section 41 of the Planning Act (Northern Ireland) 2011 and Section 8 of the Planning (General Development Procedure) Order (Northern Ireland) 2015**). The weekly list of all new applications received by the Council can also be viewed on our website [www.midulstercouncil.org](http://www.midulstercouncil.org). The advertisement will advise that any representations that are made should be received within 14 days of the publication. This will assist in the efficient processing of the application, however, material representations will be considered up until a decision on the proposal is reached.

## EIA Development

- 3.11 Environmental Impact Assessment (EIA) is a method for ensuring that the likely effects of new development on the environment are fully understood and taken into account before consent is given for the development to proceed. The Environmental Statement (ES) produced as part of an environmental impact assessment, brings together in a single document or series of documents information about a proposed development and its effects on the environment.
- 3.12 In most cases it will fall to the council to determine if the application is an EIA application. It should be noted that if an application is an EIA application it cannot be processed until the ES is received. When a developer submits an ES in support of a planning application, the Council will publish a notice of its receipt in at least one local newspaper circulating in Mid Ulster District and indicate where it may be purchased and the address of the Council Office where it may be inspected. The Council will also allow 4 weeks from the date the notice is first published for representation to be made.

## Neighbour Notification

- 3.13 **Article 8 of The Planning (General Development) Procedure Order (Northern Ireland) 2015** states that any identified occupier of land neighbouring the land to which the application relates shall be notified by serving a notice on them. Under the Council's Neighbour Notification Scheme, the Council will ensure that planning applications are brought to the individual attention of the occupiers of buildings on neighbouring land which are within 90m of the boundary of the application site.

Neighbouring land is defined as 'land which directly adjoins the application site or which would adjoin it but for an entry or road less than 20m in width'.

- 3.14 The Case Officer when carrying out a site inspection will also check the accuracy of the neighbour notification details supplied on the application form and may add details as considered appropriate.
- 3.15 The period for responding following receipt of a neighbour notification letter is 14 days, though any late representations received before a decision is made will still be considered.

## **Obtaining further information and getting involved in planning applications**

- 3.16 The weekly lists of planning applications received within Mid Ulster council area are also available on the Northern Ireland Planning Portal ([www.planningni.gov.uk](http://www.planningni.gov.uk)). Planning applications including supporting documents and corresponding plans can be viewed online as well at the council offices during normal office hours. Planning Officers are available to give advice

on current or proposed applications (you are advised to make an appointment if you wish to speak to a particular officer).

- 3.17 In a scenario such as the Covid19 pandemic, where the council offices are closed, planning applications can be viewed on the Northern Ireland Planning Portal, or you can contact the planning office to discuss alternative arrangements.

#### Public Register

- 3.18 The Public Register of planning application decision is a mix of both electronic and paper formats prior to a point in 2017. After planning reference LA09/2017/0756 the public register of decisions can be accessed at [www.planningni.gov.uk](http://www.planningni.gov.uk) where drawings, decision notices and reports are available for public viewing. The paper copy files before 2017 contain the following:
- a copy( which may be photographic) of each application together with copies of plans and drawings submitted in relation thereto;
  - the decision notice, if any, in respect of the application, including details of any conditions subject to which permission or consent was granted;
  - the reference number, the date and effect of any decision of the PAC in respect of the application; and
  - brief details of any revocation or modification relating to any permission or consent, including date of issue.

#### File Inspection

- 3.19 The Council will make the application file available for inspection at the Councils Planning Department at the Magherafelt Office, Ballyronan Road, Magherafelt, BT45 6EN, by appointment which can be made at Tel: 03000 132 132. Application files for the wards of Dungannon, Clogher Valley and Torrent can also be inspected at the Dungannon Office, Circular Road, Dungannon, BT71 6DT, by appointment. Copies of drawings and application forms can also be viewed by appointment at a planning clinic in Cookstown Council Offices on a weekly basis. An appointment can be made at Tel: 03000 132 132. The amount of information on the file, will of course, be dependent on the stages the application has completed.
- 3.20 In a scenario such as the Covid19 pandemic, where the council offices are closed, planning applications can be viewed on the Northern Ireland Planning Portal, or you can contact the planning office to discuss alternative arrangements.

#### Submitting Comments

- 3.21 Individuals, groups and organisations can comment on a planning application even if they have not been neighbour notified by the Council. All comments will be carefully considered. Care should be taken when making comments to the Council to ensure that no personal data is included.

- 3.22 When a decision is made on a planning application only those matters which are material to the planning decision are given weight. These include a wide range of issues such as impact on neighbouring amenity, natural and built heritage, and public and highway safety. However, matters such as the impact on property prices are not normally considered material to a planning decision.
- 3.23 Greater weight is generally attached to issues which are supported by evidence rather than solely by assertion. If an identified problem can be dealt with by means of a suitable condition the Council is required to consider this as an alternative to refusing an application.
- 3.24 You can make comments in a variety of ways, these are as follows-  
**Online at:** [www.midulstercouncil.org](http://www.midulstercouncil.org)  
**By email:** [planning@midulster.org](mailto:planning@midulster.org) (Please quote the application number)  
**By post to:** Mid Ulster Development Management Team, Mid Ulster District Council, Magherafelt Office, 50 Ballyronan Road, Magherafelt, Co. Derry, BT45 6EN
- 3.25 All written comments on an application will be acknowledged within five working days, however the Council may be unable to respond to each comment made due to the large number it receives. All comments will be summarised and fully considered within the Planning Officer's report. The acknowledgement letter will set out who is dealing with the application and who to contact if there are any questions. The Council will not normally contact the respondent again until after a decision is made.
- 3.26 The Council may, if it considers it appropriate to do so, stage public exhibitions, Issue press releases or arrange public meetings to provide information about major developments or proposals which are particularly significant or have wide-spread effects on communities.
- 3.27 You may also wish to contact your local councillor, who has the ability to request that the application is determined by the relevant planning committee. Oral, or defamatory comments cannot be taken into account. You should ensure that your comments relate to relevant planning matters.
- 3.28 The Council will consult with Statutory Consultees where appropriate (**see Appendix 2**) to assist in the determination of an application. If a representation raises issues that are relevant to the responsibilities of the consultee (e.g. road safety) the representation will be copied to the appropriate consultee for consideration and comment. The Council will carefully take any comments made into account before a decision is made. All comments are scanned and added to the web site once personal email addresses and hand written signatures have been removed (it should be noted that typed names and addresses remain visible).
- 3.29 The council may negotiate changes to applications where these are expedient. Re-consultation (for 14 days) will take place on minor changes if the Council considers that they raise new issues that could lead to further comment. If any

change is considered to be substantive, the council may decline to treat it as an amendment and a new application may be invited.

### **Community Involvement at the Planning Committee Stage**

- 3.30 Planning applications are usually determined by officers using delegated powers. The circumstances under which an application can, or cannot, be determined using delegated powers are set out in the Council's **Scheme of Delegation**, which is subject to regular review.

#### Pre-determination hearings and speaking at the Planning Committee

- 3.31 For those major applications of which notification has been forwarded to DfI but have been returned to the Council for determination the Council will afford the applicant the opportunity of appearing before and being heard by the Council. If a planning application goes before a planning committee, those people who have made representations will have the opportunity to speak at the committee meeting, in line with the relevant protocol. It will be the responsibility of the person wishing to speak at the committee to check the public access link at [www.planningni.gov.uk](http://www.planningni.gov.uk) to keep informed of the status of the application. The council will not contact them to let them know the application is due to be presented to planning committee.
- 3.32 Arrangements and requirements for speaking at the Planning Committee are set out in the Protocol for Planning Committee. This Protocol is available on the Council website or upon request.

### **Community Involvement after a Planning Application has been determined (Post Application Stage)**

- 3.33 A notification of the decision is sent to the applicant/agent and to those who have responded to the consultation on the planning application. The reasoning behind the decision will be set out in the Planning Officer's report which will be available on the Council website or upon request. Where a committee has disagreed with the officer's recommendation the justification will be available to view in the minutes of the planning committee. An advertisement will be placed in the local paper if a decision is taken on an application that was accompanied by an Environmental Statement.

#### Involving the Community when an Appeal is made against a Planning Refusal/Granted Conditions/Enforcement Notice

- 3.34 Only applicants and those upon whom notices have been served have the right of appeal. There are no third party rights of appeal. Where an applicant is unhappy with the Council's decision on an application or a condition attached to a permission, he/she may appeal to the PAC. An applicant may also appeal to the PAC where the Council has not determined an application within the relevant period prescribed by the Planning (General Development Procedure) Order (NI) 2015. Appeals must be lodged with the PAC within four months from

the date of notification of the Council's decision, or expiry of the prescribed period as the case may be.

- 3.35 Copies of representations will be forwarded to the Planning Appeals Commission (PAC). For hearings and public inquiries, the interested parties have the opportunity to make their views known verbally to the PAC. The guidance on Planning Appeals and the rights of applicants and objectors can be found on the PAC website [www.pacni.gov.uk](http://www.pacni.gov.uk)

#### Community Involvement in Planning Enforcement

- 3.36 The council encourages the community to report cases where they believe there has been a breach of planning control. A breach of planning control occurs when development or other certain activities take place without the necessary planning permission or consent from the Council or the DfI. This may also include failure to carry out development in accordance with the approved plans or conditions.
- 3.37 All planning enforcement related complaints are treated confidentially. If the complaint results in a planning application being submitted, then this will be publicised in the normal manner and adjoining neighbours notified.
- 3.38 In cases where planning enforcement action is taken, complainants are informed of the action. Where no action is taken the Council will also notify the complainant.
- 3.39 The Council's priorities for enforcement action are contained within the Council's Enforcement Strategy which can be viewed on our website [www.midulstercouncil.org](http://www.midulstercouncil.org) and can be obtained in hard copy by contacting the Planning Department at 03000 132 132. The Enforcement Strategy is subject to regular review.

#### Community Involvement in Supplementary Planning Guidance (SPG)

- 3.40 The Council will also prepare non-statutory planning guidance to support its development plan. Supplementary planning guidance includes for example design guides and advice notes. Consultation on SPG will take place in a proportionate manner where the Council feels it will be beneficial to give additional regard to the opinions of stakeholders and the general public. Any comments received will be considered by the Planning Committee. It is not necessary for SPG to go through the public examination process.

#### Community Involvement in Conservation Area Designation

- 3.41 A Conservation Area is an area of special architectural or historic interest, the character of which it is desirable to preserve and enhance. The Council considers that consultation with, and the involvement of local people is important when undertaking work associated with Conservation Areas. This will help encourage greater ownership of the concept and greater co-operation and commitment to achieving the aims of the designation. The Council will involve

the community in the designation, variation or cancellation of a Conservation Area. This will entail formal consultation with the Historic Buildings Council, Department for Communities (DfC), Department for Infrastructure Transport Northern Ireland (DfI TNI), and any water or sewerage undertaker.

- 3.42 Any alterations to existing Conservation Areas or designation of new Conservation Areas will be advertised in at least one local newspaper circulating in Mid Ulster District. Where appropriate public meetings will be held to discuss and present proposals.

#### Community Involvement in the Designation of a Simplified Planning Zone

- 3.43 If the Council proposes to commence work on a simplified planning zone it will undertake consultations with the neighbouring District Council, the land owner and occupier, the DfC and will notify the DfI.
- 3.44 Once details of a scheme have been prepared the Council will make copies available for inspection at the Council's office, give notice by way of an advert in at least one local newspaper circulating in Mid Ulster District, and on the Council's website [www.midulstercouncil.org](http://www.midulstercouncil.org), and will serve a notice on those it has consulted with.
- 3.45 Following advertising of the proposed planning zone(s) details there will be an eight week period when representations can be made to the Council. If the Council subsequently decides not to proceed with the proposed planning zone it will publish a further advertisement to that effect and will notify all those have made representations.
- 3.46 The Council may cause an independent examination to be held to consider the representations received. Where it is proposed to hold an independent examination details including the time and place of the examination will be published in the local press. Where it is decided not to hold an independent examination the Council will notify all those who have made representations.
- 3.47 Following the independent examination the Council will produce a report and statement detailing its decision and outlining reasons for its decision. Notice of publication will be advertised in the local press and the report and statement will be available for public inspection in the Council offices.

#### **Review of the Council's SCI**

- 4.0 The body of the SCI will also be reviewed annually to ensure fitness of purpose and to take account of major Legislative changes where relevant.
- 4.1 Where groups or bodies want to be added to the lists of consultees included in Appendix 1 they are advised to make a submission in writing or by email to the planning Department in the Council:

**By email:** [planning@midulster.org](mailto:planning@midulster.org)

**By post to:** Mid Ulster Development Plan Team, Mid Ulster District Council, Magherafelt Office, 50 Ballyronan Road, Magherafelt, Co. Derry, BT45 6EN.

Any requests received will be considered.

# **APPENDIX 1**

## **APPENDIX 1**

### **MID ULSTER STATEMENT OF COMMUNITY INVOLVEMENT**

#### **GROUPS TO BE CONSULTED WHEN PREPARING THE NEW LDP**

**LIST 1: STATUTORY CONSULTATION BODIES**

**LIST 2: LOCAL COMMUNITY/VOLUNTARY GROUPS IN MID ULSTER**

**LIST 3: SECTION 75 GROUPS**

**NOTE: The Council's consultation list is reviewed on a biennial basis to ensure it remains relevant to our functions and policies. At any time individuals and organisations can request to be added or removed from our list of consultees.**

## **LIST 1: STATUTORY CONSULTATION BODIES**

1. Northern Ireland Government Departments.
2. Armagh, Banbridge & Craigavon Borough Council  
Fermanagh & Omagh District Council  
Derry City & Strabane District Council  
Causeway Coast & Glens Borough Council  
Mid & East Antrim Borough Council  
Antrim and Newtownabbey Borough Council
3. A water or sewerage undertaker.
4. The Civil Aviation Authority.
5. The Northern Ireland Housing Executive.
6. Any person to whom the electronic communications code applies by virtue of a direction given under section 106(3) of the Communications Act 2003(1).
7. Any person to whom a licence has been granted under Article 10(1) of the Electricity (Northern Ireland) Order 1992(2).
8. Any person to whom a licence has been granted under Article 8 of the Gas (Northern Ireland) Order 1996(3).

## **LIST 2: LOCAL COMMUNITY/VOLUNTARY GROUPS IN MID ULSTER**

### **ARTS ORGANISATIONS**

1. 1st Tyrone Scout Gr
2. Annaginny Farm
3. Ballinderry AOH
4. Ballybriest Pipe Band
5. Ballyronan District Cultural Group
6. Castledawson Girls Brigade
7. Clogher Valley Outdoor Bowling Federation
8. Coagh Ladies Time & Talent Group
9. Coalisland Parochial Bowling Club
10. Crossdernott Bowling Club
11. Cullenfad Pipe Band
12. Culnady Girls Brigade
13. Derryoghill Flute Band
14. DU Dance NI
15. Dungannon Choral Society
16. Dungannon Golf Club
17. Dungannon Music & Drama Festival Association
18. Dungannon Rugby Football Club
19. Dungannon United Youth
20. Dungannon West Com Bowling
21. Eglis St Patricks GAC
22. Gig in the Bann Festival
23. Institute of Irish Leadership
24. Irish Language Group
25. Killymuck Sons of the North
26. Maghera & District Gardening Group
27. Maghera Historical Society
28. Mid Ulster School of Music
29. Moneymore Art Group
30. Moy & District Ploughing Association
31. Moy Circle of Friends
32. Moy Tirnanog GFC
33. Newmills Vintage Club
34. Rén-Bu-Kan Judo Club
35. Sperrin Choir
36. Tamnamore Cosy Corner Craft Club
37. The Bridge Singers
38. The Sports Complex Management Group
39. Valley Voices Community Choir

## **BUSINESS INTERESTS**

1. JigSaw Planning
2. Planware Ltd
3. Wardell Armstrong

## **CHARITABLE GROUPS**

1. Ballinderry Rivers Trust
2. Clogher Valley Sure Start
3. Cruse Bereavement Care (NI)
4. Home Start Armagh & Dungannon
5. Marie Curie - Funding Office
6. Olive Branch Centre & Charity Shop
7. Parkanaur College
8. River Blackwater Trust
9. Speedwell Trust
10. Ms Mackle

## **CLERGY**

1. An Invitation to Love Jesus/The Gathering Place
2. Church of Ireland Castlecaulfield
3. Church of Ireland Killyman
4. Church of Ireland Maghera
5. Desertmartin Parish Church (COI)
6. Presbyterian Church Castledawson
7. Presbyterian Church Dungannon
8. Reformed Baptist Church Magherafelt
9. Roman Catholic Church Aughnacloy
10. Roman Catholic Church Draperstown
11. Roman Catholic Church Eglish
12. Roman Catholic Church Bellaghy

## **COMMUNITY ASSOCIATIONS**

1. Ardboe Credit Union
2. Ballygawley Area Dev Assoc.
3. Bann Valley Community Group
4. Benburb & District Community Association
5. Ms Sonner
6. Bonn and District Community Association
7. Caledon Regeneration Partnership
8. Castledawson Royal British Legion
9. CDM Community Transport
10. Clogher Cathedral Parish (COI)

11. Clogher Development Association
12. Club Áige Luraigh
13. Cookstown & Western Shores Area Network
14. Cookstown and Community Police Liason Committee
15. Cookstown Enterprise Centre Ltd
16. Cookstown North Community Group
17. Cookstown North Community Group
18. Costa
19. CWSAN
20. Derganagh Taining and Development Association
21. Desertmartin Community Development Ltd
22. Dittys Castledawson Ltd
23. Dungannon Enterprise Centre
24. Fivemiletown Chamber Of Commerce
25. Fivemiletown Community Development Association
26. Fivemiletown Methodist Hall
27. Gortalowry House Projects Ltd
28. Innishrush Community Group
29. Kingsmills Coordinating Committee
30. Lissan Leisure Club
31. Loughlinsholin Community Group
32. Maghera Parish Caring Association
33. Megargy Cultural and Community Group
34. Mid Ulster Volunteer Centre
35. Mowillian Hall Development Association
36. Moygashel Community & Cultural Association
37. Moygashel Residents Association
38. NI Ex Firefighters Association
39. Open Doors Club, Swatragh
40. Pomeroy Afterschool
41. Pomeroy Credit Union
42. Pomeroy Development Projects
43. Pomeroy Community Projects
44. Rural Community network
45. Sandholes Community Group
46. Sandholes Community Group
47. Servite Order NI
48. Sperrin Cultural Awareness Association
49. Sperrins and Glens
50. Stevenson Community Projects
51. TABBDA (Trad, Ballyronan, Ballinderry Development Association)
52. Tamlaght O'Crilly Historical Society
53. Tamnamore Community Development Association
54. Tobermore Community Developments
55. The Rowan Tree Centre Pomeroy
56. Upperlands Luncheon Club
57. Upperlands Community Development Association

## 58. Workspace Draperstown

### **CULTURAL AND HISTORICAL SOCIETIES**

1. Carricklongfield Cultural group
2. Clogher Historical Society
3. Coagh & District Local History Group
4. Coalisland & Clonoe Cultural & Historical Society
5. Cookstown Local History Group
6. Donaghmore Historical Society
7. Donaghmore Historical Society
8. Moygashel Ulster Scots
9. Muintirevlin Historical Society
10. O'Neill Historical Society
11. Stewartstown & District Local History Society
12. Stewartstown and District Local History Society

### **HEALTH AND WELLBEING GROUPS**

1. Alzheimers Society
2. Breakthru
3. Disability Action
4. Dungannon Talking Newspaper
5. Emergency Medical Supplies
6. Mid Ulster Victims Empowerment
7. Networks Involving Communities in Health Improvement (NICHI)Project
8. Shopmobility Mid-Ulster
9. Superstars

### **OLDER PEOPLES GROUPS**

1. Ardtrea&Desertcreat Senior Citizens Group
2. Arthritis Care Cookstown
3. Dungannon & District 50+ Club
4. Moygashel Senior Citizens
5. O4O
6. Recycled Teenagers Club
7. The Evergreens
8. The Monday Club
9. Tuesday Club

## **POST PRIMARY SCHOOLS**

1. St Mary's College
2. St Mary's Grammar School
3. St Pius X High School
4. South West College
5. Holy Trinity College
6. The Royal School
7. Aughnacloy College
8. Integrated College Dungannon
9. Northern Regional College
10. Tamnamore Learning Centre

## **PRE SCHOOLS**

1. Brocagh Playgroup
2. Discovering Kids Playgroup
3. Happy Days Playgroup
4. Fivemiletown Controlled Nursery School
5. Kidd-Z-Play Nursery Ltd
6. Laughterland
7. Lissan Cross Community Playgroup
8. Little Acorns Playgroup
9. Little Flower Clonoe
10. The Happy Days Nursery
11. The Kidz Lodge
12. Tober Tinys Community Playgroup
13. Union Road Mums and Tots Magherafelt

## **PRIMARY SCHOOLS**

1. Ampertaine Primary School
2. Aughnacloy Primary School
3. Bellaghy Primary School
4. Bush Primary School
5. Churchill Primary School
6. Cookstown Primary School
7. Donaghmore Controlled Primary School
8. Fivemiletown Primary School
9. Gaelscoil Aodha Rua
10. Howard Primary School
11. Laghey Primary School
12. Lisferty Primary School

13. Lissan Primary School
14. Moneymore Primary School & Nursery Unit
15. New Row Primary School
16. Orritor Primary School
17. Queen Elizabeth II Primary School  
Pomeroy
18. Spires Integrated Primary School
19. St. Columba's Primary School
20. St. John's Primary School
21. St. John's Primary School
22. St Mary's Primary School Aughnacloy
23. St. Mary's Primary School Ballygawley
24. St. Mary's Primary School Maghera
25. St. Mary's Primary School Pomeroy
26. St. Mary's Primary School Clady
27. St. Mary's Primary School Fivemiletown
28. St. Mary's Primary School Carland
29. St Patrick's Primary School Coalisland
30. St Patrick's Primary School Augher
31. St Patrick's Primary School Donaghmore
32. St Patrick's Primary School Maghera
33. Tobermore Primary School

## **SPORTS GROUPS**

1. Bancran Tug of War
2. Carn Wheelers Cycling Club
3. Coagh Sports Centre
4. Cookstown Cricket Club
5. Cookstown Olympic FC
6. Cookstown Rugby Club
7. Desertmartin Football Club
8. Fallaghloon Dance Club
9. Fr Rocks GFC
10. Fr Rocks GFC
11. Kildress Bowling Club
12. Killymoon Golf Club
13. Loup GFC
14. Maghera Snooker Club
15. Magherafelt & District Road Safety
16. Mid Ulster Indoor Bowls Convener
17. Moneymore Presbyterian Bowling Club
18. Moyola Park Golf Club
19. Pearses GAC Kilrea
20. Pomeroy Plunketts GAC
21. Robert Emmets GAC Slaughtneil

22. St Colms GAC Ballinascreen
23. St Malachy's GAC Castledawson
24. St Michael's GAC Lissan
25. St Oliver Plunkett GAC
26. Take a Bow Archery Club
27. Tobermore United Football club
28. Wolfe Tones GAC Bellaghy
29. Stewartstown Harps GFC

## **WOMENS GROUPS**

1. Bush Womens Group
2. Cookstown & District Women's Group
3. Drumglass Mother's Union
4. First Steps Womens Centre
5. Granaghan and District Womens Group
6. Mid-Ulster Women's Aid
7. Pomeroy WI
8. Soroptimist International

## **YOUTH GROUPS**

1. Derryloran Cub Scout Pack
2. First Cookstown Scout Group
3. Fivemiletown United Youth
4. Kildress Youth Club
5. Krafty Kidz
6. Magherafelt Youth Centre
7. Road Engines Youth Club
8. Youth Tutor Fivemiletown
9. St Johns Junior Youth Club
10. Three Spires Scout Group
11. Woodschapel Beaver Scouts

### **LIST 3: SECTION 75 GROUPS**

1. Action on Hearing Loss
2. Age UK – Northern Ireland
3. An Tearman
4. Aware NI
5. Barnardos
6. British Deaf Association
7. Business in the Community
8. Cara-Friend
9. Carer's National Association NI
10. Child Care NI
11. Children's Law Centre
12. Children in Need
13. Citizens Advice
14. CINI
15. Chinese Welfare Association
16. Commissioner for Older People in NI
17. Committee on the Administration of Justice
18. Community Disabled & Retired Association
19. Community Foundation Northern Ireland
20. Community Relations Council
21. Contact Northern Ireland
22. Cookstown Chamber of Commerce
23. Cookstown PCSP
24. Cookstown Enterprise Centre
25. Cookstown and Dungannon Clergy Forum
26. Co-Operation Ireland
27. CWSAN
28. Council for the Homeless Northern Ireland
29. Cruse Bereavement Care (NI)
30. Democratic Unionist Party
31. Disability Action
32. Down's Syndrome Association
33. Dungannon SVDP
34. Dungannon Art Disability Stakeholder Forum
35. Dungannon Vineyard
36. Dungannon Churches Forum
37. Dungannon Clergy Forum
38. Dungannon First Steps Women's Group
39. Dungannon & Cookstown Women's Aid
40. Dungannon STEP Migrant Forum
41. Dungannon LARG Disability Group
42. Dungannon Youth Forum
43. Early Years
44. Employer's for Disability NI
45. Employers for Childcare

46. Equality Coalition
47. Equality Commission for Northern Ireland
48. Equality Forum NI
49. Foster Care Support Group
50. Foras na Gaelige
51. General Consumer Council
52. Gingerbread NI
53. GMB
54. Guide Dogs for the Blind Association
55. Housing Rights Service
56. ICTU
57. Information Commissioners Office
58. Irish Congress of Trade Unions
59. Law Centre NI
60. Lesbian Advocacy Services Initiative
61. Lesbian Line
62. Local Government Staff Commission
63. Lough Women's Group
64. Mencap
65. Men's Action Network
66. Mid-Ulster Women's Network
67. Mind Wise
68. Muslim Family Association NI
69. National Children's Bureau
70. NIACRO
71. NIPSA
72. Northern Ireland Anti-Poverty Network
73. NIAMH
74. NICCY
75. NICEM
76. NICVA
77. NIPSA
78. Northern Ireland Dyslexia Association
79. Northern Ireland Human Rights Commission
80. Northern Ireland Youth Forum
81. Executive Office – Equality Unit
82. Commissioner for Older People
83. Parenting NI
84. Parents Advice Centre
85. Participation Network
86. Playboard
87. Play NI
88. Polish Association NI
89. Praxis Care
90. Probation Board Northern Ireland
91. Queer Space
92. Rainbow Project
93. Royal National Institute for Blind
94. Royal National Institute for Deaf People
95. Rural Community Network

96. Rural Development Council
97. Samaritans
98. Save the Children
99. Sense NI
100. Simon Community NI
101. Sinn Féin
102. Social Democratic and Labour Party
103. Talking Newspaper Association
104. The Cedar Foundation
105. The Consumer Council
106. Training for Womens Network
107. Ulster Scots Agency
108. Ulster Supported Employment Ltd
109. Ulster Unionist Party
110. UNISON
111. Unite
112. Victim Support NI
113. Volunteer Now
114. William Keown Trust
115. Women into Politics
116. Women's Resource and Development Agency
117. Women's Support Network
118. Women's European Platform
119. Women's Aid NI
120. Youth Action
121. Youth Council for Northern Ireland
122. Youth Link Northern Ireland
123. Youth Net
124. COSTA

# APPENDIX 2

## **APPENDIX 2**

### **MID ULSTER STATEMENT OF COMMUNITY INVOLVEMENT**

**GROUPS TO BE CONSULTED WHEN DETERMINING A PLANNING APPLICATION  
(Where appropriate in accordance with The Planning (General Development  
Procedure) (Amendment) Order (Northern Ireland) 2016)**

#### **LIST 1: STATUTORY CONSULTEES**

1. Department for Communities (DfC)
2. Health and Safety Executive for Northern Ireland (HSENI)
3. Department for Infrastructure (DfI) or Water Undertaker as defined under Article 13 of the Water and Sewerage Services (NI) Order 2006
4. Licensed Aerodomes
5. Department of Agriculture, Environment and Rural Affairs (DAERA)
6. Department for the Economy (DfE)
7. Northern Ireland Housing Executive (NIHE)
8. Department for Infrastructure (DfI)

**Note: There will be cases where non-statutory consultees may need to be consulted. Non-statutory consultees are not bound by the 21 calendar days for a response.**



**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 3 March 2020 in Council Offices, Ballyronan Road, Magherafelt**

**Members Present**

Councillor Mallaghan, Chair

Councillors Bell, Black, Brown, Clarke, Colvin (7.05 pm), Cuthbertson, Glasgow, Kearney, McFlynn, McKinney, D McPeake, S McPeake, Quinn, Robinson

**Officers in Attendance**

Dr Boomer, Planning Manager  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Ms McCullagh, Senior Planning Officer  
Ms McEvoy, Head of Development Plan  
Ms McNally, Council Solicitor  
Ms Grogan, Democratic Services Officer

**Others in Attendance**

**Applicant Speakers**

LA09/2018/1213/O	Tess Maginess
LA09/2018/1213/O	Sara Tinsley
LA09/2018/1213/O	Mark Wilson
LA09/2018/1213/O	Stephen Houlihan
LA09/2019/0928/F	Gemma Jobling
LA09/2019/1131/F	Ryan Dougan
LA09/2019/0539/O	Chris Cassidy
LA09/2019/1402/O	Chris Cassidy

The meeting commenced at 7 pm.

**P026/20 Apologies**

Councillor Gildernew.

**P027/20 Declarations of Interest**

Councillor Cuthbertson declared an interest in Agenda Item 4.2 – LA09/2018/1213/O – Capper Trading Ltd

Councillor Glasgow declared an interest in Agenda Item 5.9 – LA09/2019/1148/O – Thomas David James Harkness.

**P028/20 Chair's Business**

The Planning Manager updated members on issues from last meeting and referred to the matter of the Ulster Farmers' Union launching a legal challenge against Shared Environmental Services (SES) and their decision to change planning rules for assessing

ammonia for farm applications without any warning or consultation. He advised that SES were withdrawing the guidance as a consequence and that the challenge would therefore be withdrawn. This Council was accessing each application on its own merits taking into account the risks as presented. He stated that in due course DAERA and Environment Agency would have to collate some guidance on a way forward as this was a very delicate situation. He said that concerns around livestock houses etc will cause many problems in the interim and that as a consequence he had set up special group meetings with team leads to go through any issues which may arise regarding the intensive housing of cattle, pigs, hens and sheep and members can be rest assured that all issues would be addressed.

Councillor McKinney referred to the letter sent to the Ulster Farmer's Union and wanted to thank the Planning Manager and the committee for their support as this may elevate the pressure and help with the struggle of these issues.

*Councillor Colvin entered the meeting at 7.05 pm.*

The Planning Manager referred to item 3 on circulated addendum regarding correspondence received from Planning Appeals Commission setting a date for Hearing in respect of Upperlands application (H/2009/0264/O, H/2009/0270/F and H/2009/0271/LB). He advised that he was disappointed that the Department didn't answer any queries which were previously raised.

## **Matters for Decision**

### **P029/20      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/withdrawn –

Agenda Item 4.5 – LA09/2019/0944/F – Infill dwelling and garage between 90 & 92 Iniscarn Road, Desertmartin (retrospective) and new access laneway 130m W from the junction of Iniscarn/Gortahurk Road

Agenda Item 4.7 – LA09/2019/1119/O – Site for dwelling and domestic garage at approx. 50m W of 62 Reclain Road, Dungannon

Agenda Item 4.9 – LA09/2019/1157/F – Part retrospective domestic garage shed with extension of curtilage at 5 Jacksons Drive, Gulladuff

Agenda Item 4.13 – LA09/2019/1540/O – Infill dwelling and garage between 29 and 31 Macknagh Lane, Maghera

Agenda Item 4.14 - LA09/2019/1597/O – 2 Infill Dwellings, between 39 & 47 Cookstown Road, Dungannon

Agenda Item 4.15 – LA09/2019/1649/O – Dwelling and domestic garage at site to the rear of NW of 20 Aghaginduff Road, Dungannon for Mr Dessie Donnelly

Proposed by Councillor Clarke  
Seconded by Councillor Bell and

**Resolved** That the planning applications listed above for deferral be deferred for an office meeting/submission of further information/to consider additional information received.

The Chair drew Members attention to the undernoted planning applications for determination.

**LA09/2017/1676/F 1 detached dwelling and garage and 4 semi-detached dwellings with car parking and new access onto Station Road at 32 Station Road, Magherafelt for MCL Ltd**

Members considered previously circulated report on planning application LA09/2017/1676/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2017/1676/F be approved subject to conditions as per the officer's report.

**LA09/2018/1213/O Agri Development Hub for processing, research and development facility and agri-business/logistics centre, associated access, parking landscape and environmental enhancement works at lands at Tamnamore, N of the M1 motorway, W of Annaghbeg Road/Junction 14 for Capper Trading Ltd**

The Planning Manager drew members attention to item 4.2 of circulated agenda providing copy of letter of support from Arlene Foster MLA in support of the application.

Ms Doyle (SPO) presented previously circulated report on planning application LA09/2018/1213/O which had a recommendation for approval.

The Chair advised the committee that requests to speak on the applications had been received by a few people/agents and invited Ms Maginess to address the committee in the first instance.

Ms Maginess advised that she would be speaking against the application tonight but wanted to say that she wasn't against the ongoing employment element and wanted to wish her neighbour well. She referred to the letter from Minister Arlene Foster and felt that a planning process should be followed by the local authority and an outside influence shouldn't be involved in local matters.

She stated that within the case officer's report it was indicated that part of the proposed site was located within the 1 to 100 year flood plain, but said that this could be resolved by applying conditions to provide permeable surfaces to allow for early warning systems in the event of flooding. She felt that this was inaccurate as the Rivers Agency were not content as it didn't meet their criteria. In referring to correspondence from DfI Roads she

stated that the application did not allow access onto the public highway which also demonstrated a negatively worded statement and lack of detail.

Ms Maginess said that the road and parking area were not stable for use as the existing land was bog and liable to flooding. She said that the report had indicated that conditions would be applied to access the risk of flooding and flood plain but enquired who was going to police this and also the lack of empathy for neighbouring properties due to large lorries and noise pollution. She also stated this would also have a negative effect regarding the pond area.

Ms Maginess raised concern about her personal data being breached in this instance and when she sought expert advice, she was told that she should have been given prior notice as there was no justification for this being used.

The Chair welcomed Ms Tinsley and Mr Wilson to address the committee.

Ms Tinsley advised members that she was going to speak in support of the application and said that she welcomed the positive recommendation for the proposed Agri Development hub which adhered to the scheme of the policy and allowed Capper Trading Ltd to progress into a new and innovative way in the supply of animal feed which was within a close proximity of their address.

Ms Tinsley stated that this was fantastic news for the regional economy as it allowed for the creation of 40 additional jobs and £83k rates revenue for the Council. She said that amendments were made to the proposal to allow for reorganisation and appropriate mitigation purposes so that there was no detrimental effect to the protected and natural heritage environment.

The Planning Manager in reply to a comment regarding the support of the development as it was regionally important, stated that officers do not consider regional importance when making their decision and take each application on its own merit, but welcomed the opportunity for people to speak so clarity can be sought.

He said that Arlene Foster had written the letter of support as an MLA which she was quite entitled to do and not under the credentials as First Minister and felt that this needed to be addressed. He said that he had sat around the table with MPs and MLAs and had Ms Foster written the letter on behalf of a party we would have concerns, but she hadn't done that.

In referring to response from DfI regarding carparking, he said that this was nothing to do with a planning decision and more of a means of securing the policy and a matter of negotiation between the applicant and Roads Service.

The Planning Manager in referring to comments about the flood plain and duck pond, stated that it was his understanding that the buildings had been kept out of the flooding area and if the situation does arise regarding an issue of flooding, conditions are in place to overcome any concerns. He said that based on consultations with the Rivers Agency, they had not raised any concerns regarding flooding dangers to neighbouring properties and policy stated that it allowed for certain infrastructure, the policy was silent on whether this included carparks. Levels were not being raised and no playparks etc in the area. In relation to carparks it should be remembered vehicles can be moved on the basis.

He said that in relation to data protection, he advised that this was outside planning committee remit and if the objector felt that there was a breach, they could write into the Council but was confident that everything was above board and no breach had occurred.

Councillor McKinney enquired if this was a last-minute objection as he wasn't aware of any others.

Ms Doyle advised that there were four letters of objection in total.

The Planning Manager advised that he was aware of concerns people have regarding the impact of this hub having on local properties but wanted to assure the committee that the case officer had evaluated all objections and considered all issues which were raised.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2018/1213/O be approved subject to conditions as per the officer's report.

**LA09/2019/0313/F 5 detached & 12 no. semi-detached dwellings, detached garage, car parking, landscaping, retaining walls and all other associated site works including temporary treatment works, at lands to the NE of 3 Old Omagh Road, Ballygawley for Dr J Gormley**

Members considered previously circulated report on planning application LA09/2019/0313/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/0313/F be approved subject to conditions as per the officer's report.

**LA09/2019/0928/F Retention of existing re-sited dwelling (M/2014/0585/F) and retention of associated ancillary works at lands at 67 Glenhoy Road, Ballygawley & approx. 100m SW of 68 Glenhoy Road, Ballygawley for Keith Gladney**

Members considered previously circulated report on planning application LA09/2019/0928/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2019/0928/F be approved subject to conditions as per the officer's report.

**LA09/2019/0944/F Infill dwelling and garage between 90 and 92 Iniscarn Road, Desertmartin (retrospective) and new access laneway 130m W from the junction of Iniscarn/Gortahurk Road for Paul Bradley**

Agreed that application be deferred for one month for additional information.

**LA09/2019/1110/F Retention of temporary waste storage yard at site 70m W of 39 Cullenramer Road, Greystone, Dungannon for Mr Sean McCaul**

The Head of Development Management presented report on planning application LA09/2019/0110/F advising that it was recommended for refusal.

*Councillor McKinney left the meeting at 7.33 pm and returned at 7.35 pm.*

Councillor Colvin advised that environmental matters were very important and would be happy to accept the Officer's recommendation for refusal.

Proposed by Councillor Colvin  
Seconded by Councillor Black and

**Resolved** That planning application LA09/2019/1110/F be refused.

**LA09/2019/1119/O Site for dwelling and domestic garage at approx 50m W of 62 Reclain Road, Dungannon for Ms Margaret Donnelly**

Agreed that application be deferred for an office meeting.

**LA09/2019/1131/F Demolition of existing boundary wall and erection of new boundary wall to church graveyard at 48 Main Street, Bellaghy, Magherafelt for Ballyscullion Parish Church, Church of Ireland c/o Wesley Davidson**

Members considered previously circulated report on planning application LA09/2019/1131/F which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2019/1131/F be approved subject to conditions as per the officer's report.

**LA09/2019/1157/F Part retrospective domestic storage shed with extension of curtilage at 5 Jacksons Drive, Gulladuff for Paul McGarvey**

Agreed that application be deferred for an office meeting.

**LA09/2019/1362/O Dwelling and garage at site 25m SE of 90 Moneymore Road, Magherafelt for Ian Henry**

Members considered previously circulated report and planning application LA09/2019/1362/O which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2019/1362/O be approved subject to conditions as per the officer's report.

**LA09/2019/1412/O Site of dwelling and detached garage at 500m SE of 19 Drumimerick Road, Kilrea for Mr M Kelso**

Members considered previously circulated report on planning application LA09/2019/1412/O which had a recommendation for approval.

Proposed by Councillor Kearney  
Seconded by Councillor Glasgow and

**Resolved** That planning application LA09/2019/1412/O be approved subject to conditions as per the officer's report.

**LA09/2019/1510/F Amendment to condition No. 2 of LA09/2018/1632/F (reduction in 1 No. sight splay from 2.4 x 60m to 2.4m to 33m) at land approx. 29m SE of the junction of Ballydermot and Drumanee Road, Bellaghy for Mid Ulster District Council**

*All Members declared an interest in application LA09/2019/1510/F.*

Members considered previously circulated report on planning application LA09/2019/1510/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/1510/F be approved subject to conditions as per the officer's report.

**LA09/2019/1540/O Infill dwelling and garage between 29 and 31 Macknagh Lane, Maghera for Mr Pdraig McGuigan**

Agreed that application be deferred for an office meeting.

**LA09/2019/1597/O 2 infill dwellings, between 39 & 47 Cookstown Road, Dungannon for Mr Colm McCann**

Agreed that application be deferred for one month for additional information.

**LA09/2019/1649/O Dwelling & domestic garage at site to the rear of NW of 20 Aghaginduff Road, Dungannon for Mr Dessie Donnelly**

Agreed that application be deferred for an office meeting.

**LA09/2019/1658/F New hard surfaced MUGA with multi use goals, fencing boundary, improved lighting and associated site works adjacent to 70 Main Street, Castledawson for Ms Joanne McGurk**

Members considered previously circulated report on planning application LA09/2019/1658/F which had a recommendation for approval.

*All members declared interest in planning application LA09/2019/1658/F.*

Proposed by Councillor McKinney  
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2019/1658/F be approved subject to conditions as per the officer's report.

**LA09/2017/1717/F Dwelling and garage on a farm at lands 250m E of 107 Dunamore Road, Cookstown for Mr T Loughran**

Members considered previously circulated report on planning application LA09/2017/1717/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Quinn and

**Resolved** That planning application LA09/2017/1717/F be approved subject to conditions as per the officer's report.

**LA09/2019/0017/O Dwelling and garage, 100m SW of 48 Tirgan Road, Carncose, Moneymore for P O'Neill and C Hall**

Members considered previously circulated report on planning application LA09/2019/0017/O which had a recommendation for approval.

*Councillor McFlynn declared an interest in planning application LA09/2019/0017/O.*

Proposed by Councillor Clarke  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2019/0017/O be approved subject to conditions as per the officer's report.

**LA09/2019/0334/F One year retention of temporary dwelling at 24 Derryveen Crescent, Granville, Dungannon for Mr Ronnie Smyth**

*Councillor Cuthbertson declared an interest in planning application LA09/2019/0334/F.*

Members considered previously circulated report on planning application LA09/2019/0334/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/0334/F be approved subject to conditions as per the officer's report.

The Chair advised that requests had been made for further extensions for three Deferred Applications on the list tonight and advised that this was a matter for the committee to decide whether they agreed to these requests or not on the following applications:

- Agenda Item 5.4 – LA09/2019/0475/O
- Agenda Item 5.6 – LA09/2019/1045/O
- Agenda Item 5.8 – LA09/2019/1090/F

Planning applications seeking further deferral:

- Agenda Item 5.4 – LA09/2019/0475/O – Phase 1 housing development at lands opposite 2 Lisnamuck Road, Tobermore for Tobermore Concrete

The Council Solicitor advised that if additional information was being proposed to be put forward, then it would be appropriate for the Committee to defer to allow consideration of same. However, it should not be delayed indefinitely or for an inordinate amount of time to allow additional information to be submitted.

The Planning Manager said that on one application information had been requested in writing on four different occasions and when they were put to the committee previously, opportunity was provided for further information to be submitted.

In response to Planning Manager's concern on agenda item 5.4 – LA09/2019/0475/O, the Mr Cassidy (agent) advised that due to adverse weather conditions, it was impossible to get the relevant evidence required and both reports collated.

The Planning Manager advised that it was up to members to use their discretion when making the decision on whether to agree to a further extension or not.

Councillor Brown enquired if the committee accepts the request to further defer these three applications, does this set a precedent which must be followed as it could be seen as giving some agents an advantage over some others.

The Planning Manager said that it was important that the committee shows impartiality amongst all people making requests.

Mr Cassidy (agent) stated that he had one report but was still waiting on one to be completed by an associate on noise and this was proving difficult within the timeframe due to harsh weather conditions.

Councillor Glasgow said that it was important to keep everyone on the same level and proposed deferring the application for 30 days for further information with the Planning Manager's word being taken on board.

The Planning Manager felt that it would be more appropriate having a six-week timeframe rather than a 30 day one if members were in agreement. Councillor Glasgow said that he would be happy to withdraw his original proposal and agree to a six-week timeframe as suggested by the Planning Manager.

Proposed by Councillor Glasgow  
Seconded by Councillor Colvin and

**Resolved** That planning application LA09/2019/0475/O be deferred for six weeks for additional information.

- Agenda Item 5.6 – LA09/2019/1045/O – Dwelling and domestic garage/store at 130m NW of 27 Tirnaskea Road, Pomeroy for Mr Mick Mallon

The Planning Manager advised that deferral was requested for an office meeting.

Proposed by Councillor Glasgow  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/1045/O be deferred for an office meeting.

- Agenda Item 5.8 – LA09/2019/1090/F – Isolation shed for animals and storage machinery at approx. 165m NW of 81 Kinturk Road, lower Mullan, Cookstown for Mr Eamonn Maynes

The Planning Manager said that when he went through the application, there was nothing in it which warranted a deferral as there were lots of things outstanding which most likely would never be resolved and recommended refusing the application.

The Chair asked members if they would they be happy to defer the application or prefer to keep it on the schedule to hear more details later in the meeting.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2019/1090/F be kept on tonight's schedule for determination later in the meeting.

**LA09/2019/0475/O Phase 1 housing Development at lands opposite 2 Lisnamuck Road, Tobermore for Tobermore Concrete**

Agreed that application be deferred for six weeks to consider additional information.

**LA09/2019/0539/O Site for dwelling and garage 35m S of 98 Desertmartin Road, Magherafelt for Mr John Tohill**

Ms McCullagh (SPO) presented report on planning applications LA09/2019/0539/O advising that it was recommended for refusal.

The Chair advised that a request to speak had been requested and invited Mr Cassidy to address the committee.

Mr Cassidy advised the applicant has a farm holding of 25 acres and DARD had confirmed that it was a full working one established in excess of 6 years, which the case officer previously confirmed raising no concerns re integration or build up. He said that the applicant was an active farmer who put a lot man-hours into his work and this fitted into the CTY10 Policy.

Mr Cassidy advised that the applicant maintained his land in good environmental condition which included cutting of hedges and slurry spreading, with invoices being submitted for the last 6 years for work carried out. The golf course which he owns, and runs is kept in excellent condition and could be considered something which he maintains. He said that the site meets the infill policy as there was a single dwelling constructed and a new house under construction which was approved in 2017, giving frontage onto the road. This application sits in the middle of 3 houses and garage. He concluded by saying that this site meets the criteria for infill purposes in that it had a substantial built up frontage and should be recommended for approval.

*Councillor Cuthbertson left the meeting at 8 pm and returned at 8.04 pm.*

The Planning Manager said that he wasn't convinced that this was an acceptable farm case, however it was reasonable to consider other policy considerations, in looking at the road, consideration needed to be given as to what was the road frontage and whether there was an infill opportunity, he asked what was the major and minor road.

Councillor Clarke said that this was on the main road from Magherafelt to Desertmartin and the road to the left was the Mullaghboy Hill Road which was a minor road.

Councillor Brown said that he would contest that Mullaghboy Hill Road was a minor road. He referred to the 2<sup>nd</sup> site in question and said as the application required road frontage on Desertmartin Road but couldn't get any frontage on the bend at Mullaghboy Hill Road, he doesn't see the road frontage being a question.

The Planning Manager said that the frontage was the area between the 2 sites rather than the access point and it was quite clear it does seem to have a bit of frontage onto Desertmartin Road. He said that you could sit down and quite reasonably refuse the application as it did not share the common road frontage.

The Head of Development Management advised that he recently visited the site and the front of the house had no part as the frontage was set back and felt the application was weak and didn't fit into policy.

The Planning Manager said that it may be in members best interest to take the Head of Development Management's advice as it was clear that it did not meet policy and it was important to follow policy.

Councillor Bell said that by looking at the red line on the overhead presentation the boundary was at the house and suggested there was going to be frontage on Roshure Road and Desertmartin Road at some stage. He said that by listening to all comments

tonight and referring to No. 98 and application LA09/2017/1796/F asked how much of a difference would a dwelling being located there have on the rural character. The Planning Manager said that it was up to members to decide.

Councillor McKinney said that by looking at the overhead presentation he had no hesitation agreeing to the officer's recommendation as there was no frontage on Roshure Road and Mullaghboy Hill Road and evident that a clean-up has been done. He enquired how accurate the overhead map was.

The Head of Development Management said that for members clarity it may be worthwhile having a site visit to see the layout for themselves.

The Planning Manager agreed that as there seemed to be a bit of disquiet, it would be better if a visual assessment was made on site.

Proposed by Councillor Bell  
Seconded by Councillor Quinn and

**Resolved** That planning application LA09/2019/0539/O be deferred for a site visit.

**LA09/2019/1045/O Dwelling & domestic garage/store at 130m NW of 27 Tirnaskea Road, Pomeroy for Mr Mick Mallon**

Agreed that application be deferred for an office meeting.

**LA09/2019/1069/F Dwelling and domestic garage on a gap/infill site approx. 100m NW of 88 Washingbay Road, Coalisland for Mr Ciaran Lynch**

Members considered previously circulated report on planning application LA09/2019/1069/F which had a recommendation for approval.

Proposed by Councillor Quinn  
Seconded by Councillor Colvin and

**Resolved** That planning application LA09/2019/1069/F be approved subject to conditions as per the officer's report.

**LA09/2019/1090/F Isolation shed for animals and storage machinery at approx. 165m NW of 81 Kinturk Road, Lower Mullan, Cookstown for Mr Eamonn Maynes**

Ms McCullagh (SPO) presented report on planning application LA09/2019/1090/F advising that it was recommended for refusal.

The Chair advised that a request in speak in support of the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy stated that this application was a delicate one as he was dealing with the trustees of a will with lands and farm sitting in probate and said that due to the sensitive nature of this, it takes time to gain the agreement of all parties. He advised that one son wished to take over the farm but needed complete agreement from all trustees and

hopefully within the proposed 14 days extended timeframe this may be forthcoming and successfully sorted.

The Planning Manager stated that after hearing a list of refusals being read out by Ms McCullagh (SPO) advised that it was clear that the issue was a probate and issues between family members. He said that members needed to be careful in their consideration and suggested that this application be refused and if the family wished they could reapply at a later date when all was sorted.

The Council Solicitor advised members that a probate was a red herring and not a material consideration for this committee. The onus was on the applicant to submit sufficient information and evidence to support the case they are making for planning application to be granted.

Proposed by Councillor Colvin  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2019/1090/F be refused.

**LA09/2019/1148/O Dwelling and garage 140m SSW of 44 Drumearn Road,  
Cookstown for Thomas David James Harkness**

*Councillor Glasgow withdrew to the public gallery.*

Ms McCullagh (SPO) presented report on planning applications LA09/2019/1148/O advising that they were recommended for refusal.

Proposed by Councillor Mallaghan  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2019/1148/O be refused.

Councillor McKinney said that in his opinion this was another issue relating to the 10-year rule and welcomed the new policy being introduced.

*Councillor Glasgow returned to the meeting.*

**LA09/2019/1245/O Gap site for dwelling and garage at junction of Craigs Road &  
Killycurragh Road, Orritor, Cookstown for Mr Wesley Carson**

*Councillor Glasgow declared and interest in the application LA09/2019/1245/O.*

Members considered previously circulated report on planning application LA09/2019/1245/O which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McKinney

**Resolved** That planning application LA09/2019/1245/O be approved subject to conditions as per the officer's report.

**LA09/2019/1402/O Site for a dwelling & domestic garage at approx. 50m NE of 45  
Moneyneany Road, Draperstown for Mr Michael McWilliams**

Ms McCullagh (SPO) presented report on planning applications LA09/2019/1402/O advising that they were recommended for refusal.

The Chair advised that a request to speak had been received and invited Mr Cassidy to address the committee.

Mr Cassidy advised that the applicant was seeking permission to build a dwelling on the farm. The family had farmed on the land for a very long time and were previously involved in pig breeding until the poor health of the owner forced them to stop.

He said that although Mr McShane (the Licensor & applicant) had not an active business ID Number, receipts presented provided evidence that there was ongoing maintenance taking place on the land for the last number of years. He said that evidence was also provided to show documentation that included a Licence Agreement between Mr McWilliams (Licensee) and the applicant dating back to 29 March 2015.

Mr Cassidy stated that there was a copy of the conacre agreement between the two parties covering the period from 29 March 2015 to 28 March 2022 and the terms of the agreement allows for Mr McShane the use of the lands to take one cut of hay/silage per year and have full responsibility for all maintenance including hedgerows.

In concluding Mr Cassidy advised that Mr McShane has proved activity on the farm and asked members consider the application for approval.

Councillor S McPeake said that he had to read the report a few times to see how this application was recommended for refusal. He said that one was approved earlier on something similar and whilst he sat and listened, he did agree there could be a grey area which would be somewhat awkward for the case officer to distinguish relating to issues around single farm payment and business ID no.

He stated that there was evidence of expenditure and on that basis, he felt that this application should be approved and couldn't grasp why it was being recommended for refusal.

*Councillor Quinn left the meeting at 8.31 pm and returned at 8.32 pm.*

The Planning Manager said that someone can put cattle on their conacre and actively use the land and this is not seen as much different from harvesting and not directly linked to farm payment. He said that there was no evidence that the land was actually used.

Councillor McKinney agreed that this was quite complicated. He said if the landowner leased the land to the Licensor, then it was up to him to keep it in good shape and not the landowner.

In response to the Planning Manager's query, Ms McCullagh (SPO) advised that evidence of expenditure was provided for cutting hedges, slurry spreading and grass topping.

Councillor S McPeake said that evidence of expenditure for grass topping was most likely for the previous year (pre 2013).

The Council Solicitor said that it would be important to consider the relevant planning Policy consideration and that the term “active farming” would be a DAERA test. She referred the Committee to the wording in the CTY10 Policy test and the relevant paragraphs of the Justification & Amplification of CTY10. The Committee needed to assess the information provided on the planning policy test.

Councillor McKinney said that the application doesn’t meet the Policy and if anyone wished to find out who owned the land, they should write to DAERA.

The Planning Manager said that many years ago when Planning NI done a consultation on strategic policy in the countryside, his department wrote back advising that the policy was unclear on active farming etc. He said that the review left everyone in the dark and his team had to work their way through things to find a solution that worked.

He said that with this application he wouldn’t be happy to support it and although the land is kept in good condition, it may be seen as double counting.

Councillor S McPeake advised that from 2015 to 2020 was clear cut but the issue is pre 2015 and enquired if items of expenditure could be taken into consideration up to 2015.

The Planning Manager stated that a definition of a business is a transaction, service or product to somebody and making money from it and this was a business transaction. He said that he couldn’t see any information to suggest that prior to 2015 that it was used as an active farm business and found it strange that no evidence can be provided to show this.

Councillor S McPeake enquired why an invoice can’t be classed as proof.

The Planning Manager stated that this was a two-way thing.

Councillor Clarke advised that there were invoices submitted for a number of years for hedge cutting.

The Planning Manager said that there was evidence to show agricultural activity and that officers try and do their best to adhere to good planning decisions. What the policy states is that the agricultural land must be in activity good environmental condition and it proves that payment was being made to someone to keep the land up to standard, but it doesn’t prove that the business was active and established. There was no DARD farm business ID because it is someone else’s business number and only shown as a transaction farming.

Mr Cassidy said that further evidence wasn’t sought by the Planners and all relevant documentation was sitting on his desk and felt that a deferral of the application would be the best solution.

Councillor S McPeake enquired if an affidavit from a Solicitor would be suffice.

The Planning Manager said that there was a need to be very careful seeking an affidavit from a Solicitor.

Councillor S McPeake said that this was a very grey area which a Solicitor could possibly stand over and provide an affidavit to be taken as read.

The Council Solicitor said that she remembered looking at the example before when previously raised by Councillor S McPeake but remained not overly convinced. She said that the Affidavit(s)/Witness Statement(s) would be better coming from applicant and those with first hand knowledge along with any supporting documentary evidence provided as this would carry more weight. She said that she wouldn't recommend an affidavit as suggested by Councillor S McPeake as a possible solution for this or other cases.

Proposed by Councillor Bell  
Seconded by Councillor Clark and

**Resolved** That planning application LA09/2019/1402/O be deferred for one month for further information.

### **Matters for Information**

#### **P030/20 Minutes of Special Planning Committee held on 30 January 2020**

Members noted minutes of Special Planning Committee held on 30 January 2020

#### **P031/20 Minutes of Planning Committee held on 4 February 2020**

Members noted minutes of Planning Committee held on 4 February 2020.

### **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Quinn  
Seconded by Councillor Brown and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P032/20 to P038/20.

#### **Matters for Decision**

P032/20 Receive Enforcement Report

#### **Matters for Information**

P033/20 Confidential Minutes of Special Planning Committee (Local Development Plan) held on 30 January 2020

P034/20 Confidential Minutes of Planning Committee held on 4 February 2020

P035/20 Receive Report on LDP – Draft Plan Strategy

P036/20 Enforcement Live Case List

P037/20 Enforcement Cases Opened

P038/20 Enforcement Cases Closed

**P039/20      Duration of Meeting**

The meeting was called for 7 pm and concluded at 9.20 pm

Chair \_\_\_\_\_

Date \_\_\_\_\_



## **ADDENDUM TO PLANNING COMMITTEE AGENDA**

### **FOR PLANNING COMMITTEE MEETING ON: 3<sup>rd</sup> Mar 2020**

**Additional information has been received on the following items since the agenda was issued.**

<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
3	Correspondence received from Planning Appeals Commission setting date for Hearing in respect of Upperlands applications (H/2009/0264/O, H/209/0270/F & H/2009/0271/LB)	Members to note.
4.2	Letter received Arlene Foster MLA	Members to note.
11	Venue in Clogher not available for LDP exhibition. Therefore, list of exhibition locations updated to include Fivemiletown instead of Clogher.	Members to note.