



04 July 2023

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Dungannon and by virtual means Council Offices, Circular Road, Dungannon, BT71 6DT on Tuesday, 04 July 2023 at 19:00 to transact the business noted below.

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

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

#### Development Management Decisions

5. Receive Planning Applications 7 - 164

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2021/0970/F	3G pitch, 12m high flood lighting, 6m high ball stop fencing, additional car parking, and new	APPROVE

		access onto Cooneen Road. at 39 Cooneen Road, Fivemiletown, for Fivemiletown United Football Club	
5.2.	LA09/2021/1256/F	Demolition of club house and construction of indoor training pitch; extension to ground floor changing rooms; extension to board room to provide new club house at Far Circular Road, Dungannon, for Dungannon Utd Youth	APPROVE
5.3.	LA09/2022/1363/F	Replacement of Fire Damaged Workshop/Store with a new increased size workshop/store at 31 Coalisland Road, Dungannon, for Mr Kevin Donnelly	APPROVE
5.4.	LA09/2022/1510/F	Cladded steel frame building to cover existing external concrete storage yard and associated site works at 7 Corchoney Road, Cookstown for Meteor Electrical	APPROVE
5.5.	LA09/2022/1675/F	Change of house type and amended siting from LA09/2018/0051/F (4 dwellings) at Off Mullaghmore, Approx 40m W of 17 Mullagh Road , Maghera for Mr Noel Young	APPROVE
5.6.	LA09/2023/0053/F	Demolition of existing Hall and Gym buildings to facilitate a new community health and well-being centre and a new covered multipurpose space (4G Pitch) with ancillary accommodation including a new gym and fitness suite; community social spaces; multi-purpose rooms; kitchen/servery and ancillary stores. External works include provision of a new grass pitch (GAA Standards) with floodlighting and ball net stops; a new single storey outbuilding for toilets/ plant and machinery storage; a new terrace hard standing area for spectator viewing; new walking trails and the re-configuration of existing on-site parking with a new vehicular access and associated	APPROVE

		landscape/ boundary works at 18 Halfgayne Road, Maghera, for Robert Emmets GAC Slaughtneil	
5.7.	LA09/2023/0147/O	Site for dwelling and garage at adjacent and N of 11 Tamlaght Road, Kilrea for Mr Terence Birt	APPROVE
5.8.	LA09/2023/0247/F	2 agricultural buildings, livestock and machinery storage at 180m NW of 10 Fallylea Lane, Maghera for S Kelly	APPROVE
5.9.	LA09/2023/0359/O	Infill dwelling and garage at land approx. 190m SE of 2 Lisalbanagh Road, Magherafelt for Mr Richard Brown	REFUSE
5.10.	LA09/2023/0373/O	Replacement dwelling at 270m SE of 101 Barnaghs Road, Dungannon for Mr Sean O'Donnell	REFUSE
5.11.	LA09/2023/0404/F	Retention of amended house type (approved under LA09/2020/0459/RM) at 72m NW of 21 Whitetown Road, Newmills, Dungannon for Mr David Weir	APPROVE
5.12.	LA09/2023/0487/O	Dwelling and garage adjacent to & SW of 65 Mullybrannon Rd, Dungannon for Mr Peter O'Donnell	REFUSE
5.13.	LA09/2023/0488/O	Dwelling and garage adjacent to and NW of 30A Dunseark Road, Dungannon for Mr Peter O'Donnell	REFUSE

6. Receive Deferred Applications

165 - 290

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2022/0063/O	Replacement dwelling and domestic garage adjacent to 16 Roshure Road, Desertmartin, Magherafelt for Mr Rodney MC Knight	REFUSE
6.2.	LA09/2022/0283/F	Dwelling at 71 Anneeter Road, Coagh, Cookstown for Mr Charles Mallon	APPROVE
6.3.	LA09/2022/0380/F	Dwelling and garage between 70B and 72 Gortlenaghan Road, Dungannon for Joe Doherty and Dervla MC Gonnell- Doherty	APPROVE
6.4.	LA09/2022/0381/F	Double infill for dwellings and garages at 170m SW of 219	APPROVE

		Dungannon Road, Cabragh for Brendan Goan	
6.5.	LA09/2022/0739/F	Buildings for wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works at lands approx. 7m N of 16 New Ferry Road, Bellaghy for Bulrush Horticultural Ltd	APPROVE
6.6.	LA09/2022/1288/O	Replacement dwelling at 15 Finulagh Road, Castlecaulfield for Ryan McGurk	REFUSE
6.7.	LA09/2022/1426/O	Site for dwelling and garage within a cluster at 40m NE of No 178 Battery Road, Moortown for Peter Devlin	REFUSE
6.8.	LA09/2022/1571/F	Dwelling on farm with detached domestic garage at site 150m NW of 10 Fallylea Lane, Maghera for S Kelly	APPROVE
6.9.	LA09/2023/0317/F	Infill dwelling and garage at 15m NW of 259 Hillhead Road, Knockcloghrim for Albert Speer	APPROVE

7. Receive Report on Review of the Planning (Development Management) Regulations (NI) 2015 – Initial stakeholder engagement. 291 - 308

Matters for Information

- 8 Minutes of Planning Committee held on 12 June 2023 309 - 370

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

Matters for Decision

9. Receive Report on MUDC response to Dfl's request for clarification on Draft Plan Strategy Submission
10. Receive Legal Advice regarding ongoing challenges (verbal report)
11. Receive Enforcement Report

Matters for Information

12. Confidential Minutes of Planning Committee held on 12 June 2023

13. Enforcement Cases Opened

14. Enforcement Cases Closed



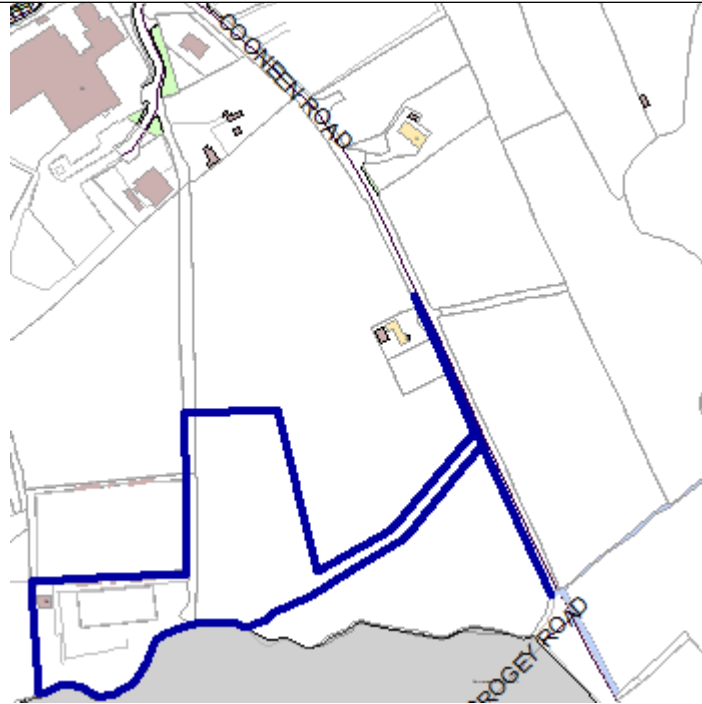


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.1
<b>Application ID:</b> LA09/2021/0970/F	<b>Target Date:</b> 21 January 2022
<b>Proposal:</b> Proposed 3G pitch, 12m high flood lighting, 6m high ball stop fencing, additional car parking, and new access onto Cooneen Road.	<b>Location:</b> 39 Cooneen Road Fivemiletown Tyrone BT75 0ND.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Fivemiletown United Football Club 39 Cooneen 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>  Approval with conditions	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
Statutory Consultee	NIEA	PRT LA09-2021-0970-F.PDF
Statutory Consultee	Rivers Agency	146668 - Final Response.pdf
Statutory Consultee	NIEA	PRT LA09-2021-0970-F.PDF

### Representations:

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

### Summary of Issues



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

The site is located at 39 Cooneen Road, Fivemiletown, Tyrone. It is located just outside the settlement limits of Fivemiletown. It includes an existing playing field and takes in the field adjacent to this. A new access is proposed off Cooneen Road. There are fields to the north, west and south of the site and Cooneen Road to the east. To the north is Fivemilwtown Industrial Estate and housing developments. To the immediate south is Fermanagh District.

## **Description of Proposal**

Proposed 3G pitch, 12m high flood lighting, 6m high ball stop fencing, additional car parking, and new access onto Cooneen Road.

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

### **Policy Consideration**

The following policies have been considered in the assessment of this application:

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Dunagannon Area Plan 2010

PPS2 - Natural Heritage

PPS 3- Access, Movement and Parking

PPS8 - Open Space, Sport and Outdoor Recreation

PPS21 - Sustainable Development in the Countryside

PPS 15 (Revised)- Planning and Flood Risk

The SPPS recognises that open space, sport and outdoor recreation is important to society now and in the future. Everyone, particularly children, older people and people with disabilities should have easy access to open space and the opportunity to participate in sport and outdoor recreational activity or simply enjoy and have contact with nature.

Policy COM1 of the Area Plan - Community Uses of the Dungannon Area Plan states that planning permission will be granted will be granted for community uses within settlement limits provided this would not prejudice comprehensive development, particularly on zoned sites, and where all the following criteria are met:

- there is no significant detrimental effect on amenity;

I am content that the proposal will not have a detrimental effect on amenity of any nearby residents. The residential properties are sufficient distance away not to be affected by the proposal. The proposal proposes floodlighting. Environmental Health were consulted and provided a condition.

- The proposal will not prejudice development on zoned sites, and it is not on phase 2 housing zoning.

There is no issues on the site with the above.

- there is no significant conflict with conservation interests;

The site is not located within a designated area, so will not conflict with any conservation interests.

- The proposal is in keeping with the size and character of the settlement and its surroundings;

I am content that the proposal is of a scale in keeping with the character of the adjacent settlement and its surroundings in the countryside.

- Where necessary, additional infrastructure is provided by the developer

I am content this has been addressed.

- There are satisfactory access, parking and sewage disposal arrangements.

I am content there will be no issues with sewage given the proposed use of the site. DfI Roads are content with the proposed parking and access.

#### PPS21 - Sustainable Development in the Countryside

Planning permission will be granted for non-residential development in the countryside in the certain cases. Policy CTY1 directs this type of development, outdoor sport and recreational uses, to be assessed in accordance with PPS 8. The proposal is in line with policies CTY13 and CTY14 in terms of integration and no detrimental impact on rural character. A new access is proposed off Cooneen Road, which follows an existing field boundary, it will not significantly change the character of this area.

#### PPS8- Open Space, Sport and Outdoor Recreation

Policy OS4- Intensive Sports Facilities states for the purposes of this PPS, include stadia, leisure centres, sports halls, swimming pools and other indoor and outdoor sports facilities that provide for a wide range of activities. Although the proposal may not be considered an intensive sports facility, it does provide for a wide range of activities with being a Multi Use Games Area. Permission will only be granted for intensive sports facilities where these are located within a settlement.

The existing playing field, which is within the application site, is noted in the Area Plan as existing recreational and open space, and will be retained as such, with an additional 3G pitch.

In all cases the development of intensive sports facilities will be required to meet all the following criteria:

- there is no unacceptable impact on the amenities of people living nearby by reason of the siting, scale, extent, frequency, or timing of the sporting activities proposed, including any noise or light pollution likely to be generated

As previously covered, I am content the proposal will not have an unacceptable effect on the amenity of nearby residents. No objections have been received.

- there is no adverse impact on features of importance to nature conservation, archaeology or built heritage

There will be no adverse impact on any of these features.

- buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment

I am content that the design of the development is of a high standard and is of an appropriate scale to the local area. I am satisfied the proposal is of a small enough scale as to not be a dominant feature within the local area.

- the proposed facility takes into account the needs of people with disabilities and is located so as to be accessible to the catchment population giving priority to walking, cycling and public transport

I am content that the proposal takes into account the needs of people with disabilities as it provides for disabled parking and access to the proposal is easily accessible. Although parking is provided at the site, the site is also readily accessible by walking and cycling in the local area.

- The road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for site access, car parking, drainage and waste disposal.

DFI Roads have no objections subject to conditions.

With regards the drainage at the site, DfI Rivers were consulted with no objections.

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

A new access is being proposed on Cooneen Road and DFI Roads were consulted and provided two conditions.

#### PPS2- Natural Heritage

NIEA- NED note the site contains bare ground, buildings, a ditch, grassland, hedgerows, scrub, trees and is adjacent to a watercourse. The agent provided a badger and otter survey and NED are content the proposed development is unlikely to significantly impact protected or priority species or habitats. NED also note no evidence of invasive species were found within the site. Conditions have been provided to be attached to any approval.

In terms of PPS15, FLD1, the development does not lie within the 1 in 100 fluvial or flood plain. FLD3 - There is a designated watercourse along the southern boundary of the site, so a working strip of min width of 5m should be retained for maintenance. Clear access and egress should be provided at all times. DFI Rivers have no objection to the submitted drainage assessment. FLD 4 - the site layout shows that a section of open drain is proposed to be piped. Under FLD4, Artificial modification to a watercourse is only permitted if it necessary for access or for engineering reasons. The agent has stated it is their intention to pipe this drain to provide greater structural stability for the 6m high ball stop fence and also improve health and safety for the applicant group for general access surrounding the fence, ball retrieval and fence maintenance, this reasoning is accepted in terms of meeting the criteria of FLD4. FLD5 is not applicable to the site.

#### Other policy and material considerations

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

September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

Approval is recommended with conditions.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

The development hereby approved shall be commenced within 5 years from the date of this permission.

Reason: Time limit.

**Condition 2**

No development shall take place on-site until the method of sewage disposal has been agreed in writing with NIW or a consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure protection to the aquatic environment and to help the applicant avoid incurring unnecessary expense before it can be ascertained that a feasible method of sewage disposal is available.

**Condition 3**

Within 4 weeks of a written request by the Planning Department, following a reasonable complaint about noise and/or lighting, the site operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise and/or light from the site at the complainant's property. Details of the noise and/or lighting monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To protect the amenity of residents.

**Condition 4**

The vehicular access (es), including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 02 bearing the date stamp 25 JUN 2021, prior to the (commencement/occupation/operation) 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.

**Condition 5**

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

**Signature(s):** Emma McCullagh

**Date:** 21 June 2023

<b>ANNEX</b>	
<b>Date Valid</b>	25 June 2021
<b>Date First Advertised</b>	8 July 2021
<b>Date Last Advertised</b>	6 July 2021
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 25 Ballylurgan, Fivemiletown, Tyrone, BT75 0PT</p> <p>The Owner / Occupier 23 Cooneen Road Fivemiletown Tyrone BT75 0NE</p> <p>The Owner / Occupier 39 Cooneen Road, Fivemiletown, Tyrone, BT75 0ND</p> <p>The Owner / Occupier 27 Ballylurgan Fivemiletown Tyrone BT75 0PT</p> <p>The Owner / Occupier 37 Cooneen Road Fivemiletown Tyrone BT75 0NF</p>	
<b>Date of Last Neighbour Notification</b>	9 July 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2021/0970/F Proposals: Proposed 3G pitch, 12m high flood lighting, 6m high ball stop fencing, additional car parking, and new access onto Cooneen Road. Decision: Decision Date:</p> <p>Ref: M/2011/0335/F Proposals: Proposed new 8m high floodlighting columns and associated floodlight settings. Removal of existing perimeter block wall and erection of new timber fencing. Decision: PG Decision Date: 16-JUN-11</p> <p>Ref: LA09/2022/1695/F Proposals: Replacement of existing grass pitch with 3G pitch Decision: Decision Date:</p>	

Ref: M/1978/0360  
Proposals: IMPROVEMENTS TO DWELLING  
Decision: PG  
Decision Date:

Ref: M/2009/0775/F  
Proposals: Rear single storey extension to allow shower room  
Decision: PG  
Decision Date: 23-OCT-09

Ref: LA09/2022/0092/PAN  
Proposals: Proposed 3G pitch, associated 12m high flood lighting, 6m high ball stop fencing, additional car parking and new access onto Cooneen Road  
Decision: PANACC  
Decision Date: 26-APR-22

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
NIEA-PRT LA09-2021-0970-F.PDF  
Rivers Agency-146668 - Final Response.pdf  
NIEA-PRT LA09-2021-0970-F.PDF

### **Drawing Numbers and Title**

Proposed Plans Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01  
Proposed Plans

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

Not Applicable



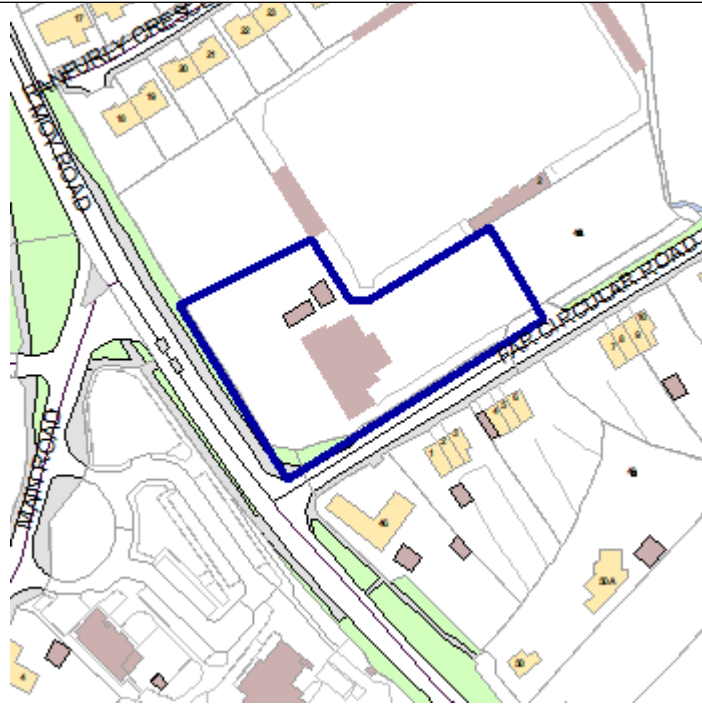
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.2
<b>Application ID:</b> LA09/2021/1256/F	<b>Target Date:</b> 22 October 2021
<b>Proposal:</b> Demolition of club house and construction of indoor training pitch.  Extension to ground floor changing rooms to provide more changing facilities to serve the proposed indoor training pitch.  Extension to board room to provide new club house in replacement for the club house that is to be demolished.	<b>Location:</b> Far Circular Road Dungannon BT71 6PP
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Dungannon Utd Youth Far Circular Road Dungannon BT71 6PP	<b>Agent Name and Address:</b> Sam Smyth Architecture Unit 45D DGN Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<b>Executive Summary:</b>  There was one letter of objection submitted from a neighbouring resident. The agent is now a member of Mid Ulster District Council's Building Control Department.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
Statutory Consultee	DFI Roads - Enniskillen Office	26-04-2023.docx

### Representations:

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

### Summary of Issues

A letter of objection was received from a neighboring dwelling and the agent is currently a staff member of Mid Ulster District Council's Building Control Department.

## Characteristics of the Site and Area

This application site occupies a portion of land in the south western corner of the Dungannon Swifts soccer grounds at Stangmore Park. The western boundary of the site runs alongside the A29 Moy Road which is a Protected Route and at a level higher than this site. The south eastern boundary of the site comprises palisade fencing and runs alongside the Far Circular Road which also sits at a level higher than the site, with steps allowing pedestrian access. The north eastern boundary of the site is undefined on the ground as it cuts through the existing tarmaced carpark. The north western boundary of the site is also undefined on the ground as it includes part of the existing outdoor 3G pitch which is enclosed by high nets and low walls.



The site is located within the development limits of Dungannon and is designated as an Existing Recreation and Open Space in the Dungannon and South Tyrone Area Plan. The site is approximately 800 metres from the Stangmore Roundabout and the area surrounding this site contains a variety of uses, within a 250 metre radius of this site are residential, retail, religious and educational facilities.



## Planning History

M/2014/0576/O - Proposed 3G training pitch and associated changing rooms. Proposed

conversion of existing grass pitch into a 3G surface. - Approval - 16.04.2015

M/2010/0376/F - Proposed floodlights to football field – Approval - 18.06.2010

M/2010/0183/F - Ground floor extension to existing changing rooms/clubhouse to provide storage – Approval - 29.03.2010

M/2009/0302/F – Proposed new clubroom building to provide new changing facilities - Approval - 09.06.2009

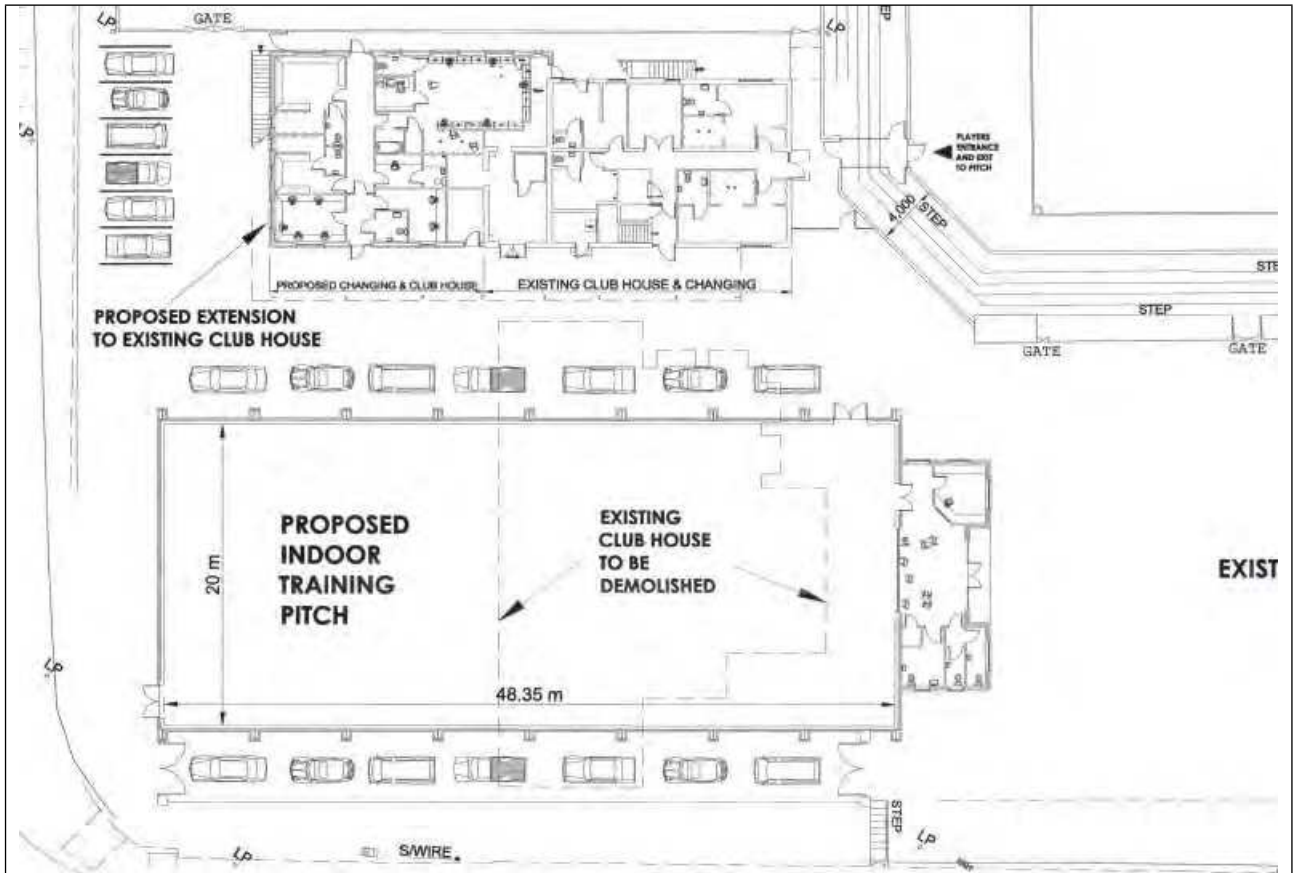
M/2007/1565/F - Proposed new clubroom building to provide new changing facilities. - Approval - 19.03.2008

M/1979/0153 – New Club facilities - Approval

M/1975/0230 – Temporary Clubrooms and Car Park - Approval

### **Description of Proposal**

This application seeks full planning permission for the demolition of club house and construction of indoor training pitch at the Dungannon Swifts football grounds on Far Circular Road, Dungannon. It also includes an extension to ground floor changing rooms to provide more changing facilities to serve the proposed indoor training pitch and an extension to board room to provide new club house in replacement for the club house that is to be demolished.



The indoor training pitch building will cover a footprint of 1,087 sq metres and will occupy the position of the existing clubhouse and some additional land either side. Currently the land to the west of the clubhouse is an informal grassed area which is not marked out in any way. The additional land to the east of the existing building is currently parking space. The indoor pitch building measuring 48.5 metres long and 20.6 metres wide proposes to sit parallel to the Far Circular Road. The rear gable western elevation which faces onto the Moy Road has a set of double doors. The southern elevation has no openings and the northern elevation seeing a set of double doors at each end of the building. This part of the building has a ridge height of 7 metres FGL with blue roof cladding and yellow buff brick walls. A projection on the eastern elevation accommodates the entrance to the building along with changing facilities and toilets. This part of the proposal has a lean to hipped roof with black concrete roof tiles, blue aluminium windows and sandstone cladding.



The extension to the clubhouse and changing building which sits to the north of the

indoor pitch building is proposed on the western elevation of the building. This will see an additional footprint of just under 200 sq. metres to provide changing facilities at ground level and a function room with bar on the first floor. It will have a footprint of 7.8 metres FGL to match the existing building and finishes to match also.

### Consultations and Representations

Environmental Health have taken into consideration the objector's comments and note the building of this indoor pitch will act as a barrier to the proposed extended clubhouse thus reducing any potential nuisance for residents along the Far Circular Road. They have no objections subject to a condition regarding any reasonable noise complaint being reported from this site.

DfI Roads were consulted and they requested information on

- Number of staff.
- Number of players / competitors.
- Number of spectators.
- Gross floor area of clubhouse / function room.
- Net floor area of Players' Lounge / Members Area

After discussing this proposal and the requests of DfI Roads, it was decided this information was not deemed necessary. This proposed development of the Indoor Pitch would not be utilised during times when a match is being played and therefore there will be no intensification of this existing access.

A total of 13 neighbours were notified about this proposed development.

There was 1 letter of objection received about this proposal from the residents of a dwelling directly adjacent to the existing clubhouse. They had concerns over noise levels and operating times. They said there were ongoing issues with noise from the clubhouse in the evenings and at night when functions are occurring. They had concerns regarding the use of this proposal as it has the potential to accommodate more people which could result in more noise. The objector also has concerns stating that the Far Circular Road is not fit for purpose and that during match times cars and buses are parked along this road making it very unsafe.

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

### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council submitted the

Draft Plan Strategy to the Department for Infrastructure (DfI) on 28<sup>th</sup> May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS outlines the aim to providing sustainable development and with respect to that should have regard to the Development Plan and any other material considerations. It retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The SPPS states that planning considerations for ancillary development to existing sport and outdoor recreation facilities will include, location, design, hours of operation, noise, impact upon visual and residential amenity, access and links to public transport, floodlighting, landscaping, public safety, nature conservation, biodiversity, archaeology or built heritage. As the site lies within the settlement limit of Dungannon as defined in the DSTAP, SETT 1 – Settlement Limits and COM 1 – Community Uses are relevant policies.

The neighbouring objector highlighted concerns regarding this proposal as identified above. Mid Ulster District Council's Environmental Health department visited the site and taking the objectors concerns into consideration, they have no objection to this proposed development. They went on to say the proposed building for the indoor pitch would actually provide a buffer to any noise. Any issues of noise can be reported to the Environmental Health Department who will investigate who will investigate complaints and determine if there are any unacceptable noise levels. I am content this proposal is sensitive to the character of the Dungannon and will not have an unacceptable impact on neighbour amenity. There is no Phase 2 Housing zoning or other zoned sites which could be prejudiced by this proposal. There are no Historic or Natural conservation designations which this proposal could conflict with. I am content the scale of this proposal is in keeping with the size and character of Dungannon. The site sits below the main road network which aids integration into the surrounding area which has a multitude of different uses. There is no additional infrastructure required by this proposal, no change to the access of this site and it complies with other relevant policy provisions.

DSATP safeguards all major areas of existing open space for that use through the zoning of the relevant areas such as this application site. As the site is zoned as Existing Recreation and Open Space, it is further protected by the provisions of PPS 8 Open Space, Sport and Outdoor Recreation. Policy OS 1 - Protection of Open Space in PPS 8 states development will not be permitted where it would result in the loss of existing open space or land zoned for the provision of open space. Planning permission will normally only be granted to proposals which are ancillary to the open space use of the land and which meet the requirements and guidance contained within DSTAP.

Para 5.8 of PPS 8 states that in relation to playing fields and sports pitches in urban areas, there may be exceptional circumstances where it is demonstrated that the

retention and enhancement of the facility can only be achieved by the redevelopment of a part of the area.

As the proposal would provide an extension to existing clubhouse and changing facilities and provide a new indoor pitch, I am satisfied these are ancillary features which will facilitate the enhanced operations of the existing recreation area. This enhancement will be advantageous for the wider community as it will be able to accommodate more people and improve fitness levels contributing to a healthier population.

This proposal would not have an adverse effect on the recreational potential or overall amenity of the site. I am content this proposal complies with OS 1 in that the established use on this site will not be changed but enhanced, therefore it complies with the policy requirements of PPS 8.

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

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

Approve is recommended

This site is within the grounds of an established residential amenity in Dungannon town and this proposed development will enhance the existing changing room facilities while also providing a covered indoor pitch. Taking the objectors issues into consideration, I am content any noise issues can be dealt with through the reporting of any noise nuisances to Mid Ulster District Council's Environmental Department who will then investigate. The issues regarding traffic seem to be referring to match days in particular, which is outside of the realms of this planning application as the proposed development will not be utilised at these times. I am satisfied this proposed development complies with the policy provisions of SETT 1 and COM 1 in DSTAP, as well as PPS 1 and the SPPS and recommend approval subject to conditions.

#### **Approval Conditions**

##### **Condition 1**

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

Reason: Time Limit

**Condition 2**

Within 4 weeks of a written request by the Planning Department, following a reasonable noise complaint the site operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the site at the complainant's property following the relevant guidance and procedures. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To ensure protection of residential amenity.

**Signature(s):** Cathy Hughes

**Date:** 22 June 2023



<b>ANNEX</b>	
<b>Date Valid</b>	27 August 2021
<b>Date First Advertised</b>	7 September 2021
<b>Date Last Advertised</b>	7 September 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 4 Stangmore Terrace Dungannon Tyrone BT71 6PP The Owner / Occupier 5 Stangmore Terrace Dungannon Tyrone BT71 6PP The Owner / Occupier 6 Stangmore Terrace Dungannon Tyrone BT71 6PP The Owner / Occupier 2 Stangmore Terrace Dungannon Tyrone BT71 6PP The Owner / Occupier 7 Stangmore Terrace Dungannon Tyrone BT71 6PP The Owner / Occupier 2 Main Road Moygashel Tyrone BT71 7QR The Owner / Occupier 18 Ranfurly Crescent Dungannon Tyrone BT71 6PH The Owner / Occupier 1 Stangmore Terrace Dungannon Tyrone BT71 6PP The Owner / Occupier 19 Ranfurly Crescent Dungannon Tyrone BT71 6PH The Owner / Occupier 21 Ranfurly Crescent Dungannon Tyrone BT71 6PH The Owner / Occupier 20 Ranfurly Crescent Dungannon Tyrone BT71 6PH The Owner / Occupier 46 Moy Road Dungannon Tyrone BT71 7DT The Owner / Occupier 3 Stangmore Terrace Dungannon Tyrone BT71 6PP	
<b>Date of Last Neighbour Notification</b>	17 November 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>

## **Planning History**

Ref: M/1997/0720

Proposals: Turnstiles and Toilet Block

Decision: PG

Decision Date:

Ref: M/2005/2148/E

Proposals: Improvements to Moygashel Waste Water Treatment Works.

Decision: 211

Decision Date:

Ref: M/1979/015301

Proposals: NEW CLUB FACILITIES ON VACANT GROUND ADJACENT TO EXISTING PLAYING FIELDS

Decision: PG

Decision Date:

Ref: M/1979/0153

Proposals: NEW CLUB FACILITIES

Decision: PG

Decision Date:

Ref: M/2004/0576/A

Proposals: 2 no. 48 sheet Advertisement hoarding

Decision:

Decision Date:

Ref: M/1975/0230

Proposals: ERECTION OF TEMPORARY CLUB ROOMS AND CAR PARK

Decision: PG

Decision Date:

Ref: M/2008/1022/LDP

Proposals: Improvements to Moygashel Waste Water Treatment Works

Decision: PG

Decision Date: 25-MAR-09

Ref: M/2014/0576/O

Proposals: Proposed 3G training pitch and associated changing rooms. Proposed conversion of existing grass pitch into a 3G surface

Decision: PG

Decision Date: 11-MAY-15

Ref: M/2009/0302/F

Proposals: Proposed new clubroom building to provide new changing facilities

Decision: PG  
Decision Date: 09-JUN-09

Ref: M/2007/1565/F  
Proposals: Proposed new clubroom building to provide new changing facilities.  
Decision: PG  
Decision Date: 21-MAR-08

Ref: M/2010/0183/F  
Proposals: Ground floor extension to existing changing rooms/clubhouse to provide storage  
Decision: PG  
Decision Date: 04-MAY-10

Ref: M/1990/0001  
Proposals: Illuminated Sign  
Decision: PG  
Decision Date:

Ref: M/1989/0630  
Proposals: Spectators Stand  
Decision: PG  
Decision Date:

Ref: M/2008/0482/F  
Proposals: Proposed mixed business/recreational building incorporating a retail outlet, storage provision and a keep fit gym facility  
Decision: PG  
Decision Date: 24-JUL-08

Ref: M/2009/0226/A  
Proposals: Shop Sign  
Decision: CG  
Decision Date: 20-APR-09

Ref: M/2007/0275/O  
Proposals: Proposed printing works and shop 2 storey.  
Decision: PR  
Decision Date: 17-AUG-07

Ref: M/2009/0224/F  
Proposals: Proposed mixed business and recreational single storey building incorporating a retail outlet (shop and printing works) and keep-fit suite (with changing rooms and showers)  
Decision: PG  
Decision Date: 08-JUL-09

Ref: M/2010/0376/F  
Proposals: Proposed floodlights to football field  
Decision: PG  
Decision Date: 10-AUG-10

Ref: LA09/2021/1256/F  
Proposals: Demolition of club house and construction of indoor training pitch.

Extension to ground floor changing rooms to provide more changing facilities to serve the proposed indoor training pitch.

Extension to board room to provide new club house in replacement for the club house that is to be demolished.

Decision:  
Decision Date:

Ref: M/2005/1798/A  
Proposals: 1 No A8 sheet ad . Horadings  
Decision: CG  
Decision Date: 23-NOV-05

### **Summary of Consultee Responses**

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR  
DFI Roads - Enniskillen Office-26-04-2023.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Elevations and Floor Plans Plan Ref: 03  
Elevations and Floor Plans Plan Ref: 04  
Cross Sections Plan Ref: 05

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

Not Applicable

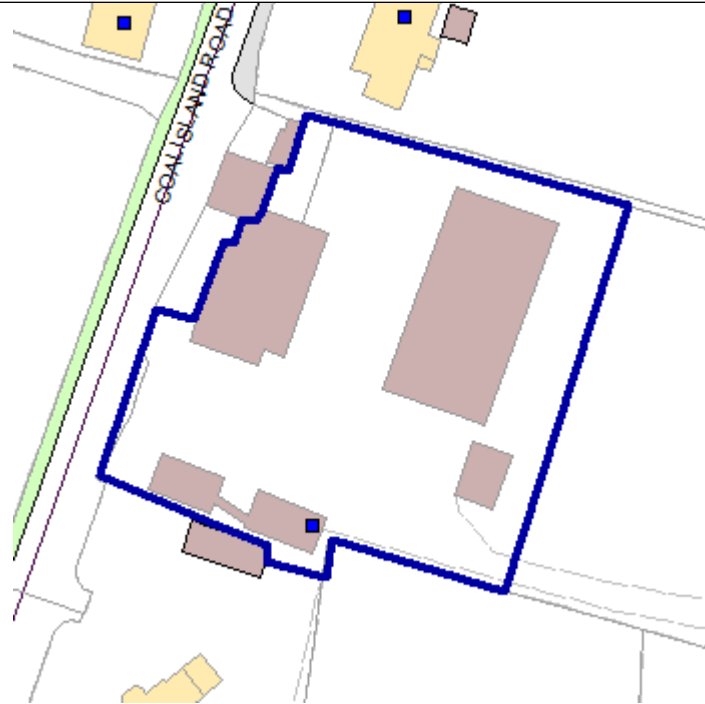


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.3
<b>Application ID:</b> LA09/2022/1363/F	<b>Target Date:</b> 23 December 2022
<b>Proposal:</b> Replacement of Fire Damaged Workshop/Store with a new increased size workshop/store	<b>Location:</b> 31 Coalisland Road Dungannon BT71 6LA
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Kevin Donnelly 31 Coalisland Rd Dungannon BT71 6LA	<b>Agent Name and Address:</b> Mr John Aidan KELLY 50 Tullycullion Road DUNGANNON BT70 3LY
<b>Executive Summary:</b>  There were objections from an adjacent property to this application.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation response.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - recon response.docx

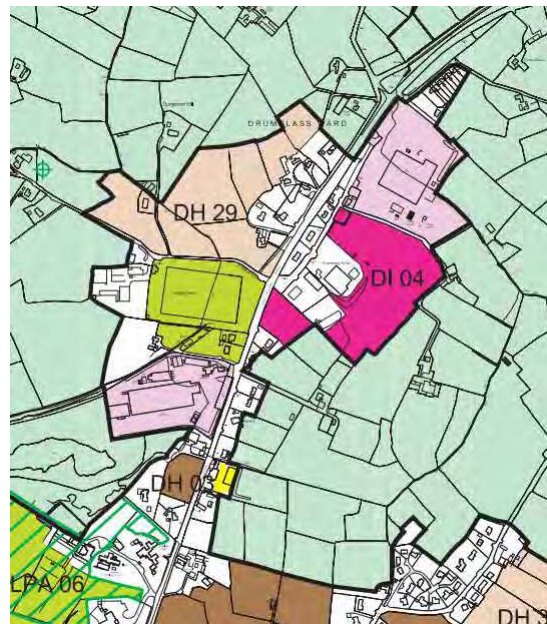
### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

This application site is located at No 31 Coalisland Road, Dungannon and occupies a square shaped plot of land. It sits to the east of the A45 Dungannon to Coalisland Road and measures 0.5 hectares. It lies within the northern part of the development limits of Dungannon and is not zoned in the Dungannon and South Tyrone Area Plan (DSTAP). As indicated in yellow on the map below, this site is located just within the confines of the settlement limits of Dungannon, with the area surrounding the site comprising a variety of uses. These range from educational to the south at Sperrinview Special School and Oakridge Social Education Centre, light industry at RM Engineering to the north on the opposite side of the road, community facilities at St Malachy's Edendork GAC as well as the adjacent Car Wash and surrounding residential properties.



Within the site there are 2 small buildings one of which has a corrugated roof which are sited along the vegetated southern boundary. A blue shipping container sits parallel to the road and along the western boundary of the site. The existing workshop sits in the north eastern corner of the site.

The northern boundary of the site is well vegetated and treed, defining the curtilage of this site and the neighbouring bungalow at No 35 Coalisland Road. The site is approximately 65 metres deep from the roadside as it rises in an easterly direction. The eastern boundary is an earthen bank which is also the settlement limit of Dungannon. This boundary separates the adjacent land which sits at a higher level than this application site and is also within the applicant's ownership. This land adjacent to the site is located in the countryside as is evident from the Map from DSTAP and it is accessed via a concreted lane from the yard area of the site and currently there are some materials stored throughout the site outside uncovered. The southern boundary of the site is vegetated with a concrete wall closer to the access separating the site from the curtilage of the large 2 storey dwelling Enfield and its associated outbuildings. The

western boundary of the site goes along the roadside at the southern corner and is a gated access with a wire security fence. This boundary is then a concrete wall which runs along the front of the shipping container and continues along to the rear of the old forecourt building. Immediately adjacent to and between this application site and the road for part is an old petrol filling station. The old building associated with this former Oaks Road Service Station is sits adjacent to and outside of the north western corner of the site. The associated canopy is still erect and the forecourt is currently utilised by Gold Valeting Centre and Car Wash.



## Planning History

M/1989/0150/F - Extension to Workshop (Workshop to be extended was approved in 1988 but has not yet been built) - Beside 31 Coalisland Road Lurgaboy Dungannon

M/1987/0671 - WORKSHOP FOR FABRICATION OF MOBILE CLASSROOM - Adjacent To 31 Coalisland Road, Lurgaboy, Dungannon

M/1984/0465 – DWELLING - Coalisland Road, Lurgaboy, Dungannon -

M/1979/0722 - WORKSHOP AND OFFICES FOR PLANT MACHINERY -

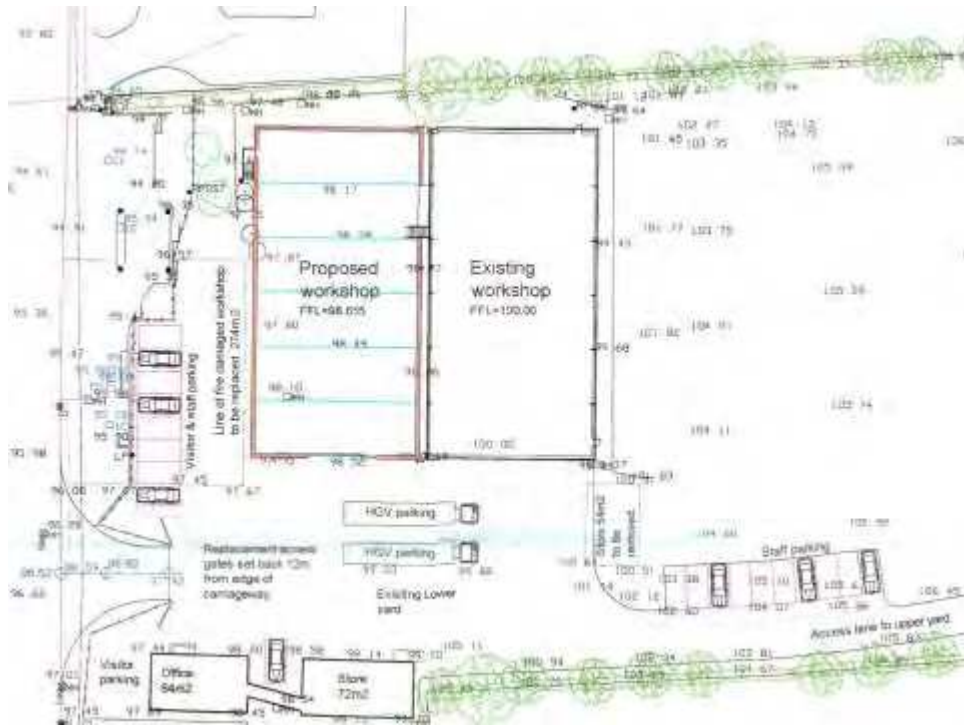
M/1978/0629 – PRIVATE DWELLING HOUSE - Coalisland Road, Dungannon

M/1974/0410 - PETROL FILLING STATION STORE - Upper Annagher, Coalisland

## Description of Proposal

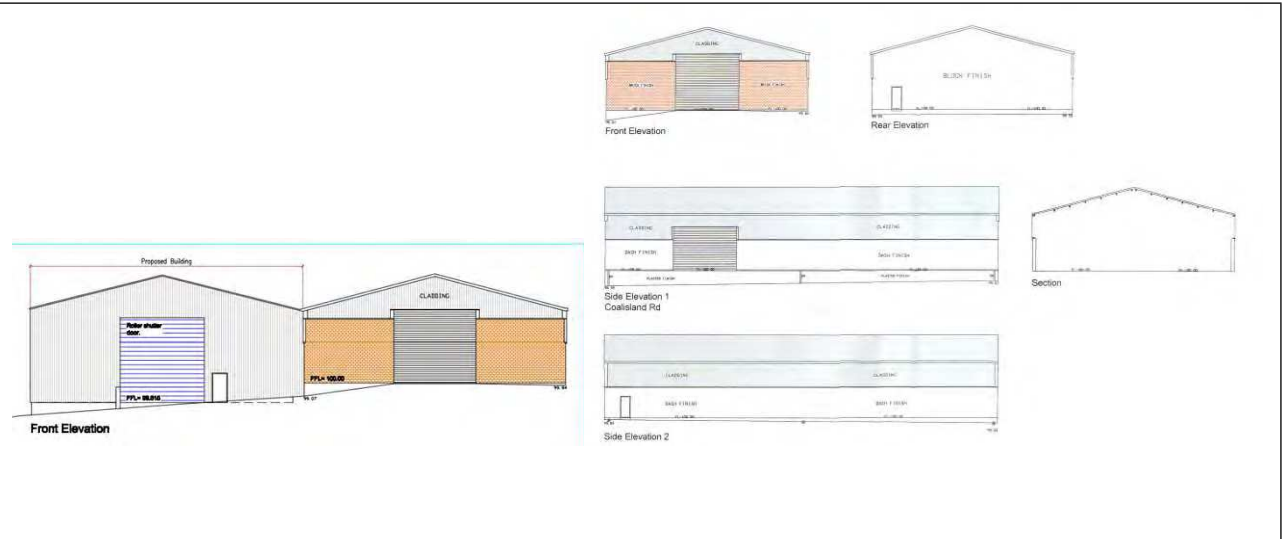


This application seeks full planning permission for the replacement of a fire damaged Workshop/Store with a new increased size workshop/store at 31 Coalisland Road, Dungannon.



The new workshop will sit adjacent to the existing workshop and although it is the same width and length and will occupy a similar footprint, due to the ground sloping to the roadside, it will have a higher ridge height but will be the same height as that which is currently there.

A shutter door is proposed on the front southern gable with a fire exit door in the north western corner of the building. A roller shutter door is located along the western elevation of the existing building which will connect to this new proposed building. This application also proposes a new double gate with black IbeX fencing 2.4 metres in height along the front of the site and along the western boundary. This application will see the removal of the shipping container with some 19 car parking spaces are provided as well as 2 HGV parking spaces provided.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

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

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

The Dungannon and South Tyrone area Plan (DSTAP) is the relevant plan for this site, which sits outside of any settlement. Plan Policy IND 1- Industry and Mixed Business Use states that planning permission will normally be granted for industry, storage and distribution, and other appropriate business uses within these areas where the proposed development meets the key site requirements identified in Part 3 of the Plan.

The SPPS affirms the planning system has a key role in achieving a vibrant economy and aims to facilitate economic development needs in ways consistent with the protection of the environment and the principles of sustainable development. Planning should facilitate economic development in a sustainable manner while also supporting the re-use of previously developed economic development sites and buildings where they meet the needs of particular sectors. All applications for economic development

must be assessed in accordance with normal planning criteria, with consideration given to access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development. The SPPS retains the policy provisions of PPS 3 and PPS 4, of which are applicable to this proposed development.

This proposed development seeks to replace a workshop/store which was later destroyed by fire and measured 274 sq. metres, as is visible in the 2016 orthophotograph below. The new proposed building has a footprint of 670 sq. metres and would result in the current workforce doubling to 10 staff if permission is granted. It is an extension to Port-A-Com Ltd the business currently on the site who manufacture mobile buildings. This proposal will fall under the Class B2 and Class B4 in the Planning (Use Classes) Order NI 2015.



Policy PED 1 - Economic Development in Settlements in PPS 4 states that any proposal for Class B2 - Light industrial and B4 - Storage or Distribution units will be permitted where it is demonstrated that the scale, nature and design of the proposal is appropriate to the character of the settlement and it is not incompatible with any nearby residential use. Policy states a proposal will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial/employment area provided it is of a scale, nature and form appropriate to the location.

Although this application site does not lie within an area zoned in DSTAP specifically for industrial use, there is an existing industrial use on this site due to the presence of the applicant's business and the planning histories confirm this has been long established here. I therefore regard this site as an existing area of employment and is in compliance it with Policy PED 1.

Policy PED 9 General Criteria for Economic Development states a proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet all the following criteria:

(a) it is compatible with surrounding land uses;

The applicant's business is long established on this site as is evident from the 2003 orthophotograph below and the planning permissions referred to earlier in this report. There is a history of industrial enterprise in this vicinity of the town, with a large light industrial business located 150 metres to the north west of this site at RM Engineering which is on the old site where Tyrone Brick operated.



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

A total of 5 neighbouring properties adjacent to the site were notified and there were 2 letters of objection to this proposal from an adjacent neighbouring dwelling. The objector noted that a sunroom on the southern gable of their dwelling would be impacted by this proposed building. Concern was raised about having to continuously clear soot from the site as a result of the fire and a new workshop on this site will only accentuate the risk of the event occurring again. The objector also mentioned noises of hammering and banging coming from the existing shed from 7 AM will only intensify with the proposed increase of employees as a result of this proposed development.

Due to the existing intervening vegetation along the northern boundary of the site, I would not be overly concerned regarding any further loss of light. It is in the applicant's own interest and that of their staff and adjacent property owners that fire and safety regulations are adhered to, which are outside of the realm of planning control. With regards to any potential noise nuisance, as is detailed below the restriction on operational hours from this proposed building will ensure that noise will only be permitted

during the aforementioned days and times noted in the condition. Any contravention of these conditions can be dealt with by Mid Ulster District Council's Environmental Health Department.

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

There are no natural or built heritage issues with this proposal.

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

The site is not located within any designated flood plain or an area susceptible to flooding.

(e) it does not create a noise nuisance;

Environmental Health were consulted on this proposal and upon visiting the site they noted that the nearest 3rd party sensitive receptor is located <10m north from the proposed development. Taking this into consideration along with the presence of the intervening vegetation and the concerns highlighted by the objector as discussed above, they have recommended conditions be attached to any permission in order to ensure residential amenity is not negatively impacted. These conditions restrict the hours the business can operate from this proposed building, the hours of deliveries or despatching of goods to the proposed development as also curtailed and any construction or manufacturing of products in the external yard areas of the business. I am satisfied these conditions attached to any permission will minimise any noise nuisance from this proposed building, and non-compliance with these conditions if found to be correctly reported will be subject to investigative site inspection of the business to determine if there are any breaches of condition.

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

From the information submitted this proposal does not involve the discharge of any emissions or effluent.

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

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

DFI Roads were consulted and they requested additional information:

Showing the 2.4m x 120m visibility splays in both directions from entrance which

requires the utility pole within the road verge to be set back.  
Transport Assessment Form detailing vehicular movements per day.  
Provision of and layout of the required 18 parking spaces, of which one is adequate for disabled parking and 2 HGV parking bays one for each workshop.  
Indicate 18m turning circle area for HGV,s.

Following the submission of amendments, DfI Roads are content that subject to the provision of visibility splays this proposal complies with the provisions of PPS 3.

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

As this site is located within the settlement limits of Dungannon, public transport is available along the main road and the site is very accessible by car. This site is safe and accessible for pedestrians as there is a footpath on the opposite side of the road also.

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

In terms of layout and design, the proposal is of appropriate design and it matches what is currently on site.

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

I am content that due to the presence of existing vegetation along the northern and southern boundaries of this site and the set back distance from the road that enclosure of this site is acceptable.

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

This proposal including the erection of new fencing along the western roadside boundary of the site which will further enhance security of the site.

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

This application is within the development limits of Dungannon.

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

**Summary of Recommendation:**

Approve is recommended

I am content having considered the concerns of the objector that this proposal meets the policy requirements of the SPPS, the Dungannon and South Tyrone Area Plan as well as PED 1 and PED 9 in PPS 4 and therefore is recommended for approval subject to the following conditions.

**Approval Conditions**

**Condition 1**

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

Reason: Time Limit

**Condition 2**

The vehicular access(es) including visibility splays of 2.4m x 120m both directions and any forward sight distance shall be provided in accordance with Drawing No 01 Rev 1 dated 24th March 2023 prior to the commencement/occupation/operation of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40)

minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

#### Condition 4

No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No(s) 01 Rev 1 bearing date stamp 24th March 2023 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles. The parking facilities detailed in Drawing No 01 Rev 1 bearing date stamp 24th March 2023 shall be open for use during all hours of business.

Reason: To ensure the safety of customers and staff.

#### Condition 5

There shall be no site operation at the proposed development site outside 07:00 hours - 18:00 hours Monday to Friday, 07:00 hours - 13:00 hours Saturday, and no site operation at the proposed development site on Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise.

#### Condition 6

There shall be no deliveries or despatch of goods to the proposed development outside 07:00 hours - 18:00 hours Monday to Friday, 07:00 hours - 13:00 hours Saturday, and no delivery or despatch of good on Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise

#### Condition 7

There shall be no construction or manufacturing of products in the external yard areas of the business, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect residential amenity from noise.

#### Condition 8

The development hereby permitted shall be used only for the purposes specified in Class B2 - Light Industrial and B4 - Storage or Distribution, as defined in the Planning (Use Classes) Order (NI) 2015.

Reason: To protect nearby residential amenity from noise and odour



**Signature(s):** Cathy Hughes

**Date:** 22 June 2023

<b>ANNEX</b>	
<b>Date Valid</b>	9 September 2022
<b>Date First Advertised</b>	22 September 2022
<b>Date Last Advertised</b>	22 September 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier RNN 30 Coalisland Road Dungannon BT71 6LA</p> <p>The Owner / Occupier 28 Coalisland Road Dungannon BT71 6LA</p> <p>The Owner / Occupier 32A Coalisland Road Dungannon BT71 6LA</p> <p>The Owner / Occupier 35 Coalisland Road Dungannon BT71 6LA</p>	
<b>Date of Last Neighbour Notification</b>	27 October 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2012/0076/F Proposals: Replacement of existing dwelling and proposed domestic garage Decision: PG Decision Date: 02-APR-12</p> <p>Ref: M/1990/0383 Proposals: BP Oil Re-Imaging of forecourt Decision: PG Decision Date:</p> <p>Ref: M/1977/0300 Proposals: REMOVAL OF 2 NO PETROL TANKS AND INSTALLATION OF 1 NO 8,000 GALLON TANK Decision: PG Decision Date:</p> <p>Ref: M/1974/0410</p>	

Proposals: PETROL FILLING STATION STORE

Decision: PG

Decision Date:

Ref: M/2003/0820/A41

Proposals: Existing use of land

Decision: 300

Decision Date: 16-JUL-03

Ref: LA09/2022/1363/F

Proposals: Replacement of Fire Damaged Workshop/Store with a new increased size workshop/store

Decision:

Decision Date:

Ref: M/2004/1696/Q

Proposals: Proposed site for Housing

Decision: 300

Decision Date: 10-NOV-04

Ref: M/2006/2136/LDP

Proposals: Proposed sun room extension to dwelling

Decision: PG

Decision Date: 26-JUN-08

Ref: M/1984/0465

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: M/1987/0671

Proposals: WORKSHOP FOR FABRICATION OF MOBILE CLASSROOM

Decision: PG

Decision Date:

Ref: M/1989/0150

Proposals: Extension to Workshop (Workshop to be extended was approved in 1988 but has not yet been built)

Decision: PG

Decision Date:

Ref: M/1978/0629

Proposals: PRIVATE DWELLING HOUSE

Decision: PG

Decision Date:

Ref: M/1979/0722

Proposals: WORKSHOP AND OFFICES FOR PLANT MACHINERY

Decision: PG

Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation response.docx

Environmental Health Mid Ulster Council-Planning response.pdf

DFI Roads - Enniskillen Office-Roads Consultation - recon response.docx

**Drawing Numbers and Title**

Proposed Plans

Site Location Plan Plan Ref: 2511-103

Proposed Elevations Plan Ref: 2511-104

Site Location Plan Plan Ref: 01 Rev 1

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2022/1510/F	<b>Target Date:</b> 1 February 2023
<b>Proposal:</b> Erection of clad steel frame building to cover existing external concrete storage yard and associated site works	<b>Location:</b> Meteor, 7 Corchoney Road Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Meteor Electrical 7 Corchoney Road Cookstown BT80 9HU	<b>Agent Name and Address:</b> ARC-EN 3A Killycolp Road Cookstown BT80 9AD
<b>Executive Summary:</b> <p>This is an application for the erection of a large steel portal framed building to cover an existing external storage yard at Meteor Electrical. Meteor Electrical are electrical wholesalers, who operate from a 200,000 square ft warehouse based around 8Km west of Cookstown town centre.</p> <p>The site is positioned to the rear of a large commercial site on the minor Corchoney Road and just a short distance off the main A505 Drum Road which is a Protected Route.</p> <p>A single objection was received from a neighbour raising the issues listed below.</p> <p>The proposal meets the policy considerations of Policies PED 3 and PED 9 of PPS 4 in relation to the expansion of an established economic business in the countryside. All consultees - DfI Roads, Environmental Health, DfI Rivers and NI Water all responded to the consultation advising that they had no issues of concern subject to advice and/or suggested conditions.</p> <p>The proposed development is therefore presented to Committee with a recommendation to approve subject to the suggested conditions as listed below.</p>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-22-1510.pdf
Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1510-F.pdf
Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1510-F.pdf
Statutory Consultee	Rivers Agency	58013 - Final Response.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1510-F.pdf

### Representations:

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

Number of Petitions of Objection and signatures	
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### Summary of Issues

One representations has been received in relation to this application and relates to the following issue:-

The objector resides at No.1 Corchoney Road which was not listed as a neighbour, However, the objector also owns a dwelling at No.11 Corchoney Road which was notified as a neighbour. No. 11 is vacant and derelict, as advised in the objection. Any further communications should be sent to No.1 Corchoney Road.

- Although No.11 was neighbour notified, it was not entitled to be as it is unoccupied and as there is an agricultural field between the dwelling and the site, it is not immediately adjacent to the proposed site . The objectors property at No. 1 is not adjacent to the site and therefore is not entitled to neighbour notification.

Health and safety aspects of the works as well as the proposed development creating a sheer cliff face on the site boundary which has implications for livestock and anyone tending the livestock.

- The health and safety of all persons working or attending the site is not a planning issue and is regulated by other legislation. It is however, a matter of concern for the proposed developer to consider. The proposed development necessitated the excavation of ground levels down to the same level as the existing ground levels. Although this resulted in a cliff face, the provision of a boundary fence to keep livestock secure is a matter for the livestock owner.

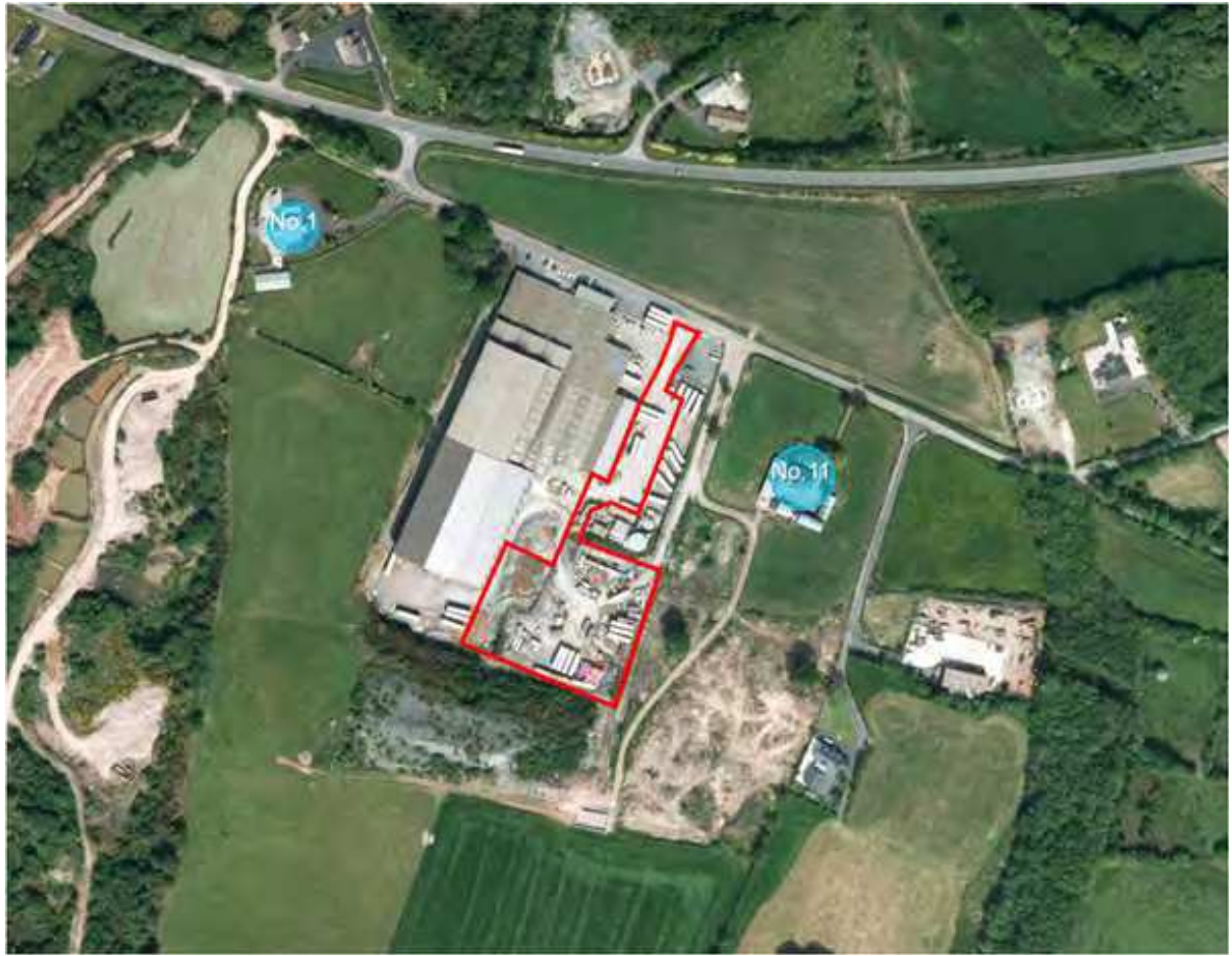
The applicant is progressing without planning approval.

- It is not an offence to undertake a development without planning approval. However, any development undertaken in the absence of the necessary statutory approvals is at the developers own risk.

Have the works on site been inspected by Building Control and Health and Safety.

- Building Control were notified regarding the proposed development and advised that they would issue a letter requesting a building control application. Health and Safety Executive do not comment on the erection of industrial sheds and have not been consulted.





The above map shows the application site outlined in red with the objectors property at No 1 to the north west and the vacant/derelict dwelling at No.11 to the east.

**Characteristics of the Site and Area**

The site is located outside any defined settlement limits as identified in the Cookstown Area Plan 2010. The site encompasses a portion of a large electrical wholesale business which has a 140m frontage onto the Corchoney Road. The business has an office/administration building with visitor parking to the front and large warehousing/storage facilities towards the rear of the site. The majority of the site is secured by paladin security fencing. The site is accessed via an existing concrete yard and accesses directly onto the Corchoney Road, close to the north east corner of the site. The site, which had been excavated at the time of inspection, is fairly flat and sits at the same levels as the rest of the existing units. The agricultural land to the south west sits at a higher level and is around 5m higher. This high ground wraps around the southern corner of the proposed building to the extent that the amended plans include a level access into the first floor from the external ground levels.



Level access into the first floor level

The surrounding area is rural in nature and located on a minor road, however, the main A505 Drum Road is located in close proximity and there are public views into the site on approach from the east along Drum Road and also from the south east on approach along the Corchoney Road. The proposed building consolidates and is viewed in association with Meteor's overall site and associated buildings.

### **Description of Proposal**

The proposal, is for the erection of cladded steel frame building to cover existing external concrete storage yard and associated site works.



The proposed building with first floor area

The proposed shed measures 54.5m x 30.5m with an eaves height of 20.4m and a ridge height of 24.5m above finished floor level. The building was originally proposed as a single storey building but has been amended and erected as a two storey building.

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

### **Policy Consideration**

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2015
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 4: Planning and Economic Development

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

September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

#### Representations

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

#### Relevant History on Site

I/1983/0260 – Change of use from store to factory – Approved

LA09/2021/1372/F – Retention of lean to shed to the high bay area to facilitate kit assembly & retention of extension to the docking area – Approved 18.08.2022

#### Key Policy Considerations/Assessment

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

Cookstown Area Plan 2015 - The site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

The Strategic Planning Policy Statement for Northern Ireland states that the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal, as such existing policy will be applied.

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4 – Planning and Economic Development. PPS 4 advises that economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B 'Industrial and Business Uses' in the Planning (Uses Classes) Order (NI) 2015. I am content there is an established economic business on the site, therefore the proposal is for the extension of an established economic use in the countryside and Policy PED of PPS 4 is applicable.

PPS4 - Policy PED 3 Expansion of an Established Economic Development Use in the Countryside states permission will be granted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in

the site are of enterprise. In exceptional circumstances a major expansion will be granted where it is demonstrated that;

- relocation of the enterprise is not possible for particular operational or employment reasons;
- the proposal would make a significant contribution to the local economy; and
- the development would not undermine rural character.

In all cases, measures to aid integration into the landscape will be required for both the extension and the existing site.

The proposal is for the erection of a new two storey building measuring 54.5m x 30.5m which will cover an existing external concrete storage yard. The proposed building is located to the rear of the existing site and behind other existing buildings. Having seen the existing buildings on site, I am of the opinion that they are at full capacity and therefore the proposed building is necessary to allow for the expansion of the business. The footprint of the proposal creates an additional 1662m<sup>2</sup> giving a total floorspace of 3324m<sup>2</sup> over the two floors. It is considered that the proposed extension will further consolidate the existing business and help to secure the future of the business. The proposed building is in proportion to the existing buildings and it will integrate with the existing buildings on site. It is my opinion that the proposed development is acceptable in this case, it will not undermine rural character nor does it constitute a major expansion of the site. Although it is acknowledged that there will be views of the proposed building from both the Corchoney Road and the main Drum Road, in my opinion, the proposed building will group with the existing buildings and as it is set to the rear of the site, it will achieve an acceptable degree of integration, without having a detrimental impact on visual amenity.

As well as the policy requirements of Policy PED 3, it is also necessary for the proposed development to comply with Policy PED 9.

Policy PED9: General Criteria for all Economic Development lists 13 criteria proposals should meet;

a) the proposal is compatible with surrounding land use;

Meteor is a long standing business which is established on this site. The proposed expansion will assist in the efficient running of the existing business use in terms of operations carried out on site, as reflected in the P1 form. The proposed extension extends to the rear of the site, it is considered that given the existing use which has approval, the proposal is compatible for this site and locality.

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

Environmental Health have not raised any objections with respect detrimental impact on nearby neighbours subject to conditions. Although one 3rd party objection has been received, it did not raise any issues of the proposed development having a detrimental impact on residential amenity. It is also noted that the objectors dwelling is located 190m from the proposed building and is well screened from that by the existing buildings on site.

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

No built or natural heritage designations have been identified in close proximity of the site.

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

As the proposed building exceeds the 1000m<sup>2</sup> a drainage assessment was required. Consequently, DfI Rivers Agency were consulted and after assessing the flood risk and drainage assessment, did not raise any issues of concern.

e) it does not create a noise nuisance;

Environmental Health advised that they do not have any concerns regarding the proposal subject

to suggested conditions.

- f) it is capable of dealing satisfactorily with any emission or effluent;  
Environmental Health have raised no concern that the proposal will not deal satisfactorily with any emission or effluent. As the proposal is for a storage building, it is not anticipated that it will create any emission or effluent.
- g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;  
DfI Roads did not raise any issues of concern.
- h) adequate access arrangements, parking and manoeuvring areas are provided;  
DfI Roads did not raise any concerns regarding access, manoeuvring or parking.
- i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;  
DfI Roads were consulted on this application and have responded with no objections subject to conditions. As the site is located in a rural area, it is inevitable that most journeys to and from the site will be by private car.
- j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;  
The site layout, associated infrastructure and landscape arrangements are acceptable for this site and locality given the existing established business on site.
- k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;  
There are no proposals to change or to add to the existing boundaries, however, as the proposed building is set against and to the rear of similar existing buildings, the impact on visual amenity will be greatly reduced. It is also noted that the proposed building is to cover an existing area of external storage. The proposed building will reduce the amount of external storage and should therefore improve the visual amenity in that area.
- i) is designed to deter crime and promote personal safety;  
It is the responsibility of the developer to ensure that the proposal is designed to deter crime and promote personal safety. There is an existing security fencing surrounding the majority of the site which will aid in making the site secure.
- m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.  
The proposal will satisfactorily integrate into the countryside as it will read with existing buildings and storage yard and existing landscaping will assist with screening.

The proposal is, in my opinion, acceptable as it meets all the criteria of the above policies and therefore is considered to be capable of approval subject to the conditions listed below:-

**Summary of Recommendation:**

Approve is recommended

## Approval Conditions

### Condition 1

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

Reason: This is a retrospective application.

### Condition 2

The use of the building shall be restricted to storage only.

Reason: To protect residential amenity from noise.

### Condition 3

No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02/1 uploaded to the planning portal on 16th February 2023 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

### Condition 4

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

Reason: To protect residential amenity from noise.

**Signature(s):** Malachy McCrystal

**Date:** 20 June 2023





<b>ANNEX</b>	
<b>Date Valid</b>	19 October 2022
<b>Date First Advertised</b>	1 November 2022
<b>Date Last Advertised</b>	1 November 2022
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	29 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1979/0401  Proposals: BUNGALOW WITH DOMESTIC GARAGE AND STORE  Decision: PG  Decision Date:</p> <p>Ref: I/1999/0578/F  Proposals: Proposed 14.8 metre high extension to existing workshop for storage and use of an Automated 'Speedlock' Pallet Racking system (amended scheme)  Decision: PG  Decision Date: 02-AUG-00</p> <p>Ref: I/2004/1122/F  Proposals: Extension to existing storage building and use of automated pallet racking system  Decision: PG  Decision Date: 21-JUN-05</p> <p>Ref: I/2008/0004/F  Proposals: Proposed replacement domestic dwelling and garage.  Decision: PG  Decision Date: 19-AUG-08</p>	

Ref: LA09/2021/1372/F

Proposals: Retention of lean to shed to the high bay area to facilitate kit assembly & retention of extension to the docking area

Decision: PG

Decision Date: 18-AUG-22

Ref: LA09/2021/1270/LDE

Proposals: Construction of yard, laneway and access onto public road and use of same for commercial storage ,parking and turning

Decision: PG

Decision Date: 03-OCT-22

Ref: I/2008/0307/Q

Proposals: Proposed sand and gravel extraction.

Decision: 211

Decision Date:

Ref: LA09/2022/1510/F

Proposals: Erection of cladded steel frame building to cover existing external concrete storage yard and associated site works

Decision:

Decision Date:

Ref: I/1983/0260

Proposals: CHANGE OF USE FROM STORE TO FACTORY

Decision: PG

Decision Date:

Ref: I/1981/0287

Proposals: DWELLING HOUSE AND STORE

Decision: PG

Decision Date:

Ref: I/1996/0471

Proposals: Extension to Workshop

Decision: PG

Decision Date:

Ref: I/2006/0969/F

Proposals: Extension to Existing Storage Building & Use of Automated Pallet Racking System (amended drawings and information).

Decision: PG

Decision Date: 23-MAR-09

Ref: I/1997/0527

Proposals: Extension to Workshop

Decision: PG  
Decision Date:

Ref: I/2006/0623/F

Proposals: Extension to existing storage building & use of automated pallet racking system

Decision:  
Decision Date:

Ref: I/2000/0459/F

Proposals: Extension to existing workshop for dispatch area and offices

Decision: PG  
Decision Date: 09-NOV-00

Ref: I/1999/0166

Proposals: Proposed 33 K/V Overhead Line

Decision: PG  
Decision Date:

Ref: I/2007/0132/F

Proposals: Single storey steel framed portal building for the repair and maintenance of fleet vehicles.

Decision: PG  
Decision Date: 24-OCT-08

Ref: I/2006/0611/F

Proposals: Single storey steel framed portal building for the repair and maintenance of fleet vehicles

Decision:  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx  
Environmental Health Mid Ulster Council-Planning Response LA09-22-1510.pdf  
NI Water - Strategic Applications-LA09-2022-1510-F.pdf  
NI Water - Strategic Applications-LA09-2022-1510-F.pdf  
Rivers Agency-58013 - Final Response.pdf  
Environmental Health Mid Ulster Council-  
NI Water - Strategic Applications-LA09-2022-1510-F.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Floor Plans Plan Ref: 03  
Proposed Floor Plans

**Notification to Department (if relevant)**

Not Applicable



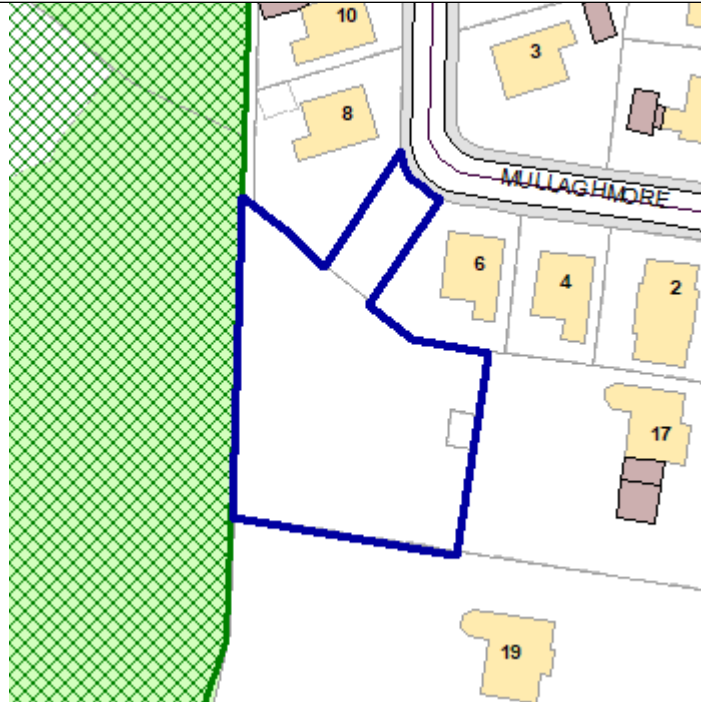
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.5
<b>Application ID:</b> LA09/2022/1675/F	<b>Target Date:</b> 16 March 2023
<b>Proposal:</b> Change of house type and amended siting from previously approved (Ref LA09/2018/0051/F) 4 No dwellings.	<b>Location:</b> Off Mullaghmore, Approx 40M West Of 17 Mullagh Road Maghera
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Noel Young 64 Hall Street Maghera BT46 5DA	<b>Agent Name and Address:</b> Mr Joe Diamond 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b> <ul style="list-style-type: none"><li>o Application for amended siting and house type of 4 houses approved under LA09/2018/0051/F. LA09/2018/0051/F has been commenced - access in and excavation of site.</li><li>o Houses need to be set back due to a watermain on site which cannot be built over</li><li>o Houses are now 4 bedroom instead of 3 and ridge height has increased by 0.4m</li><li>o Objections from 3 houses - 6, 8 mullaghmore and 17 mullaghmore road.</li><li>o Whilst houses are closer to 6 and 17, there is no significantly greater negative impact than what was approved.</li><li>o Rear amenity space has increased but is still acceptable - average of 71 sq. metres</li><li>o Biggest issue was new second floor gable floor window to accommodate 4th bedroom. This window has been removed from plans.</li></ul>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docxDC Checklist.doc

### Representations:

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

### Summary of Issues

- Application for amended siting and house type of 4 houses approved under LA09/2018/0051/F. LA09/2018/0051/F has been commenced – access in and excavation of site.
- Houses need to be set back due to a watermain on site which cannot be built over

- Houses are now 4 bedroom instead of 3 and ridge height has increased by 0.4m
- Objections from 3 houses – 6, 8 mullaghmore and 17 mullaghmore road.
- Whilst houses are closer to 6 and 17, there is no significantly greater negative impact than what was approved.
- Rear amenity space has increased but is still acceptable – average of 71 sq. metres
- Biggest issue was new second floor gable floor window to accommodate 4<sup>th</sup> bedroom. This window has been removed from plans.

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

The site consists of what appears to have been an area of waste ground but which is now undergoing pre development excavation. It is located to the rear of no 17 Mullaghmore Road and also to the rear of nos. 6 & 8 Mullaghmore. The area is a residential area with the typical dwelling being single storey or storey and a half dwellings in detached plots. The site is within the settlement limits of Maghera and directly abuts an LLPA designation to the south and west which has been designated to protect a range of features such as Attractive green slopes, Historical buildings and visual linkage between same, Church of Ireland Rectory, Tree groupings and Stream corridor

### **Description of Proposal**

Change of house type and amended siting from previously approved (Ref LA09/2018/0051/F) 4 No dwellings.

The agent has advised that due to the existence of a water mains, the dwellings cannot be built as approved but must be moved back to allow the mains to be accessible. The new proposal also involves an additional bedroom so the 4 houses now are 4 bedroom as opposed to 3 bedroom, including a second storey bedroom. As a result the ridge height has increased by approx. 0.4m. The ridge height from FFL according to the submitted drawings (04 rev 2) is now approximately 8.7m as opposed to 8.3m as approved under LA09/2018/0051/F

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

#### **Policy Consideration**



The principle of 4 no. houses on this site has been established under LA09/2018/0051/F. The permission appears to have been commenced, following my site inspection of 24<sup>th</sup> February 2023 with an access road constructed and general excavation / clearance of the site.

This application relates to the amended design and siting only therefore. In assessing these aspects of the development, consideration is given to the following policies;

- Magherafelt Area Plan 2015
- PPS 7 – Quality Residential Environments
- Creating Places
- PPS 3 – Access, Movement and Parking

#### Magherafelt Area Plan 2015

The site lies within the settlement limit on white land. The site abuts LLPA designation MA13. The features of the LLPA have been listed above and will not be compromised by this proposal.

#### PPS 7 – Quality Residential Environments and Creating Places

As mentioned above, the principle of this development has been approved. Therefore, the assessment for this proposal only relates to the alteration of the siting and house types and how this complies with PPS 7.

In relation to QD1, the only criteria which the amended design could potentially impact upon are listed below with consideration given to each in turn;

**(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;**

In order to accommodate the water mains and not build over it, the siting of the houses has been amended and they are being moved “back” towards the east slightly. The 4 houses are being moved back between 2.5 - 3m.

The result is that the private amenity space for each dwelling, to the rear, will be reduced. The initial proposal involved 3 houses with private rear amenity spaces of 85 sq. metres and one of 80 sq. metres. The amended siting proposals will mean that the rear amenity space will be reduced to 2 houses with 70 sq. metres, one with 67 sq. metres and one with 75 sq. metres.

Creating Places defines what is acceptable as an area of private amenity space. It states

that “to promote choice for residents a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq. metres per house or greater.”

The average area of private rear amenity space in this proposal (with amended siting) is 71sq. metres so this is acceptable in terms of provision, when assessed against the guidance contained within Creating Places.

**(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 alternative siting arrangements proposed as part of this application will not, in my opinion, have a negative impact on any neighbouring properties. The two properties that have the greatest potential to be affected negatively by this application are no. 6 Mullaghmore and no 17 Mullaghmore Road.

In relation to no 17 Mullaghmore Road, the properties are now closer to the boundary between the site and number 17. The original approval meant that there was a separation distance between the new houses and no. 17 of 34m – consisting of 10m from the proposed dwellings to the boundary and then a further 24m from the boundary to the rear wall of no. 17. The amended siting proposals will result in a reduced separation distance of around 31.5m with the separation distance between the rear wall of the new dwellings and no. 17 being reduced to 6.5m at the shortest point and 7.5 at the longest point.

In relation to separation distances, Creating Places states that;  
*Where the development abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking, with a minimum of around 10m between the rear of new houses and the common boundary.*

Therefore, whilst the overall recommended separation distance is still achievable in this instance, the recommended guidance of allowing “around 10m” from new properties to the shared boundary cannot be realised. However, having visited the site, I am comfortable with this proposal, given that the overall separation distance is still well above the recommended 20m. It is also apparent that there is a considerable boundary between both sites, and that this boundary bolsters the separation distance between both sites so that impact on the existing property is not significant. It is noted that the proposal also proposes bolstering this boundary with existing planting.

In relation to no. 6 the siting of the proposed dwellings approx. 3m back in the site (i.e. to the east) will bring them nearer to no. 6. The amended house type initially proposed an additional bedroom, which would have had a window on the gable wall overlooking into the kitchen / garden area of no. 6. I am of the view that the increased proximity of proposed houses to no. 6 in conjunction with the additional second floor window would have been unacceptable and would result in a loss of privacy to no.6.

However, upon request, the agent has removed the gable window from the additional bedroom on the second floor and replaced them with a sky light window. Therefore, I am content that while the houses will move closer to the existing dwelling at no 6 and be slightly higher in terms of ridge height, the additional 3m (approx.) of siting and 0.4m (approx.) of ridge height will not lead to an unacceptable adverse impact on no.6 in terms of overlooking, loss of light or loss of privacy.

I am therefore of the view that the proposed amended siting and house types are in compliance with policy QD1 of PPS 7 and the associated guidance in Creating Places.

### **ASSESSMENT OF OTHER MATERIAL CONSIDERATIONS**

There have been three objections to this proposal. I will assess the issues raised in each objection in the order they are raised. Objections have been received from no. 6 Mullaghmore and no. 17 Mullaghmore Road (the two addresses referenced above in my assessment) as well as from no. 8 Mullaghmore.

#### **No. 6 Mullaghmore**

An objection has been from no. 6 Mullaghmore. The objector claims that the development will impact negatively on their privacy and will have an unacceptable adverse impact on the objectors property “by virtue of loss of light, noise overshadowing and other disturbance.”

As has been outlined above in my assessment, this proposal is being assessed in terms of only considering the impact of the difference between the already approved (commenced) scheme and the one currently proposed.

The movement of the dwellings back to the east by around 3.5m will, while bringing the development closer to no. 6, not cause any significant impact on neighbouring amenity, in relation no. 6, greater than what was approved under LA09/2018/0051/F. The increase in ridge height is noted although it is small enough (0.4m) so as not to increase any overshadowing impact significantly. The provision of an additional window on gable second floor would have led to loss of privacy but this has been removed by the agent and so this issue has been managed successfully.

#### **No 17. Mullaghmore Road**

No. 17 Mullaghmore Road has lodged an objection, raising the following issues as points of concern;

- Changes to separation distance to boundary
- Reduction in level of amenity space
- Loss of privacy and overlooking of new dwellings to no. 17 as a result of reduced separation distances
- Impact on no 6 Mullaghmore
- Capacity of WWTW to cope with new dwellings
- Removal of trees in a TPO

Issues in relation to the separation distances between the site and no. 17 have been addressed in my assessment above. Likewise the issue regarding the reduced amenity space for the proposed dwellings.

The impact of the development on no. 6 has been considered and assessed above.

In relation to WWTW capacity, NI Water have not been consulted as part of this application as it does not propose any new connections to the sewer network / storm network / WWTW over and above what has already been approved under LA09/2018/0051/F.

During my site visit there was no evidence of tree removal along the boundary of the TPO site to the west. However, I have passed the complaint on to our Environment and Conservation team who will investigate the alleged breach of a TPO.

### No. 8 Mullaghmore

A letter of objection from no 8 Mullaghmore raises the following issues as objection comments;

- Close to adjoining properties
- Development too high - out of character with mullaghmore
- Increase in traffic and subsequent increase in pollution
- Loss of light
- Loss of Privacy
- Noise
- Out of keeping with the character of the area
- Over Development
- WWTW and Sewage issues
- Removal of protected trees.

The vast majority of issues in this objection relate to the general principal of the location of 4 houses at this site. The application currently under consideration relates to the amended siting and design of houses that *already have been granted* planning permission. Issues such as proximity to no. 8, traffic, WWTW capacity, two storey dwellings being out of character with the area etc. have been considered as part of the initial grant of planning permission.

This application relates to amended siting and change of house type of dwellings that have already been granted approval. From my reading of this objection, the only issues that I can detect which relate to the amended siting and change of house type are the claims that the proposed dwellings will now be “nearer again” to their property (no. 8) and that the loss of privacy will be exacerbated by the “addition of north facing windows.”

In relation to these specific points, the dwellings will be approx. 34m away from no.8 and I do not accept that this is too close for new dwellings to be located to existing dwellings, within an urban area like Maghera. The reference to additional north facing windows has

been addressed via the removal of the 2<sup>nd</sup> floor gable windows.

The remainder of issues addressed in this objection relate to the general principal of the development which has already been granted permission and which appears to have been commenced in time. The objector has raised issues about noise pollution for the surrounding area as a result of the development. However, this is a residential area, wherein a residential development has been proposed. It is hard to see how noise pollution (other than construction) could arise from this development and so, environmental health have not been consulted.

As mentioned above, the allegation of tree removal within the TPO have been forwarded for investigation.

**Summary of Recommendation:**

Approve is recommended

Given all of the above, I recommend that the development is approved, subject to the following conditions.

**Approval Conditions**

**Condition 1**

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

Reason: Time Limit.

**Condition 2**

The vehicular access including visibility splays shall be provided in accordance with Drawing No 02 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):** Colin McKeown

**Date:** 19 June 2023

<b>ANNEX</b>	
<b>Date Valid</b>	1 December 2022
<b>Date First Advertised</b>	7 March 2023
<b>Date Last Advertised</b>	13 December 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  17 Mullagh Road, Maghera BT46 5EB  The Owner / Occupier  19, Mullagh Road, Maghera BT46 5EB  The Owner / Occupier  4, Mullaghmore, Maghera, BT46 5DX  The Owner / Occupier  6 Mullaghmore, Maghera, BT46 5DX  The Owner / Occupier  8 Mullaghmore Maghera BT46 5DX  The Owner / Occupier  3, Mullaghmore, Maghera, BT46 5DX</p>	
<b>Date of Last Neighbour Notification</b>	22 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Roads Consultation full approval.docxDC Checklist.doc	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Elevations and Floor Plans Plan Ref: 03  
Proposed Elevations Plan Ref: 04  
Proposed Elevations Plan Ref: 04 REV 02  
Site Layout or Block Plan Plan Ref: 02 REV 01  
Proposed Plans Plan Ref: 03 REV 01  
Proposed Elevations Plan Ref: 04 REV 01

**Notification to Department (if relevant)**

Not Applicable



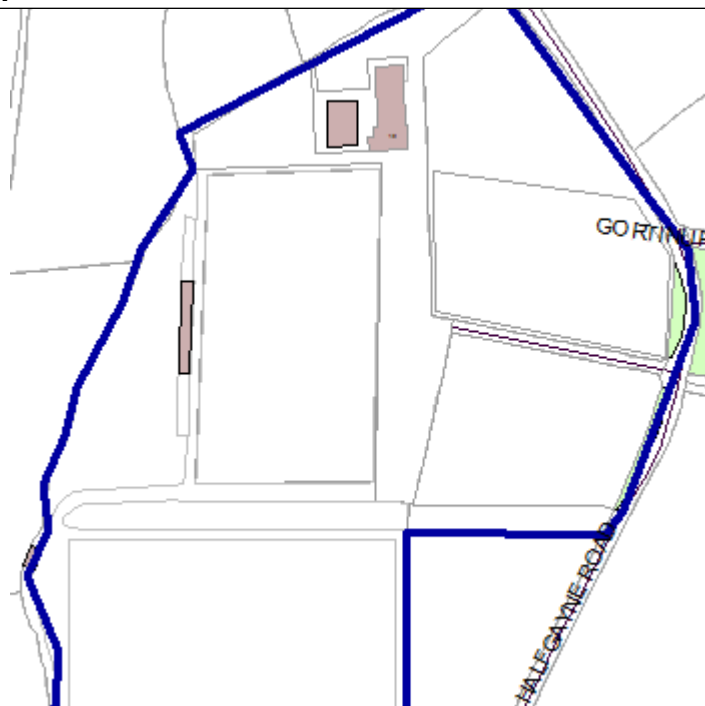


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.6
<b>Application ID:</b> LA09/2023/0053/F	<b>Target Date:</b> 8 May 2023
<b>Proposal:</b> Demolition of existing Hall and Gym buildings to facilitate a proposed new community health and well-being centre and a new covered multipurpose space (4G Pitch) with ancillary accommodation including a new gym and fitness suite; community social spaces; multi-purpose rooms; kitchen/servery and ancillary stores. External works include provision of a new grass pitch (GAA Standards) with floodlighting and ball net stops; a new single storey outbuilding for toilets/ plant and machinery storage; a new terrace hard standing area for spectator viewing; new walking trails and the re-configuration of existing on-site parking with a new vehicular access and associated landscape/ boundary works.	<b>Location:</b> 18 Halfgayne Road Maghera BT46 5NZ
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Robert Emmets GAC Slaughtneil 181 Glen Rd Maghera BT46 5LT	<b>Agent Name and Address:</b> Mr Paul Turley 15 Ravenhill Road Belfast BT6 8DN
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NIEA	
Non Statutory Consultee	Rivers Agency	452466 - Final reply.pdf
Statutory Consultee	NIEA	
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0053 F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist.doc Roads Consultation full approval.docx
Statutory Consultee	NIEA	PRT LA09-2023-0053-F ADV.PDF
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	NIEA	PRT LA09-2023-0053-F.PDF
Statutory Consultee	Rivers Agency	396101 - Final reply.pdf

<b>Representations:</b>	
Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<b>Summary of Issues</b>	
<p>No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below</p>	
<b>Characteristics of the Site and Area</b>	
<p>The application site is 6.83 ha and is located at Robert Emmet's Gaelic Athletic Club Slaughtneil; a Gaelic Athletic Association club based on the townland of Slaughtneil, near Maghera. The site is located outside the designated settlements limits as identified in the Magherafelt Area Plan, 2015.</p> <p>The site contains existing football pitches (4 no pitches with a mix of 2no senior grade and 2no junior pitches) with club house, community hall and gym buildings clustered to the northern boundary. Access is via 2no. existing vehicular gates onto Halfgayne Road and there is existing on-site (informal) parking areas (bitmac surface) wedged between the main pitch and the 2no. smaller junior pitches adjacent to Halfgayne Road.</p> <p>There is an established residential area (rural dispersed community) located to the South of the site. This small cluster of 6no. houses is called Roughan Glen. To the north of the site is existing mature screen boundary planting with farmyard (out buildings and sheds).</p> <p>To the West is existing boundary planting and farmlands. To the East of the site is the Halfgayne Road.</p>	



### The Site & Surrounding Context



### Description of Proposal

The applicant seeks full planning permission for the demolition of existing Hall and Gym buildings to facilitate a proposed new community health and well-being centre and a new covered multipurpose space (4G Pitch) with ancillary accommodation including a new gym and fitness suite; community social spaces; multi-purpose rooms; kitchen/servery and ancillary stores. External works include provision of a new grass pitch (GAA Standards) with floodlighting and ball net stops; a new single storey outbuilding for toilets/ plant and machinery storage; a new terrace hard standing area for spectator viewing; new walking trails and the re-configuration of existing on-site parking with a new vehicular access and associated landscape/ boundary works.

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

### **Policy Consideration**

The following Policy documents provide the primary policy context for the determination of this application;

1. Strategic Planning Policy Statement (SPPS)
2. Magherafelt area plan, 2015
3. Planning policy Statement (PPS) 21 – Sustainable Development in the Countryside
4. Planning Policy Statement (PPS) 8 – Open Space, Sport and Outdoor Recreation
5. Planning Policy Statement 3 (PPS 3): Access, Movement and Parking;
6. Planning Policy Statement 6 (PPS 6): Planning, Archaeology and The Built Heritage
7. Planning Policy Statement 15 (PPS 15): Planning and Flood Risk.

### **Planning History**

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

LA09/2022/1691/PAD - New community health and well-being centre and a new covered multi-purpose space with ancillary accommodation including a new gym and fitness suite; community social spaces; kitchen/serverly and stores. External works include provision of non-grass pitch (GAA Standards) with parking and landscape works., PAD concluded 21.03.2023

LA09/2022/1522/PAN - Proposed new community wellbeing centre - consisting of new covered 4G pitch with ancillary accommodation. External works include the provision of a new grass pitch (GAA standards); a new dedicated healthy walking trial within the existing sports grounds to provide healthy club initiatives; a new children playground area with new parking and landscape work, PAN accepted: 13-DEC-22

H/2009/0157/F - Proposed 27m long wall, 3m high, with 2m high ball stopper above, Permission Granted, 12-MAY-09

H/2008/0097/F- Proposed addition of 8No. floodlights to one of the two playing areas, Permission granted, 22-JUL-08

### **Representations**

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

## Assessment

The proposed works involves the demolition of existing Hall and Gym buildings to facilitate a proposed new community health and well-being centre and a new covered multipurpose space (4G Pitch) with ancillary accommodation including a new gym and fitness suite; community social spaces; multi-purpose rooms; kitchen/servery and ancillary stores. External works include provision of a new grass pitch (GAA Standards) with floodlighting and ball net stops; a new single storey outbuilding for toilets/ plant and machinery storage; a new terrace hard standing area for spectator viewing; new walking trails and the re-configuration of existing on-site parking with a new vehicular access and associated landscape/ boundary works.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

The Mid Ulster District Council Local Development Plan 2030; Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan

### PPS 21 – Sustainable Development in the Countryside

As outlined above, the site is located in the countryside and therefore PPS 21: Sustainable development in the countryside is applicable. Policy CTY 1 – Development in the Countryside directs us to PPS 8 – Open Space, Sport and Recreation to assess an application of this nature.

### PPS 8 – open Space, Sport and Outdoor Recreation

The proposed development will not have an adverse impact on features of importance to nature conservation, archaeology or built heritage. There will be no loss of agricultural land or impact on agricultural activities as the proposal is within the existing curtilage of Robert Emmets GAC Slaughtneil. I do not consider that the proposal will have any significant visual impact on the site and it will be screened by existing vegetation and can be readily absorbed into the landscape. There will be no unacceptable impact on the amenity of any residential dwellings nearby and the proposal does not prejudice public safety and will not create a detrimental or negative effect on the area and is in keeping

with the area in which it sits in terms of scale, form, massing and design. The proposed development is related to the existing recreational use of the site. The proposed facility appears to take into account the needs of people with disabilities and is as far as reasonably possible, accessible by means of transport other than private cars.

The proposed development of this application is related to the existing recreational use of the site and will not result in the loss of any existing open space in accordance with Policy OS 1 of PPS 8. I consider that the proposal complies with the policy provisions therein.

As noted previously, the applicant has not highlighted that the proposed works will intensify the use of the site and as such I am content that the existing access and parking facilities on the site are adequate.

#### Policy OS 7 – The floodlighting of sports and outdoor Recreational Facilities

There is existing floodlighting around the site and this application includes the addition of floodlighting around the perimeter of the new pitch, as indicated on drawing No 03 REVA. There will be no unacceptable impact on the amenities of people living nearby and I do not believe that there will be any adverse impact on the visual amenity or character of the locality and public safety will not be prejudiced. The Council's Environmental Health Department were consulted on the application and responded to say that they had no objections.

#### Policy OS1- Protection of Open space

The proposal will result in a loss of approx. 0.28Ha of the existing open space, however I believe that this is only a small loss and the proposal is still adequate in terms of the open space provided and it will have substantial community benefits for the local area.

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

DFI Roads were consulted on the application and responded to say that they were content with the proposal and offered no objection, subject to conditions. Therefore, I am content that the proposals meets the requirements of the policy as set out in PPS 3.

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

Historic Environment Division were consulted on the application and responded to say that the application site is in close proximity to a number of raths or enclosures (LDY 032:020;021; 022) and the site of an early medieval battle recorded as the Battle of Bealach-Guirt-aniubhair (LDY 032: 082). This application site is also over 6 hectares in size. Our experience has been that large development sites such as this are rarely

archaeologically sterile, and given the known archaeology within the immediate area, there is the potential for previously unrecorded below-ground archaeological remains to be found during ground works for the proposal. Historic Environment Division (Historic Monuments) has considered the impacts of the proposal. HED (Historic Monuments) is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6. The attached conditions would be appropriate in this case.

Rivers Agency were consulted on the application and requested the following information:

Schedule 6 response from DfI Rivers accepting discharge from the site.

Clear attenuation calculations based on rates stipulated within the Schedule 6 response.

10% additional allowance should be added for urban creep in calculations

Following discussions with the agent, they have said that discussions are ongoing between Rivers and their civil engineering consultant to agree the rate of run-off from the site and they are confident that an accepted outcome will be agreed (even if this rate is set a 'greenfield run-off'). They have requested that the Planning Service accepts the above as a 'negative condition' in order to expediate the determination of the application LA09/2023/0053/F in order to meet with funding timescales. Following discussions with the senior planner a negative condition has been applied to deal with this issue.

NIEA were consulted on the application and responded to say that they had no concerns.

### Conclusion

Based on examination of the site, submitted plans and consultation responses, i conclude that the proposal is in keeping with prevailing planning policy and for the reasoning outlined above and approval is recommended.

### **Summary of Recommendations**

Approve, subject to the conditions outlined below

### **Summary of Recommendation:**



Approve is recommended

### Approval Conditions

#### Condition 1

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

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

#### Condition 2

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 03 published 17 January 2023 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 3

No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 03 published 17 January 2023 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

#### Condition 4

The access gradient(s) to the development hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary.

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

#### Condition 5

No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

- o The identification and evaluation of archaeological remains within the site;
- o Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- o Post-excavation analysis sufficient to prepare an archaeological report, to

publication standard if necessary; and

o Preparation of the digital, documentary and material archive for deposition.

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

**Condition 6**

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 5.

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

**Condition 7**

A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 5. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

o Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

**Condition 8**

A Schedule 6 approval with final calculations must be submitted to Council for approval prior to commencement of any works hereby approved.

Reason: To safeguard the site and adjacent land against flooding and standing water.

**Condition 9**

No development shall commence on site until a revised Drainage Assessment has been submitted, which makes provision for the safe disposal of surface water runoff from the site and a safe point of discharge and safe rate of discharge agreed and formally submitted to the Council for agreement with Rivers Agency.

Reason: To safeguard the site and adjacent land against flooding and standing water.

**Signature(s):** Siobhan Farrell

**Date:** 22 June 2023

<b>ANNEX</b>	
<b>Date Valid</b>	23 January 2023
<b>Date First Advertised</b>	7 February 2023
<b>Date Last Advertised</b>	7 February 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  1 Roughan Glen Maghera BT46 5GD  The Owner / Occupier  2 Roughan Glen Maghera BT46 5GD  The Owner / Occupier  3 Roughan Glen Maghera BT46 5GD  The Owner / Occupier  4 Roughan Glen Maghera BT46 5GD  The Owner / Occupier  5 Roughan Glen Maghera BT46 5GD  The Owner / Occupier  7 Roughan Glen Maghera BT46 5GD  The Owner / Occupier  44 Gortinure Road Maghera BT46 5PA  The Owner / Occupier  45 Gortinure Road Maghera BT46 5PA</p>	
<b>Date of Last Neighbour Notification</b>	15 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2009/0157/F  Proposals: Proposed 27m long wall, 3m high, with 2m high ball stopper above  Decision: PG  Decision Date: 12-MAY-09</p> <p>Ref: H/1976/0042  Proposals: RECREATION HALL  Decision: PG  Decision Date:</p> <p>Ref: H/1982/0366</p>	

Proposals: RECREATION HALL

Decision: PG

Decision Date:

Ref: H/1998/0500

Proposals: PRE-SCHOOL PLAYGROUP

Decision: WITHDR

Decision Date:

Ref: H/1992/6080

Proposals: PRE-SCHOOL PLAY GROUP SLAUGHTNEIL GAA CLUB HALFGAYNE RD  
MAGHERA

Decision: QL

Decision Date:

Ref: H/1996/6074

Proposals: NEW CHANGING ROOM PAVILION AND MULTI-PURPOSE ART VENUE  
SLAUGHTNEILL GAC HALFGAYNE ROAD MAGHERA

Decision: QL

Decision Date:

Ref: H/2008/0388/F

Proposals: 11 KV supply.

Decision: PG

Decision Date: 22-OCT-08

Ref: H/1997/0074

Proposals: NEW CHANGING ROOM PAVILION AND MULTI-PURPOSE ART VENUE

Decision: PG

Decision Date:

Ref: H/2008/0601/F

Proposals: +Proposed wind turbine. (Output of 225k/w and 31 metres to the hub)

Decision: PG

Decision Date: 16-SEP-11

Ref: H/1990/0366

Proposals: SPECTATOR'S TERRACE AND COVERED AREA

Decision: PG

Decision Date:

Ref: LA09/2023/0053/F

Proposals: Demolition of existing Hall and Gym buildings to facilitate a proposed new community health and well-being centre and a new covered multipurpose space (4G Pitch) with ancillary accommodation including a new gym and fitness suite; community social spaces; multi-purpose rooms; kitchen/servery and ancillary stores. External works

include provision of a new grass pitch (GAA Standards) with floodlighting and ball net stops; a new single storey outbuilding for toilets/ plant and machinery storage; a new terrace hard standing area for spectator viewing; new walking trails and the re-configuration of existing on-site parking with a new vehicular access and associated landscape/ boundary works.

Decision:

Decision Date:

Ref: LA09/2022/1691/PAD

Proposals: New community health and well-being centre and a new covered multi-purpose space with ancillary accommodation including a new gym and fitness suite; community social spaces; kitchen/servery and stores. External works include provision of a non-grass pitch (GAA Standards) with parking and landscape works.

Decision: PAD

Decision Date: 21-MAR-23

Ref: LA09/2022/1522/PAN

Proposals: Proposed new community wellbeing centre - consisting of new covered 4G pitch with ancillary accommodation. External works include the provision of a new grass pitch (GAA standards); a new dedicated healthy walking trial within the existing sports grounds to provide healthy club initiatives; a new children playground area with new parking and landscape works.

Decision: PY

Decision Date: 13-DEC-22

Ref: H/1991/6031

Proposals: RESIDENTIAL DEVELOPMENT HALFGAYNE ROAD MAGHERA

Decision: QL

Decision Date:

Ref: H/2003/0405/F

Proposals: New playing field.

Decision: PG

Decision Date: 08-JUL-03

Ref: H/2008/0097/F

Proposals: Proposed addition of 8No. floodlights to one of the two playing areas

Decision: PG

Decision Date: 22-JUL-08

Ref: H/2014/0116/F

Proposals: Proposed single storey building for gym facilities

Decision: PG

Decision Date: 21-MAY-14

**Summary of Consultee Responses**

NIEA-

Rivers Agency-452466 - Final reply.pdf

NIEA-

Environmental Health Mid Ulster Council-LA09 2023 0053 F.pdf

DFI Roads - Enniskillen Office-DC Checklist.docRoads Consultation full approval.docx

NIEA-PRT LA09-2023-0053-F ADV.PDF

Historic Environment Division (HED)-

Environmental Health Mid Ulster Council-

NIEA-PRT LA09-2023-0053-F.PDF

Rivers Agency-396101 - Final reply.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Location Plan Plan Ref: 02

Site Layout or Block Plan Plan Ref: 03

Site Layout or Block Plan Plan Ref: 04

Proposed Floor Plans Plan Ref: 05

Roof Details Plan Ref: 06

Proposed Elevations Plan Ref: 07

Cross Sections Plan Ref: 08

Existing Site Survey Plan Ref: 09

**Notification to Department (if relevant)**

Not Applicable

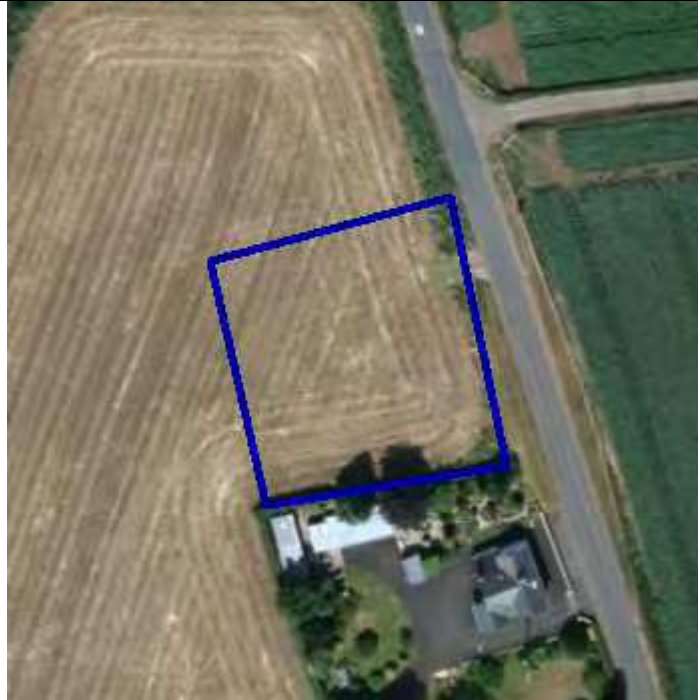


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2023/0147/O	<b>Target Date:</b> 26 May 2023
<b>Proposal:</b> Proposed site for dwelling and garage	<b>Location:</b> Adj and North of 11 Tamlaght Road, Kilrea
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Terence Birt 8 Bogashen Road Portglenone Ballymena BT44 8LZ	<b>Agent Name and Address:</b> Mr Damien Kearney 2a Coleraine Road Maghera BT46 5BN
<b>Executive Summary:</b>  The current application is presented as an approval, however is being presented at Committee following receipt of an objection.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	Rivers Agency	308101 - Final reply.pdf
Statutory Consultee	Historic Environment Division (HED)	

### Representations:

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

### Summary of Issues

The objector's concerns are addressed below:

1. Flooding concerns – Rivers Agency have been consulted and have advised that the site is not located within any floodplains, and have not raised any further concerns.



2. Privacy concerns – The existing dwelling No.11 Tamlaght Road is lower than the site and approximately 13m from the boundary consisting of mature hedgerow. The existing dwelling has 1no. first floor gable window. I am content the neighbouring amenity will not be negatively impacted by this proposal, however a condition can be included to ensure existing boundary is retained, and additional landscaping or screen fencing can be provided to alleviate any amenity concerns.
3. Waste concerns due to slope of ground – The existing dwelling (No. 11) sits at a lower level due to a crest to the north of No. 11. The topography of the application site tends to fall southwest rather than towards the neighbouring property. The onus will be on the homeowner to ensure waste is adequately dealt with.
4. Impact on value of objector's property – This is not a material planning consideration.

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

The application site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The site is identified as land adjacent and North of No. 11 Tamlaght Road, Kilrea. The front (eastern) boundary is defined by a 1m high open timber fence, and the southern boundary is defined by mature hedgerow. The remaining boundaries to the north and west are undefined as the site forms part of a much larger agricultural field. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings, and industrial units.

### **Description of Proposal**

This is an outline application for proposed site for dwelling and garage. The site is located adjacent and North of No. 11 Tamlaght Road, Kilrea.

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

#### **Policy Consideration**

#### **Representations**

One neighbour notification letter was issued in relation to this application and one objection has been received.

#### **Relevant Planning History**

LA09/2023/0148/O - Adjacent and South of Killygullib Orange Hall, Tamlaght Road, Kilrea – Proposed site for dwelling and garage – Pending Consideration.

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

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 8 – Ribbon Development

CTY 13 – Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

Building on Tradition – A Sustainable Design Guide for Northern Ireland 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. 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 are acceptable in the countryside. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21. Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside.

An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. The gap between the existing dwelling at No. 11 and Killygullib Orange Hall is sufficient only to accommodate two dwellings. Immediately south of the south is a storey and a half dwelling and garage (No. 11), and immediately north of the site is a vacant plot for which there is an outline application under consideration, and further to the north of the site is the Orange Hall Building. For the purpose of this assessment, I am content that this can be deemed a substantial and built-up frontage. It is also my opinion that given the size of the host field, and the plot sizes along this section of road, a dwelling on this proposed site would represent an acceptable infill opportunity that respects the adjacent plot sizes. Ribbon development is cited as being detrimental to rural landscapes, creating a built-up appearance to roads. I have accepted that the existing development constitutes a substantial and built-up frontage as defined in CTY 8. As such, another dwelling in this location will not create build-up, but instead will add another dwelling into the existing ribbon of dwellings. I therefore consider that the infilling of this gap site will not be detrimental to the rural character of this area.

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 am content that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform and surrounding development and I feel it necessary to restrict the ridge height to be no more than 6.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

Policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

### **Other policy and material considerations**

I have no ecological or residential amenity concerns.

The proposal accords with the policy requirements of SPPS and PPS 21, therefore I recommend approval for this development.

### **Habitats Regulations Assessment**

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

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted shall be begun by whichever is later of the following dates:-

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

Reason: Time Limit.

#### **Condition 2**

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

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

#### **Condition 3**

The proposed dwelling shall exhibit the traditional elements of rural design particularly in form, proportion, and finishes, as set out in the Department of Environment's Sustainable Design guide for the Northern Ireland countryside, 'Building on Tradition'.

Reason: To ensure the dwelling is in keeping with the character of the rural area.

#### Condition 4

The proposed dwelling shall have a ridge height of less than 6.5 metres above the finished floor level of the site and a low angle of roof pitch not exceeding 40 degrees.

Reason: To ensure that the development is not prominent and satisfactorily integrated into the landscape, and in keeping with the character of surrounding development and landform.

#### Condition 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.

#### Condition 6

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

Reason: To ensure the dwelling integrates into the landform.

#### Condition 7

During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with Mid Ulster District Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted to the rear of the of the visibility splays. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

#### Condition 8

The existing natural screenings of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

#### Condition 9

If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

**Condition10**

A 1.8m high solid timber fence shall be provided along the southern boundary of the site.

Reason: In the interest of residential amenity and to prevent overlooking.

**Condition11**

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 form RS1.

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

**Signature(s):** Seáinín Mhic Íomhair

**Date:** 25 May 2023

<b>ANNEX</b>	
<b>Date Valid</b>	10 February 2023
<b>Date First Advertised</b>	21 February 2023
<b>Date Last Advertised</b>	21 February 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 11 Tamlaght Road Kilrea Londonderry BT51 5UL	
<b>Date of Last Neighbour Notification</b>	21 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/0147/O Proposals: Proposed site for dwelling and garage Decision: Decision Date:</p> <p>Ref: H/1993/0077 Proposals: UTILITY ROOM Decision: PG Decision Date:</p> <p>Ref: H/1994/0270 Proposals: EXT TO DWELLING Decision: PG Decision Date:</p> <p>Ref: H/2004/1577/O Proposals: Site of Dwelling and Garage. Decision: PR Decision Date: 03-JUL-06</p> <p>Ref: LA09/2023/0148/O Proposals: Proposed site for dwelling and garage</p>	

Decision:  
Decision Date:

Ref: H/2005/0488/F  
Proposals: Sunroom Extension to Dwelling  
Decision: PG  
Decision Date: 19-OCT-05

Ref: H/1976/0426  
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE  
Decision: PG  
Decision Date:

Ref: H/1987/0198  
Proposals: ALTERATIONS & ADDITIONS TO HOUSE  
Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
Rivers Agency-308101 - Final reply.pdf  
Historic Environment Division (HED)-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2023/0247/F	<b>Target Date:</b> 19 June 2023
<b>Proposal:</b> 2 no agricultural buildings, livestock and machinery storage	<b>Location:</b> 180M NW of 10 Fallylea Lane Maghera
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> S Kelly 141 Fivemilestraight Maghera BT46 5JP	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Non Statutory Consultee	Shared Environmental Services	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0247.F (2).doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0247.F.doc
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0247-F.DOCX
Statutory Consultee	NIEA	PRT LA09-2023-0247-F.PDF
Non Statutory Consultee	Shared Environmental Services	
Statutory Consultee	NIEA	PRT LA09-2023-0247-F.PDF
Statutory Consultee	Shared Environmental Services	LA09-2023-0247-F - HRA No LSE 09.06.23.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<p><b>Summary of Issues</b></p> <p>The proposal does not fully comply with Policy CTY 12 of PPS 21 as this application is for first time farm buildings on a farm. The policy is silent on this matter however, in this instance given the site history (LA09/2022/1571/F) members could consider the application an exception to policy.</p>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site of the proposed development is located in the rural countryside approximately 1.7 miles west and outside of the Maghera settlement limit, as defined in the Magherafelt Area Plan 2015. The red line of the application includes the whole existing agricultural field with access via an existing laneway which adjoins the Fallylea Lane. The field slopes upwards from the road and is almost completely out of sight from both approaches along the Fallylea Lane due to its strong natural boundaries marked by mature trees and hedgerow. The proposal is to be sited at the north western corner of the site. Neighbouring buildings consist of three dwellings (nos. 9, 10 and 11 Fallylea Lane) which are all located adjacent to the road, south and south west of the application area. The site is surrounded by agricultural fields along the western, northern and eastern boundaries. The wider surrounding environment consists mostly of agricultural fields with spread out scatterings of dwellings. The application site sits just 250m north east of the A6 Glenshane Rd.</p> <p><b>Representations</b></p> <p>No third party representations have been received.</p>	
<p><b>Description of Proposal</b></p> <p>This is a full planning application for 2 no agricultural buildings, livestock and machinery storage.</p> <p><b>Site History</b></p> <p>LA09/2022/1571/F- Dwelling on farm with detached domestic garage. Site 150M NW Of 10 Fallylea Lane Maghera. Under consideration.</p> <p>This application was presented to the planning committee on 7th March 2023 with the recommendation to refuse as the dwelling was unable to site with buildings on the farm as there was none. It was deferred for an office meeting, and it will be considered as a</p>	

material consideration as part of this planning application. At the office meeting it was decided that both applications will be presented to the planning committee at the same time and that the application for the farm dwelling could be considered an exception to policy by members.

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

### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside

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. Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

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

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

- (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;*
- (b) in terms of character and scale it is appropriate to its location;*
- (c) it visually integrates into the local landscape and additional landscaping is provided as necessary;*
- (d) it will not have an adverse impact on the natural or built heritage; and*
- (e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.*

Firstly, DAERA were consulted and confirmed the farm business is active and established. With regards to criteria A the agent has stated that there is a need for the building for the storage of machinery and to accommodate his animals during lambing season. I consider there is a need for the buildings and criteria A is satisfied.

With regards criteria B I am content it is appropriate for the rural location and it integrates into the local landscape, views of the site from a public vantage point are very limited given the topography of the land and the strong mature boundaries, therefore criteria C is also satisfied.

NIEA and SES were consulted to ensure there would be no impact on the natural

heritage. Water Management Unit is content with the proposal subject to the applicant noting the advice contained in the Explanatory Note, the applicant referring and adhering to DAERA Standing Advice, and any relevant statutory permissions being obtained. Natural Environment Division had no concerns in relation to Natural Heritage – informatives are provided. SES were firstly informally consulted and responded requesting a formal consultation. On receipt of additional information supplied by the applicant SES confirmed they were content with the proposal. Additionally, Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 13/06/2023. This found that the project would not be likely to have a significant effect on any European site.

From this I am content the proposal complies with criteria D of the policy.

With regards to any impacts on residential amenity, I am content the proposal is sufficiently removed from any third party dwellings to cause any nuisance. Environmental Health were consulted and confirmed they had no concerns.

As the proposal is for a new building, the applicant is also required to provide sufficient information to confirm all of the following:

- There are no suitable existing buildings on the holding or enterprise that can be used;
- The design and materials to be used are sympathetic to the locality and adjacent buildings; and
- The proposal is sited beside existing farm or forestry buildings.

Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding, and where:

- it is essential for the efficient functioning of the business; or
- there are demonstrable health and safety reasons.

As the proposal is to be the first agricultural building on the holding, the proposal cannot comply with the above policy requirements. The policy is silent on the provision for first agricultural buildings and as such this proposal fails to meet the policy criteria. However, given the site history and the deferred office meeting which took place on application LA09/2022/1571/F which is being presented at this planning committee meeting, the only issue identified on that application was that no farm buildings were present for the dwelling to cluster or visually link with. If approved and built these farm buildings, which the case has been accepted are needed would allow the dwelling to cluster with existing buildings and allow the farmer to obtain his first farm buildings. As such, members are advised to accept this proposal as an exception to policy as the policy is silent on the provision for first agricultural buildings.

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 am content the proposal will integrate with existing boundaries being retained, allowing the building to blend with the landform and existing

trees. The site is excellent in terms of integration and will not be visible from public view points.

Policy CTY 14 states that Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously mentioned, I am content the proposal will not be a prominent feature in the landscape. The proposal is using an existing laneway so this will have no impact on the surrounding area.

PPS 3: Access, Movement and Parking

DfI Roads were consulted to ensure the access arrangements are acceptable. They have provided conditions to ensure visibility splays are provided and retained.

**Other Material Considerations**

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

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Condition 2**

No livestock other than sheep are to be housed in the proposed shed at any time without the prior written consent of the council.

Reason: To ensure the project is not likely to have a significant effect on any European site.

**Condition 3**

The existing mature vegetation of the site as indicated on drawing No. 02 shall be permanently retained.

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

**Condition 4**

The vehicular access including visibility splays 2.0 x 33 metres South and 2.0 X 45 metres North and any forward sight distance, shall be provided in accordance with Drawing No. 05 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):** Ciaran Devlin

**Date:** 16 June 2023

<b>ANNEX</b>	
<b>Date Valid</b>	6 March 2023
<b>Date First Advertised</b>	21 March 2023
<b>Date Last Advertised</b>	21 March 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 9 Fallylea Lane Maghera Londonderry BT46 5JU The Owner / Occupier 10 Fallylea Lane Maghera Londonderry BT46 5JU The Owner / Occupier RNN 7 Fallylea Lane Maghera Londonderry BT46 5JU	
<b>Date of Last Neighbour Notification</b>	9 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/0247/F  Proposals: 2 no agricultural buildings, livestock and machinery storage  Decision:  Decision Date:</p> <p>Ref: H/1981/0299  Proposals: ALTERATIONS AND ADDITIONS TO HOUSE  Decision: PG  Decision Date:</p> <p>Ref: LA09/2022/1571/F  Proposals: Dwelling on farm with detached domestic garage  Decision:  Decision Date:</p> <p>Ref: H/1975/0308  Proposals: RECONDITIONING FARMHOUSE  Decision: PG  Decision Date:</p>	



Ref: H/1982/0229  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/1987/0511  
Proposals: SITE OF BUNGALOW  
Decision: WITHDR  
Decision Date:

Ref: H/2004/0671/O  
Proposals: Site of Dwelling.  
Decision: PR  
Decision Date: 03-JUL-06

Ref: H/1987/0361  
Proposals: RENEWAL OF PERMISSION IN RESPECT OF SITE OF REPLACEMENT DWELLING  
Decision: PG  
Decision Date:

Ref: H/1984/0216  
Proposals: SITE OF REPLACEMENT DWELLING  
Decision: PG  
Decision Date:

Ref: H/1988/0369  
Proposals: SITE OF REPLACEMENT BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/1989/0260  
Proposals: REPLACEMENT BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/2002/0884/O  
Proposals: Site of bungalow and garage.  
Decision: PG  
Decision Date: 19-DEC-02

Ref: H/2005/0971/F  
Proposals: Bungalow & Garage  
Decision: PG  
Decision Date: 10-MAY-06

Ref: H/1977/0127  
Proposals: EXTENSION TO DWELLING  
Decision: PG  
Decision Date:

Ref: H/1974/0438  
Proposals: SITE OF SUBSIDY BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/1974/0272  
Proposals: SITE OF SUBSIDY BUNGALOW  
Decision: WITHDR  
Decision Date:

Ref: H/2007/0534/F  
Proposals: Garage.  
Decision: PG  
Decision Date: 15-FEB-08

Ref: H/1979/0440  
Proposals: HV AND MV O/H LINE (BM 3141)  
Decision: PG  
Decision Date:

Ref: H/1979/0058  
Proposals: HV AND MV O/H LINE BM 2676)  
Decision: PG  
Decision Date:

Ref: H/1978/0202  
Proposals: SITE OF FARM DWELLING  
Decision: PR  
Decision Date:

Ref: H/2006/0131/F  
Proposals: Single storey side extension to dwelling  
Decision: PG  
Decision Date: 22-MAY-06

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx  
DFI Roads - Enniskillen Office-Full Resp.docx  
Shared Environmental Services-  
Environmental Health Mid Ulster Council-LA09.2023.0247.F (2).doc

Environmental Health Mid Ulster Council-LA09.2023.0247.F.doc  
DAERA - Coleraine-Consultee Response LA09-2023-0247-F.DOCX  
NIEA-PRT LA09-2023-0247-F.PDF  
Shared Environmental Services-  
NIEA-PRT LA09-2023-0247-F.PDF  
Shared Environmental Services-LA09-2023-0247-F - HRA No LSE 09.06.23.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Floor Plans Plan Ref: 03  
Existing Floor Plans Plan Ref: 04

**Notification to Department (if relevant)**

Not Applicable

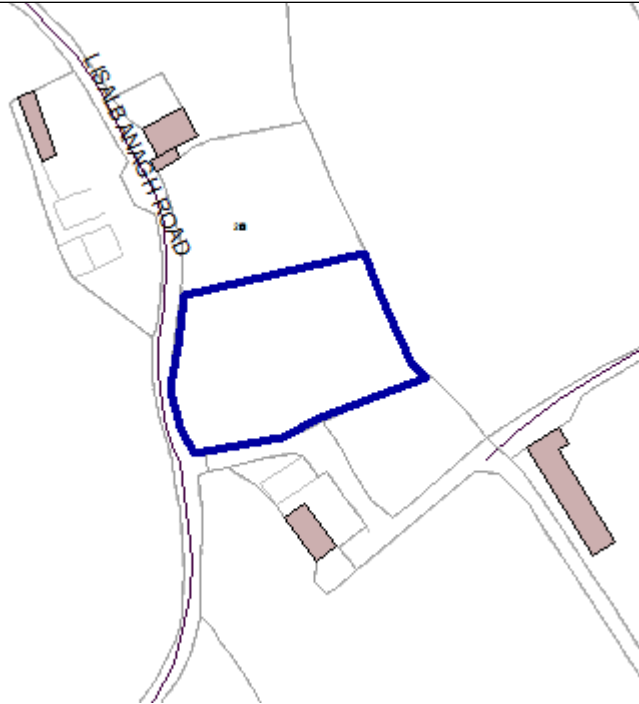


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2023/0359/O	<b>Target Date:</b> 12 July 2023
<b>Proposal:</b> Proposed Infill Dwelling and Garage	<b>Location:</b> Land Approx. 190M South East of 2 Lisalbanagh Road, Magherafelt
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Richard Brown 46 Megargy Road Magherafelt BT45 5HP	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  The current application is presented as a refusal, having failed to meet the requirements of policy CTY 1, 8 and 14 of PPS 21.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	Rivers Agency	297475 - Final Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads require drawings for this application - up load to portal.
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads Response 16/05/2023.

### Representations:

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

### Summary of Issues

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

The application site is located at lands approximately 190m southeast of No. 2 Lisalbanagh Road, Magherafelt, falling within the open countryside.

The front (western side) of the site is defined by a mature hedge, whilst the northern and southern boundaries are defined by a wire and post fence. The rear (eastern) boundary is defined by a line of mature trees and vegetation.

I note the immediate and wider setting is characterised predominately agricultural land uses with a scattering of residential dwellings and associated outbuildings.

## **Description of Proposal**

This is an outline application for a proposed infill dwelling and garage located at lands approximately 190m south of No. 2 Lisalbanagh Road, Magherafelt.

### **Representations**

One neighbour notification letter was issued in relation to this application however, no objections have been received to date.

### **Consultations**

- DfI Roads were consulted and have no objection to the proposal subject to the inclusion of a condition.
- Rivers Agency were consulted as a portion of the site lies within an area of predicted pluvial flooding and have provided guidance for developers.

### **Planning History**

LA09/2023/0108/RM - Land Approx 90M SE of 2 Lisalbanagh Road, Magherafelt - Proposed Infill Dwelling and Garage – Permission Granted 02.05.2023.

LA09/2023/0107/RM - Land Approx 60M SE of 2 Lisalbanagh Road, Magherafelt - Infill Dwelling and Garage – Permission Granted 02.05.2023.

LA09/2022/1140/O - Land Approx 90M South East Of 2 Lisalbanagh Road, Magherafelt, BT45 5HR - Dwelling and Garage – Permission Granted 16.12.2022.

LA09/2021/0611/O – L and Approx. 60M SE Of 2 Lisalbanagh Road, Magherafelt, BT45 5HR - Proposed infill dwelling and garage. – Permission Granted 09.02.2022.

LA09/2019/1538/F - Land Approx. 160M S.E Of 2 Lisalbanagh Road, Magherafelt - Proposed dwelling and garage on a farm – Permission Granted 11.02.2020.

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

### **Policy Consideration**

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

The site falls within the open countryside, approximately 1.9km west of the settlement limits of Magherafelt. There are no other zonings or designations on the site.

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

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

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. The application to be considered is for a dwelling and garage under the provisions of policy CTY 8 – Ribbon Development.

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

The application is seeking an infill site between No. 2B Lisalbanagh Road and an outbuilding located to the south of the site. Immediately north of the site there is a dwelling, and further north is an old outbuilding, both of which I am content represent development along the frontage.

The outbuilding to the south of the proposed site is set back approximately 25m from the road and is accessed via a laneway that runs along the southern boundary of the application site. This outbuilding therefore does not have road frontage.

In my opinion, the development mentioned does not constitute the definition of a substantially built-up frontage which is described as 'a line of 3 or more buildings along a road frontage without accompanying development to the rear'.

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

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

*A new building will be unacceptable where;*

*(a) It is a prominent feature in the landscape; or*

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

The current proposal is for outline planning permission and details of the design have not been submitted at this stage. It is considered that the site has the capacity to absorb a dwelling of suitable size and scale.

#### **CTY 14 – Rural Character**

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

*A new building will be unacceptable where:*

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

This application is not deemed acceptable under any of the policy headings in PPS 21 and it is therefore considered that a new dwelling at this location will cause a detrimental change to the rural character of this area which is contrary to CTY 14 as it will result in a suburban style build-up of development when viewed with existing buildings in the area.

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

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

#### **Habitats Regulations Assessment**

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



**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21 - Development in the Countryside in that the proposed site does not represent a substantial and built-up frontage and would, if permitted, result in ribbon development along the Carrydarragh Road.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would, if permitted create a ribbon of development at this part of the Carrydarragh Road and therefore result in a detrimental change to the rural character of the countryside.

**Signature(s):** Zoe Douglas

**Date:** 31 May 2023

<b>ANNEX</b>	
<b>Date Valid</b>	29 March 2023
<b>Date First Advertised</b>	11 April 2023
<b>Date Last Advertised</b>	11 April 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 2B Lisalbanagh Road Magherafelt Londonderry BT45 5HR	
<b>Date of Last Neighbour Notification</b>	26 May 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1140/O Proposals: Dwelling and Garage Decision: PG Decision Date: 16-DEC-22</p> <p>Ref: LA09/2023/0107/RM Proposals: Infill Dwelling and Garage Decision: Decision Date:</p> <p>Ref: LA09/2023/0108/RM Proposals: Proposed Infill Dwelling and Garage Decision: Decision Date:</p> <p>Ref: LA09/2021/0611/O Proposals: Proposed infill dwelling and garage. Decision: PG Decision Date: 09-FEB-22</p> <p>Ref: LA09/2019/1538/F Proposals: Proposed dwelling and garage on a farm</p>	

Decision: PG  
Decision Date: 11-FEB-20

Ref: LA09/2015/0134/F  
Proposals: Proposed 2No.broiler poultry sheds with 4No.feed bins, 2No. gas tanks, a biomass boiler shed ,with fuel bin and an office, changing and standby generator building (to contain in total 74000 broilers)  
Decision: PG  
Decision Date: 03-DEC-15

Ref: LA09/2023/0359/O  
Proposals: Proposed Infill Dwelling and Garage  
Decision:  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
Rivers Agency-297475 - Final Response.pdf  
DFI Roads - Enniskillen Office-Dfl Roads require drawings for this application - up load to portal.  
DFI Roads - Enniskillen Office-Dfl Roads Response 16/05/2023.

**Drawing Numbers and Title**

Site Layout or Block Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.10
<b>Application ID:</b> LA09/2023/0373/O	<b>Target Date:</b> 14 July 2023
<b>Proposal:</b> Proposed replacement dwelling	<b>Location:</b> 270M SE of 101 Barnaghs Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Sean O'Donnell Dungoran Road Donaghmore Co.Tyrone	<b>Agent Name and Address:</b> McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the rural countryside, outside any defined settlement limit identified in the Dungannon and South Tyrone Area Plan 2010, approx. 2.7km northwest of Cappagh and 0.76km east of Mid Ulster's Council's boundary with Omagh and Fermanagh Council.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is an L-shaped plot cut from the south side of a small forest of trees. It is set back approx. 260m to the west of, and accessed off, Barnaghs Road via an existing gravelled laneway (see Fig 5, further below). The laneway continues along the south side of the site and host forest to serve a small dwelling, no. 101 Barnaghs Road, located approx. 270m to the northwest of the site.

Whilst much of the site is covered by trees of the host forest an area that is clear of trees contains a single storey unoccupied building (see Figs 3 & 4, below). The building, which is the subject of this application, has an elongated rectangular floor plan and pitched roof construction. Finishes to the building include stacked stones to its walls; corrugated metal to its roof; and wooden window frames and doors. All window and door openings are in the front (southeast facing) elevation of the building.



Fig 3: Photo of front (southeast facing) elevation of the building to be replaced



Fig 4: Photo of gable (southwest facing) elevation of the building to be replaced

Views into the site and of the building on it are limited due to its location well set back

from the public road; and the trees of the host forest that enclose and screen it on all but the southwest side. From the only public view (see Fig 6, further below), which is long distance from Barnagh's Road on the southwest approach to the site's access off Barnagh's Road, the building on site can just be seen with the tree of the host forest providing it with a backdrop.



Fig 5: Photo of access and lane serving the site off Barnagh's Road



Fig 6: Photo of site from Barnagh's Road on the southwest approach to the site's access off Barnagh's Road

The area surrounding the site is remote and rural in nature defined by dispersed single dwellings, ancillary buildings, and farm holdings. The landscape is undulating and fairly



exposed with splatters of forest.

## **Description of Proposal**

This is an outline planning application for a proposed replacement dwelling with use of an existing access onto the public road and laneway. The building to be replaced is located 270m SE of 101 Barnaghs Road Dungannon.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

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

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

### **Relevant Planning History**

#### On site

No relevant history

#### Adjacent Site

LA09/2018/1566/O – dwelling and garage – 500m SE of 101 Barnagh Road Altmore  
Dungannon - Mr Sean O'Donnell – Refused 4<sup>th</sup> December 2019

The proposal above, made by the same applicant as the current proposal, was located at the Barnagh roadside. It sat adjacent and to the southside of the access off Barnagh

Road to the proposed site. It was refused as contrary to:

- Policy CTY1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- Policy CTY10 of PPS 21 in that the proposed dwelling does not cluster with an established group of buildings at the farm.
- Policy CTY13 of PPS 21, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. To date no objections have been received from any interested third party.

### **Consultations**

N/A

### **Key Policy Considerations**

Dungannon and South Tyrone Area Plan – The site is located in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

Planning Policy Statement 21: Sustainable Development in the Countryside – 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 instances are listed in CTY1 of PPS21. The current proposal has been submitted under one of these instances, a replacement dwelling in accordance with Policy CTY3.

Policy CTY3 – Replacement Dwellings states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

Having carried out a site inspection and investigation of orthophotography available I am not content that a replacement opportunity exists on this site under Policy CTY3. Having carried out a site inspection I do not consider the building to be replaced exhibits the essential characteristics of a dwelling. Further investigations of orthophotography did not show any sign of the building on site between 2006 and 2020 (see Fig 7, further below). There was no available orthophotography after 2020. This investigation indicated, as it had appeared on the date of site inspection, that the building has just recently been constructed in loose stacked stones to its walls and with corrugated metal sheeting to its roof. This consideration was reinforced by the location of what appeared to be excess stones in its recent construction that existed just to the northwest side of the building. As

such, the proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling.

Bearing in mind the above the agent was contacted on the 23<sup>rd</sup> May 2023 and asked to provide more information about the building on site as Planning had no evidence of the building to be replaced on any aerial photographs. This information was to be submitted to Mid Ulster District Council's Planning Department on a without prejudice basis within 14 days from the date of the email.

To date no additional information has been provided to demonstrate this was a dwelling. As such, the opinion remains that the proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling and therefore should be refused.



Fig 7: Photo of pile of what appeared to be excess stones that existed just to the northwest side of the building



Fig 8: Orthophotography flow on the 22<sup>nd</sup> March 2006



Fig 9: Orthophotography flow on the 4<sup>th</sup> April 2007



Fig 10: Orthophotography flown on the 24th March 2011



Fig 11: Orthophotography flown on the 7<sup>th</sup> June 2013



Fig 12: Orthophotography flown on the 9<sup>th</sup> May 2016



Fig 13: Orthophotography flown on the 30<sup>th</sup> September 2017



Fig 14: Orthophotography flown on the 31<sup>st</sup> May 2020

#### **Other Policy and Material Considerations**

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

Flood Maps NI indicate no flooding on site.

**Taking all the above into consideration I would recommend the refusal of this application.**

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

Refuse is recommended

#### **Refusal Reasons**

##### **Reason 1**

The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling.

**Signature(s):** Emma Richardson

**Date:** 22 June 2023



<b>ANNEX</b>	
<b>Date Valid</b>	31 March 2023
<b>Date First Advertised</b>	11 April 2023
<b>Date Last Advertised</b>	11 April 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2018/1566/O Proposals: Proposed dwelling and garage Decision: PR Decision Date: 04-DEC-19  Ref: LA09/2023/0373/O Proposals: Proposed replacement dwelling Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  -	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	

**Notification to Department (if relevant)**

Not Applicable

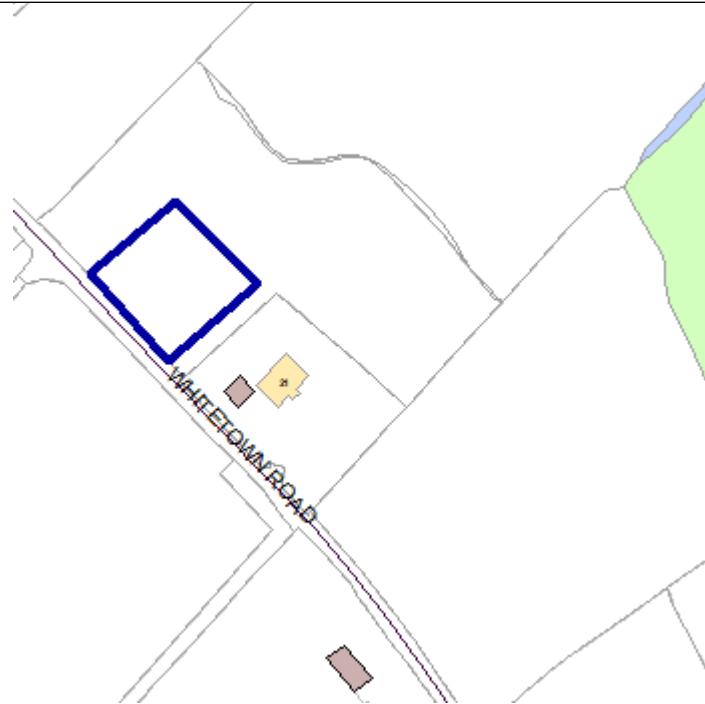


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2023/0404/F	<b>Target Date:</b> 19 July 2023
<b>Proposal:</b> Retention of Amended House Type that Previously Approved under LA09/2020/0459/RM	<b>Location:</b> 72M NW of 21 Whitetown Road Newmills Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr David Weir 46 Lisnamonaghan Road Castlecaufield Dungannon BT70 3NH	<b>Agent Name and Address:</b> Mr Philip Caddoo 44 Rebaghey Road Aughnacloy BT69 6EU
<b>Executive Summary:</b>  Three objections received from the neighbouring property at No.21 Whitetown Road. The following issues raised : Levels Ridge Height of Dwelling Application Form Visibility splays Loss of neighbouring amenity through noise and overlooking	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Full response.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The predominant land uses in the surrounding area are agricultural fields, groups of farm buildings and dwellings on single plots. Located approx. 1.5 km north of Newmills this triangular roadside site is adjacent

and NW to No. 21 Whitetown Road. There is a roadside grass verge approx. 1 1/2m wide, behind which is a mature maintained hawthorn hedge approx 1.5m high.

On the opposite side of Whitetown Road to the NW is a row of 3 dwellings, the end being a farm holding with associated outhouses and sheds. There is also a dwelling and garage set up a private laneway opposite the application site. The area is defined mostly by single dwellings, farm holdings and agricultural land.

### **Description of Proposal**

This is a full application for retention of Amended House Type that Previously Approved under LA09/2020/0459/RM at 72M NW of 21 Whitetown Road, Newmills Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, three third-party representations have been received from the same objector.

The objector is Mr John Robinson who lives at 21 Whitetown Road which comprises of a dwelling and garage beside the application site.

The following issues have been raised.

1. Mr Robinson states that the finished floor level of the property including the garage have been built at a level which exceeds what was approved in the reserved matters. The proposed elevations on the reserved matters plans show the underbuild is 0.45m. The objector states in his view the finished floor level is at least 2m above the ground level that existed before building work commenced. From my observations on my site visit I agree that finished floor level is about 2m about existing ground level. This current application is to retain the dwelling and garage at the new levels and assess the impact on the landscape and neighbouring properties.

2. The outline and reserved matters applications were approved under the address 72M NW of 21 Whitetown Road. The applicant has submitted the same address for this application and the objector has stated this address is inaccurate. The objector states there is approximately 6m between the sites and I acknowledge there is a gap of 6m between the boundaries of the application site and No.21. I consider the address is accurate because someone looking at the site would still know the dwelling to be retained is in this approximate area.
3. The applicant has filled out on the P1 form that the application does not relate to a farm dwelling and does not involve an agricultural building. The original approval LA09/2018/0153/O related to a farm dwelling, but this application is for the retention of a change of house type I consider the proposal does not need to re-consider the farm case in CTY 10. I am content the principle of development has already been established.
4. The applicant has filled out on the P1 form that there is no increase in the expected vehicular daily movements. The objector states this is inaccurate as there has never been anyone living at the property how is it possible the vehicular movements will not increase. The access was considered by DFI roads in the outline approval and the visibility splays were conditioned. Roads were consulted again with this application and were content with the proposal.
5. The objector has raised the issue of neighbour notification and has stated that the three dwellings across the road should have been neighbour notified. No.21 is the only property which abuts the red line of the application site and other dwellings do not abut the red line of the site so would not be neighbour notified.
6. The objector has raised the issue of certificate A and that this is inaccurate. The objector states that a portion of third-party land at No.21 is needed to obtain the sight lines and he does not give permission for the use of his land for the visibility splays. The second objection letter received on the 4<sup>th</sup> May 2023 specifically relates to the visibility splays. The objector has shown that the dwelling in this application will use a portion of the verge already in place at No.21 for their visibility splays. It is stated the objector does not authorise the use his verge. However, the owner of No.21 needs the verges at this property to stay in place to achieve his visibility splays. This is the case when two dwellings are sited beside each other as they are effectively sharing the visibility splays.
7. The objector has raised the issue of noise and loss of residential amenity which will be considered later in the planning assessment process.

### **Planning History**

LA09/2018/0153/O - Proposed dwelling and garage - 72M North West Of 21 Whitetown Road, Newmills – permission granted 4<sup>th</sup> July 2018

LA09/2020/0459/RM - Proposed dwelling and garage - 72M North West Of 21 Whitetown Road, Newmills – permission granted 4<sup>th</sup> August 2021

**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.

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.

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

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

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

The site is not within any settlement limits within the Dungannon and South Tyrone Area Plan 2010 so SETT1 does not apply. The site is not within any other designations or zonings within the Plan.

### **Planning Policy Statement 21**

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

### Principle of Development

LA09/2018/0153/O granted approval on the 4<sup>th</sup> July 2018 for a dwelling and garage under the CTY 10 policy for a dwelling on a farm. Subsequently a reserved matters application was submitted. LA09/2020/0459/RM granted reserved matters approval for a dwelling and garage on 4<sup>th</sup> August 2021. In line with condition 1 ‘time limit’ the outline and RM approvals had to be commenced by the later of the following dates, 5 years from the approval or 2 years from the reserved matters. The expiry date of 5 years from the outline approval is 3<sup>rd</sup> July 2023 and the reserved matters is 3<sup>rd</sup> August 2023.

The outline and reserved matters approvals had an access pre-commencement condition that the visibility splays and access should be provided prior to the

commencement of any works, or any other development permitted.

Condition 2 of LA09/2020/0459/RM states

The vehicular accesses, including visibility splays of 2.4 metres by 70metres in both directions at the access on to the public Road, shall be provided in accordance with Drawing No.03a date stamped 6th May 2021 prior to the commencement of any other development hereby permitted and shall be retained thereafter. 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.

The dwelling is at roof level and an access has been cleared at the site. There were already grass verges at the site in both directions, so I am content the visibility splays are in place. I am content there is a fall-back position and there is a live application at the site. The remainder of the assessment will consider the change in design and landscaping.

### **CTY 13 – Integration and Design of Buildings in the Countryside and CTY 14 – Rural Character**

LA09/2020/0459/RM previously granted approval for a single storey dwelling with a ridge height of 5.4m as shown in figure 1 below. The proposal is for the retention of the dwelling and garage which is currently being built at the application site as shown in figure 2. In terms of massing the current dwelling has the same footprint as the dwelling in LA09/2020/0459/RM. There are no changes to the design and external materials, so I have no concerns about the design of the dwelling.

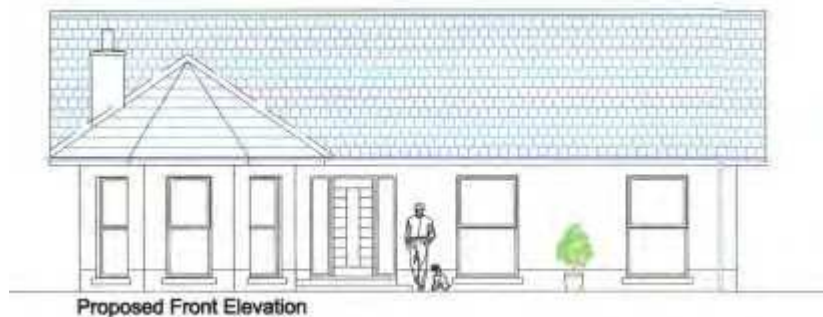


Figure 1 – Image of the approved plans in the Reserved Matters.





Figure 2 - Image of the front elevation of dwelling under construction.

The Whitetown Road slopes downwards from east to west and the topography of the site originally sloped downwards from the roadside to the rear boundary as shown in figure 3.



Figure 3 – Image of land sloping downwards.

The main change to the proposal and mentioned by the objector are about the ridge height of the dwelling as it was approved as 5.5m above existing ground level and it was previously a sloping site. The dwelling to be retained is a one and half storey dwelling and has a ridge height of 6.5m above finished floor level. In terms of levels, the applicant has not dug into the slope but instead built up from the existing ground level. Figure 4 from the site visit show that the finished floor level of the dwelling is approximately 2m higher than the existing ground level and the dwelling has been raised up higher than the original approval. The objector states that when you take into consideration the rise in the finished floor level and the increase in ridge height the dwelling is at least 3m higher than previously approved.



Figure 4 – Site Visit Photographs showing the rise in levels at the application site.

I would accept the principle of a one and half storey dwelling at this site as No.21 is also a one and half storey so that scale and house type has been established in the area. I am content the proposal will not be a prominent feature in the landscape as it is sited in the same location as was previously approved. I acknowledge the site is now at a higher ground level as the land has been built up and the ridge height is also 1m than the previous 5.5m approval. However, I consider the dwelling will not be prominent in critical views especially to in the northwest direction where there is a long straight road.

#### Landscaping

Condition 4 of LA09/2020/0459/RM stated -

All hard and soft landscape works as detailed on Drawing No 03a bearing the stamp dated 6th May 2021 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following commencement of the development hereby approved. 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 in the countryside.

When I completed my site visit, I observed no new landscaping had been planted at the site and the hedging along the roadside has been removed to provide the visibility splays. I feel it is appropriate to condition the landscaping is put in place to assist in the integration of the dwelling and garage into the landscape.

#### Neighbour Amenity

In terms of the levels the objector Mr Robinson has stated that the finished floor level of the dwelling and garage is now at least 2m above the existing ground level. As stated previously the public road slopes downwards from No.21 to the bottom of the road. No. 21 is also at a higher ground level than the application site. The objector states that the higher finished floor level results in an unacceptable loss of privacy in his rear amenity space. In terms of the windows, it is stated that the gable windows of the dwelling to be

retained provide unrestricted viewing over the fence into the rear of No. 21. It is stated the occupants of the dwelling can see into No.21's back yard resulting in a total loss of privacy and loss of enjoyment of their external space. The objector stated if the proposed dwelling had been built at the correct height viewing from ground level would not have been possible. It is stated the dwelling is 7m above a new raised ground level and the applicant has shown on the elevations it is 6.5m above finished floor level. The objector states this is 9m above pre-existing ground levels when you consider how the land has been raised up. Also, the objector states how this can be acceptable when the ridge height was conditioned at 5.5m above ground level to allow the dwelling to satisfactorily integrate into the landscape.

The applicant has shown the first-floor gable window blocked up so there will be no views from this window into No.21's rear amenity space. As shown in figures 6 and 7 standing at the side of the application site facing towards No.21 you are still at a lower ground level than No. 21. Landscaping was proposed in this direction and was conditioned to be planted in the first planting season following commencement of the development. At the time of my site visit there was no planting on any boundary at the site. I feel it is appropriate to condition that new landscaping is started within 6 weeks of a decision. If the conditioned planting was completed, I am content this would reduce direct views from the gable side windows of the dwelling towards No.21.

The main amenity space at this dwelling is to the rear of the property where the land has been raised up the most. As shown in figure 8 any direct views towards No.21 will be blocked by the garage.



Figure 5 - View standing in the rear garden of No.21 facing the application site.



Figure 6 - View standing at the front of the dwelling and facing the rear amenity space of No.21



Figure 7 - View standing at the side of the dwelling and facing the rear amenity space of No.21



Figure 8 - View from the rear amenity space of the proposed dwelling facing No.21.

In terms of the garage as shown in figure 9, the applicant has submitted revised plans to show the upper floor window obscure glazed. The objector has stated that what happens if the window is opened, and a more acceptable solution would be to fit a skylight to the rear of the roof. I feel it is appropriate to condition that the window is permanently obscure glazed.



Figure 9 – View from No.21 of the garage

Overall, I am content the proposal meets all the criteria in CTY 13 and CTY 14 in PPS 21 – Sustainable Development in the Countryside.

**Summary of Recommendation:**

Approve is recommended

The proposal is recommended for approval as it complies with CTY 13 and CTY 14 in PPS 21 – Sustainable Development in the Countryside.

#### Approval Conditions

##### Condition 1

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

Reason: This is a retrospective application.

##### Condition 2

One dwelling only shall be constructed within the site outlined in red on Drawing No 01- date received 04 APR 2023.

Reason: This permission is granted solely as a substitute for the permissions for a dwelling previously granted on the site under Ref: LA09/2018/0153/O and LA09/2020/0459/RM and is not for an additional dwelling.

##### Condition 3

Within 3 months from the date of this approval, visibility splays of 2.4m x 70m in both directions shall be provided in accordance with the approved Drawing No.02 Rev 1 date received 09 MAY 2023, or as may otherwise be agreed in writing with the Department. 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.

##### Condition 4

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

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

##### Condition 5

Gates or security barriers at the access shall be located at a distance from the edge of

the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

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

**Condition 6**

Within 3 months from the date of this approval, all landscaping comprised in the approved details of landscaping on drawing No.02 Rev 1 date received 09 MAY 2023. Any tree shrub or other plants identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure the development integrates into the countryside.

**Condition 7**

The gable window as shown on approved drawing 03 Rev 1 date received 09 MAY 2023 shall be permanently blocked up.

Reason: In the interests of neighbouring amenity.

**Condition 8**

The gable window as shown on approved drawing 04 date received 06 JUNE 2023 shall be permanently obscure glazed.

Reason: In the interests of neighbouring amenity.

**Signature(s):** Gillian Beattie

**Date:** 19 June 2023

<b>ANNEX</b>	
<b>Date Valid</b>	5 April 2023
<b>Date First Advertised</b>	18 April 2023
<b>Date Last Advertised</b>	18 April 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 21 Whitetown Road Dungannon BT71 4ES	
<b>Date of Last Neighbour Notification</b>	9 May 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/0404/F Proposals: Proposed Retention of Amended House Type that Previously Approved under LA09/2020/0459/RM Decision: Decision Date:</p> <p>Ref: LA09/2020/0459/RM Proposals: Proposed dwelling and garage Decision: PG Decision Date: 04-AUG-21</p> <p>Ref: LA09/2018/0153/O Proposals: Proposed dwelling and garage Decision: PG Decision Date: 04-JUL-18</p>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Roads Consultation - Full response.docx	



**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02 Rev 1  
Proposed Plans Plan Ref: 03

**Notification to Department (if relevant)**

Not Applicable

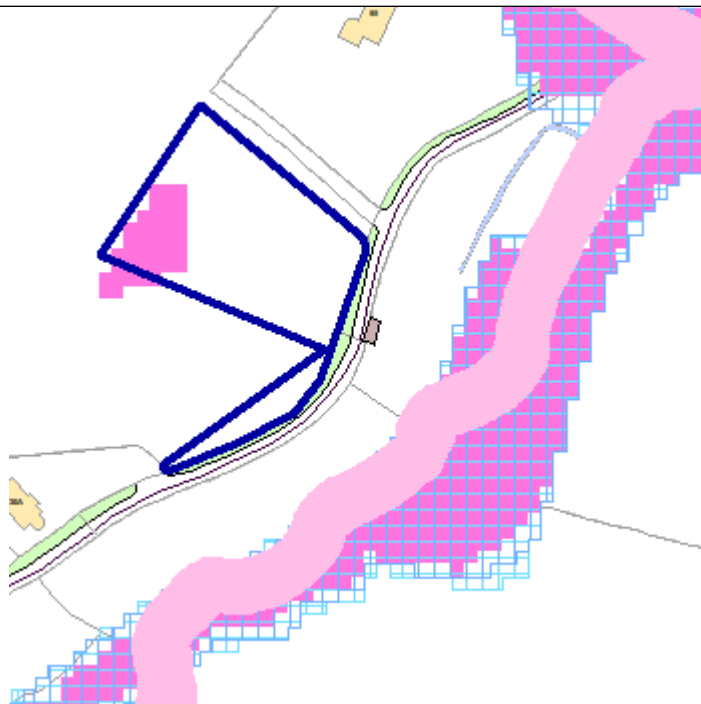


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2023/0487/O	<b>Target Date:</b> 11 August 2023
<b>Proposal:</b> Proposed Dwelling and Garage	<b>Location:</b> Adjacent to & South West of 65 Mullybrannon Rd, Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Peter O'Donnell 34 Culrevog Rd Dungannon BT71 7PY	<b>Agent Name and Address:</b> Mr John Aidan KELLY 50 Tullycullion Road DUNGANNON BT70 3LY
<b>Executive Summary:</b>  One objection received. Gap too large and when considered with adjacent application LA09/2023/0488/O the site could accommodate up to four dwellings. There are not three or more buildings with a frontage to the road. The proposal will create ribbon development and lead to a suburbanized build-up of development along this stretch of road.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in

character and the predominant land uses are agricultural fields, groups of farm buildings and dwellings on single plots. There is minimal pressure in the surrounding area from the construction of single dwellings and the area is not suburbanized. The application site is half of a larger agricultural field and there is established hedging along the roadside frontage.

### **Description of Proposal**

This is an outline application for proposed dwelling and garage at Adjacent to & South West of 65 Mullybrannon Rd, Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

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

An objection comment was received from Mr Richard Averall who lives at No.30A Dunseark road, Dungannon. This property is approximately 150m from this site. The objector's main issues are that the proposal conflicts with the local plan and does not comply with the infill policy criteria. In terms of the development plan this site is out any settlements and is not within any designations so the plan does not apply. In terms of whether the proposal meets the infill policy this will be considered in the policy assessment.

#### **Planning History**

LA09/2023/0488/O - Proposed dwelling and garage - Adjacent to and North West of 30A Dunseark Road, Dungannon – Under Consideration

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

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

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

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

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

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

### **Planning Policy Statement 21**

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

### **Policy CTY 8 – Ribbon Development**

The application site is one half of a larger agricultural field which is at a bend in the Duneasrk road. To the southwest of the site is a single storey dwelling at No.30A as shown in figure 1 below.



Figure 1 – Image of the dwelling at No.30A Dunseark road

There is a garden and parking and turning area to the front and side of the dwelling. I am content the dwelling has a frontage to the public road. There is a garage to the rear of the dwelling, but I believe the garage does not have a frontage to the public road.

To the northeast of the site is a dwelling and garage at 65 Mullybrannon Road and as shown there is a dwelling and garage. I am content the dwelling has a frontage to the public road, but I do not consider the garage has a frontage as it is set back behind the dwelling. I consider there isn't a line of three or more buildings along this stretch of the road.

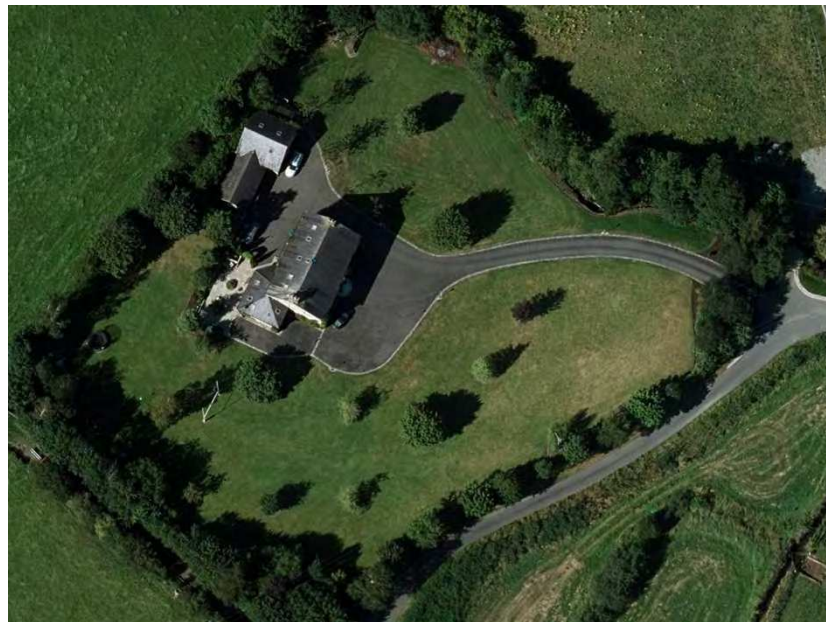


Figure 2 – Image of the dwelling at 65 Mullybrannon Road

The application site has a roadside frontage of 60m and the adjacent site for

LA09/2023/0488/O has a frontage of 73m. No.30A to the southwest has a frontage of 70m and No. 65 to the northeast has a frontage of 116m. The proposal is for only one dwelling at the site. There are large frontages to both adjacent dwellings and other dwellings along the road but I believe there is the potential to fit more than two dwellings at the site and the adjacent site. I consider the gap is too large at the site when considered in combination with the adjoining site at LA09/2023/0488/O.



Figure 3 – Image of the site along the row

There are a mix of house types along this stretch of road as No.30A is single storey and No.65 is two storey. However, the land at site is elevated in relation to the public road and rises by at least 2m from road level.

The objector has stated he does not consider the proposal meets the infill policy. I consider this proposal is not considered an exception within policy CTY 8 as a gap site as at least two dwellings or more could be sited at this site and the adjacent site.

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

The application site is a cut out of a larger agricultural field where the topography of the site is at a higher level than the road level. There is established hedging along the roadside and southwest boundaries and the remaining boundaries are undefined. As the site is at a bend in the road there are limited critical views in both directions, and I would recommend additional planting along the undefined boundaries to assist with the integration into the landscape. There is a one and two storey along this stretch of road but as there is an elevated topography.

### **CTY 14 – Rural Character**

The land is elevated from the roadside to the back of the site. The site is half of a larger agricultural field and I acknowledge there is the potential for more than two dwellings at this site when combined with LA09/2023/0488/O. The proposal would create a ribbon of development which is detrimental to rural character. As there is the potential for at least three dwellings on this and the adjoining site I consider the proposal will result in a suburbanised build-up of development.

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

#### **Policy AMP 2 – Access to Public Roads**

The site does not access onto a protected route, so I have no concerns in this regard.

The applicant is proposing a new access off Dunseark road and DFI Roads were consulted as the statutory authority. Roads have no concerns subject to visibility splays of 2.4m x 60m in both directions and 60m forward sight distance. It was also stipulated the access should be at the most southwesterly boundary and paired with the site at LA09/2023/0488/O.

### **Other Considerations**

I have checked the statutory map viewers and there are no ecological, built heritage, flooding, or residential amenity concerns.

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal, as it does not meet the policies in CTY 8, CTY 13 and CTY 14 in Planning Policy Statement 21 – Sustainable Development in the Countryside.

### **Refusal Reasons**

#### **Reason 1**

The proposal is contrary to CTY 1 - Development in the Countryside as there are no-overriding reasons why the development cannot be located within a settlement.

#### **Reason 2**

The proposal is contrary to CTY 8 - Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development and the gap is too large and would accommodate more than two dwellings.

#### **Reason 3**

The proposal is contrary to CTY 14 - Rural Character of Planning Policy Statement 21 in that the development would be detrimental to rural character.

**Signature(s):** Gillian Beattie

**Date:** 19 June 2023



<b>ANNEX</b>	
<b>Date Valid</b>	28 April 2023
<b>Date First Advertised</b>	8 May 2023
<b>Date Last Advertised</b>	8 May 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 30A Dunseark Road Dungannon BT71 7PH The Owner / Occupier 65 Mullybrannon Road Dungannon BT71 7ER	
<b>Date of Last Neighbour Notification</b>	3 May 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2003/0876/F  Proposals: Erection of dwelling and garage to supersede approval M/2001/0730/O.  Decision: PG  Decision Date: 23-SEP-03</p> <p>Ref: M/2008/0653/F  Proposals: Overhead single phase line on wooden poles (07/06561)  Decision: PG  Decision Date: 28-AUG-08</p> <p>Ref: LA09/2023/0488/O  Proposals: Proposed dwelling and garage  Decision:  Decision Date:</p> <p>Ref: LA09/2023/0487/O  Proposals: Proposed Dwelling and Garage  Decision:  Decision Date:</p>	

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docFORM RS1 STANDARD.docRoads outline.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable

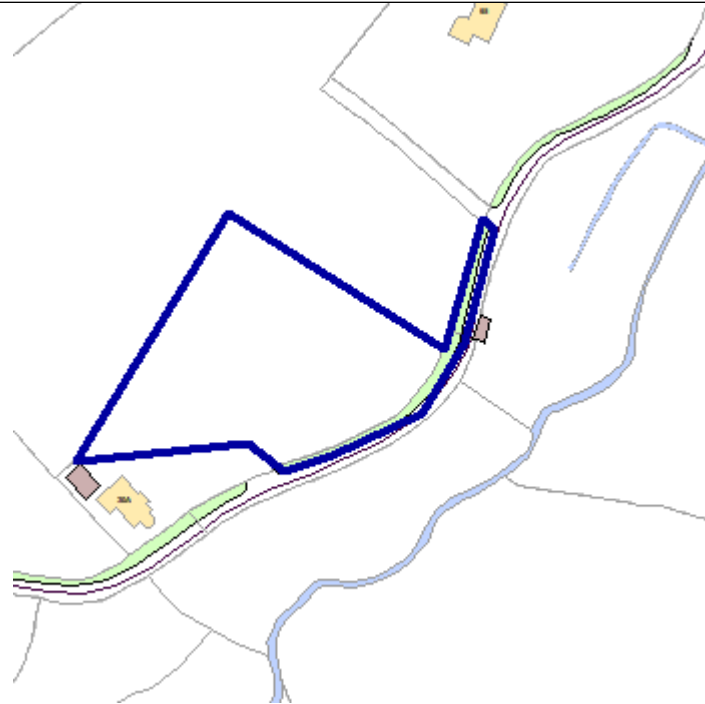


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 July 2023	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2023/0488/O	<b>Target Date:</b> 11 August 2023
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Adjacent to and North West of 30A Dunseark Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Peter O'Donnell 34 Culrevog Rd Dungannon BT71 7PY	<b>Agent Name and Address:</b> Mr John Aidan KELLY 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>  Gap too large and when considered with adjacent application LA09/2023/0488/O the site could accommodate up to four dwellings. There are not three or more buildings with a frontage to the road. The proposal will create ribbon development and lead to a suburbanized build-up of development along this stretch of road.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in

character and the predominant land uses are agricultural fields, groups of farm buildings and dwellings on single plots. There is minimal pressure in the surrounding area from the construction of single dwellings and the area is not suburbanized. To the southwest is a dwelling with a large garden area to the front. The application site is half of a larger agricultural field and there is established hedging along the roadside frontage.

### **Description of Proposal**

This is an outline application for proposed dwelling and garage at adjacent to and North West of 30A Dunseark Road, Dungannon.

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

#### **Policy Consideration**

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

#### **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 have been received.

#### **Planning History**

##### **Adjacent Site**

LA09/2023/0487/O - Proposed Dwelling and Garage - Adjacent to & South West of 65 Mullybrannon Rd, Dungannon – Under Consideration

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

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

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

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

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

### **Planning Policy Statement 21**

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

### **Policy CTY 8 – Ribbon Development**

The application site is one half of a larger agricultural field which is at a bend in the road. To the southwest of the site is a dwelling at No.30A as shown in figure 1 below.



Figure 1 – Image of the dwelling at No.30A Dunseark road

There is a garden and parking and turning area to the front and side of the dwelling. I am content the dwelling has a frontage to the public road. There is a garage to the rear of the dwelling, but I believe the garage does not have a frontage to the public road.

To the northeast of the site is a dwelling and garage at 65 Mullybrannon Road and as shown there is a dwelling and garage. I am content the dwelling has a frontage to the public road, but I do not consider the garage has a frontage as it is set back behind the dwelling. I consider there isn't a line of three or more buildings along this stretch of the road.



Figure 2 – Image of the dwelling at 65 Mullybrannon Road

The application site has a roadside frontage of 73m and the adjacent site for LA09/2023/0487/O has a frontage of 62m. No.30A has a frontage of 70m and No. 65 has a frontage of 116m. The proposal is for only one dwelling at the site. There are large frontages to both adjacent dwellings and other dwellings along the road, but I believe there is the potential to fit more than two dwellings at the site and the adjacent site. I consider the gap is too large at the site when considered in combination with the adjoining site at LA09/2023/0487/O.



Figure 3 – Image of the site along the row

There are a mix of house types along this stretch of road as No.30A is single storey and No.65 is two storey. However, the land at site is elevated in relation to the public road and rises by at least 2m from road level.

I consider this proposal is not considered an exception within policy CTY 8 as a gap site as at least two dwellings or more could be sited at this site and the adjacent site.

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

The application site is a cut out of a larger agricultural field where the topography of the site is at a higher level than the road level. There is established hedging along the roadside and southwest boundaries and the remaining boundaries are undefined. As the site is at a bend in the road there are limited critical views in both directions, and I would recommend additional planting along the undefined boundaries to assist with the integration into the landscape. There is a one and two storey along this stretch of road but as there is an elevated topography.

### **CTY 14 – Rural Character**

The land is elevated from the roadside to the back of the site. The site is half of a larger agricultural field and I acknowledge there is the potential for more than two dwellings at this site when combined with LA09/2023/0487/O. The proposal would create a ribbon of development which is detrimental to rural character. As there is the potential for at least three dwellings on this and the adjoining site I consider the proposal will result in a suburbanised build-up of development.

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

#### **Policy AMP 2 – Access to Public Roads**

The site does not access onto a protected route, so I have no concerns in this regard. The applicant is proposing a new access off Dunseark road and DFI Roads were consulted as the statutory authority. Roads have no concerns subject to visibility splays of 2.4m x 60m in both directions and 60m forward sight distance. It was also stipulated the access should be at the most southwesterly boundary and paired with the site at



LA09/2023/0487/O.

**Other Considerations**

I have checked the statutory map viewers and there are no ecological, built heritage, flooding, or residential amenity concerns.

**Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal, as it does not meet the policies in CTY 8, CTY 13 and CTY 14 in Planning Policy Statement 21 – Sustainable Development in the Countryside.

Refusal Reasons

**Signature(s):** Gillian Beattie

**Date:** 19 June 2023

<b>ANNEX</b>	
<b>Date Valid</b>	28 April 2023
<b>Date First Advertised</b>	8 May 2023
<b>Date Last Advertised</b>	8 May 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 30A Dunseark Road Dungannon BT71 7PH The Owner / Occupier 65 Mullybrannon Road Dungannon BT71 7ER	
<b>Date of Last Neighbour Notification</b>	3 May 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2001/0730/O Proposals: Replacement Dwelling Decision: PG Decision Date: 16-OCT-01</p> <p>Ref: M/2008/0653/F Proposals: Overhead single phase line on wooden poles (07/06561) Decision: PG Decision Date: 28-AUG-08</p> <p>Ref: M/2004/1214/F Proposals: Retention of entrance pillars, wing walls and car port. Decision: PG Decision Date: 09-MAY-05</p> <p>Ref: M/1999/0947/F Proposals: Dwelling Decision: PG Decision Date: 29-JUN-00</p> <p>Ref: M/2000/1260/F Proposals: Erection of two storey dwelling - amendment to previous approval (ref. no.</p>	

M/1999/0947/F).

Decision: PG

Decision Date: 16-JAN-01

Ref: LA09/2023/0488/O

Proposals: Proposed dwelling and garage

Decision:

Decision Date:

Ref: LA09/2023/0487/O

Proposals: Proposed Dwelling and Garage

Decision:

Decision Date:

Ref: M/2003/0876/F

Proposals: Erection of dwelling and garage to supersede approval M/2001/0730/O.

Decision: PG

Decision Date: 23-SEP-03

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docFORM RS1 STANDARD.docRoads outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

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

Not Applicable



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2022/0063/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 15 March 2022
<b>Proposal:</b> Proposed replacement dwelling and domestic garage	<b>Location:</b> Adjacent To 16 Roshure Road Desertmartin Magherafelt
<b>Applicant Name and Address:</b> Mr Rodney MC Knight 16 Roshure Road Desertmartin Magherafelt	<b>Agent Name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SG
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site is located off the Roshure Road between Desertmartin and Magherafelt and is in the rural area. The red line of the site covers the existing curtilage of No 16 Roshure Road and the building the applicant is seeking to replace. The site is accessed via an existing laneway to No 16. The character of the area is predominantly agricultural fields interspersed with dwellings and farm buildings.</p>	
<p><b>Description of Proposal</b></p> <p>This is an outline application for a proposed replacement dwelling and domestic garage adjacent to 16 Roshure Road, Desertmartin.</p>	

**Deferred Consideration:**

This application was presented before the Members with a recommendation to refuse in June 2022 where it was deferred for an office meeting with the Service Director. At the office meeting the agent presented a case for the building being a former dwelling and it was agreed I would carry out a site inspection and re-consider the application.

Having carried out my site inspection I am not persuaded this building was ever used as a dwelling house. Policy CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all the external walls are substantially intact. Buildings designed and used for agricultural purposes will not be eligible for replacement under this policy.

Apart from the current domestic storage use that I observed, evidence regarding the building's original purpose and use history is not only inconclusive, but given its design, somewhat questionable. The restricted dimensions and single room use is not indicative of residential use. It is clear from my site inspection that more modern, though the dates are unknown, works have taken place to the building. This is particularly evident at the gable end to the north east of the building which has been secured by modern block work. The inside of the building has been modernised with the rendered walls evident from my site inspection. What I consider to be currently the front of the building, that is the south eastern elevation, has also been somewhat modernised with significant brickwork around the openings of both the door and the window. I am not persuaded that the window opening is an original opening given the extent of more modern brick and plaster work. The same can be said for the window opening to the rear of the building along the north western elevation which is finished in the same way.

The agent has submitted a Griffiths Valuation map from 1859. The agent has also pointed to different buildings to be replaced from that 1859 map. The 1859 list includes details for Samuel Fleming for a house, offices and land. The 1859 map shows several buildings and I am not persuaded, based on the detailing of the building that the dwelling at that time was the building as it currently stands.

I am not persuaded that the building was designed as a dwelling house. This is a single room building which does not have any of the essential characteristics of a dwelling house and is of such restricted floorspace does not present as ever being used as a dwelling. The building is therefore not eligible for replacement under Policy CTY 3. I further conclude that the proposal is not acceptable in principle in the countryside as set out in Policy CTY 1.

I recommend a refusal of this application based solely on CTY 3 as the building is not a building that exhibits the essential characteristics of a dwelling house and is not eligible for replacement under this policy.

**Conditions/Reasons for Refusal:****Refusal Reasons**

Reason 1

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

**Reason 2**

The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s):**Karen Doyle

**Date:** 21 June 2023

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0063/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling and domestic garage	<b>Location:</b> Adjacent to 16 Roshure Road Desertmartin Magherafelt
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and 3 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Rodney Mc Knight 16 Roshure Road Desertmartin Magherafelt	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1 and 3 of PPS 21.

### Characteristics of the Site and Area

The site is located 1.59km south east of the development limits of Desertmartin, as such the site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan. The red line covers the existing curtilage of No.16 Roshure Road inclusive of the building identified to be replaced. I note that the site is accessed via the existing access that serves No.16. The surrounding area is mainly agricultural in nature with single dwellings located sporadically throughout the area.

#### Representations

Two neighbour notifications were sent out however no third party representations have been received.

## Description of Proposal

This is an outline application for a proposed replacement dwelling and domestic garage located at Approx. Adjacent to 16 Roshure Road, Desertmartin, Magherafelt.

## Planning Assessment of Policy and Other Material Considerations

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Magherafelt Area Plan 2015  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 3 - Replacement Dwellings

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Upon the site visit I note that there is an existing building on the site, however it did not appear to have the main characteristics of a dwelling. I note it did have a door way and windows, however there was no chimney nor fireplace upon internal inspection. In essence it appears to be an old byre or outbuilding wherein I am not content that a valid replacement opportunity exists. I note the agent has provided additional information to try and demonstrate that this was a house, however upon review of this I am still not content that this is sufficient to change my view.

In addition, the policy goes on to state that the proposed replacement should be sited within the established curtilage of the existing, unless either a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. I note that this is only an outline and only an indicative position has been provided where I note the building is located within the curtilage and yard of no. 14. As such I am content that the building should be replaced as close to the existing position as possible. But given the application has failed to demonstrate a valid replacement opportunity I hold the view it fails under CTY 3.

After further discussions he confirmed that this was the only case that was applicable, after a quick review of CTY 1, I hold that a dwelling would not be acceptable under the remaining policies.

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 am content that an appropriately designed dwelling would not appear prominent and would be able to successfully integrate into the landscape. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape wherein it would not cause detrimental harm to the rural character of the area. On a whole I am content that the proposed development complies with CTY 14.

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

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

I have no flooding, ecological or residential amenity concerns.

The proposal fails under CTY 1 and 3 of PPS 21, as such I recommend refusal.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

2. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s)** 

**Date:** 16/5/22.

<b>ANNEX</b>	
<b>Date Valid</b>	18th January 2022
<b>Date First Advertised</b>	1st February 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 14c Roshure Road, Desertmartin, Londonderry, BT45 5PB The Owner/Occupier, 16 Roshure Road, Desertmartin, Londonderry, BT45 5PB	
<b>Date of Last Neighbour Notification</b>	17th February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2022/0063/O Proposal: Proposed replacement dwelling and domestic garage Address: Adjacent to 16 Roshure Road, Desertmartin, Magherafelt, Decision: Decision Date:  Ref ID: H/2002/0825/O Proposal: Site of Dwelling and Garage Address: Adjacent to 16 Roshure Road, Desertmartin Decision: Decision Date: 16.07.2003  Ref ID: H/1994/4030 Proposal: RENOVATIONS TO DWELLING Address: 16 ROSHURE ROAD MAGHERAFELT 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:

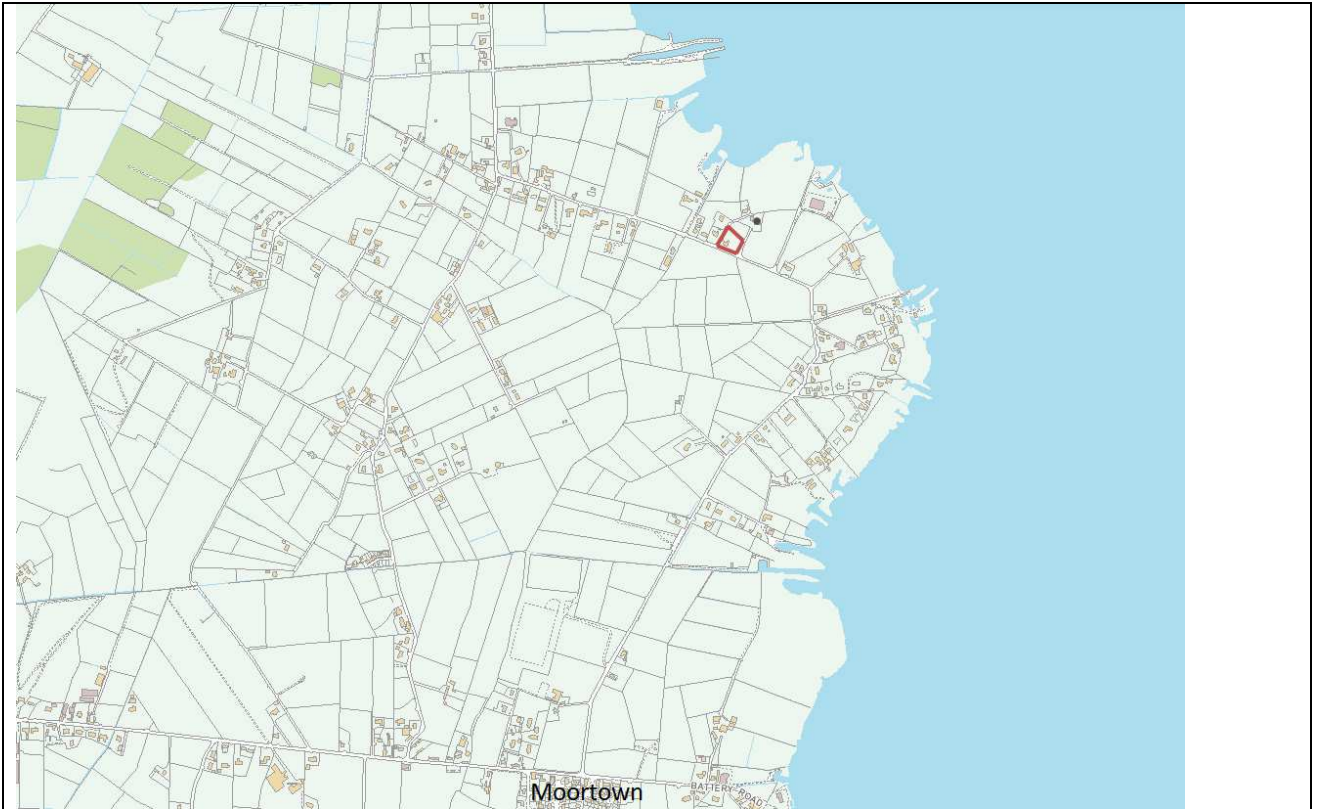


Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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> LA09/2022/0283/F	<b>Target Date:</b> 28 April 2022
<b>Proposal:</b> Proposed Dwelling	<b>Location:</b> 71 Anneeter Road Coagh Cookstown
<b>Applicant Name and Address:</b> Mr Charles Mallon 71 Anneeter Road Coagh Cookstown BT80 0HZ	<b>Agent Name and Address:</b> Kee Architecture Ltd 9A Clare Lane Cookstown BT80 8RJ
<b>Summary of Issues:</b>  This application is for a dwelling at the edge of a well defined group in the countryside. Previously outline permission was granted for a site at the rear of the existing dwelling as an exception to the clustering policy. This proposal has been amended from replacement dwelling and new dwelling to one dwelling. The proposal does not fit neatly into a policy however it does group and is not extending the footprint of the development here.	
<b>Summary of Consultee Responses:</b> DFI Roads - no objections, suggest conditions for safe access	
<b>Characteristics of the Site and Area:</b>  The site lies in the open countryside on the edge of Lough Neagh, just a short distance to the North of the settlement limits of Moortown and outside all other areas of constraint as depicted by the DSTAP 2010.	



The site is located on the Anneeter Road, and whilst it is designated as open countryside this particular area has come under significant development pressure. There is a high level of development all along this Anneeter Road and a small grouping at this particular location. The red line of the site includes an existing bungalow including a side extension and a garage and further shed to the rear. There is a low cropped hedgerow along the front roadside elevation, mature trees to the north and east boundaries and a low cropped hedge and laneway along the west side.



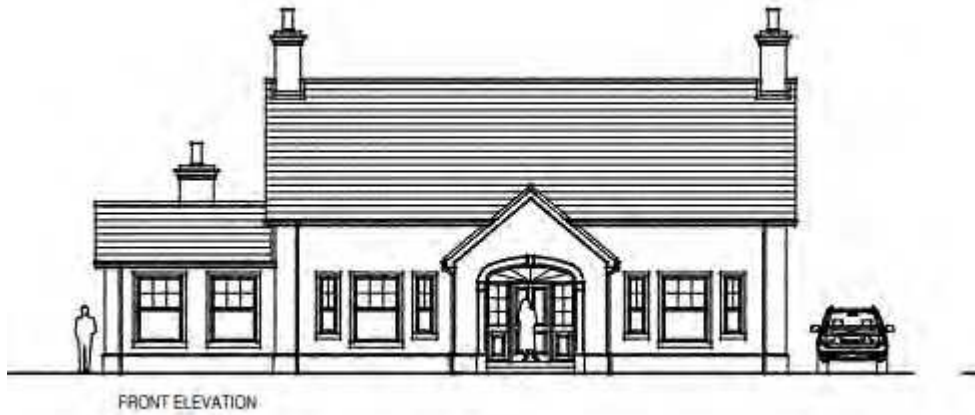
The dwelling on the site is finished in white dash with white upvc window and doors, a dark tiled roof and a large garden area to the rear and east.





### Description of Proposal

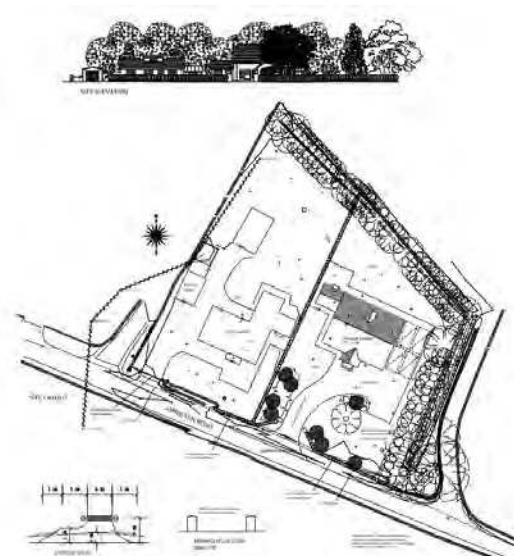
The proposal is for a dwelling. The proposed dwelling is a bungalow with a roofspace conversion, gable windows and dormer windows to the rear. It will be finished with grey/white render and dark grey stone walls and a slate roof.



### Deferred Consideration:

This application was originally for the replacement of a dwelling and the erection of an additional dwelling, it was before the Planning Committee in September 2022. At that meeting it was deferred for a meeting with the Service Director for Planning, which took place on 16 September 2022. At the meeting it was discussed that the existing house is very well maintained and 'to good to replace'. Following the meeting a revised scheme was submitted for a new dwelling in the side garden of the existing house.

Members are reminded that a previous application was approved in the rear garden of the house as it clustered with the other development and met all but one of the criteria for a cluster - it did not have a focal point. The applicant now wishes to essentially substitute the original approval which was to the rear for this one in the side garden. It is important to note the a dwelling in the side garden, as proposed, will not have development on 2 sides, as required by the policy CTY2a.



As can be seen above, the side garden of this dwelling is very generous in comparison to the other dwellings nearby. There are 2 large trees in the garden which would have to be removed to facilitate the proposed development. The boundaries to the east and north of the site are mature trees and give a very definite sense of enclosure and containment to the proposed site. On approach to the site from the east, a dwelling here will not be visible until past the end of the laneway immediately adjacent to it. From here the dwelling will be visually linked with 6 of the 9 dwellings that form the cluster here, though it will not have development on 2 sides. Members are advised that arguments before about whether or not a laneway can be classed as 'development' have been clear that the reasonable consideration for development is a building as this can form a visual entity. The laneway cannot be classed as development in this case. While the lane cannot be classed as development, it is important to recognise the other site specific issues here

- the laneway to the side is flanked on both sides by mature vegetation which provides a visual stop to the cluster of development here. The laneway visually contains the development here;
- the site is a side garden for a dwelling where other policies for extensions and domestic buildings, as well as permitted development rights would allow a new building to be erected. In principle another building can be erected in this garden;
- the proposed dwelling is in keeping with others in the group and respects the plot sizes, scale and design already in the vicinity;
- the proposed dwelling has a sufficient separation from the adjacent property so as not to cause unacceptable impacts on the residential amenity from overlooking from upstairs bedroom windows and it is already overshadowed by the existing mature trees;
- the overall cluster is visually well defined, as can be seen in the aerial above and this proposal would not result in an excessive spread outside the established group

For the reasons set out above, I consider that an exception to CTY2a could be made here and that permission can be substituted for the original permission on the site. Approval is recommended.

Conditions/Reasons for Refusal:

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

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

2. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 45.0m in both directions, shall be provided in accordance with the details on drawing No 02 Rev 1 received 14 MAR 2023. 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. All hard and soft landscape works as detailed on drawing no 02 Rev 1 received 14 MAR 2023 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby

approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity

4. One additional dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 Rev 1 received 14 MAR 2023.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2020/0899/O and is not for 2 additional dwellings on this site.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 September 2022	<b>Item Number:</b> 5.26
<b>Application ID:</b> LA09/2022/0283/F	<b>Target Date:</b> 28 April 2022
<b>Proposal:</b> Replacement dwelling & new dwelling (approved under LA09/2020/0899/O)	<b>Location:</b> 71 Anneeter Road Coagh Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Charles Mallon 71 Anneeter Road Coagh Cookstown BT80 0HZ	<b>Agent Name and Address:</b> Kee Architecture Ltd 9A Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR

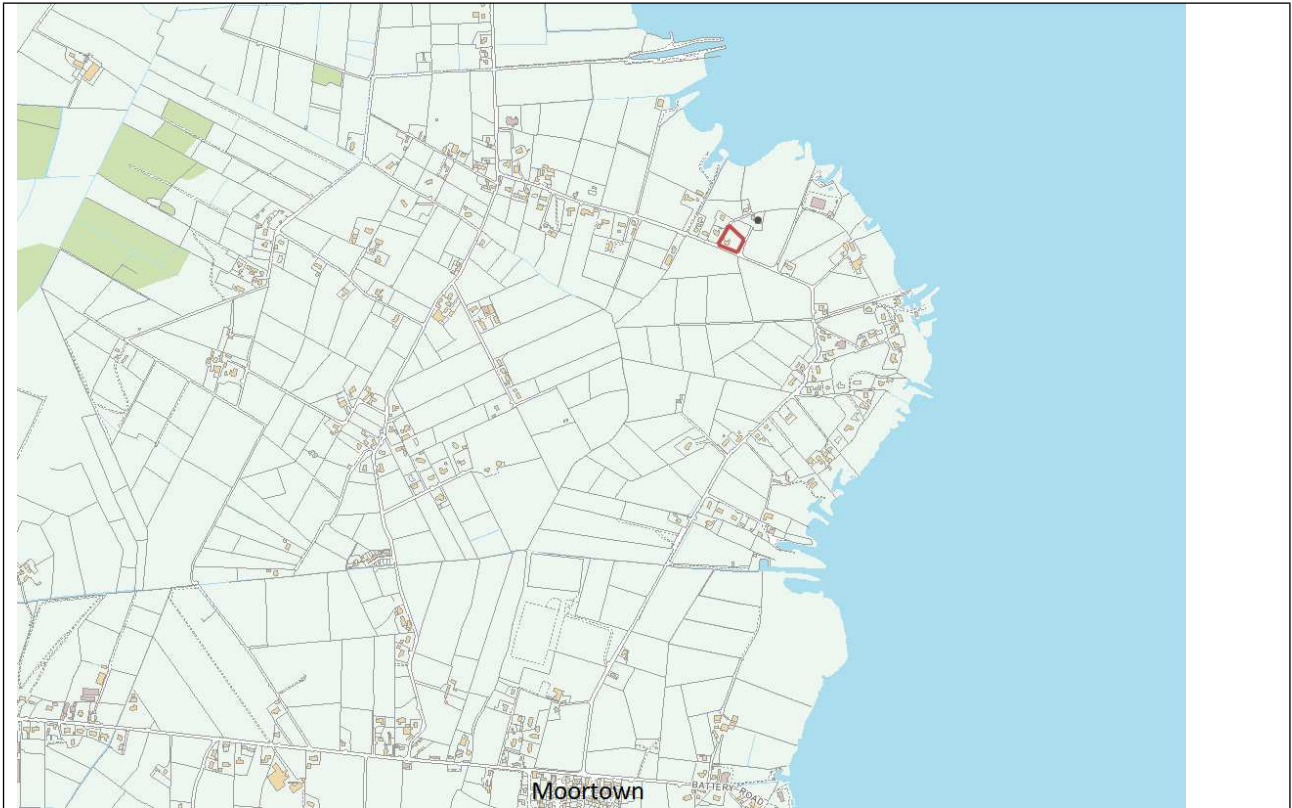
### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site lies in the open countryside on the edge of Lough Neagh, just a short distance to the North of the settlement limits of Moortown and outside all other areas of constraint as depicted by the DSTAP 2010.



The site is located on the Anneeter Road, and whilst it is designated as open countryside this particular area has come under significant development pressure. There is a high level of development all along this Anneeter Road and a small grouping at this particular location. The red line of the site includes an existing bungalow including a side extension and a garage and further shed to the rear. There is a low cropped hedgerow along the front roadside elevation, mature trees to the north and east boundaries and a low cropped hedge and laneway along the west side.



The dwelling on the site is finished in white dash with white upvc window and doors, a dark tiled roof and a large garden area to the rear and east.



## **Description of Proposal**

The proposal seeks full planning permission for a replacement dwelling & new dwelling (approved under LA09/2020/0899/O)

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

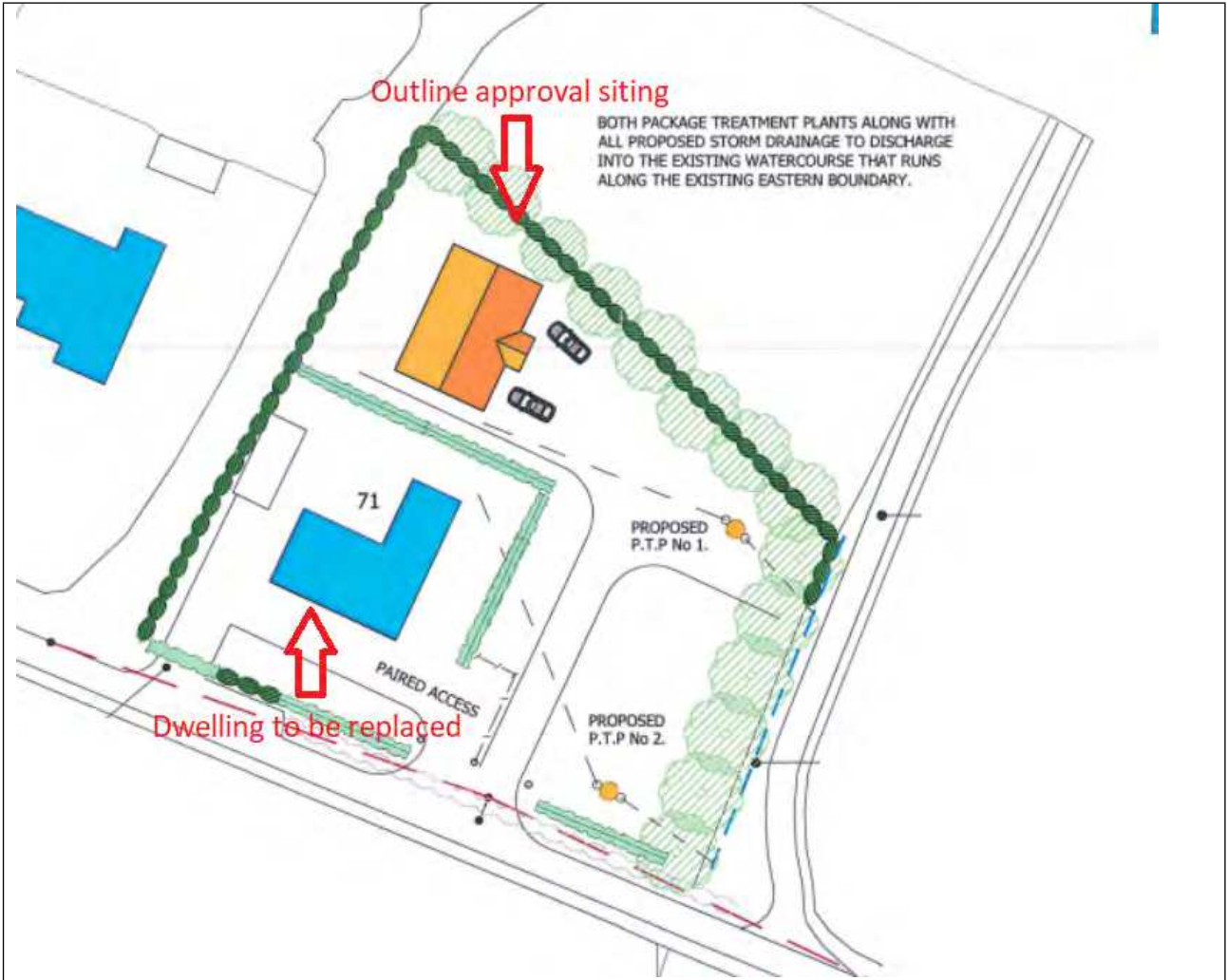
### **Policy Consideration**

#### **Background**

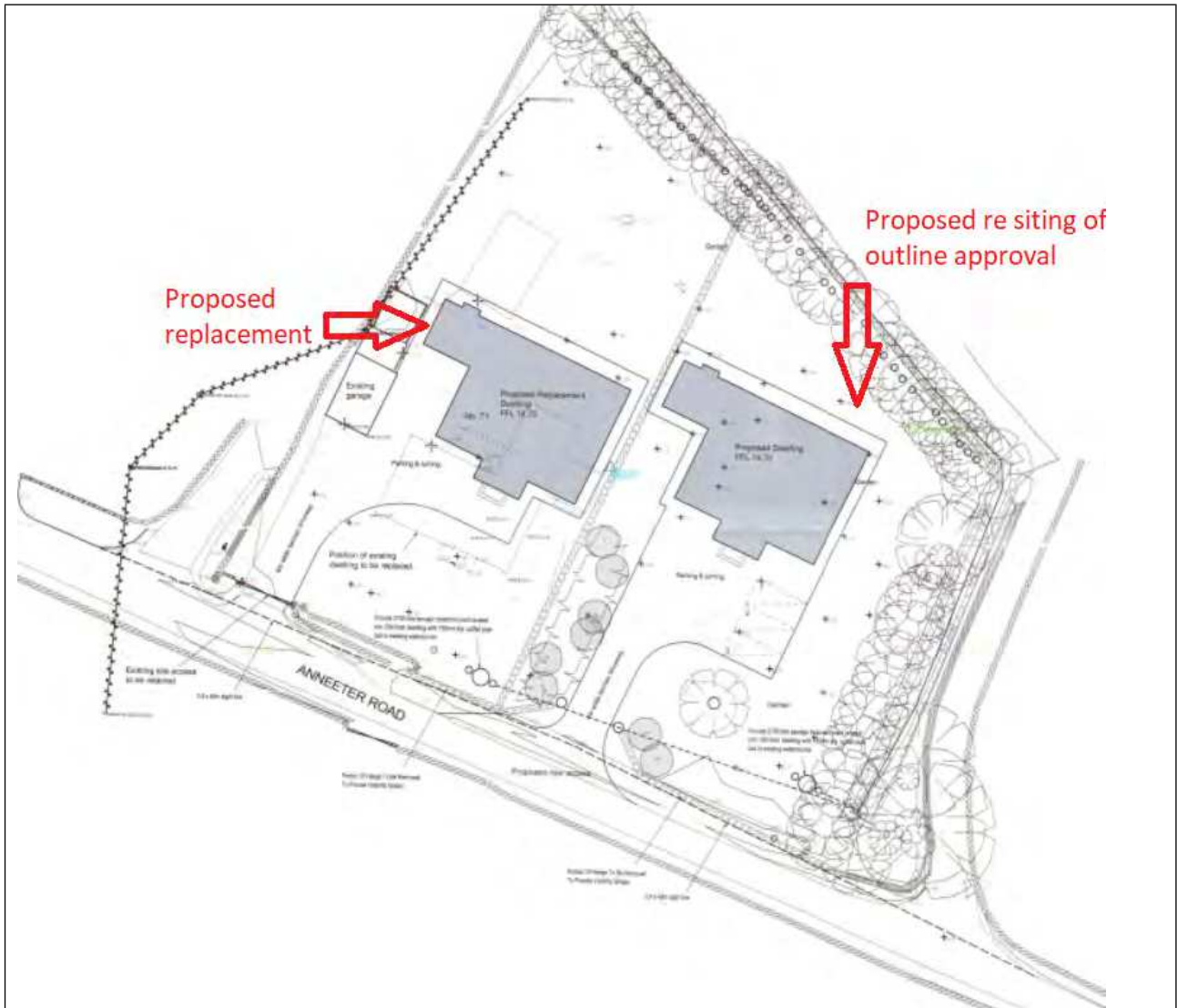
Planning permission was sought for a dwelling on a gap site under planning reference LA09/2020/0899/O. This resulted in the application being recommended for refusal, as it would add to a ribbon of development, further erode the rural character and there were no overriding reasons for this location.

Subsequently, this application was deferred and after further consideration it was approved as a dwelling in a cluster, however, with the premise that the siting was to the rear, as shown on the approved plan below. This siting would satisfy the clustering angle and avoid the issue of adding to a ribbon of development.





This proposal is twofold and involves a replacement of the existing dwelling (blue above) and a re-positioning of the approved siting (orange above) to along the road frontage. See below image.



**Assessment**

**This is a two part assessment. - Part one for the replacement dwelling.**

- Regional Development Strategy
- Dungannon South Tyrone Area Plan (DSTAP) 2010
- SPPS
- PPS3
- PPS21

**The Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS)** is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

**The Dungannon and South Tyrone Area Plan 2010 (DSTAP)** operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The DSTAP offers no specific policy or guidance in respect of this application. There is no conflict or

change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

**Key Planning issues;**

Planning Policy Statement 21

Policy CTY 1 - Development in the Countryside

Policy CTY 3 - Replacement Dwellings

Policy CTY 13 - Integration and Design

Policy CTY 14 - Rural character

Objections / comment received from 3rd Parties;

There have been no objections / comments received in relation to this proposal.

**Assessment of CTY3;**

The dwelling to be replaced exhibits the essential characteristics of a dwelling, in that a chimney, a fireplace, windows and door openings are all visible and all the walls are fully intact, in fact the dwelling is currently inhabited.

In this case the applicant has proposed a scheme which involves replacement with a dwelling with a similar size footprint, however, the single storey with dormer windows design has been retained. The dwelling sited slightly off the existing footprint moving the dwelling slightly further back, away from the road edge. From site inspection it is my opinion that the dwelling has no defined curtilage and therefore this small movement in the positioning of the dwelling will not have a significant impact.

In addition the existing access will be used therefore there will be minimal intrusion.



The existing dwelling above exhibits a bungalow with a dormer window. The overall length of the proposed dwelling is broadly the same as the proposed, however, the existing ridge height of 5.6 metres will slightly increase, it would represent a minimal increase in overall size, however, nothing unacceptable for this location.



Given the local context of the area, as well as considering the extent of a back drop, I do not feel that there would be a significant impact.

In this case the permissions for a replacement dwelling under this policy will be subject to a condition requiring the demolition of the existing dwelling.

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

The existing site access is via the existing laneway off the Anneeter Road and remains unaltered. It must be noted that as this application is for a replacement dwelling and in principle does not involve intensification of the access to the public road. Demolishing the existing dwelling will ensure this does not result in intensification of the use of the access and should be conditioned. As it does not result in intensification AMP2 is not, in my view, be engaged to seek amendments or improvement to the access. I consider it appropriate to attach an informative to any permission highlighting this is a substandard access and encouraging it is improved.

Having considered all of the above it is considered that the replacement part of the proposal would be acceptable.

### **Part 2 – new dwelling (previously approved under ref LA09/2020/0889/O)**

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

### **Representations**

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

duty. At the time of writing, no third party objections were received.

### **Planning History**

LA09/2020/0889/O – Dwelling in a cluster – GRANTED

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

The Mid Ulster District Council Local Development Plan 2030 & Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

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

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

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

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

### **Planning Policy Statement 21 & Sustainable Development**

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It is clear this application does not meet any of the examples set out in CTY1 for a dwelling in the countryside, however, outline planning permission was granted 05.10.2021 for a dwelling in a cluster.

I am being asked to consider if it is acceptable to substitute the approved outline permission which is still live, with a full application for a dwelling on a re-sited position.

### **CTY 8 – Ribbon development**

Planning permission will be refused for a building which creates or adds to a ribbon of development. In this case the new proposed position alongside the existing dwelling will add to a ribbon of development. This was deemed the case in the previous application, which was only approved on the basis of an amended scheme with a proposed dwelling clustered to the rear.

### **CTY 13 - Integration and Design**

The application site is set along the existing roadside. The re-location of the dwelling will entail moving from a well screened siting to the rear of the existing dwelling to a position alongside and in my opinion will be in a much more prominent position in the landscape.

There is a mature only a low cropped hedgerow along the front roadside elevation therefore the proposal will rely on new planting for integration.

The proposal will also require a new access onto the Anneeter road.

Therefore, due to the above I consider this proposal will have a greater impact than previously improved.

**CTY 14 Rural Character**

As stated earlier in the assessment I consider the proposal will be a more prominent feature in the landscape.

In addition it will result in a suburban style build-up of development when viewed with existing due to its position alongside, as opposed to the rear of the existing dwelling.

I consider the design of the proposed dwelling is a simple rural form and respects the pattern of settlement.

It will add ribbon development and therefore will have a damage the rural character.

Recommendation refusal

CTY 8

CTY 13

CTY 14

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Anneeter Road.

**Reason 2**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks the natural boundaries to provide a suitable degree of enclosure for the building to integrate into the landscape

and would rely primarily on the use of new landscaping for integration, therefore would not visually integrate into the surrounding landscape.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings adding to a ribbon of development and would therefore further erode the rural character of the countryside.

**Signature(s):** Peter Hughes

**Date:** 22 August 2022

<b>ANNEX</b>	
<b>Date Valid</b>	3 March 2022
<b>Date First Advertised</b>	15 March 2022
<b>Date Last Advertised</b>	15 March 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 71B , Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 69 Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 71C , Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 71E , Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 71A , Anneeter Road, Cookstown, Tyrone, BT80 0HZ	
<b>Date of Last Neighbour Notification</b>	28 March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR	



**Drawing Numbers and Title**

Proposed Plans Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0380/F	<b>Target Date:</b> 17 May 2022
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Between 70B And 72 Gortlenaghan Road Dungannon
<b>Applicant Name and Address:</b> Joe Doherty And Dervla MC Gonnell- Doherty 252 Ballygawley Road Killeeshil Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Summary of Issues:</b>  This application is for a dwelling in a gap site, the design resulted in a prominent form of development and has been amended to be in keeping with the other development in the ribbon..	
<b>Summary of Consultee Responses:</b> DFI Roads - recommend conditions on any approval	
<b>Characteristics of the Site and Area:</b>  The site is located at lands between 70b and 72 Gortlenaghan Road, Dungannon. The red line of the site includes a roadside agricultural field and the two fields at either side are outlined in blue, indicating ownership. The site benefits from existing hedging along its boundaries and the field is generally quite flat throughout, with a gentle slope from east to west. The surrounding area is largely rural, made up with agricultural fields and scattered with single dwellings and associated outbuildings however this section of Gortlenaghan Road in particular seems to have quite a few roadside dwellings along it.	

## Description of Proposal

Full planning permission is sought for proposed dwelling and garage.

## Deferred Consideration:

This application was before the Planning Committee in December 2022 where it was deferred for a meeting with the Service Director of Planning. At the meeting on 15 December the issues with the design were discussed and the agent agreed to discuss the proposal further with the clients and submit a revised scheme.

Amended plans were received on 17 April 2023 showing the house amended to give the appearance of a rural cluster of buildings by dropping the ridge height in the middle and having different heights and orientations. (Fig 1)



Fig 1 – amended design

The gable front projection is a design feature in the locality and is reflective of the barn located at the east of the ribbon here. (Fig 2).

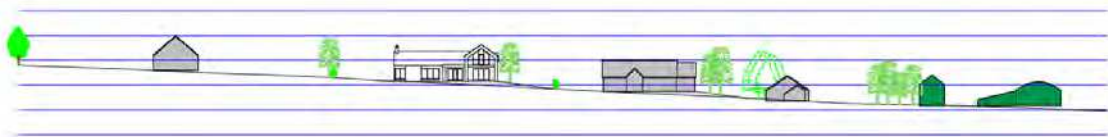


Fig 2 – streetscene

Concerns about the glazed opening are somewhat alleviated by the sunroom that is located at the front of the dormer bungalow that is located immediately the west of the site (Photo 1)



Photo 1 – dormer bungalow next door

I consider the design has incorporated some of the features from other buildings in the ribbon and is reflective of the character and scale of these. I consider the proposal is in keeping with the surrounding development and meets with exception in CTY8 and is respective of the guidance in Building on Tradition – The Rural Design Guide.

I recommend approval.

Conditions/Reasons for Refusal:

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

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

2. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 60.0m in both directions, shall be provided in accordance with the details on drawing No 01 bearing the stamp dated 22 MAR 2022. 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. All hard and soft landscape works as detailed on drawing no 01 bearing the stamp dated 22 MAR 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity

**Signature(s)**

**Date:**

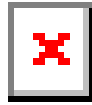


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 December 2022	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2022/0380/F	<b>Target Date:</b> 17 May 2022
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Between 70B And 72 Gortlenaghan Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Joe Doherty And Dervla MC Gonnell- Doherty 252 Ballygawley Road Killeeshil Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR

### Representations:

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

### Summary of Issues

Lack of information to determine application.No representations have been received.

### Characteristics of the Site and Area

The site is located at lands between 70b and 72 Gortlenaghan Road, Dungannon. The red line of the site includes a roadside agricultural field and the two fields at either side are outlined in blue, indicating ownership. The site benefits from existing hedging along its boundaries and the field is generally quite flat throughout, with a gentle slope from east to west. The surrounding area is largely rural, made up with agricultural fields and scattered with single dwellings and associated outbuildings however this section of Gortlenaghan Road in particular seems to have quite a few roadside dwellings along it.

### Description of Proposal

Full planning permission is sought for proposed dwelling and garage.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

## Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were a number of neighbours notified under this application including: 72, 72a and 70B Gortlenaghan Road. At the time of writing, no third party representations have been received.

## Planning History

LA09/2020/1659/O – Proposed Dwelling (Policy CTY8) - Between 70B and 72 Gortlenaghan Road Dungannon – PERMISSION GRANTED

This full application has been submitted as the conditions of the above outline permission have not been complied with.

## Planning Assessment of Policy and Other Material Considerations

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

The Dungannon and South Tyrone Area plan 2010 identifies the site as being in the rural countryside and has no other zonings or designations within the Plan.

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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8. I am content that the proposed site meets the policy tests of CTY 8 and that the principle of development at this site has already been agreed under LA09/2020/1659/O, however this application does not meet with all the conditions attached previously, hence the submission of this full application.



Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed design of the dwelling is shown below in Figure 1. There is some concern that the design of the building may be inappropriate for the site and its locality, however it may be deemed acceptable if a streetscape of the site and neighbouring properties is provided. As noted later within this report, we feel there is not enough information to fully determine the application.



**Figure 1 – Dwelling Proposed**

Following the first group meeting and discussion about the application, an email was sent to the agent requesting an amended design as we didn't feel it exhibits simple rural form, particularly the two storey glazing element and thus we asked that they amend the design to be more suitable for the rural setting. This original email was sent 26/05/2022. The agent responded noting an application which had a similar design. I had went back to the agent noting that the application was in a different council area and each application was assessed on its own merits, depending on views of the site and surrounding properties etc. Following this we discussed the application again at group where I asked the agent via email on 31/08/2022 to provide a streetscape, showing how the proposal would be viewed with the dwellings it is proposing to infill. The agent responded noting that he would get this prepared on same date, 31/08/2022. This information was chased again on 26/09/2022 and again on 10/10/2022. The latest response from the agent was on 11/10/2022 where he stated that they would prepare this information.

At the time of writing, I have had no further correspondence from the agent regarding the application and therefore, this application is being presented to committee on the basis there is a lack of information submitted which would allow the application to be progressed any further. We feel that the information that has been requested is central to determining whether the proposal is acceptable at this site and we feel that sufficient time has been afforded to the agent to allow them to submit this information.

The proposal intends to utilise the existing access onto Gortlenaghan Road. Dfl Roads

were consulted and raised no objections subject to condition. They have shown the splays requested at outline stage.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policies CTY 1, 8, 13 and 14 of PPS 21 as there is no supporting evidence to demonstrate that the proposal respects the existing development pattern along Gortlenaghen Road or that the design of the proposal is appropriate for this rural location.

**Signature(s):** Sarah Duggan

**Date:** 21 November 2022

<b>ANNEX</b>	
<b>Date Valid</b>	22 March 2022
<b>Date First Advertised</b>	7 April 2022
<b>Date Last Advertised</b>	5 April 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 72A Gortlenaghan Road Dungannon Tyrone BT70 3AS The Owner / Occupier 72 Gortlenaghan Road Dungannon Tyrone BT70 3AS The Owner / Occupier 70B Gortlenaghan Road Dungannon Tyrone BT70 3AS	
<b>Date of Last Neighbour Notification</b>	22 April 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR	
<b>Drawing Numbers and Title</b>  Proposed Plans    Plan Ref: 02 Site Location Plan    Plan Ref: 01	
<b>Notification to Department (if relevant)</b>  Not Applicable	





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0381/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed double infill for dwellings and garages	<b>Location:</b> 170m South West of 219 Dungannon Road Cabragh
<b>Applicant Name and Address:</b> Brendan Goan 27 Ackinduff Road Cabragh Dungannon	<b>Agent name and Address:</b> 2020 Architects 37 Main Street Ballymoney BT53 6AN
<b>Summary of Issues:</b>  The proposal is for 2 dwellings and garages in a gap site and the issue relates to whether or not this meets the definition of a gap site.	
<b>Summary of Consultee Responses:</b>  DFI Roads – a safe access will require sight lines of 2.4m x 150.0m and thee are achievable DFI Rivers - some surface water flooding within the site that developer should be aware of	
<b>Characteristics of the Site and Area:</b>  The site is located approx. 170m South West of 219 Dungannon Road, Cabragh and is located within the open countryside as identified within the Dungannon and South Tyrone Area Plan 2010. The site sits adjacent to the south of the A4 Dungannon – Ballygawley Road, a former protected route. The site is generally quite flat throughout and the boundaries appear mostly undefined at present. The surrounding area is largely made up of agricultural fields, with a number of existing dwellings within close proximity and Sandvik is located just NW of the site.	

## Description of Proposal

Full planning permission is sought for proposed double infill for dwellings and garages.

## Deferred Consideration:

This application was before the committee members in September 2022 and was deferred for a meeting with the Service Director for Planning Manager to discuss the merits of the infill policy.

At the office meeting on 16 September 2022 the policy requirements of CTY8 were discussed and the need to respect the character of the surrounding development in terms of size, scale, siting and plot size. The agent highlighted the old part of the Dungannon Road that is between the site and the current road line is still in situ.

Members will be aware CTY8 allows for up to a maximum of 2 dwellings in a substantially built up frontage and the definition of a built up frontage is where there are 3 or more buildings along a road frontage without accompanying development to the rear.

West of the site is a bungalow with a large garden area which has a frontage of approx. 65 metres and a fairly substantial lean to garage at the rear. Further west is a hipped roof bungalow set back from the road on an elevated site with garden to the roadside and approx. 29metre frontage. East of the site, the new 2 storey dwelling under construction is now roofed and sits beside a large agricultural building which has a site width of 67 metres. Planning permission for the house does not extend to the roadside and the area to the front is to remain as agricultural use. Further east is an overgrown site that was granted permission for a replacement dwelling, its site frontage extends to approx. 142 metres. (Fig 1)



Fig 1 – frontages in the vicinity

It is clear there are more than the 3 buildings that are required either side off the application site to warrant consideration of a substantial and built up frontage. The issue here is the new dwelling to the east, does it have a frontage to the road or does it need to have a frontage to the road? The policy amplification states 'A 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage *or they are visually linked.*' In this case, anyone standing on the Dungannon Road in front to the sites can clearly see the visual linkage between the agricultural shed, the newly constructed 2

storey dwelling, the proposed dwellings and garages and the bungalows. Whilst the dwelling to the east may not have a defined frontage to the road I consider, in visual terms, the proposed 2 dwellings will sit neatly into the gap here and respect the existing settlement pattern. When the overall grain of the adjacent development is considered, the plot sizes immediately adjacent may be larger than the proposed sites, however the overall built development, especially to the west, tends to be similar to the proposed development. Taking account of the amount of development around the site and the plot sizes, I do not consider this is a defensible gap site and the proposal, in my view meets the spirit of the in-fill exception in Policy CTY8. (Fig 2, Fig 3 and Fig 4)



Fig 2 – 2016 orthophotography



Fig 3 – 2022 orthophotography

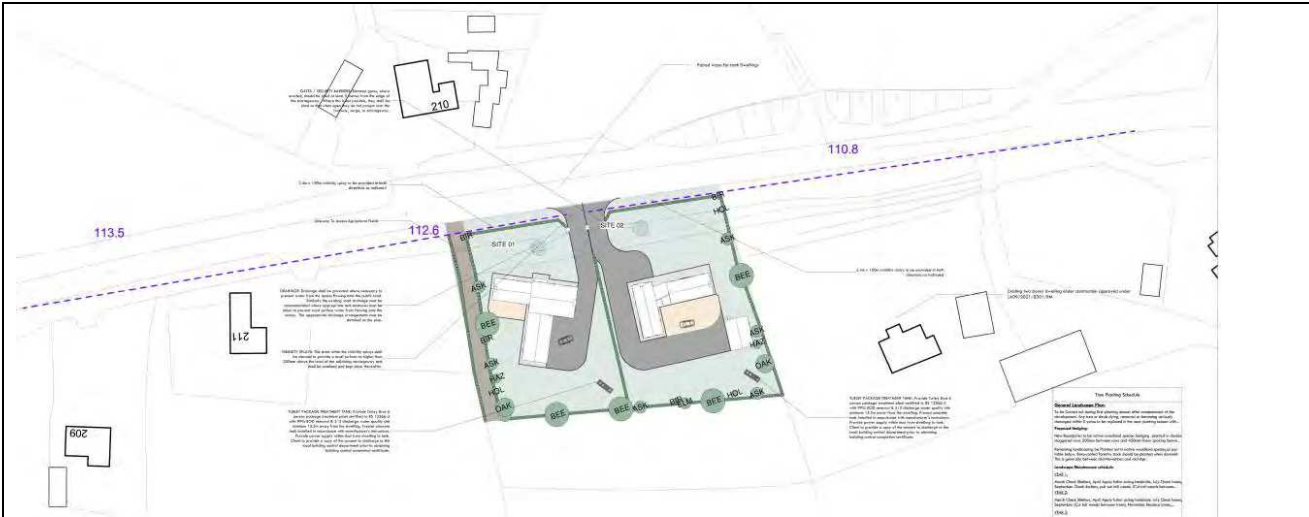


Fig 4 – proposed site plan

In light of the above, though the adjacent dwelling does not have an approved frontage to the road, I consider the proposal meets the spirit of the exception in CTY8 for a maximum of 2 dwellings in a substantial and built up frontage and recommend approval.

**Conditions:**

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

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

2. Prior to the commencement of any works or other development hereby permitted, the vehicular accesses, including visibility splays of 2.4m x 1500m in both directions, shall be provided in accordance with the details on drawing No 02/1 received 09 MAY 2023. 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. All hard and soft landscape works as detailed on drawing no 02/1 received 09 May 2023 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the



landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity

**Signature(s):**

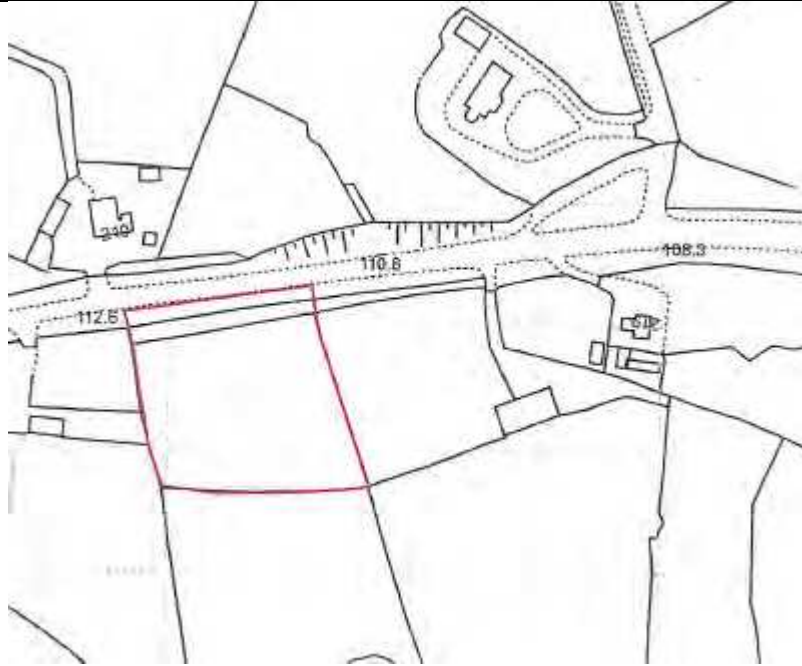
**Date**

**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0381/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed double infill for dwellings and garages	<b>Location:</b> 170m South West of 219 Dungannon Road Cabragh
<b>Referral Route:</b> Refusal – contrary to CTY 8 of PPS 21.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Brendan Goan 27 Ackinduff Road Cabragh Dungannon	<b>Agent Name and Address:</b> Sam Smyth Architecture Unit 45D Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<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	Rivers Agency	Substantive Response Received

### Representations:

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

### Summary of Issues

No representations received. Considered to be contrary to CTY 8 of PPS 21.

### Characteristics of the Site and Area

The site is located approx. 170m South West of 219 Dungannon Road, Cabragh and is located within the open countryside as identified within the Dungannon and South Tyrone Area Plan 2010. The site sits adjacent to the south of the A4 Dungannon – Ballygawley Road, a former protected route. The site is generally quite flat throughout and the boundaries appear mostly undefined at present. The surrounding area is largely made up of agricultural fields, with a number of existing dwellings within close proximity and Sandvik is located just NW of the site.

**Description of Proposal**

Full planning permission is sought for proposed double infill for dwellings and garages.

**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: 210 and 211 Dungannon Road. At the time of writing, no representations were received.

Planning History

LA09/2020/0718/O - 80m West of 219 Dungannon Road, Cabragh - Proposed dwelling and garage on a farm - PERMISSION GRANTED

LA09/2021/0301/RM - 80m West of 219 Dungannon Road, Cabragh - Dwelling & garage on a farm – PERMISSION GRANTED

Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- PPS 15: Planning and Flood Risk
- Local Development Plan 2030 – Draft Plan Strategy

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

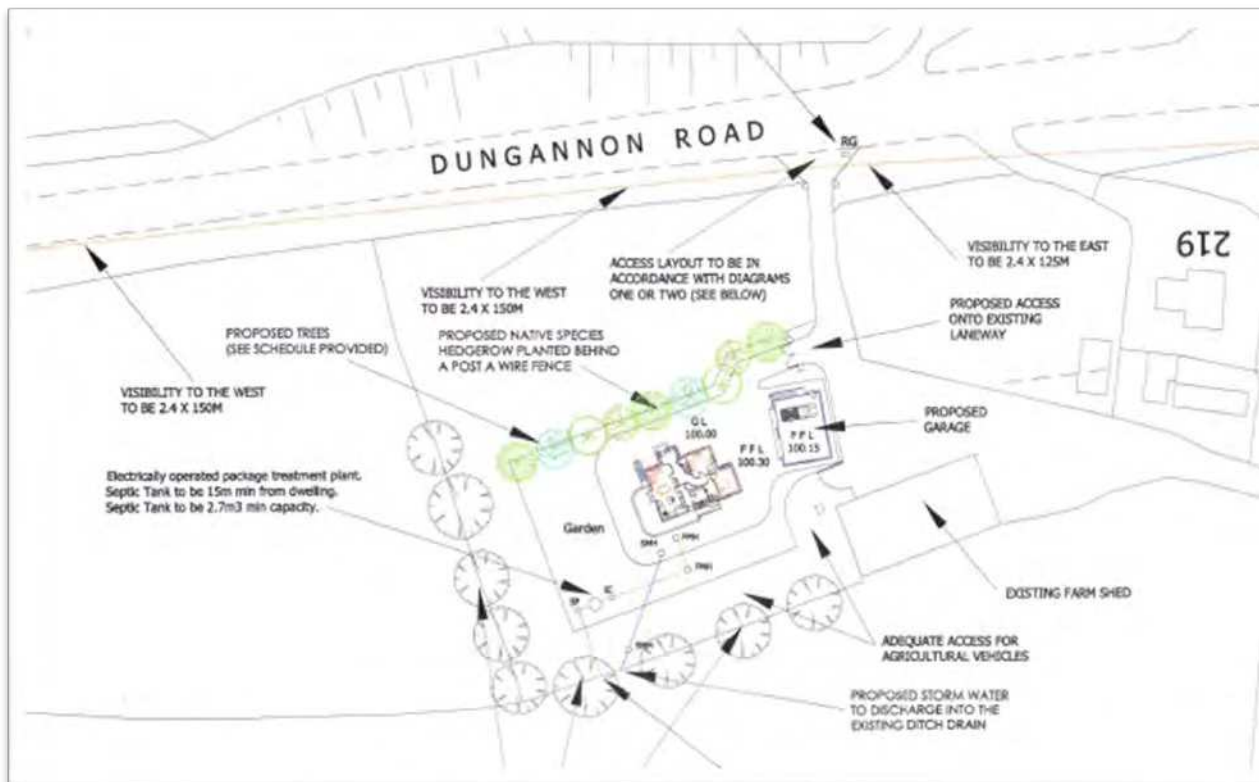
The Dungannon and South Tyrone Area Plan identifies the site as being outside any defined settlement limits. The site has no other zonings or designations within the plan.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8.

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of the policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It is considered that the proposed site does not meet the policy test in that there is a continuous built up frontage along this road. At present, there is a dwelling which was under construction during the site visit and had been built up to the first floor level and is located to the east of the site. The site plan which was approved for this application is shown below (figure 1). In figure 1, it is evident that the frontage this dwelling will have to the road when complete is at the access point only. The remainder of the lands which sites to the front of the dwelling will be agricultural use and cannot be considered as part of the frontage of the dwelling. Therefore, taking into consideration what is on the ground at present, I am not satisfied that there is a line of three or more buildings along this road frontage and therefore the proposal does not meet this policy requirement. I am content that the gap would be sufficient to accommodate no more than two dwellings; however this does not negate the issue of the lack of road frontage of the dwelling under construction. To the west of the site there is a further two dwellings which each share a frontage to the road.



**Figure 1 – Approval for dwelling east of site under LA09/2021/0301/RM (it is considered this dwelling will not have frontage to road when works are completed).**

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The design of two dwellings are identical and this would not normally be acceptable in the countryside, as noted in email to the agent, we would not be requesting any change in design at this stage given we don't feel the proposal is acceptable in principle as set out beforehand.

The proposal intends to create a paired access onto Dungannon Road. DfI Roads were consulted and noted no concerns subject to conditions and informatives.

Rivers Agency were consulted on the proposal and have also responded with no concerns in relation to the proposal.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Refusal is recommended.

**Conditions/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 is not located within a small gap site within an otherwise substantial and continuously built up frontage.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	23rd March 2022
<b>Date First Advertised</b>	5th April 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 210 Dungannon Road,Dungannon,Tyrone,BT70 1TH The Owner/Occupier, 211 Dungannon Road,Dungannon,Tyrone,BT70 1TH	
<b>Date of Last Neighbour Notification</b>	22nd April 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0301/RM Proposal: Dwelling & garage on a farm Address: 80m West of 219 Dungannon Road, Cabragh, Decision: PG Decision Date: 15.06.2021  Ref ID: LA09/2020/0718/O Proposal: Proposed dwelling and garage on a farm Address: 80m West of 219 Dungannon Road, Cabragh, Decision: PG Decision Date: 08.01.2021  Ref ID: LA09/2022/0381/F Proposal: Proposed double infill for dwellings and garages Address: 170m South West of 219 Dungannon Road, Cabragh, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DfI Roads: content Rivers Agency: content	

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





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

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> LA09/2022/0739/F	<b>Target Date:</b> 22 September 2022
<b>Proposal:</b> Buildings to house proposed wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works.	<b>Location:</b> Lands Approx. 7 Metres North of 16 New Ferry Road Bellaghy
<b>Applicant Name and Address:</b> Bulrush Horticultural Ltd 16 New Ferry Road Bellaghy BT45 8ND	<b>Agent Name and Address:</b> Clyde Shanks Ltd 7 Exchange Place Belfast BT1 2NA
<b>Summary of Issues:</b>  This application is for expansion of an existing industrial development in the countryside. The proposal involved building over an existing watercourse, which is partially culverted, within the site. Due to concerns about maintenance of the flows in the culvert, this has now been amended to close up the existing watercourse and divert it to a new culvert. DFI Rivers do not object to the culverting and the new culvert is available for inspection and will not be built over.	
<b>Summary of Consultee Responses:</b> DFI Rivers - no reason to disagree with the report proposing a new culvert, Council to decide if engineering operation for FLD4 DFI Roads – no objections EHO – proposed conditions to control noise	
<b>Characteristics of the Site and Area:</b>  This site is located on Lands Approx. 7 Metres North Of 16 New Ferry Road, Bellaghy and is located outside of any designated settlement limits as defined in the Magherafelt Area	

Plan, 2015. The proposed site is 0.683ha in size, is located within the existing Bulrush Horticulture facility at Newferry, approximately 2.8km north east of the village of Bellaghy.

The site, which is relatively flat throughout, comprises an area of hardstanding currently used to for the storage of peat based substrates. The site is bound on all sides by extant Bulrush operations which comprise storage areas for peat and horticultural products and materials. The site is well set back from the road, to the rear of the existing buildings. The site is well screened with existing mature vegetation along the north, east and western boundaries The site is accessed via an internal access road which connects to an existing entrance to the Bulrush facility off Newferry Road.

The surrounding area is predominantly rural in character with scattered dwellings and dispersed farm holdings . An area of peatland is located immediately north of the site which is currently subject to varying degrees of extraction.

#### **Description of Proposal**

This is a full application for buildings to house proposed wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works, at Bulrush Horticultural Ltd. The proposal also includes culverting and widening an existing watercourse and closing up another watercourse.

#### **Deferred Consideration:**

This application was before the Planning Committee in February 2023 with a recommendation to refuse, the Committee agreed to defer the application to facilitate a meeting with the Service Director of Planning. A meeting was held on 16 February 2023 where the applicants and there representatives, having been able to see the issues of contention provided additional information in relation to the culverts in and around the site. At the meeting EHO comments were also raised as the plant operates on a round the clock basis and an additional noise assessment was provided.

Members will be aware the issues here relate to the culverting or a section of watercourse and building over a culverted watercourse. DFI Rivers had raised concerns about maintenance of culverts should they become blocked and the impacts any blockages may have on the surrounding area which they advise is contrary to Policy FLD2 of PPS15. DFI Rivers deferred to the Council to consider if the culverting of the watercourse was an exception within Policy FLD4 in PPS15.

At the meeting and subsequent to it the applicants' representatives acknowledged there is a presumption against building over culverts. They recognise it is necessary to ensure these are kept clear to allow for freeflow of water. Should these become blocked this may result in flooding occurring elsewhere. Since then the applicants have revised the Drainage Assessment and now are proposing to block up the existing channel that runs through the site and divert into a new culvert to the north of the site, away from the buildings and yard. The Addendum to the Drainage Assessment has assessed the area that will be drained by this network and has sized the new pipework accordingly. DFI Rivers have been consulted with the revised proposal and have not raised any objections to this, they have indicated there is a requirement for the developer to obtain a Schedule 6

Consent from them for the works. I consider this can be dealt with by a condition on any approval.

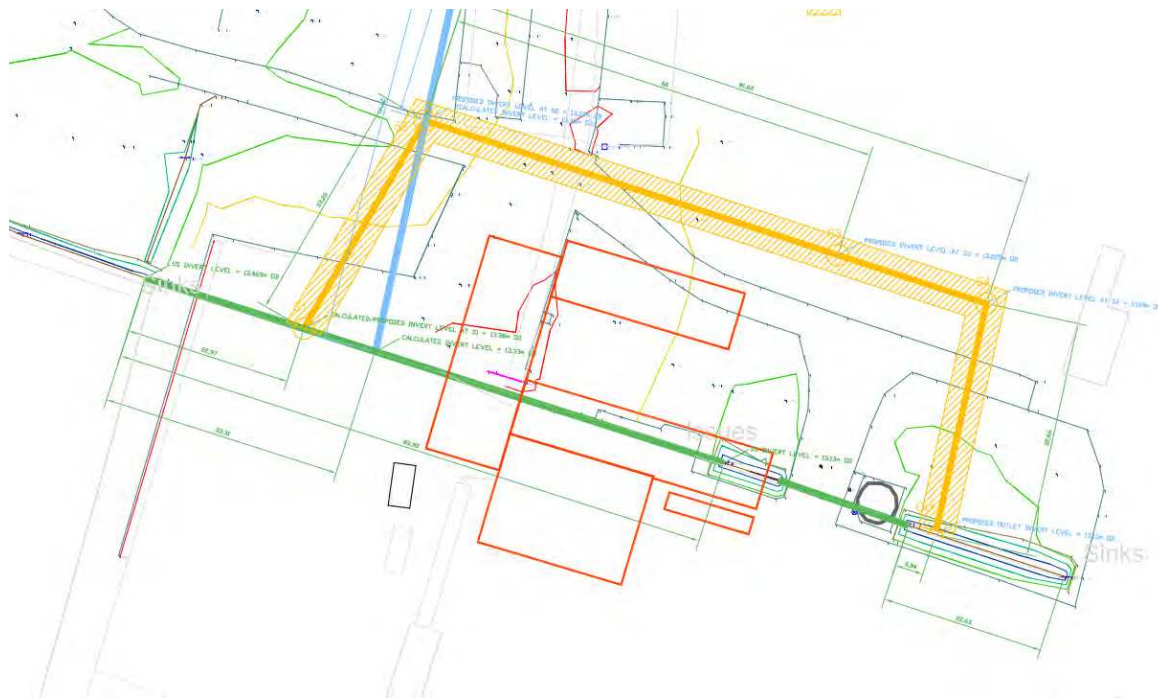


Fig 1 yellow line shows the line of the new culvert (extract from Drawing C301 in Addendum A to Flood Risk Assessment)

DFI Rivers have not made any indication on the need for the culverting and have left that for the Council to decide. Members are advised Policy FLD4 of PPS15 has 2 stated exceptions for allowing a culvert, one is for access purposes and the other is for engineering reasons. There are health and safety concerns in relation to traffic movements and potential interactions with pedestrian traffic within the site. An incident at another establishment resulted in the applicants, in consultation with HSENI, completely segregating machinery movement areas and pedestrian activity within the site. Due to these Health and Safety measures in makes sense for the proposed development to be located within the area where heavy machinery will be operating and servicing the new plant. The new development is being constructed over the course of the existing culvert and watercourse through the site and the existing watercourse will be stopped up. The new culvert, to the north, will ensure there is sufficient capacity to deal with the flow of water that is currently being drained by the watercourse that will be stopped up. In light of this, I consider it is entirely reasonable to consider there are engineering reasons for the proposed culverting.

Mid Ulster Council Environmental Health Department have assessed the additional noise information in respect of the nighttime activities at the proposed plant and have not raised any concerns provided suitable condition in relation to noise at certain times is adhered to, as recommended in the report. I consider it is entirely reasonable to attach these conditions in the interest of protecting the amenity of nearby residential properties.

In light of the above and the considerations set out in the previous case officers report, I recommend this application is approved.

Conditions/Reasons for Refusal:

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

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

2. Prior to the commencement of any development hereby approved the developer shall obtain consent under Schedule 6 of the Drainage (NI) Order 1973 from DFI Rivers for the culverting works hereby granted planning permission, provide a copy of the consent to the Council and receive written assurances this condition has been discharged.

Reason: To ensure the proposal adequately deals with upstream drainage of water through the site.

3. Prior to the commencement of any other development hereby approved, the existing drain through the site shall be diverted in accordance with the details as generally set out in drawing No C301 contained within Addendum A to Flood Risk Assessment dated April 2023

Reason: To ensure the proposal adequately deals with upstream drainage of water through the site.

4. The rating level of noise emitted from the site shall not exceed 32.5dB(A) between 23:00hrs and 07:00hrs, inclusive. Noise levels shall be determined at least 3.5m from the nearest residential dwelling facade. The measurements and assessment shall be made in accordance with BS4142.

Reason: To protect the amenity of nearby residential properties.

5. Within 4 weeks of a written request by the Planning Department, following receipt of a reasonable noise complaint the site operator shall, at his/her expense, employ a suitably qualified person to assess the level of noise emissions from the site at the complainants property following the procedures described in BS4142:2014 Methods for rating and assessing industrial and commercial sound. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing and the results of the survey shall be submitted to the Planning Department within 4 weeks of the survey taking place.

Reason: To protect the amenity of nearby residential properties.

6. In the event of the noise levels in any subsequent noise monitoring survey exceed the levels set out in condition 4, operations shall cease until the operator puts in place mitigation measure to ensure the levels are not exceeded.

Reason: To protect the amenity of nearby residential properties.

**Signature(s)**

**Date:**



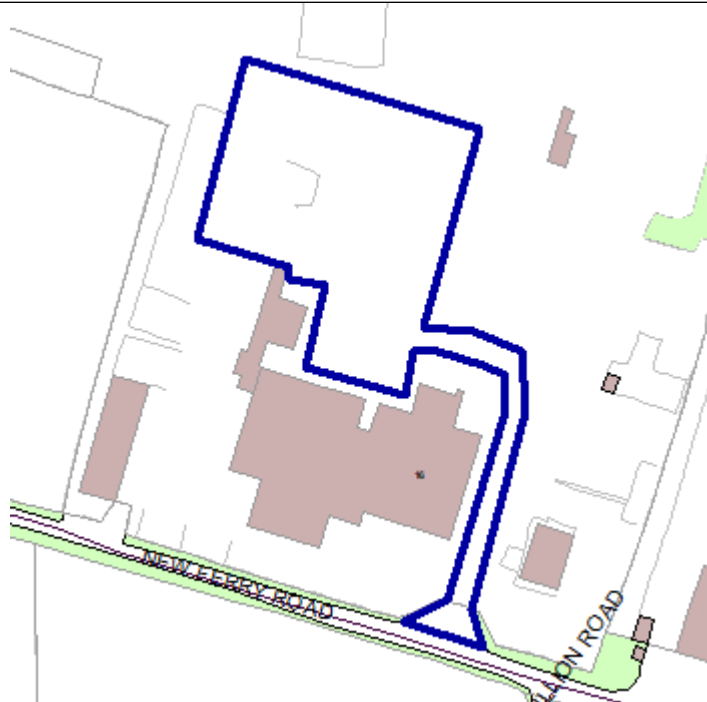


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2022/0739/F	<b>Target Date:</b> 22 September 2022
<b>Proposal:</b> Buildings to house proposed wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works.	<b>Location:</b> Lands Approx. 7 Metres North Of 16 New Ferry Road Bellaghy Co Derry BT45 8ND
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Bulrush Horticultural Ltd 16 New Ferry Road Bellaghy BT45 8ND	<b>Agent Name and Address:</b> Clyde Shanks Ltd 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	489888 - Final Response.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2022 0739 F.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation blank.docx

### Representations:

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

### Summary of Issues

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

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

This site is located on Lands Approx. 7 Metres North Of 16 New Ferry Road, Bellaghy and is located outside of any designated settlement limits as defined in the Magherafelt Area Plan, 2015. The proposed site is 0.683ha in size, is located within the existing Bulrush Horticulture facility at Newferry, approximately 2.8km north east of the village of Bellaghy.

The site, which is relatively flat throughout, comprises an area of hardstanding currently used to for the storage of peat based substrates. The site is bound on all sides by extant Bulrush operations which comprise storage areas for peat and horticultural products and materials. The site is well set back from the road, to the rear of the existing buildings. The site is well screened with existing mature vegetation along the north, east and western boundaries The site is accessed via an internal access road which connects to an existing entrance to the Bulrush facility off Newferry Road.

The surrounding area is predominantly rural in character with scattered dwellings and dispersed farm holdings . An area of peatland is located immediately north of the site which is currently subject to varying degrees of extraction.

## **Description of Proposal**

This is a full application for buildings to house proposed wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works, at Bulrush Horticultural Ltd

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

### **Policy Consideration**

### **Representations**

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

### **Planning History**

H/2013/0309/F- Proposed In-vessel Composting Facility, (IVCF) for (non-hazardous)



green and organic waste, storage, access and ancillary site works, for Bulrush Horticulture Ltd. Permission granted, 20 June 2014

H/2012/0280/F- Proposed alterations to development, previously approved under planning application H/2010/0593/F (Provision of new 2 storey office premises to replace current office building), For Bulrush Horticulture Ltd. Permission granted 14 November 2012 .

H/2012/0140/F- Proposed 1MW biomass plant to replace oil fired boiler for heat production to power extant manufacturing process, for Bulrush Horticulture Ltd. Permission granted 31 August .

H/2010/0593/F – Provision of new 2 storey office premises to replace current office building for Bulrush Horticulture Ltd. Permission Granted 14th April 2011 .

H/2005/0631/F- Proposed shed cover for peat storage yard and extension to existing factory, for Bulrush Horticulture Ltd, Permission Granted 07 February 2006.

H/2001/0057/O- Proposed a lean-to storage shed for Peat, for Bulrush Peat Co Ltd, Permission Granted 20th September 2001.

## **Assessment**

Section 45 (1) of The Planning Act (Northern Ireland) 2011, states that, where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.

The Mid Ulster District Council Local Development Plan 2030 : Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

The Magherafelt Area Plan 2015 (MAP) identifies the site as being located in the countryside within the West Lough Neagh Shores Area of High Scenic Value (AoHSV) – designation COU 1.

The policy for the control of development in Areas of High Scenic Value is contained in Policy CON 1 in Part 2 of the Plan. Policy CON 1 states:

‘Within designated Areas of High Scenic Value planning permission will not be granted to development proposals that would adversely affect the quality and character of the landscape. A Landscape Analysis must accompany development proposals in these areas to indicate the likely effects of the proposal on the landscape. Planting and retention of indigenous tree species must be an integral part of these proposals and the site must be large enough to accommodate any mitigation measures identified. Where

feasible the reuse of traditional buildings will be required.’

The proposal is for a buildings located within the Bulrush Horticulture site which is located to visually link and cluster with the existing buildings on the site. The site is set back approx. 100m from the public road and is considerably well screened by mature hedgerows, the existing Bulrush buildings and concrete material storage clamps. The agent confirmed that there are no traditional buildings available for reuse within the site. I believe that the proposal will not therefore have an adverse impact on the quality and character of the local landscape and therefore complies with Policy CON 1.

#### **PPS4 – Planning and Economic Development**

Policy PED 3 ‘Expansion of an Established Economic Development Use in the Countryside, policy PED 3 is a material consideration. PPS4 PED 3 states:

‘The expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. Proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development.

Any extension or new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest the original property may have.

A proposal for the major expansion of an existing industrial enterprise that would not meet the above policy provisions will only be permitted in exceptional circumstances where it is demonstrated that:

- relocation of the enterprise is not possible for particular operational or employment reasons;
- the proposal would make a significant contribution to the local economy; and
- the development would not undermine rural character.

In all cases, measures to aid integration into the landscape will be required for both the extension and the existing site.’

The scale of the buildings proposed is no greater than buildings currently on site. The proposal is to facilitate the production of an alternative horticultural substrate to peat (produced on the wider site) and is in keeping with the established economic activities of the site. The site is located within the existing Bulrush Horticulture compound and there is no increase in the site area of the organisation. I believe that the proposal will not harm or have an adverse impact on the rural character of the area and will integrate into the overall site.

The agent has confirmed that are no existing buildings on site capable of housing the

wood and coco fibre plant .will integrate as part of the overall development.

The proposed buildings have been designed using materials similar to the existing buildings on the site.

There are no buildings in the area that have any historic or architectural interest.

The proposal is not considered to be a major expansion as it is located within the curtilage of the existing enterprise. Therefore, I believe that the proposal is in compliance with the criteria set out in Ped 3 of PPS 4.

#### **PPS 4 Planning and Economic Development Policy PED 9 -General Criteria for Economic Development**

A proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet all the criteria of Policy Ped 9:

The proposed buildings are considered to be compatible with surrounding land use, as they are to be used to house plant which is designed to produce a horticultural substrate (wood and coco fibre) on a site which currently produces horticultural substrates from peat. I do not any reason to believe that the proposal will have an adverse effect on surrounding properties. A Noise Impact Assessment (NIA) was submitted and Environmental Health were consulted on the application and responded to say that ;

An Acoustic report entitled “*Noise Impact Assessment Bulrush Horticulture Ltd., Bellaghy Report No. RP001N 2022093*” dated 25<sup>th</sup> May 2022 has been submitted in support of this application.

The report concludes in Section 7.0

*“The predicted noise levels at each of the nearest sensitive receptors were assessed against BS4142:2014 limits and WHO recommended noise levels. It was found that operational noise from the proposed development is likely to have a low impact during the daytime period. For the reasons outlined within this report, Irwin Carr Consulting is of the opinion that noise generated by the proposed development should not adversely impact neighbouring third-party properties (provided the recommended mitigation proposal is adhered to)”*

This conclusion is based on a number of assumptions

- The noise generated internally within the workshops not exceeding 85dB(A) (façade level)
- work during daytime hours only
- Roller shutter doors providing a sound reduction index of 22dB(A)
- The building fabric providing at least a sound reduction index of 22dB(A)

Hours of operation

Section 2 of the noise report states,

*“The proposed development will operate in line with the current sites working hours daytime hours only”.*

Unfortunately, specific hours of operation were not specified within the noise report.

In view of this and the fact that the background noise levels normally decline at night as a consequence of reduced traffic levels and industry, there is a likelihood of night-time noise disturbance if the applicant were permitted to operate at night. MUDCEHD therefore recommend that the following condition restricting the hours of operation be attached to any planning permission granted:

***“The development site shall not remain open and, plant and equipment shall not be operated. Deliveries by commercial vehicles shall not be made to and from the site:***

- ***At any time on Sunday***
- ***Prior to 07.00 hours and after 19.00 hours Monday to Friday***
- ***Prior to 08.00 hours and after 13.00 hours on Saturday”***

#### Sound Insulation to fabric of building

The acoustic report indicates that walls are to be constructed *“with a single skin steel cladding envelope from ground to ridge height.”* It is stated on Page 11 that the structure will provide a weighted sound reduction index of 22 dB(A) including roller shutter doors when in the closed position.

In order to reduce the likelihood of loss to residential amenity as a result of noise, it is recommended that the following conditions be attached to any planning permission granted

***“The walls, roof and roller door structures of the building permitted by this permission shall be installed and maintained in such a condition that ensures they are capable of achieving a weighted sound reduction index of at least 22dB”***

***“Roller shutter doors as depicted in Appendix B Noise Impact Assessment Bulrush Horticulture Ltd., Bellaghy Report No. RP001N 2022093” dated 25<sup>th</sup> May 2022 shall remain in the closed position except for access and egress”***

***“All fork lift trucks operating within the development site shall be fitted with white noise (full spectrum) reversing alarms “.***

The proposed buildings and plant will be sited on existing concrete hardstanding within an area which is currently used to for the storage of peat based substrates and it is not expected to have any adverse effect on features of natural or built heritage. The nearest

designated site, Ballymacombs More Area of Special Scientific Interest (ASSI) is located approx. 240 metres north east of the site. The proposal is not considered to create any emissions that could be potentially harmful to the Holocene peat and related stratigraphy for which the ASSI is designated. There are no built heritage features within the site or the immediate surroundings.

The site is identified by the DfI Rivers Flood Map as being located in an area at risk of fluvial flooding. A Flood Risk Assessment was submitted with the application and DfI Rivers were consulted and responded to say that ‘DfI Rivers has reviewed the Flood Risk Assessment (FRA) by Flood Risk Consulting and comments as follows;

‘The FRA has provided a detailed river model of the Ballyscullion West Watercourse which demonstrates that the proposed site is not located within the 1% AEP fluvial floodplain for this watercourse. The 1% AEP fluvial flood level provided for this watercourse is 14.41mOD.

The FRA has also provided information on the highest recorded level for the Lower Bann watercourse at the nearby Newferry Road gauging station which is 13.255mOD. The proposed site is located at an appropriate freeboard above this level.

Due to the near location to the flood plain the developer should be advised that for design purposes all finished floor levels should be placed at a minimum of 600mm above the 1% AEP

fluvial flood level of 14.41mOD. Therefore, DfI Rivers, while not being responsible for the preparation of the Assessment, accepts its logic and has no reason to disagree with its conclusions.’ However, further issues were raised regarding a culverted water course which will be dealt with later in this report.

The proposal is not anticipated to produce any effluent. Any water used in the process to dampen the material is to be recycled within the process. According to the agent, NIEA currently sample the watercourses in and around the wider site and to date no impurities have been recorded.

DFI Roads were consulted on the application and responded to say that they did not offer any objection. The site is accessed via an established entrance from Newferry Road and adequate access arrangements, parking and manoeuvring areas are provided within the site. Given the location of the site and the nature of the activities a movement pattern is not considered to be necessary.

The site layout has been designed with a good quality and standard of finish for buildings of an industrial nature. No landscaping has been submitted but the proposal is well screened from public view points by the existing buildings and infrastructure and integrates within the site compound.

The Bulrush site is securely locked outside of operating hours and the buildings are alarmed.

In consideration of the above, above policy consideration, the proposal is considered to

be compliant with Policy PED 9 of PPS 4.

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

#### **PPS15 Policy FLD 1 Development in Fluvial (River) and Coastal Flood Plains**

The site is identified by the DfI Flood Map as being located in an area at risk of fluvial flooding. A Flood Risk Assessment was submitted with the application and DFI Rivers were consulted and responded to say that

‘DfI Rivers, while not being responsible for the preparation of the Assessment accepts its logic and has no reason to disagree with its conclusions.’

#### **PPS15 Policy FLD 2 Protection of Flood Defence and Drainage Infrastructure**

An undesignated watercourse traverses the site. Under 6.32 of the policy a 5m maintenance

strip is required. Drawing ‘SITE\_LAYOUT\_PLAN\_A1’ indicates that the proposals may be located on the line of a culverted watercourse. Under 6.33 of the policy there is a general presumption against the erection of buildings or other structures over the line of a culverted watercourse in order to facilitate replacement, maintenance or other necessary operations. The agent confirmed that this was the case and a drawing was requested to show the extent of the culverted watercourse (drawing No 06, date stamped 14<sup>th</sup> December 2022). From this we can see that the proposed building will be constructed over a significant line of the culverted watercourse. Therefore the proposal is contrary to Policy FLS 2 of PPS 15.

#### **PPS15 Policy FLD 4 Artificial Modification of Watercourses**

Under FLD 4 of Planning Policy Statement 15, artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This is a matter for the planning authority. The culverting of the watercourse on this application site has been done prior to this application being submitted.

#### **Conclusion**

Refusal is therefore recommended as the proposal is contrary to Policy FLD 2 of PPS 15.

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

Refuse is recommended

## Refusal Reasons

### Reason 1

The proposal is contrary to the criteria set out in Policy FLD 2 of PPS 15, in that the proposed building would be constructed over line of the culverted watercourse.

### Reason 2

The proposal is contrary to FLD 4 of PPS 15, in that the watercourse has been artificially modified prior to the submission of this application.

**Signature(s):** Siobhan Farrell

**Date:** 23 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	9 June 2022
<b>Date First Advertised</b>	28 June 2022
<b>Date Last Advertised</b>	28 June 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 16 New Ferry Road Bellaghy Co Derry BT45 8ND	
<b>Date of Last Neighbour Notification</b>	5 July 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2018/0365/DC  Proposals: Discharge of condition No.4 of planning permission H/2013/0309/F  Decision: AL  Decision Date: 07-JUN-18</p> <p>Ref: H/1992/0228  Proposals: PEAT EXTRACTION(MILLED METHOD)  Decision: PG  Decision Date:</p> <p>Ref: H/1973/0136  Proposals: CHALET BUNGALOW  Decision: PG  Decision Date:</p> <p>Ref: H/1985/0299  Proposals: COFFEE BAR EXTENSION TO SHOP AND STORE  Decision: PG  Decision Date:</p> <p>Ref: H/2003/0252/O  Proposals: Site of dwelling and garage.</p>	



Decision: PR  
Decision Date: 29-OCT-05

Ref: H/1979/0252  
Proposals: EXTRACTION AND PROCESSING OF PEAT AND ASSOCIATED BUILDINGS  
Decision: PG  
Decision Date:

Ref: H/2010/0593/F  
Proposals: Provision of new 2 storey office premises to replace current office building  
Decision: PG  
Decision Date: 18-APR-11

Ref: H/2005/0631/F  
Proposals: Shed Cover For Peat Storage Yard and Extension to Existing Factory.  
Decision: PG  
Decision Date: 13-FEB-06

Ref: H/2012/0280/F  
Proposals: Alterations to development previously approved under planning application H/2010/0593/F. Provision of new 2 storey office premises to replace current office building  
Decision: PG  
Decision Date: 19-NOV-12

Ref: H/1993/0252  
Proposals: EXT TO PEAT PROCESSING PLANT & PROVISION OF OFFICE ACCOMMODATION WITHIN EXISTING PLANT  
Decision: PG  
Decision Date:

Ref: H/2001/0057/O  
Proposals: Site Of Lean-To Storage Shed For Peat.  
Decision: PG  
Decision Date: 26-SEP-01

Ref: H/2012/0140/F  
Proposals: Proposed 1MW Biomass plant to replace oil fired boiler for heat production to power extant manufacturing process.  
Decision: PG  
Decision Date: 03-SEP-12

Ref: H/2013/0309/F  
Proposals: Proposed In-vessel Composting Facility (IVCF) for (non-hazardous) green and organic waste, storage, access and ancillary site works.

Decision: PG  
Decision Date: 23-JUN-14

Ref: H/2011/0405/DETEIA

Proposals: EIA screening and scoping request for in-vessel composting facility (IVCF) at lands east of Bulrush Horticulture Ltd, Newferry Road, Bellaghy under the Planning (EIA) Regulations (NI) 1999 - Regulation 6 (1) (a) and (b) request.

Decision:  
Decision Date:

Ref: LA09/2022/0739/F

Proposals: Buildings to house proposed wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works.

Decision:  
Decision Date:

Ref: H/1991/0500

Proposals: 2 NO UNITS FOR TOURIST ACCOMMODATION

Decision: WITHDR  
Decision Date:

Ref: H/2007/0482/F

Proposals: Erection of 33 Kv electricity substation enclosed by a 2.5m high galvanised steel Lochrin fence. Inside the area will be poles and electrical switchgear. A control room will be built for metering.

Decision: PG  
Decision Date: 19-OCT-07

Ref: H/1981/0357

Proposals: PETROL FILLING STATION

Decision: PG  
Decision Date:

Ref: H/2004/0870/O

Proposals: Site of Dwelling and Garage.

Decision:  
Decision Date:

### **Summary of Consultee Responses**

Rivers Agency-489888 - Final Response.pdf  
Environmental Health Mid Ulster Council-LA09 2022 0739 F.doc  
DFI Roads - Enniskillen Office-Roads Consultation blank.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Existing Site Survey Plan Ref: 03  
Elevations and Floor Plans Plan Ref: 04  
Proposed Elevations Plan Ref: 05  
Miscellaneous Plan Ref: Flood Risk Assessment  
Miscellaneous Plan Ref: Noise Impact Assessment

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1288/O	<b>Target Date:</b> 2 December 2022
<b>Proposal:</b> Proposed replacement dwelling as a result of a fire damaged house	<b>Location:</b> 15 Finulagh Road Castlecaulfield
<b>Applicant Name and Address:</b> Ryan McGurk 25 Finulagh Road Castlecaulfield Dungannon	<b>Agent Name and Address:</b> McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
<b>Summary of Issues:</b>  This application was submitted as an infill dwelling and recommended as refusal, following an office meeting the application was amended to reflect the previous history in the site for a replacement dwelling that was destroyed by a fire. The proposal does not meet all the requirements of CTY3 for a replacement fire damaged dwelling and no additional information has been provided to justify setting aside the policy.	
<b>Summary of Consultee Responses:</b> DFI Rivers - ½ site lies within 1 in 100 year flood area, only exceptions allowed to be developed in flood plain DFI Roads - 2.4m x 80.0m sight lines and 80.0m forward sight line	
<b>Characteristics of the Site and Area:</b>  The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is 0.67km northwest of the settlement of Castlecaulfield. The surrounding area is rural in character and the predominant land uses are agricultural fields, rural dwellings on single plots and groups of farm buildings. There is minimal development pressure in the immediate area along Finulagh Road from the construction of single dwellings. 82m west of the site are two poultry sheds. The application site are the lower portions of two agricultural fields and	

the topography rises up by a couple of metres from the road to the back of the site. At the site are two small sheds and a concrete yard and there is established hedging along the roadside boundary.

**Description of Proposal**

Proposed replacement dwelling as a result of a fire damaged house

**Deferred Consideration:**

This application was before the Planning Committee in March 2023 for a dwelling I a gap site, it was deferred for a meeting with he Service Director for Planning. At the meeting he agent outlined the history of the site and advised:

- planning permission was granted for a replacement dwelling in 1995 and it was the applicants intention to enact this permission
- a fire damaged the house in 1997 and the owners, who were elderly moved away and did not rebuild, have been unable to obtain any report from the fire service to support this but M Nugent grew up not far away from here and remembers being in the house many times before it was destroyed
- the site has remained as it was when the house was demolished and it is clear to see the original footprint of the dwelling, its curtilage and the access lane to it

The site has a history of applications:

M/1992/0652 - Outline Planning Permission for a replacement dwelling was approved on 5 February 1993 (as stated on the application form for M/1995/0450)

M/1992/0652B - Reserved Matters were applied for on 21 April 1993 and subsequently withdrawn

M/1995/0450 was submitted on 18 July 1995 (within the 3 years for submission of the Reserved Matters for M/1992/0652) for renewal of the OPP for the replacement dwelling and was granted on 2 November 1995.

I am unable to find any further applications for this development, an RM application, or renewal of the OPP would have had to be submitted by 2 November 1998. It is worth noting the site is relatively unchanged from the original permission, as can be seen in the approved map for M/1995/0450 (Fig 1).

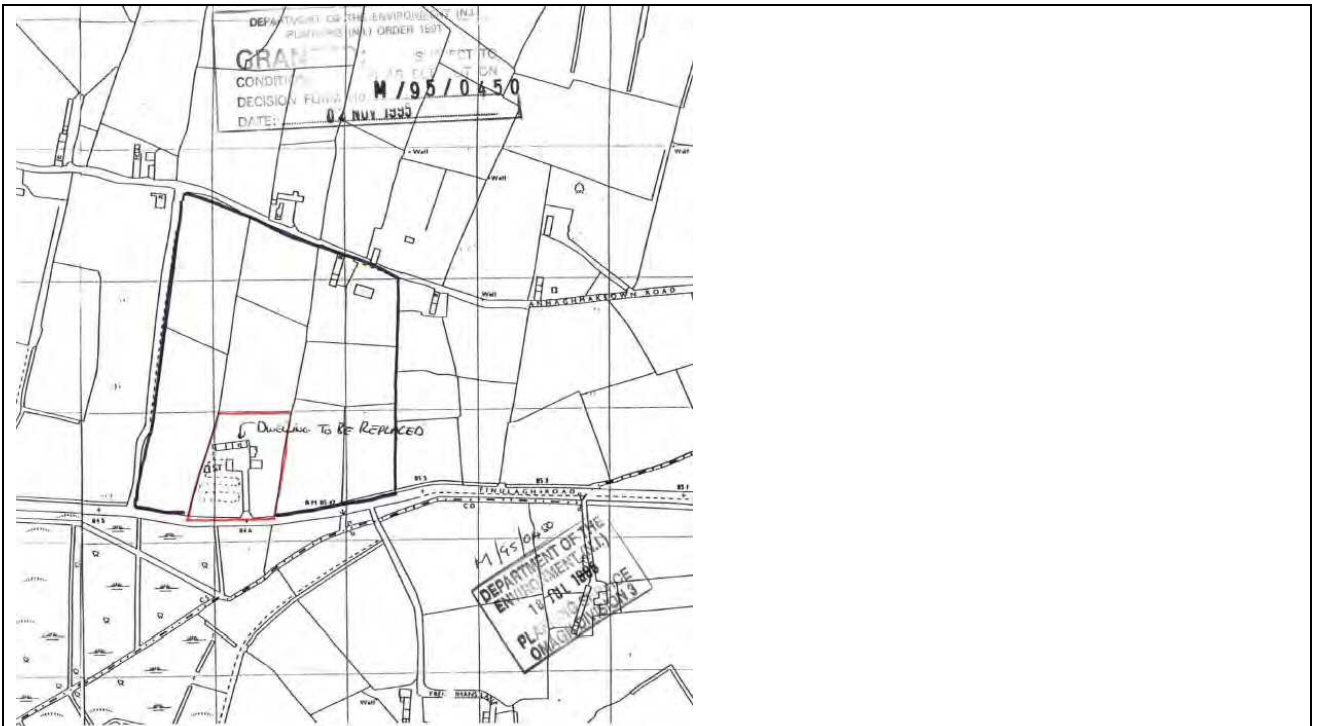


Fig 1 – stamped approved drawing for M/1995/0450

The case officer in the first report is correct that CTY3 allows for the replacement of a dwelling that has recently been destroyed and it gives the examples of an accident or a fire. This is subject to evidence about the status and previous condition of the building and the cause and extent of damage must be provided. There is nothing to indicate what is meant by ‘recently’, though it is commonly understood to be not long ago. This is also consistent with the policy that was in place in 1997, HOU13 Replacement Dwellings in A Planning Strategy for Rural Northern Ireland. That policy also referred to recently inhabited or habitable dwellings that had been destroyed by an accident, presumably instead of just deteriorating through neglect. Members could therefore justify refusing planning permission here as the proposal does not meet the stated policy for a replacement dwelling.

That said it is noted that OPP for the replacement of a dwelling on this site was applied for and a renewal of that original permission for a replacement dwelling was also applied for. I would consider this showed the applicants intent at that time was to replace the house. In the interim period the agent states the house was destroyed in a fire and the occupants, who were elderly, had to move out. It is entirely reasonable to conclude that had the house not been destroyed in a fire, it would still be standing (the original outbuilding is still there) or would have been the subject of another application to renew the permission/submit full detailed plans and a new house constructed. Members may wish to take account of the intent when making a decision on this application, though it is recognised there is no fallback position as full details were never actually passed.

In light of the above, I am of the opinion that planning permission should be refused for the development as it does not meet the policy for a replacement dwelling and there is no fallback position that would allow a replacement dwelling to be constructed.

Conditions/Reasons for Refusal:

1. Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the development cannot be located within a settlement. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.
2. Contrary to CTY 3 - Replacement Dwellings in PPS 21 Sustainable Development in the Countryside in that there is no dwelling to be replaced and the dwelling that was previously on site was not recently destroyed and no evidence about the extent of the fire damage has been provided.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2022/1288/O	<b>Target Date:</b> 2 December 2022
<b>Proposal:</b> Dwelling in Compliance with policy (CTY 8) ie, (Infil Gap Site)	<b>Location:</b> 15 Finulagh Road Castlecaulfield
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ryan McGurk 25 Finulagh Road Castlecaulfield Dungannon	<b>Agent Name and Address:</b> McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
<b>Executive Summary:</b>  There is no dwelling on the site to be replaced and the dwelling was fire damaged over 20 years ago so does not meet CTY 3.  There are not three or more buildings along the road with a frontage to be considered an exception in CTY 8.	





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

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is 0.67km northwest of the settlement of Castlecaulfield. The surrounding area is rural in character and the predominant land uses are agricultural fields, rural dwellings on single plots and groups of farm buildings. There is minimal development pressure in the immediate area along Finulagh Road from the construction of single dwellings. 82m west of the site are two poultry sheds. The application site are the lower portions of two agricultural fields and the topography rises up by a couple of metres from the road to the back of the site. At the site are two small sheds and a concrete yard and there is established hedging along the roadside boundary.

## **Description of Proposal**

This is an outline application for Dwelling in Compliance with policy (CTY 8) ie, (Infill Gap Site) at 15 Finulagh Road, Castlecaulfield.

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

### **Policy Consideration**

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

### **Representations**

Press advertisement has been carried out in line with the Council's statutory duty and there are no notifiable neighbours abutting the site. At the time of writing, no third-party objections have been received.

### **Planning History**

M/1992/0652 - Replacement Dwelling – 15 Finulagh Road Castlecaulfield Dungannon – permission granted

M/1995/0450 - Replacement Dwelling – 15 Finulagh Road Castlecaulfield Dungannon – permission granted

LA09/2021/0160/O - Proposed farm dwelling - 15 Finulagh Road Castlecaulfield

Dungannon – application withdrawn

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

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

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

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that**

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

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. As this proposal is for an infill dwelling CTY 8 is the relevant policy in the assessment.

### **CTY 8 – Infill Dwellings**

The application site is the lower portion of two agricultural fields. At the time of my site visit there were three sheds and a concrete yard with access fronting to the road. On the concrete yard were silage round bales as shown in figure 2. As shown below on the google maps from April 2021 two of the sheds to the west were not in place. Also, the shed furthest west does not have a frontage to the road in the form of a concrete yard and I consider this as an agricultural field.



Figure 1 – Image from April 2021

I do not consider there is a substantial and built-up frontage with a line of three or more buildings. There are no buildings with a frontage to the road on either side of the sheds and concrete yard. Figure 3 shows that has been submitted in this application.



Figure 2 – Image from the site visit

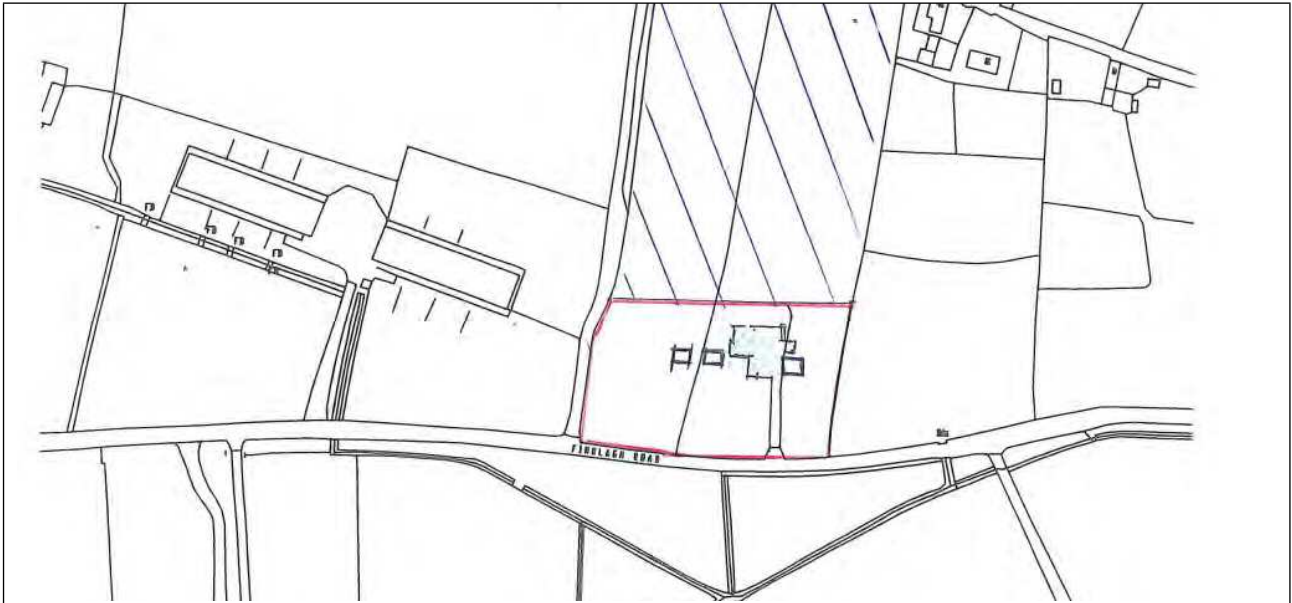


Figure 3 – snapshot from submitted plan

There are no other dwellings along this side of Finulagh Road but across the road from the poultry houses there are two dwellings at 16 and 18 Finulagh Road. The frontages of these dwellings are 58m at No.18 and 48m at No. 16. The total frontage of the application site is 106m so I am content the site will only accommodate two dwellings with the same frontages and plot sizes as across the road.

Overall, I consider the proposal does not meet CTY 8 as it is not an exception for a small gap site.

### **CTY 10 – Dwelling on a farm**

The agent was asked to consider was there a case for a dwelling on a farm as there were building and silage bales at the site. The agent stated that the applicant had already used their farm dwelling in the past 10 years. LA09/2018/0233/O granted approval for a dwelling on a farm on the 14<sup>th</sup> January 2019 and the applicant was Connor McGurk who had the same address as the applicant in this case. This application site is also shown on the farm boundary maps for the 2019 approval. A subsequent approval LA09/2021/1056/F in substitution of the 2019 permission was granted on the 21<sup>st</sup> October 2021. I consider a CTY 10 approval has already been granted on this farm holding within the past 10 years so the proposal does not meet this criteria.

### **CTY 3 – Replacement Dwelling**

In an email dated 8<sup>th</sup> Feb 2023 the agent asked that the proposal be considered under a fire damaged replacement dwelling as the dwelling on a farm and infill dwelling cases had previously been considered.

Currently on site there is no dwelling to be replaced in terms of CTY3.

M/1992/0652 previously granted permission for a replacement dwelling at this site on the 5<sup>th</sup> Feb 1993 but these approvals were never enacted and they have no lapsed. The agent confirmed through photographs that there was once a two-storey dwelling at this site, and it had burnt down. The policy in CTY 3 does states dwellings are eligible for replacement if they have recently been destroyed by fire. Policy states that evidence must be provided about the status and previous condition of the building and the extent of the damage must be provided. The agent was unable to provide a fire report and in a supporting email dated 8<sup>th</sup> Dec 2022 the agent states the dwelling was destroyed in the late 1990s and fire records only go back to the year 2000. I consider as the dwelling was not recently fire damaged and was destroyed over 20 years ago it does not meet this criterion in CTY 3.

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

The application site is the lower portion of two agricultural fields and the topography rises up to the back of the site. The site itself has a roadside frontage onto Finulagh Road which is a long straight road. There are buildings at the site, but these may have to be demolished to locate the dwelling in the upper portion of the site due to the flood plain. There is a limited sense of enclosure at the site but further west of the site opposite the poultry houses are 2no. large two storey dwellings but these are set back from the road further. I am content a dwelling on this site would not be prominent.

### **CTY 14 – Rural Character**

As stated, earlier in the assessment I am content the proposal will not be a prominent feature in the landscape.

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

#### **AMP 2 – Access to Public Roads**

The site does not access onto a protected route, so I have no concerns.

DFI roads were consulted as the statutory authority as the applicant had proposed a new access. Roads responded with no concerns subject to visibility splays of 2.4m x 80m in both directions.

### **PPS 15 – Planning and Flood Risk**

#### **Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains**

As shown in figure 4 below the lower portion of the site is within a rivers flood plain. I consulted Rivers Agency who confirmed that half the site was within a 1 in 100 year flood plain and the applicant would need to demonstrate how the proposal was an exception to policy. I am content a flood risk assessment is not required as the proposed dwelling could be sited outside the flood plain.

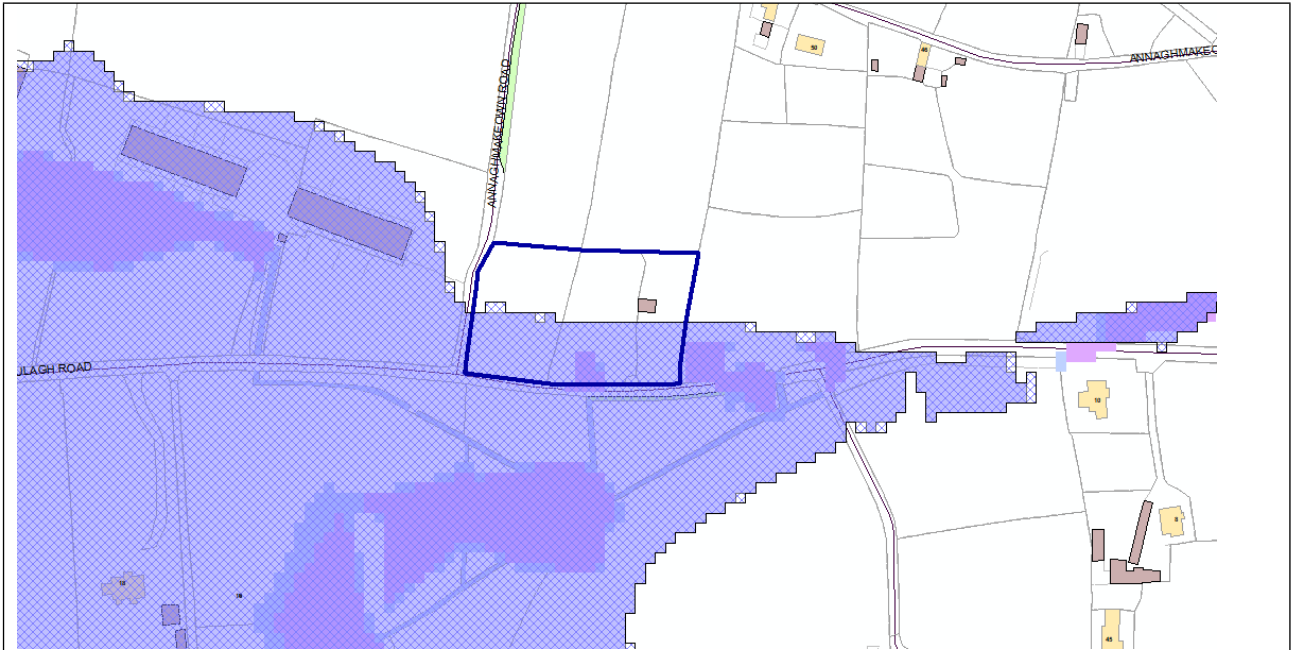


Figure 4 – Image showing the extent of the flood plain

**Other Considerations**

I completed checks on the statutory map viewers and I am content there are no other ecological or built heritage issues at the site.

I consulted Environmental health due to the close proximity to poultry houses but at the time of writing no response has been received yet. But the principle of development cannot be established at the site as currently the proposal does not meet any of the policies in PPS 21.

**Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it does not meet the policies in CTY1, CTY3, and CTY8 in PPS 21 – Sustainable Development in the Countryside.

**Refusal Reasons**

**Reason 1**

Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the

development cannot be located within a settlement.

**Reason 2**

Contrary to CTY 3 - Replacement Dwellings in PPS 21 Sustainable Development in the Countryside in that there is no dwelling to be replaced and the dwelling that was previously on site was not recently destroyed and no evidence about the extent of the fire damage has been provided.

**Reason 3**

Contrary to CTY 8 - Ribbon Development in PPS 21 Sustainable Development in the Countryside in that the development is not an exception within policy as there are not three or more buildings along a road frontage.

**Signature(s):** Gillian Beattie

**Date:** 9 February 2023



<b>ANNEX</b>	
<b>Date Valid</b>	19 August 2022
<b>Date First Advertised</b>	1 September 2022
<b>Date Last Advertised</b>	1 September 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1992/0652B Proposals: Replacement Dwelling Decision: WITHDR Decision Date:</p> <p>Ref: M/1992/0652 Proposals: Replacement Dwelling Decision: PG Decision Date:</p> <p>Ref: M/1995/0450 Proposals: Replacement Dwelling Decision: PG Decision Date:</p> <p>Ref: LA09/2022/1288/O Proposals: Dwelling in Compliance with policy (CTY 8) ie, (Infil Gap Site) Decision: Decision Date:</p> <p>Ref: LA09/2021/0160/O Proposals: Proposed farm dwelling</p>	

Decision: WDN  
Decision Date: 19-NOV-21

Ref: M/2004/1298/F  
Proposals: Two free range poultry houses each with a capacity of 9,600 birds.  
Decision: PG  
Decision Date: 22-NOV-04

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.doc  
Roads outline.docx  
Roads outline.docx  
FORM RS1 STANDARD.doc  
Rivers Agency-745051-06 Final Planning Authority reply.pdf  
Environmental Health Mid Ulster Council-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1426/O	<b>Target Date:</b> 6 January 2023
<b>Proposal:</b> Proposed site for dwelling and garage within a cluster (Visual linkage with adjacent community hub building)	<b>Location:</b> 40M North East Of No 178 Battery Road Moortown
<b>Applicant Name and Address:</b> Peter Devlin 120 Ardboe Road Moortown	<b>Agent Name and Address:</b> APS Architects 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
<b>Summary of Issues:</b>  This application is for a development just outside the settlement limits for Moortown. It cannot be considered as a cluster as the development it uses to cluster is within the settlement limits though the focal point lies outside the limits. An exception to policy could be considered on visual grounds as rounding off. The site is located close to an active farm and due to its proximity could affect the operations on the farm due to noise, odours and loss of residential amenity from the operations on the farm.	
<b>Summary of Consultee Responses:</b> DFI Roads - access requires sight lines of 2.4m by 60.0m and 60.0m forward sight line where the lane meets the public road.	
<b>Characteristics of the Site and Area:</b>  The site is located in the rural countryside, just outside and at the edge of Moortown Settlement Limits, as defined by the Cookstown Area Plan (see Figs: 1, 2 & 3 below).	

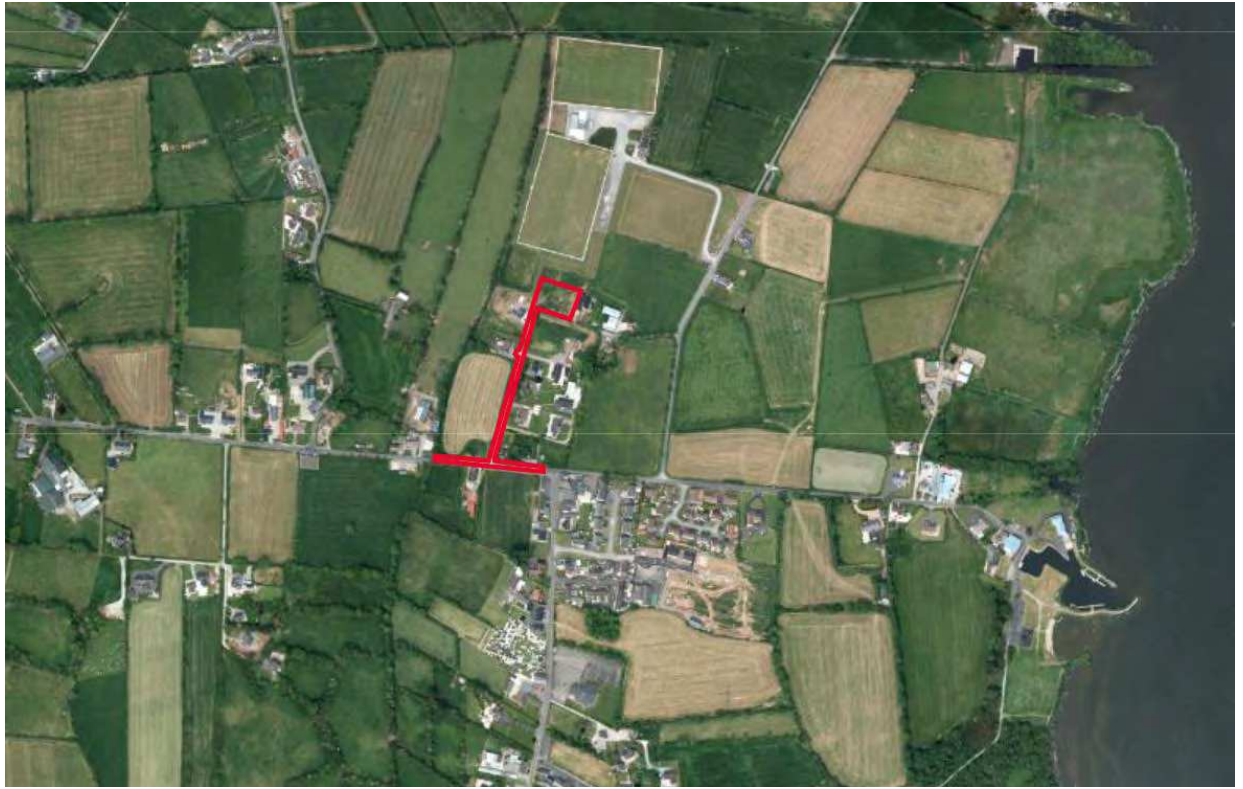


Fig 1: Site outlined red



Fig 2: Site outlined red



Fig 3: Moortown Settlement Limits outlined by bold black line and site outlined red

As seen in Fig 3 above Moortown is defined in two separate nodes. The site, a relatively flat rectangular shaped plot set back from accessed off the Battery Road via an existing lane serving approx. 8 detached dwellings, is located to the very north of Moortown's western node. Post and wire fencing bounds the site to the west and mature hedging and trees bounds the site to the south. The north boundary and the east boundary are open onto lands in association with Moortown GAC and a farm holding comprising a dwelling and number of shed located at 6 Anneeter Road, respectively.

Views of the site are largely screened from the lane it is accessed off due to the vegetation bounding it to the south. There will be views of the site from the northeast from Anneeter Road and from within the GAC grounds.

The area surrounding the site is generally characterised by detached housing within Moortown to its south and Moortown GAC grounds with agricultural lands beyond to its north.

**Description of Proposal**

This is an outline application for a proposed dwelling and garage to be located on lands 40m NE of no. 178 Battery Road Moortown.

The proposal is being applied for under policy CTY2A of Planning Policy Statement 21 'New Dwellings in Existing Clusters'.

**Deferred Consideration:**

This application was before the Planning Committee in February 2023 where it was deferred for a members site visit. A site visit took place on 24 February 2023 where the members were able to view the site, the new football complex, playing fields, carparking

and associated buildings to the north, existing development off the lane and existing development between the site and Anneeter Road.

Members will be aware the proposed site sits outside the settlement limits for Moortown as defined in the Cookstown Area Plan 2010. The south boundary of the site is the settlement limit as currently designated, there is a field inside the limits that has not been developed and there have not been any plans passed for development on it. To the east side are silage bales stored beside a group of agricultural buildings, these are not the applicants buildings. To the north and west is the boundary with the new football grounds, though it is notable that no buildings are located at this part of the football grounds. Settlement limits are defined to partly promote and partly contain development. At the end of this lane members are advised a housing development for 26 units was discussed as an approval last month. That development will also utilise this laneway and will improve the entrance onto Battery Road.

This is an unusual case, the site does not benefit from having built development on at least 2 sides to provide a sense of clustering or grouping and so it is difficult to consider it as rounding off for the settlement limit at this location. That said, the large football complex that has been granted permission, and is now fully developed, is just outside the settlement limits. These grounds bound the north and east boundary of the application site and I would consider it difficult, taking account of these site specific characteristics, to advise that one dwelling here would result in urban sprawl that would be so detrimental to the setting of the village. Indeed the site can really only be critically viewed from Anneeter Road to the NE, in and around the entrance to the football club. From that location, the dwelling and garage on the opposite side of the lane and the group of agriculture buildings do tend to have the appearance of clustering and rounding off. This site is located at the very end of this lane which serves a number of dwellings and lands. It is unlikely that any further development would be achievable beyond this site. For these reasons I consider an exception could be considered here as, visually, it would have a limited impact on the surrounding area or setting of Moortown given the football club next door.

The access to this site will require improvement, as it is intensifying the use of the lane DFI Roads have provided visibility standards for improvements to the access and this is achievable. Members should note that a scheme at the other end of the lane for 26 dwellings has recently been approved and will require a major upgrade to the access to service them.

Members are advised there is a letter from the owner of the agricultural buildings to the east who indicate they have a piggery and a right of way established to 178 Battery Road. Usually, to ensure the occupants of any dwelling are less affected by odours or nuisance from agricultural buildings, they are sited over 100 metres from such buildings. It is also notable that Permitted Development Regulations for farm buildings require the new buildings to be at least 75 metres from houses not associated with the farm. In this case the entire site only extends to approx 80m metres from these buildings. The closest dwelling not associated with the farm building is 175C Battery Road to the south west of the buildings, it is approx. 68 metres from the group.(Fig 4)



Fig 4 site and distances from agricultural buildings

At the site visit, I did not observe any animals in the buildings and there was no answer at the door of the farm house to allow me to discuss it further. The buildings appear to be agricultural in nature and could be used for any agricultural activity without an change of use occurring. There is nothing to prevent the owners of these buildings from keeping animals in them. Due to the close proximity of the site to these buildings, any new dwelling on any part of this site could be adversely impacted from the farming activities and a dwelling here could impact on the operations of the farm. In view o0f the above I do not consider it appropriate to exercise an exception here and recommend this application is refused.

**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 proposed dwelling is located close to an active farm, a dwelling on this site has the potential to be adversely impacted by noise, odours and loss of residential amenity from the operations on the farm and the granting of planning permission could adversely impact on the farming operations.

**Signature(s)**

**Date:**



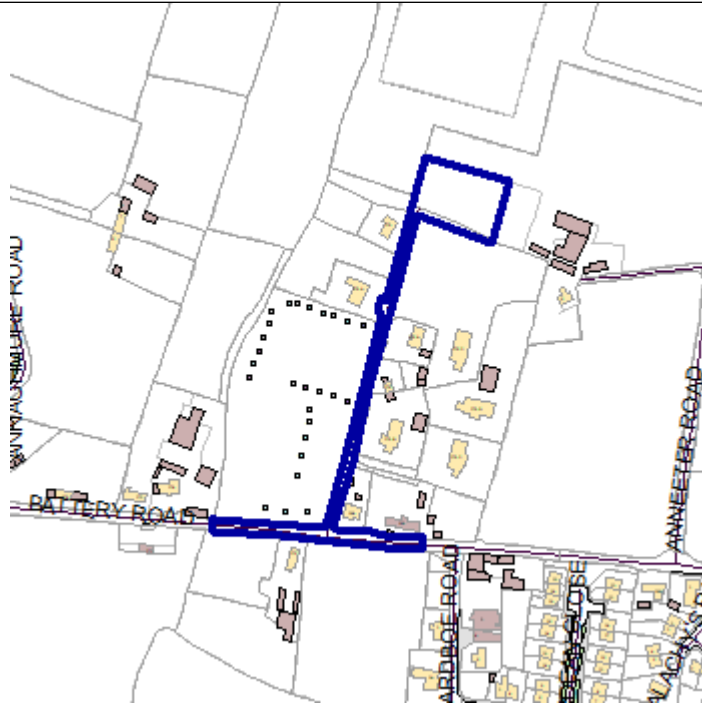
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.25
<b>Application ID:</b> LA09/2022/1426/O	<b>Target Date:</b> 6 January 2023
<b>Proposal:</b> Proposed site for dwelling and garage within a cluster (Visual linkage with adjacent community hub building)	<b>Location:</b> 40M North East Of No 178 Battery Road Moortown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Peter Devlin 120 Ardboe Road Moortown	<b>Agent Name and Address:</b> APS Architects 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docRoads outline.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

### Description of Proposal

This is an outline application for a proposed dwelling and garage to be located on lands 40m NE of no. 178 Battery Road Moortown.

The proposal is being applied for under policy CTY2A of Planning Policy Statement 21 'New Dwellings in Existing Clusters'.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement (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

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

### **Relevant Planning History**

None applicable

### **Consultees**

1. Dfi (Roads) – were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

**Cookstown 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** - 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 the applicant has applied under, is a new dwelling in an existing cluster in accordance with Policy CTY2a.

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 are met:

1. 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.
2. The cluster appears as a visual entity in the local landscape.
3. The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.
4. The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.
5. 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.
6. Development would not adversely impact on residential amenity.

This proposal does not meet the criteria of Policy CTY 2a, as the site is not located within a cluster of development in the countryside. With the exception of the GAC buildings and grounds located to the north of the site all other development bounding it, namely the farm holding to the east is located within Moortown Settlement Limits.

Additionally, the proposed development by reason of its location immediately adjacent Moortown Settlement Limits would be contrary to Policy CTY 15 – The Setting of Settlements in that it would result in urban sprawl.

I have considered other instances listed under Policy CTY1 of PPS21 whereby the development of a dwelling in the countryside is considered acceptable however this proposal fails to meet with these instances.

### **Other Policy and Material Considerations**

Checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online identified no built heritage assets of interest or natural heritage features of significance on the site.

Flood Maps NI indicate no flooding on site.

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 1 non-committal had been received on the 25<sup>th</sup> November 2022 from Ms Sara Isaly the owner / occupier of no. 6 Anneeter Road, a farm holding comprising a dwelling and farm sheds located to the east of the site received. Ms Isaly wished to list the following datum to be preserved.

1. I do not object to the proposed site for dwelling and garage.
2. I would wish to make clear that I have permission since 2019 to own and keep pigs at the existing Piggery which is located close to the site at the farm at 6 Anneeter Road. I would like the persons applying to build on the site to be aware of this.
3. Also the right of way established By Peter Devlin (sr) by law in the 1910-1920 is maintained and continues in to the farm at 6 Anneeter Road from 178 battery road. The right of way was last used in June of this year 2022.

This application is recommend for refusal as such no further information to address the comments above have been sought at this time.

### **Recommendation**

Refuse

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted result in urban sprawl.

**Signature(s):** Emma Richardson

**Date:** 26 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	23 September 2022
<b>Date First Advertised</b>	4 October 2022
<b>Date Last Advertised</b>	4 October 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  182 Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  178C Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  174 Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  178D Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  176A Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  178B Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  180 Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  6 Anneeter Road Cookstown BT80 0HZ  The Owner / Occupier  178A Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  176C Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  176 Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  175 Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  178 Battery Road Cookstown Tyrone BT80 0HS  The Owner / Occupier  178E Battery Road Cookstown Tyrone BT80 0HS</p>	
<b>Date of Last Neighbour Notification</b>	29 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>

## Planning History

Ref: I/1992/0267

Proposals: Dwelling

Decision: WITHDR

Decision Date:

Ref: I/2009/0288/F

Proposals: Relocation of St Malachys Moortown GAC including 3 no playing fields with floodlighting (on 2 pitches) community building with changing facility, children outdoor playing area and associated parking

Decision: PG

Decision Date: 18-MAR-10

Ref: I/1974/0266

Proposals: RESIDENTIAL DEVELOPMENT

Decision: PG

Decision Date:

Ref: LA09/2022/1426/O

Proposals: Proposed site for dwelling and garage within a cluster (Visual linkage with adjacent community hub building)

Decision:

Decision Date:

Ref: LA09/2017/0831/F

Proposals: Proposed Amendment to Condition No.1 of Planning Permission LA09/2015/0881/F to extend the time limit for the completion of the approved works to 24 months from the date of any new approval now granted

Decision: PG

Decision Date: 24-AUG-17

Ref: LA09/2015/0881/F

Proposals: Improvement Works for both Vehicular and Pedestrian Usage, superceeding that initially approved under application no I/2009/0288/F

Decision: PG

Decision Date: 01-NOV-16

Ref: I/2007/0410/F

Proposals: Proposed development of two private dwellings and garages

Decision: PG

Decision Date: 04-JUL-08

Ref: I/2004/1389/F

Proposals: 26 No dwellings

Decision: PG

Decision Date: 27-MAY-08

Ref: LA09/2020/0966/F

Proposals: Housing development of 28 semi detached dwellings and 1 detached dwelling, site road and associated site works

Decision:

Decision Date:

Ref: I/1991/0328B

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: I/2008/0413/LDP

Proposals: New pitched roof to replace existing flat roof

Decision: PG

Decision Date: 08-JUL-08

Ref: I/1991/0328

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: LA09/2019/0055/F

Proposals: Single storey extension to the rear of 178 Battery Road

Decision: PG

Decision Date: 22-FEB-19

Ref: I/2008/0621/F

Proposals: Proposed new dwelling and garage

Decision: PG

Decision Date: 12-MAR-09

Ref: I/1990/0271

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: I/1990/0173

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: LA09/2015/0353/F

Proposals: Care/Residential Home for the elderly consisting of 45 bedrooms over 2 levels, with associated gardens and parking space. (Renewal of previous planning

permission I/2009/0134/F)

Decision: PG

Decision Date: 07-SEP-17

Ref: I/2007/0885/F

Proposals: Relocation of St Malachy Moortown GAC including 3 no. playing field with floodlighting (on 2 pitches), community building with changing facility, children outdoor playing area and associated parking

Decision:

Decision Date:

Ref: LA09/2020/1193/F

Proposals: Supermarket, self serve fuel station and associated site works (revised plans

Decision:

Decision Date:

Ref: I/2009/0134/F

Proposals: Care/residential home for the elderly consisting of 45 bedrooms over two levels, with associated gardens and parking space

Decision: PG

Decision Date: 21-JUN-10

Ref: LA09/2020/0808/F

Proposals: Proposed Dwelling

Decision: PG

Decision Date: 02-OCT-20

Ref: I/1994/0294

Proposals: Extension and alterations to Dwelling

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docRoads outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: P.01



**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1571/F <b>Recommendation:</b> Approve	<b>Target Date:</b> 17 February 2023
<b>Proposal:</b> Dwelling on farm with detached domestic garage	<b>Location:</b> Site 150M NW Of 10 Fallylea Lane Maghera
<b>Applicant Name and Address:</b> S Kelly 141 Fivemilestraight Maghera BT46 5JP	<b>Agent Name and Address:</b> No Agent
<b>Summary of Issues:</b> <p>This application was presented to Members as a refusal at March 2023 Planning Committee as it was considered that the proposal failed to comply with policies CTY 1 and CTY 10 of PPS 21. This was due to the fact that the applicant did not have any farm buildings on his holding at which to site a dwelling beside. The application was deferred for an office meeting with Dr Boomer and myself, which took place on the 16<sup>th</sup> March 2023. The proposal is now being recommended for Approval and the justification for this is detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b> <p>No additional consultations were issued to inform this deferred consideration</p>	
<b>Description of Proposal</b> <p>The proposed is a full application for a dwelling on farm with detached domestic garage.</p>	
<b>Deferred Consideration:</b> <p>This is an application for a dwelling on a farm to be assessed primarily under policy CTY 10 of PPS 21. It was initially considered that the proposed new dwelling would not visually link or site to cluster with an established group of farm buildings. Exceptional consideration is given in the</p>	

policy to an alternative siting elsewhere on the farm, provided there are no other sites available at another group of buildings, but in this case, the farm is without such agricultural buildings - hence why refusal was recommended.

At the deferred office meeting on the 16th March 2023, the applicant advised that his father farmed the family farmland for 20 years plus and his mother still lives in the original farm dwelling at number 20 Fallylea Road. Number 20 is not the registered address of applicants farm business. It is Fivemilestraight. The father is now deceased and the applicant obtained his own farm business number, as is normal practice. The applicant advised that he keeps sheep and has a flock number. He currently has no farm buildings, this is his only land and he requires a building for his sheep and to store machinery which he has applied for planning. He explained that having his own farm building to store machinery will also prevent him having to pay agricultural contractors to carry out farming activities. There is an application for 2 farm buildings being presented as an approval to Members at July Planning Committee (LA09/2023/0247/F).

As referred to previously, the reason this application for a farm dwelling was refused was due to the fact the dwelling would not visually link or site to cluster with an established group of buildings on the farm. If members are minded to approve the farm buildings application (LA09/2023/0247/F) before them at this Committee then the dwelling applied for would visually link with those farm buildings, once constructed. It would be necessary to attach a condition to any decision which would ensure the construction of the dwelling is not commenced until the construction of the farm buildings were complete.

CTY 10 requires the applicant to be an active an established farmer. This is normally demonstrated by provision of business number and confirmation from DAERA as to when it was allocated and if any claims are made of the land. DAERA have confirmed that the applicant is an active and established farmer for the required period so this policy criteria has also been complied with. No development opportunities have been sold or transferred off the holding in the last 10 years. The site does not present any concerns in respect of integration or rural character and the proposed dwelling in acceptable in terms of design.

On the basis of this deferred consideration and dependent on the outcome of LA09/2023/0247/F, it is recommended that Members consider this proposal as an exception to policy CTY 10 and approve this application.

### **Conditions/Reasons for Refusal:**

#### **Approval Condtions**

##### Condition 1

The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission but shall not be commenced until the construction of the 2 no. farm buildings approved under LA09/2023/0247/F has been substantially completed

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011 and to ensure the proposed dwelling is visually linked to a group of buildings on the farm, in line with Policy CTY 10 of PPS 21.

**Condition 2**

The vehicular access including visibility splays 2.0 x 45 metres North / 2.0 x 33 metres South and any forward sight distance, shall be provided in accordance with Drawing No. 04 bearing the date stamp 04 Nov 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

All hard and soft landscape works shall be carried out in accordance with drawing no. 02 bearing, date stamp 04 Nov 2022 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of the dwelling hereby approved.

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

**Condition 4**

The existing natural screenings along all the site boundaries, as indicated on drawing 02, bearing date stamp 04 Nov 2022, shall be retained unless necessary to prevent danger to the public in which case a full expansion along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**Signature(s):**Karla McKinless

**Date:** 16 June 2023

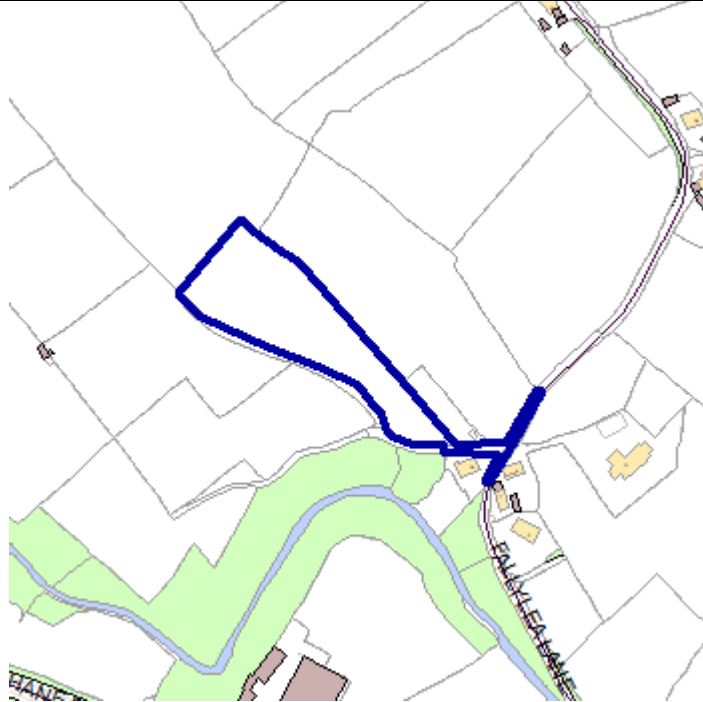


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.24
<b>Application ID:</b> LA09/2022/1571/F	<b>Target Date:</b> 17 February 2023
<b>Proposal:</b> Dwelling on farm with detached domestic garage	<b>Location:</b> Site 150M NW Of 10 Fallylea Lane Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> S Kelly 141 Fivemilestraight Maghera BT46 5JP	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b> <p>This application is brought to the planning committee with a recommendation for refusal. The proposal does not comply with CTY 10 of PPS 21 in that the farm dwelling does not visually link or cluster with an established group of farm buildings. Consideration cannot be given to alternative siting at another group of buildings because in this case there are no farm buildings located on the farm.</p> <p>The application meets the requirements of policies CTY 13, CTY 14 and CTY 16 of PPS 21. Though the application does not meet the requirements of policy CTY 10, I am content that the proposed amounts to what is an excellent site for a dwelling, with no amenity concerns, strong natural boundaries and good screening from the public road.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	NI Water - Single Units West	LA09-2022-1571-F.pdf
Non Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2022-1571-F.DOCX

### Representations:

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

### Summary of Issues

This application is brought to the planning committee with a recommendation for refusal. The proposal does not comply with CTY 10 of PPS 21 in that the farm dwelling does not visually link or cluster with an established group of farm buildings. Consideration cannot be given to alternative siting at another group of buildings because in this case there are no farm buildings located on the farm. The application meets the requirements of policies

CTY 13, CTY 14 and CTY 16 of PPS 21. Though the application does not meet the requirements of policy CTY 10, I am content that the proposed amounts to what is an excellent site for a dwelling, with no amenity concerns, strong natural boundaries and good screening from the public road.

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

The site of the proposed development is located in the rural countryside approximately 1.7 miles west and outside of the Maghera settlement limit, as defined in the Magherafelt Area Plan 2015. The site is a 0.9 hectare area rectangular agricultural field with access via an existing laneway which adjoins the Fallylea Lane. The field slopes upwards from the road and is almost completely out of sight from both approaches along the Fallylea Lane due to its strong natural boundaries marked by mature trees and hedgerow. Neighbouring buildings consist of three dwellings (nos. 9, 10 and 11 Fallylea Lane) which are all located adjacent to the road, south and south west of the application area. The site is surrounded by agricultural fields along the western, northern and eastern boundaries. The wider surrounding environment consists mostly of agricultural fields with spread out scatterings of dwellings. The application site sits just 250m north east of the A6 Glenshane Rd.

### **Description of Proposal**

The proposed is a full application for a dwelling on farm with detached domestic garage.

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

#### **Policy Consideration**

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

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

The site of the proposed development is located in the rural countryside approximately 1.7 miles west and outside of the Maghera settlement limit, as defined in the Magherafelt Area Plan 2015.

#### **Relevant Histories**

None

#### **Other Constraints**

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

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

### Representations

No third party representation have been received to date.

### Mid Ulster District Council Draft Plan Strategy 2030

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

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

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

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling 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.

A consultation was issued to DAERA who confirmed the farm business ID has been active and established for more than 6 years and single farm payment has been claimed in each of the last 6 years.

Following a search on the planning portal it does not appear that any development opportunities have been gotten or sold off from the farm holding within 10 years of the date of the application.

The access of the proposed is taken from an existing lane. The proposed new dwelling is not visually linked or sited to cluster with an established group of farm buildings. Exceptional consideration is given to alternative siting elsewhere on the farm, provided there are no other sites available at another group of buildings, but in this case, the farm is without such agricultural buildings. The proposal fails to meet policy CTY 10.

Policy CTY 13 states 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 a single storey dwelling with a ridge height of 6.5m from finished floor levels. Finished materials include weber monochouche render with Donegal slate natural stonework to parts of the front and side elevations. Both the proposed ridge height and external materials are deemed to be acceptable within the locality. The fact that the dwelling is proposed to be 130 metres back from the edge of the road and with the benefit of existing mature tree and hedge coverage to all of the site boundaries ensures the dwelling will integrate unobtrusively. I am satisfied that the proposal satisfies CTY 13.

Policy CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I do not believe the dwelling would be a prominent feature in the landscape and I am satisfied that the site and its environs are capable of encompassing the proposed dwelling. I am satisfied that the application is able to comply with CTY 14.

There is ample space within this site to provide package treatment plant provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. In my view, the proposal does not offend policy CTY16 of PPS21.

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

The proposed access uses an existing laneway onto Fallylea Lane with the existing visibility splays improved. DfI Roads have provided no objections to the proposed, subject to a condition.

Having considered all of the above, it is recommended that this application be refused on the basis that it does not meet the criteria for CTY 10 of PPS 21.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm dwelling does not visually link or cluster with an established group of farm buildings. Consideration cannot be given to alternative siting at another group of buildings because in this case there are no farm buildings located on the farm.

**Signature(s):** Benjamin Porter

**Date:** 17 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	4 November 2022
<b>Date First Advertised</b>	15 November 2022
<b>Date Last Advertised</b>	15 November 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 10 Fallylea Lane Maghera Londonderry BT46 5JU The Owner / Occupier 9 Fallylea Lane Maghera Londonderry BT46 5JU The Owner / Occupier 11 Fallylea Lane Maghera Londonderry BT46 5JU	
<b>Date of Last Neighbour Notification</b>	9 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/1989/0260  Proposals: REPLACEMENT BUNGALOW  Decision: PG  Decision Date:</p> <p>Ref: H/2007/0534/F  Proposals: Garage.  Decision: PG  Decision Date: 15-FEB-08</p> <p>Ref: H/1977/0127  Proposals: EXTENSION TO DWELLING  Decision: PG  Decision Date:</p> <p>Ref: H/2005/0971/F  Proposals: Bungalow &amp; Garage  Decision: PG  Decision Date: 10-MAY-06</p>	

Ref: H/2002/0884/O

Proposals: Site of bungalow and garage.

Decision: PG

Decision Date: 19-DEC-02

Ref: H/1988/0369

Proposals: SITE OF REPLACEMENT BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2022/1571/F

Proposals: Dwelling on farm with detached domestic garage

Decision:

Decision Date:

Ref: H/2004/0671/O

Proposals: Site of Dwelling.

Decision: PR

Decision Date: 03-JUL-06

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx

NI Water - Single Units West-LA09-2022-1571-F.pdf

DAERA - Coleraine-Consultee Response - LA09-2022-1571-F.DOCX

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Cross Sections Plan Ref: 05

Site Layout or Block Plan Plan Ref: 02

Proposed Elevations Plan Ref: 03

Roads Details Plan Ref: 04

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

Not Applicable

## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Benjamin Porter	
<b>Application ID:</b> LA09/2023/0317/F <b>Recommendation:</b> Approve	<b>Target Date:</b> 6 July 2023
<b>Proposal:</b> New infill dwelling and garage	<b>Location:</b> 15M North West of 259 Hillhead Road Knockcloghrim
<b>Applicant Name and Address:</b> Albert Speer 15 Drumlamph Road Catledawson BT45 8EJ	<b>Agent Name and Address:</b> Bannvale Architectural Services 104A Ballynease Road Portglenone BT44 8NX
<b>Summary of Issues:</b>  This full application was presented to members as a refusal at June 2023 Planning Committee as it was considered that the proposed failed to comply with Policy CTY 8 and Policy CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development. On the week before the Planning Committee, it became known that the proposed had a live outline permission for an infill dwelling on the same site under planning reference LA09/2019/0727/O, which was not picked up on in the original report. The agent submitted a deferral request on this basis so that the application could be re-considered.	
<b>Summary of Consultee Responses:</b>  A consultation was made to DfI Roads who provided no objection to the proposed subject to a condition.	
<b>Characteristics of the Site and Area</b>  The site of the proposed is located in the rural countryside approximately 1.5 miles south east and outside of the Knockcloghrim settlement limit as defined in the Magherafelt Area Plan 2015. The site is for an infill dwelling located 15m north west of 259 Hillhead Road, Knockcloghrim. Access to the site is via an existing private laneway adjoining the Hillhead Rd and approved	

under LA09/2016/0561/F, which also serves new build no. 261 Hillhead Rd. The site is 0.1 hectares in area and has a flat topography. The site is defined by a backdrop of mature trees behind the eastern boundary and picket fencing providing the western boundary. No. 261 sits adjacent to and north of the site, no. 259 adjacent and south of the site, and no. 251 to the south of this, occupying a roadside position. The site is separated from the main road by an agricultural field with a width of approximately 45 metres. The surrounding environment consists mostly of agricultural fields with scatterings and clusters of development located all along the Hillhead Rd.

### **Description of Proposal**

The proposed is a full application for a new infill dwelling and garage.

### **Deferred Consideration:**

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 states that planning permission will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. The principle of development for the infill dwelling has been established under live planning approval LA09/2019/0727/O.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposed is a square, modest-sized two storey dwelling which is of a traditional rural design and would not be an unduly prominent feature in the environment. Finished materials include smooth render finish to the walls and natural blue / black slate to the roof. I consider the design of the proposed to be acceptable and in keeping with the surrounding context. The site is complete with a strong backdrop of mature trees behind the eastern boundary which when viewed from the road will provide a good degree of backdrop and enclosure. The dwelling therefore does not rely primarily on the proposed landscaping for its integration and it is deemed that the mix of existing and proposed landscaping would compliment the dwelling. It is deemed that the proposed complies under Policy CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As provided above, the proposed dwelling at this site would not appear prominent in the landscape. It is considered that the site and its environs are capable of absorbing the proposed dwelling. The proposed complies with Policy CTY 14.

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. The proposed access arrangements involve the use of an existing unaltered access to a public road. The use of this access marks a change to the access previously proposed under LA09/2019/0727/O. A consultation was made to DfI Roads who provided no objection to the proposed subject to a condition. In light of this, I am content that the proposed complies with PPS 3.

Having re-assessed the application against planning policy and other material considerations pertaining to this proposal, I recommend that this application be approved.

**Conditions/Reasons for Refusal:**

**Approval Conditions**

**Condition 1**

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

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

**Condition 2**

The vehicular access including visibility splays 2.4 x 120 metres and a 120 metre forward sight distance, shall be provided in accordance with Drawing No. 02 bearing the date 22 Mar 2023 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

All landscaping comprised in the approved details of landscaping on Drawing No. 02 bearing the date 22 March 2023, shall be carried out in the first planting season following the occupation of the dwelling hereby approved.

Reason: To ensure the development integrates into the countryside.

**Condition 4**

The existing natural trees of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

**Condition 5**

If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

**Signature(s):** Benjamin Porter

**Date:** 20 June 2023



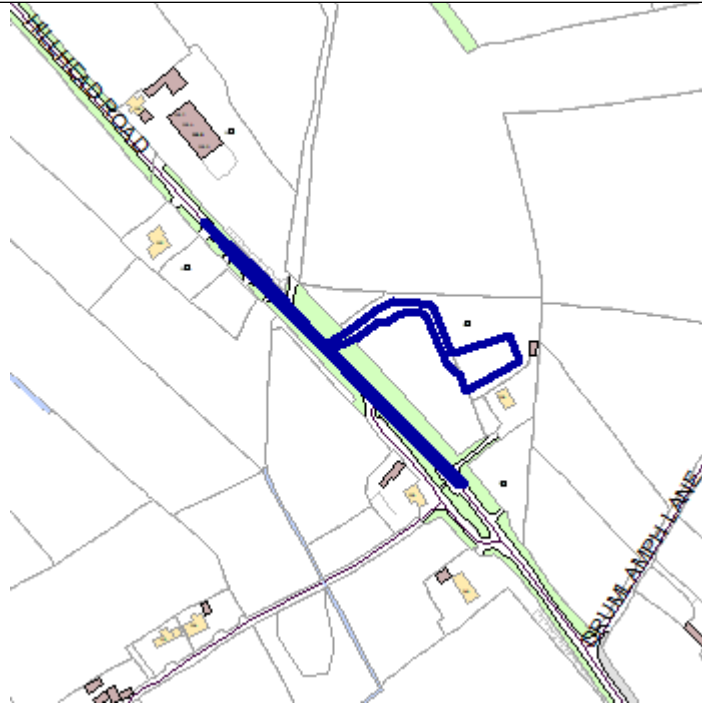


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 12 June 2023	<b>Item Number:</b> 5.54
<b>Application ID:</b> LA09/2023/0317/F	<b>Target Date:</b> 6 July 2023
<b>Proposal:</b> New infill dwelling and garage	<b>Location:</b> 15M North West of 259 Hillhead Road Knockcloghrim
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Albert Speer 15 Drumlamph Road Catledawson BT45 8EJ	<b>Agent Name and Address:</b> Bannvale Architectural Services 104A Ballynease Road Portglenone BT44 8NX
<b>Executive Summary:</b>  This application is brought to the planning committee with a recommendation for refusal. The proposal is contrary to Policies CTY 8 and CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up road frontage and if approved would create a ribbon of development.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed is located in the rural countryside approximately 1.5 miles south east and outside of the Knockcloghrim settlement limit as defined in the Magherafelt Area Plan 2015. The site is for an infill dwelling located 15m north west of 259 Hillhead Road, Knockcloghrim. Access to the site is via an existing private laneway adjoining the Hillhead Rd and approved under LA09/2016/0561/F, which also serves new build no.

261 Hillhead Rd. The site is 0.1 hectares in area and has a flat topography. The site is defined by a backdrop of mature trees behind the eastern boundary and picket fencing providing the western boundary. No. 261 sits adjacent to and north of the site, no. 259 adjacent and south of the site, and no. 251 to the south of this, occupying a roadside position. The site is separated from the main road by an agricultural field with a width of approximately 45 metres. The surrounding environment consists mostly of agricultural fields with scatterings and clusters of development located all along the Hillhead Rd.

### **Description of Proposal**

The proposed is a full application for a new infill dwelling and garage.

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

#### **Policy Consideration**

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

#### **Relevant Histories**

LA09/2016/0561/F – Dwelling (change of house type and access from previous approval H/2014/0370/F) – Adjacent and north of 259 Hillhead Road Knockloughrim – Permission Granted 24/10/2016.

#### **Representations**

To date no third party representations have been received.

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

The site of the proposed is located in the rural countryside approximately 1.5 miles south east and outside of the Knockcloghrim settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

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

The site is not located within or adjacent to any listed building / structures.

The site is subject to a small degree of surface water flooding, though this is evident only along the existing access at the part which adjoins the road, and along the edge of the site for the dwelling. I am content on this basis that DfI Rivers do not need to be

consulted.

### Mid Ulster District Council Draft Plan Strategy 2030

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

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

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

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. The proposed access arrangements involve the use of an existing unaltered access to a public road. A consultation was made to DfI Roads who provided no objection to the proposed subject to a condition. In light of this, I am content that the proposed complies with PPS 3.

### PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 states that planning permission will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. This application is therefore considered under CTY 8 – Ribbon Development.

In terms of the plot size, I am content that the site is sufficient only to accommodate up to a maximum of two dwellings. The site is therefore able to accommodate the proposed dwelling. For the purposes of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. I am content that there are 3 substantial buildings; These are no. 261 Hillhead Rd (adjacent and north of the site), no. 259

(adjacent and south of the site), and no. 251 (furthest south of the site). While it is considered that these dwellings are substantially sized buildings, it is considered that nos. 261 and 259 Hillhead Rd do not occupy a road frontage position. The curtilage of these dwellings do not front onto the public road and therefore the application is without a substantial and built up frontage that includes a line of 3 or more buildings along a road frontage. The lack of a substantial and built up road frontage is backed up by the approved defined curtilage of the planning approval for no. 261 Hillhead Rd (ref LA09/2016/0561/F). The proposed fails to comply with Policy CTY 8 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposed is a square, modest-sized two storey dwelling which is of a traditional rural design and would not be an unduly prominent feature in the environment. Finished materials include smooth render finish to the walls and natural blue / black slate to the roof. I consider the design of the proposed to be acceptable and in keeping with the surrounding context. The site is complete with a strong backdrop of mature trees behind the eastern boundary which when viewed from the road will provide a good degree of backdrop and enclosure. The dwelling therefore does not rely primarily on the proposed landscaping for its integration and it is deemed that the mix of existing and proposed landscaping would compliment the dwelling. It is deemed that the proposed complies under Policy CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As provided above, the proposed dwelling at this site would not appear prominent in the landscape. However, given the proposal creates a ribbon of development, the proposal does not comply with Policy CTY 14.

### Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application is refused on the grounds that it does not meet Policies CTY 8 and CTY 14 of PPS 21 in that it would create a ribbon of development if approved.

### **Summary of Recommendation:**

Refuse is recommended

### Refusal Reasons

#### Reason 1

The proposal is contrary to Policy CTY 8 and Policy CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would

create a ribbon of development.

**Signature(s):** Benjamin Porter

**Date:** 17 May 2023

<b>ANNEX</b>	
<b>Date Valid</b>	23 March 2023
<b>Date First Advertised</b>	4 April 203
<b>Date Last Advertised</b>	4 April 203
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 266A Hillhead Road Castledawson Londonderry BT45 8EF</p> <p>The Owner / Occupier 266 Hillhead Road Knockcloghrim Londonderry BT45 8EF</p> <p>The Owner / Occupier 261 Hillhead Road Knockcloghrim Londonderry BT45 8EF</p> <p>The Owner / Occupier 251 Hillhead Road Knockcloghrim Londonderry BT45 8QT</p> <p>The Owner / Occupier 260 Hillhead Road Castledawson Londonderry BT45 8EF</p> <p>The Owner / Occupier 259 Hillhead Road Knockcloghrim Londonderry BT45 8EF</p>	
<b>Date of Last Neighbour Notification</b>	4 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2002/0312/RM Proposals: Dwelling &amp; garage</p> <p>Decision: PG Decision Date: 20-MAY-02</p> <p>Ref: H/2005/0920/F Proposals: Dwelling and garage. Decision: PG Decision Date: 09-JAN-06</p> <p>Ref: LA09/2023/0317/F Proposals: New infill dwelling and garage Decision:</p>	

Decision Date:

Ref: H/1993/6054

Proposals: ELECTRICITY SUB-STATION AND 110 KV/33 KV OVERHEAD LINES NEAR  
BELLAGHY MAGHERAFELT

Decision: QL

Decision Date:

Ref: H/2000/0768/F

Proposals: Alterations and Additions to Dwelling

Decision: PG

Decision Date: 18-DEC-00

Ref: H/2005/0398/O

Proposals: Site of Infill Dwelling & Garage

Decision: PR

Decision Date: 22-AUG-06

Ref: LA09/2016/0561/F

Proposals: Dwelling (change of house type and access from previous approval  
H/2014/0370/F)

Decision: PG

Decision Date: 24-OCT-16

Ref: H/2014/0370/F

Proposals: Proposed Dwelling and Garage.

Decision: PG

Decision Date: 12-FEB-15

Ref: LA09/2019/0727/O

Proposals: New infill dwelling and garage

Decision: PG

Decision Date: 05-SEP-19

Ref: H/2000/0828/O

Proposals: Site of dwelling and garage

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx



**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Plans Plan Ref: 03  
Proposed Elevations Plan Ref: 04  
Garage Plans Plan Ref: 05

**Notification to Department (if relevant)**

Not Applicable



<b>Report on</b>	DFIs Consultation on Review of the Planning (Development Management) Regulations (NI) 2015 – Initial stakeholder engagement.
<b>Date of Meeting</b>	4 <sup>th</sup> July 2023
<b>Reporting Officer</b>	Melvin Bowman
<b>Contact Officer</b>	Dr Chris Boomer.

<b>Is this report restricted for confidential business?</b>  If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	x

<b>1.0</b>	<b>Purpose of Report</b>
1.1	The purpose of this report is to invite members views on how the Council should respond to an initial stakeholder engagement exercise, in advance of a wider public consultation, relating to current Regulations governing how 'Major' planning applications are defined.
<b>2.0</b>	<b>Background</b>
2.1	DFI have stated that this exercise has arisen following the recent of the implementation of the Planning Act NI 2011 and recommendations made by the NI Audit report and the Public Accounts Committee report on planning in NI.
2.2	One of the agreed legislative actions is a review of the Planning (Development Management) Regulations NI 2015. The review is considering the current hierarchy of developments, pre-application community consultation and mandatory pre-determination hearings.
2.3	The feedback will be used to better understand stakeholder views and to shape and proposed revisions in order that the Regulations are practical and appropriate for current and future development trends. Further feedback will be invited from Councils during the proposed Autumn 2023 wider public consultation.

<b>3.0</b>	<b>Main Report</b>
3.1	<p>Whilst this exercise is accompanied with a number of questions set out in Annex 1 (see attached) we feel it more appropriate at this early stage to offer the following points for consideration in a wider general sense:</p> <ol style="list-style-type: none"> <li>1. Whilst any attempt to reduce unnecessary bureaucracy leading to quicker determination times and delivery on Major application proposals is welcomed, the Council do recognize the benefits of the current PAN and PAD process in relation to such development proposals. A general concern is that any decision to raise threshold levels for Major applications may result in an increase in applications which avoid the need for community consultation via the PAN process</li> <li>2. The Council would welcome a more simplified approach to defining Major applications by initially not cross-referencing development proposals with the EIA (Environmental Impact) Regulations and concentrating more on the impact a proposal will have in terms of its land requirements / floorspace requirements etc.</li> <li>3. Concentrating on amounts of power generation is not the best measure of potential environmental impact and instead, like the point above, such development proposals would be better served by the use of other thresholds.</li> <li>4. In relation to retailing, community and recreation uses, the Council have no objection to limiting this class to solely proposals for retail development but with retaining a 1000 sq.m or more of gross floor space threshold. We would in addition suggest that the reference to 'outside the town centre' be removed therefore also removing the unnecessary relationship with current regional retailing policy considerations.</li> <li>5. That any review considers a means to help to avoid 'project-splitting', ie applications being submitted appearing to deliberately fall short of thresholds to avoid the need to follow the PAN process. Discretion could be given to Councils to require, for example, two or more applications on land which cumulatively would exceed a Major application threshold, to be considered as Major and require compliance with such Regulations.</li> </ol>
3.2	<p><b>Conclusion.</b></p> <p>The Council has decided not to directly answer the ANNEX 1 of this consultation exercise but instead provide a more general reply to this initial pre-public consultation feedback request.</p> <p>We respectfully request that the content of this report is considered as the formal response to the Consultation.</p>

<b>4.0</b>	<b>Other Considerations</b>
4.1	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: N/A
	Human:N.A
	Risk Management: N/A
4.2	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: N/A
	Rural Needs Implications: N/A
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	That members accept that this report is forward to the Department as its formal response to the consultation exercise.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	Appendix A – copy of Draft consultation Paper and Annex 1 questions.

Regional Planning Governance  
& Legislation Directorate



Department for

**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

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26<sup>th</sup> May 2023

Dear Chief Executive,

**Review of the Planning (Development Management) Regulations (Northern Ireland) 2015 – Initial Stakeholder Engagement**

Following the Review of the Implementation of the Planning Act (NI) 2011, and the recommendations made in the NI Audit report and the Public Accounts Committee report on Planning in Northern Ireland, a planning improvement work programme, agreed by local and central government, encompassing regulatory improvements and legislative changes to the planning system, is being taken forward.

One of the agreed legislative actions is a review of the **Planning (Development Management) Regulations (NI) 2015 (S.R. 2015 No.71) (*the Regulations*)**. The review is considering the current Hierarchy of Developments, pre-application community consultation and mandatory pre-determination hearings. This includes a review of the classes and thresholds in the Schedule of 'Major Development Thresholds' and the jurisdictional criteria prescribed for the purposes of section 26(1) of the Planning Act (NI) 2011 (*the Act*). The aim is to ensure that the current classes and thresholds remain relevant, fit for purpose and take account of future development requirements.

To assist with the ongoing review, and in advance of a wider public consultation, the Department would invite you to share your operational experiences of the Regulations and the major development Schedule, along with your recommendations and supporting evidence for any changes. This feedback will be important in helping us understand stakeholder views and shape any proposed revisions, in order that the Regulations are practical and appropriate for current and future development trends.

E-mail: [planning@infrastructure-ni.gov.uk](mailto:planning@infrastructure-ni.gov.uk)

Website: [www.infrastructure-ni.gov.uk/topics/planning](http://www.infrastructure-ni.gov.uk/topics/planning)

The feedback provided by all Councils on the Regulations, as part of the Call for Evidence for the Review of the Implementation of the Planning Act (NI) 2011, has been noted and is being considered as part of this review.

A feedback form is attached at Annex 1, with some questions under each class of development which may help structure your information return. Annex 2 provides some background and supporting information for each class which you may find useful. We would be grateful if you could complete and return Annex 1 on or before 7<sup>th</sup> July 2023. In addition, if you would like to meet with the Department to provide feedback verbally or discuss aspects of the review, please contact the legislation team to arrange a suitable date and time.

Following the review, DfI intends to consult with the public and wider stakeholders on the proposed revisions to the Regulations and the major development schedule. It is anticipated that this public consultation will take place in early autumn 2023. The Council will have a further opportunity to provide feedback on the proposed revisions during this public consultation.

There will also be an opportunity to provide input into other potential legislative changes in relation to other regulations in due course.

If you have any questions, or you would like to discuss further, please do not hesitate to get in touch by emailing myself ([kathryn.mcferran@infrastructure-ni.gov.uk](mailto:kathryn.mcferran@infrastructure-ni.gov.uk)) or the Legislation team on [Legislation.Planning@infrastructure-ni.gov.uk](mailto:Legislation.Planning@infrastructure-ni.gov.uk).

Yours sincerely



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**DR KATHRYN McFERRAN**  
(Acting) Director

Cc. Heads of Planning

Enc

**Annex 1**

**Refer to separate Feedback Form.**

## Annex 2 – Supporting Information

### Class 1: EIA Development

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At present, development proposals which meet the Schedule 1 criteria and thresholds for paragraphs 1, 3, 4, 5, 6, 11, 12, 15, 17, 18, 22, 23, 24 of the Planning (Environmental Impact Assessment) Regulations (NI) 2015 are regarded as major development.

It is noted that Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (NI) 2015 has been replaced by Planning (Environmental Impact Assessment) Regulations 2017 (*the EIA Regulations*). References will be updated accordingly to reflect the relevant paragraphs. For ease of reference, a link to the EIA regulations and the relevant Schedule is provided here:

[The Planning \(Environmental Impact Assessment\) Regulations \(Northern Ireland\) 2017 \(legislation.gov.uk\)](#)

Development proposals which meet the criteria and thresholds in Paragraphs 1, 3, 22, 23, and 24 of the EIA Regulations are those prescribed for consideration under Section 26(1) of the Act. These potentially regionally significant developments could make an important contribution to the economic and social success of Northern Ireland (NI), however, they may also have significant effects beyond NI or may involve a substantial departure from an LDP.

### Class 2: Energy Infrastructure

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Energy infrastructure currently incorporates several sub-classes including electricity generating stations, electrical power lines, storage, extraction and pipelines. Each sub-class has a different threshold for both major development and consideration under Section 26(1) of the Act.

In relation to **electricity generating stations**, there may be merit in revising the current megawatt thresholds (MW) for proposed generating stations, to ensure that they remain relevant and support evolving energy technologies. The approach to consenting in other jurisdictions is set out below for your information.

- In Scotland, the threshold for major development involving electricity generating stations is 20MW or greater, whilst the threshold for consideration as a National Development (consented by Scottish Ministers) is 50MW or greater.
- In England, wind energy proposals comprising more than 2 turbines or with a hub height exceeding 15m are considered major development and processed by local planning authorities. All proposals for onshore electricity generation stations other than wind, with a capacity greater than 50MW are considered Nationally Significant Infrastructure Projects (NSIP) and processed by the Planning Inspectorate. Electricity storage facilities are recognised as a form of electricity generating station, however, are exempt from the NSIP process and are consented by local authorities. If an exempt facility forms part of a larger



electricity generating station proposal, any MW capacity from the exempt facility cannot contribute to the overall MW capacity of the proposal to determine NSIP thresholds.

- In Wales, proposals for electricity generating stations with a capacity of between 10-350MW are considered Developments of National Significance (*DNS*) and are consented by Planning and Environment Decisions Wales (Welsh Government). Projects involving electricity generation stations (excluding wind and exempt electricity storage facilities) in Wales with a capacity greater than 350MW are considered NSIPs and processed by the Planning Inspectorate. The definition of electricity generating stations for the purposes of DNS does not include electricity storage facilities, which are consented by local authorities.
- In the Republic of Ireland, wind energy proposals comprising more than 25 turbines or with a total output greater than 50MW are considered Strategic Infrastructure Development (*SID*) and are consented by An Bord Pleanála. Similarly, industrial installations for the production of electricity, steam or hot water with a heat output of 300 MWs or more are also considered SID.

**Electrical power lines** create an important network of connections between electricity generating stations, the grid, and the consumer. There may be merit in revising the thresholds for major development, which currently align broadly with Schedules 1 and 2 of the EIA Regulations.

- In England and Wales, overhead lines less than 132kV or less than 2km in length are consented by the Department of Business Energy & Industrial Strategy (BEIS). Proposals greater than 132kV or more than 2km are considered as NSIPs and processed by the Planning Inspectorate.
- In Scotland, proposals for overhead lines greater than 20kV are processed by the Energy Consents Unit (Scottish Ministers).
- In the Republic of Ireland, proposals for overhead lines with a voltage of 220 kV or more can be considered as SID. The forthcoming Planning and Development Bill 2022 allows proposals for electrical power lines not less than 220 kV and longer than 15km to also be considered SID and processed by An Bord Pleanála.

Within the Energy Infrastructure sub-class of **Storage**, the threshold for major development for the storage of petroleum, petrochemicals, chemical products and natural gas is 30,000 tonnes or more. The threshold for consideration under S.26(1) of the Act is 200,000 tonnes or more. The latter broadly aligns with the thresholds in Schedule 1 of the EIA Regulations for the same type of development.

These thresholds originally aligned with the equivalent NSIP development thresholds in England and Wales, however these have since changed. Currently, the NSIP threshold for gas storage is 43million m<sup>3</sup> or a maximum daily flow rate of 4.5million standard m<sup>3</sup>.

In the Republic of Ireland, surface storage of natural gas and oil or coal are considered as SID and consented by An Bord Pleanála, where the threshold meets 200,000 tonnes (natural gas) and 100,000 tonnes of oil or coal.

All proposals for underground storage including compressed air energy storage are major development and require consideration under Section 26(1) of the Act. In England and Wales, proposals for underground storage of gases where the storage is 43million m<sup>3</sup> or a maximum daily flow rate of 4.5million standard m<sup>3</sup> are considered NSIP. In the Republic of Ireland underground storage of combustible gases, where the storage capacity would exceed 200 tonnes area considered SID.

In respect of **Extraction**, there are two sub-classes and thresholds for major development in the Regulations relating to specific materials. In respect of unconventional hydrocarbons, all proposals are deemed major development and require consideration under Section 26(1) of the Act. Thresholds for the extraction of petroleum and natural gas reflect, in part, the requirements of the EIA Regulations and the controversial nature of this activity. In the Republic of Ireland, all installations for the onshore extraction of petroleum or natural gas are considered SID and consented by An Bord Pleanala.

In respect of proposals for **Pipelines**, the current thresholds for major development broadly reflect the thresholds in the current EIA Regulations. The Gas to the West project (LA08/2016/1328/F) was a regionally significant project and provided a useful benchmark for informing these thresholds. In the Republic of Ireland, the thresholds for consideration under SID are pipeline proposals more than 20km.

In England and Wales, a gas pipeline must be either more than 800mm and more than 40km, or likely to have a significant effect on the environment. In addition, it must have a design operating pressure of more than 7 bar gauge and supply gas (directly or indirectly) to at least 50,000 customers, or potential customers, to qualify as an NSIP. In Scotland, all gas and oil pipelines and associated development are processed and consented by the Energy Consents Unit on behalf of the Scottish Ministers.

### **Class 3: Transport Infrastructure**

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The strategic transport network is an essential component in the everyday movement of people and goods to, from and within Northern Ireland. Class 3 development identifies the various elements of transport infrastructure and provides thresholds for major development and S.26(1). These broadly align with the thresholds in Schedule 1 and 2 of the EIA Regulations. The exception is the road proposals under Schedule 1 Para 7(b) and (c) of the EIA regulations which are normally consented via the Roads (NI) Order 1983.

In Scotland, all Schedule 1 EIA transport development and proposals involving lengths exceeding 8km are considered major development. Proposals for the Rapid Transit Networks, High Speed rail facilities, certain Port/Harbours infrastructure works in certain specified locations qualify as National Development.

In England and Wales, the NSIP and DNS thresholds for development proposals for airports are based primarily on passenger numbers and air cargo movements, while new/replacement railway facilities have a 2km threshold. NSIP thresholds

for new port and harbour facilities relate to the handling capacity/quantities for various materials including cargo and containers.

In the Republic of Ireland, development proposals for harbour and port installations which involve enclosure of more than 20ha of water, reclamation of more than 5ha land, quay construction greater than 100m in length, and able to accommodate vessels greater than 1350T meet the thresholds for SID.

#### **Class 4: Waste Infrastructure**

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The planning system plays an important role in supporting the delivery of waste infrastructure throughout Northern Ireland, ensuring that it meets the needs of the growing population and economy, as well as the targets for sustainable management of waste resources. Waste facilities can be of interest to local communities and must be carefully planned to ensure that their potential environmental impacts are properly assessed/considered.

The major development thresholds for waste management in the Regulations align broadly with the thresholds for the same facilities in Schedule 1 of the EIA Regulations. The thresholds prescribed for the purposes of Section 26(1) align broadly with the criteria for SID in the Republic of Ireland and NSIP in England and Wales.

In Scotland, all waste management or disposal facilities which are Schedule 1 EIA Development and facilities where capacity exceeds 25,000 tonnes per annum (except sludge facilities) are considered major development. In England and Wales, all waste development is considered major development.

In England, proposals for disposal of hazardous waste by land fill or deep storage meet the threshold for consideration as an NSIP, if their capacity will be more than 100,000T per year. Proposal for disposal by other methods will be considered NSIP projects, where their capacity exceeds the threshold of more than 30,000T per annum.

In terms of **wastewater**, the current major development threshold is a facility with a capacity exceeding 50,000 Population Equivalent (PE). Proposals for facilities with a capacity exceeding 150,000 PE meet the criteria for consideration under S.26(1) of the Act, and also align with criteria in Schedule 1 EIA Regulations.

In Scotland, wastewater proposals which meet the thresholds for Schedule 1 EIA development are considered major development. The threshold for wastewater proposals to be considered as SID in the Republic of Ireland are facilities with a capacity of more than 10,000 PE. The NSIP and DNS thresholds for wastewater proposals in England and Wales are facilities with a capacity exceeding 500,000 PE.

## **Class 5: Minerals**

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Minerals are valuable assets and vital to the growth of the Northern Ireland economy. They are essential raw materials, which underpin construction, housing, industry and infrastructure. The planning system has a key role to play in regulating extraction and ensuring no adverse impacts on the environment.

The Regulations specify thresholds for major development involving the extraction of mineral on a site exceeding 2ha, which aligns with the threshold for the same class in Scotland. The criteria for consideration under S.26(1) of the Act aligns with the criteria for quarries and underground mining in Schedule 1 of the EIA Regulations.

In England and Wales, any form of winning and working of minerals or the use of land for mineral working deposits is considered a major development. In the Republic of Ireland, the proposed Planning & Development Bill brings in a threshold for strategic development for the extraction of stone, gravel, sand or clay where the area of extraction would be greater than 5 hectares.

## **Class 6: Housing**

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Good quality, affordable housing in safe, sustainable communities is essential to ensuring health, well-being and a prosperous society<sup>1</sup>. The planning system has a key role in ensuring new residential development is well designed and appropriately located.

The Regulations under Class 6 currently provide two sub-thresholds for establishing major development, which align closely with the thresholds for the same class of development in Scotland.

In England and Wales, major development is defined by the provision of dwelling houses where:

- a) 10 or more homes will be provided; or
- b) the site has an area of 0.5ha or more.

In the Republic of Ireland, the Strategic Housing Development thresholds are:

- a) development of 100 or more houses on land zoned for residential or mixed uses.
- b) the development of student accommodation units which, when combined, contain 200+ bed spaces, on appropriately zoned land.
- c) development that is a mix of the above.

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<sup>1</sup> Source: 'Equality in Housing and Communities – Policy Recommendations' The Equality Commission for NI

## **Class 7: Retailing, Community, Recreation & Culture**

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The Regulations provide two sub-thresholds for major development for Use Classes A and D of the Planning (Use Classes) Order (NI) 2015 (S.R. 2015 No.40), which cover shops, financial professional and other services, community, and cultural uses, as well as assembly and leisure.

These thresholds were originally aligned with paragraph 36 of Planning Policy Statement 5 – Retailing and Town Centres (PPS5). The Strategic Planning Policy Statement (SPPS) supersedes PPS5 and indicates at paragraph 6.283 a similar threshold of 1000m<sup>2</sup> for out of centre development proposals.

No other jurisdiction has provided specific thresholds for this class of development.

In Scotland, development proposals within these Use Classes for retail, recreation and culture development are considered under the '*All Other Development*' category, and the relevant sub-thresholds are:

- a) where the gross floor space of any building, structure, or erection constructed as a result of such development is or exceeds 5000m<sup>2</sup>; or
- b) where the area of the site is or exceeds 2ha.

Similarly, in England proposed developments for these uses are considered under the general thresholds to determine major development namely:

- a) the provision of a building or buildings where the floorspace to be created by the development is 1000m<sup>2</sup> or more,
- b) or a site of 1ha or more.

## **Class 8: Business, Industry (Light & General) Storage & Distribution**

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Development proposals which fall under Part B Industrial and Business Uses of the Planning (Use Classes) Order (NI) 2015 are currently considered within this class, which covers B1 business use, B2 light industrial, B3 general industrial, and B4 storage and distribution.

In Scotland, there is a specific class and sub-thresholds for considering proposed developments for the same business and industrial uses. The sub-thresholds for establishing major development (excluding change of use), are:

- a) the gross floor space of any building, structure, or erection constructed as a result of the development exceeds 10,000m<sup>2</sup>; or
- b) the area of the site is or exceeds 2ha.

In England, proposals for development of business, industrial, storage and distribution uses would be considered under the general thresholds to determine major development, namely:

- a) the provision of a building or buildings where the floorspace to be created by the development is 1000m<sup>2</sup> or more, or
- b) a site of 1ha or more.

### **Class 9: All Other Development**

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Class 9 provides a general class for all other development which does not fall wholly within the Classes 1-8.

In Scotland, the relevant class for '*All Other Development*' has two sub-thresholds to establish major development, namely:

- a) where the gross floor space of any building, structure, or erection constructed as a result of such development is, or exceeds, 5000m<sup>2</sup>; or
- b) where the area of the site is, or exceeds, 2ha.

In England, there are general thresholds to determine major development for all other proposals, namely:

- a) the provision of a building or buildings where the floorspace to be created by the development is 1000m<sup>2</sup> or more; or
- b) a site of 1ha or more.

Following the judgment provided by Humphreys J in Judicial Review 2021/NIQB96<sup>2</sup>, consideration is being given to clarifying the application of Class 9, in relation to composite or mixed-use development.

Composite proposals comprise multiple elements of development or a mixture of complimentary uses, which fall into more than one of Classes 1-8 of the Schedule Major Development thresholds.

In Scotland, Class 9 covers mixed use projects, whether the project involves a *combination of developments* described in Classes 1-8, or a mixed-use proposal with different uses which have not been listed in classes 1 to 8. In England and Wales, the threshold for major development is established where the proposal involves *any one or more* of the relevant five classes and thresholds described in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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<sup>2</sup> <https://www.judiciaryni.uk/judicial-decisions/2021-niqb-96>

## Annex 1

The table below presents a series of questions examining potential issues with the current thresholds and criteria for each class of development for major developments and those prescribed for the purposes of Section 26(1), as outlined in the Schedule of The Planning (Development Management) Regulations (Northern Ireland) 2015 (legislation.gov.uk). The questions should be read alongside the supporting information provided in Annex 2 for each class of development.

Class	Questions	Suggested Changes	Justification and Reasoning
<b>1. Environmental Impact Assessment (EIA) Development</b>			
1 EIA	Q1. Do the Council have any operational evidence from managing planning applications for EIA development which might suggest that the current thresholds or criteria for major development should be revised?		
	Q2. Is the Council aware of any proposals, which have been confirmed as EIA development, following a determination under Schedule 2 of the Planning (EIA) Regulations (NI) 2017, which have not met the thresholds and criteria for major development?		
<b>2. Energy Infrastructure</b>			
2a Electricity Generating Stations	Q3. Based on your experience of determining applications for electricity generation proposals (both major and local developments), suggestions on potential changes (if any) to the thresholds would be welcomed.		
	Q4. Similar to other jurisdictions, do you consider that separate thresholds for wind energy and electricity generation stations would be beneficial?		

	<p>Q5. Based on your experience of determining planning applications for energy storage, do you consider that:</p> <p>a) A new sub-class should be inserted under Class 2 Energy Infrastructure acknowledging and defining energy storage as a form of electricity generation station.</p> <p>b) Any new sub-class for standalone energy storage should have a higher megawatt (MW) threshold for major development (for example, 50MW or 100MW).</p> <p>c) The Regulations should be amended to align with England and Wales where electricity storage facilities (such as BESS) are exempt from the Nationally Significant Infrastructure Process (NSIP). Most of these facilities are consented by Councils, and their MW, when proposed as part of a wider electricity generating scheme, is disregarded for the purposes of determining NSIP thresholds.</p> <p>(d) Another approach is required (please elaborate).</p>		
<p>2b Electrical Power Lines</p>	<p>Q6. Based on your experience of determining proposals for electrical power lines, do the current thresholds for major development capture those proposals which are large scale, complex and require pre-application community consultation?</p>		



	Q7. Based on your experience of determining applications for electrical power lines which traverse a neighbouring Council area, does this add additional complexity and / or delay to the processing of these planning applications?		
2c Storage, Extraction & Pipelines	Q8. Based on your experience of proposals for energy storage, extraction, and pipelines, do you consider that the current thresholds reflect the complexity and level of community interest in these projects?		
<b>3. Transport Infrastructure</b>			
3 Railways, Airports, Harbours, and Ports, Waterways and Transit Ways.	Q9. Based on your experience of proposals for the various elements of transport infrastructure, is there a requirement to revise the current thresholds for major development?		
<b>4. Waste Infrastructure</b>			
4a Waste Management	Q10. Based on your experience of determining proposals for waste infrastructure, would it be beneficial to simplify the thresholds, by making all waste development major development (similar to England and Wales), or introducing one threshold for major development of 25,000 tonnes for all waste development (similar to Scotland)?		
4b	Q11. Based on your experience of determining proposals for wastewater development, should there be a		

Waste Water	change to the current thresholds for major development?		
<b>5. Minerals</b>			
5 Mineral Extraction	Q12. Based on your experience of proposals for mineral extraction, should there be a change to the current thresholds for major development?		
<b>6. Housing</b>			
6 Housing	Q13. Based on your experience of various residential proposals, would it be considered beneficial to change the current thresholds for major development?		
<b>7. Retailing, Community, Recreation &amp; Culture</b>			
7 Retailing, Community, Recreation & Culture	Q14. Based on your experience in determining planning applications for development under Parts A and D of the Planning (Use Classes) Order (NI) 2015, do you consider the current thresholds to be appropriate?		
	Q15. Do you believe there is merit in amending this Class to relate solely to proposals for retail development (Part A, the Planning (Use Classes) Order NI 2015), with a threshold of 1000 m <sup>2</sup> or more of gross floor space outside the town centre?  In this scenario, proposals for the development of community, recreation and cultural uses would be considered under Class 9.		

<b>8 Business, Industry, Storage &amp; Distribution</b>			
8  Business, Industry, Storage & Distribution	Q16. Based on your experience of various proposals within Part B of the Planning (Use Classes) Order (NI) 2015, do you consider the current thresholds to be appropriate?		
	Q17. Do you believe it is necessary to have a separate Class for proposals to be considered under Part B of the Planning (Use Classes) Order (NI), given that the thresholds are currently the same as Class 9?		
<b>9 All Other Development</b>			
9  All Other Development	Q18. Based on your experience of various development proposals, including mixed use, do you consider the current thresholds are adequate for identifying major development?		
	Q19. Do you believe it would be beneficial to align with the approach in England and Wales, where the presence of one or more developments or uses listed in Classes 1-8, which meet the relevant thresholds, would be considered as major development?		
<b>Please add any other comments.</b>			

Thank you for taking the time to complete this questionnaire.



**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Monday 12 June 2023 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

**Members Present**

Councillor S McPeake, Chair

Councillors Black, J Buchanan, Carney, Clarke, Graham, Kerr, Mallaghan, Martin\*, McConnell\*, McElvogue, McFlynn, D McPeake, Robinson, Varsani,

**Officers in Attendance**

Dr Boomer, Service Director of Planning (SD: PI)  
Mr Bowman, Head of Strategic Planning (HSP)  
Mr McCreesh, Chief Executive  
Ms Doyle, Head of Local Planning (HLP)  
Ms Donnelly, Council Solicitor  
Mr Marrion, Senior Planning Officer (SPO)  
Mr McClean, Senior Planning Officer (SPO)\*\*  
Ms McCullagh, Senior Planning Officer (SPO)\*\*  
Ms McKinless, Senior Planning Officer (SPO)  
Ms S McNamee, ICT Support  
Mrs Grogan, Committee and Member Services Officer

**Others in Attendance**

LA09/2020/0472/F – Chris Tinsley\*\*\*  
LA09/2020/0780/O – Eamon Loughrey\*\*\*  
Richard Agus\*\*\*  
Kyle Somerville\*\*\*  
LA09/2021/0205/F - Johann Muldoon\*\*\*  
LA09/2022/0424/F - Hayley Wilson\*\*\*  
Ryan Dougan\*\*\*  
LA09/2022/0465/F - Sarah McCorry\*\*\*  
LA09/2022/0465/F - Mary B McKenna  
LA09/2023/0626/F - Malachy McCrystal  
LA09/2022/1420/F - Gemma Jobling\*\*\*  
LA09/2022/1509/F - Chris Cassidy\*\*\*  
LA09/2022/1572/O - Christopher Quinn\*\*\*  
LA09/2022/1730/O - Eamonn Cushnahan  
LA09/2023/0034/F - Neil Irvine  
LA09/2023/0164/F - Sarah McDowell  
LA09/2023/0328/F - David Suitor

Councillor Bell  
Councillor Monteith\*

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

\*\*\* Denotes others present by remote means

The meeting commenced at 7.00 pm

### **P047/23 Notice of Recording**

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

### **P048/23 Apologies**

Councillor Cuthbertson.

### **P049/23 Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

### **P050/23 Chair's Business**

The Service Director of Planning (SD: PI) said that there were a few things he wished to bring to members attention. Firstly, there was an appeal decision which was dismissed and was a fine example where a person would be far better off working with planning department to get things all above board rather than leaving it to enforcement action. The second matter which he wished to bring to members attention and would suspect that will attract some media attention is the issue of ammonia in agricultural development supply. The SD: PI read out a letter which he had received from NIEA which was basically saying that the Office of Environmental Protection which was similar to an Ombudsman which covers England and Northern Ireland and charged with looking into European legislation and the protection of the environment being properly adhered to. This body was having an examination done of the work essentially to see whether they are actively protecting the environment and have the right policies in place. Members will be aware that there has been a lot of long running issues in relations to spoils from large chicken and pig houses and the fact that this was resulting in ammonia omissions and once spread on the fields and in turn effects boglands, particularly sites of nature conservation and lands where there was a quite a deterioration and a loss of species and a real issue at hand. What also has occurred is that there is guidance from one side which was DAERA which says that the trigger which was needed for Council to carry out assessments was at one level and that European case should be at a lower level. The SD: PI said that clearly there were efforts made to bring that in through the back door and DAERA did not change the policy but Mid Ulster District Council raised its own concerns, not just because we protect, not just the fact that there are a lot of large farms with large incomes, but the fact that it may be difficult to stand up under scrutiny which has proven to be the case and attempt to do that would mostly likely be unsuccessful. The SD: PI advised that other Councils had attempted to put a higher level and had lost and our position has now been vindicated. The SD: PI said that DAERA has realised the fact that they had to look at change and relook at policy and consultation and bring everyone on board as one side they are telling us here that they were going to start the process but had in turn sent the planning department a list of planning applications which advised that they were going to pause and then providing us with consultation responses which was very concerning for a lot of farmers as they had invested massively in a lot of costs as building a chicken house is a serious investment, now just building the house is expensive there is also a lot of work and expense is getting expertise whilst building it

and making an application resulting in some people being left in a limbo situation. NIEA which is a body within DAERA haven't indicated that they were going to oppose the planning applications but were just on pause and was unsure what that really meant. One of the applications which was on pause was allowed to proceed to a decision because they had verified and given the go ahead and he was unsure whether this was a case of stopping everything.

The SD: PI said that the reason he raised this matter with members was that he was highly conscious that members could be asked by local farmers on what the position was. The position in terms of the Planning Department is that the SD: PI was trying to have staff work with the various bodies to keep things moving which can sometimes be seen as an uneasy atmosphere which staff were working in and this should be the message that should be getting across and not Planning Officers which were pausing things and more a case of Central Government not deciding which way it was going to go.

The Chair, Councillor S McPeake agreed that this was very confusing situation, not least for the applicant themselves whether to begin investment as landscapes can be confusing and the targeting of omissions at the moment and would be important that clarity was got from Central Government.

The Chair advised that Councillor Mallaghan wished to raise an issue under Chair's Business.

Councillor Mallaghan said that during the process of getting the Council up and going again after the elections, there was some discussion around committee start times and it was the view across most parties that because this committee seems to be the one that lasts the longest that perhaps a trial could be put in place with an earlier starting time i.e. 5pm. The member advised that given the fact that the life of a public representative can have in terms of late evenings that can occur and also staff may have be working from 8 am or 9 am in the morning to could be working potentially up to 11pm or 12 midnight and was not providing a healthy work-life balance and perhaps a 5 pm start for this committee would be of a huge benefit. If this was carried out for a trial period to see how it would work out, it could be potentially something the other committees could take into consideration also.

Councillor Mallaghan proposed a 5 pm start time for the Planning Committee for a trial period.

The Chair said that he wasn't aware that this was discussed recently but was aware of this being talked about through the years particularly when members and staff were facing late nights and bad weather. The Chair concurred with Councillor Mallaghan and said that it was conjunctive not leaving the meeting sometimes at 11.30pm to travel some distance home. He said that this proposal would benefit everyone from architects, applicants and most importantly staff who were stuck here from early morning and could be finished up at 4.30pm and sitting about to 7pm for the meeting and felt it was a sensible approach.

The Chair, Councillor S McPeake seconded the proposal.

Councillor McFlynn said that she would be supportive of Councillor Mallaghan's proposal to bring the meeting forward, but felt at 6pm would be more appropriate as there were people sitting at the Planning Committee who also work and may not be able to commit to a 5pm start time and asked that 6pm start time be taken as a consideration.

Councillor Black said that he had no issue with moving forward with the time but would echo what Councillor McFlynn had alluded to and asked if there could be a happy medium be struck where an appropriate time be agreed upon to allow people the time to finish up their day job to get here on time and enquired if there could be a slight bit of flexibility on a proposed time.

Councillor Kerr also concurred with Councillor McFlynn's suggestion of a 6pm start time as consideration also needed to be given to the public coming in to speak in support or against an application as they may not be able to commit to a 5pm start time also.

Councillor Mallaghan advised that this proposal would have to be brought to the P&R committee in order for it to be changed and suggested that in the interim that an email could be issued to members enquiring what their preferred start time would be to see if we can get agreement. He felt that members and the public have the ability to access the Planning Committee remotely using Zoom and this definitely increases the ability to be a bit more flexible.

The Chair agreed that this would be a good suggestion and when feedback was received that Officers could feed back to Council accordingly.

Proposed by Councillor Mallaghan  
Seconded by Councillor S McPeake

**Resolved** That an email be issued to members on their preferred option of a start time for the Planning Committee.

The Chair advised that members may see quite a number of refusals and requests from architects seeking deferrals and quite a number being successful in being granted.

The Strategic Director of Planning (SD: PL) referred to agenda for determination and sought approval to have the following applications withdrawn and deferred from tonight's meeting schedule for an office meeting –

Agenda Item 5.5 – LA09/2020/0780/O – Furniture storage/warehouse facility at site 80m W of 37 Charlemont Road, Moy, Dungannon for Moy Furniture Centre Ltd

Agenda Item 5.7 – LA09/2020/1423/F – 1 two-bedroom apartment and 2 one bedroom apartments at 28m NE of 30 Augher Road, Clogher BT76 for RMS Civils

Agenda Item 5.9 – LA09/2021/1396/O – Site for housing development at 34 Main Street, Tullyhogue, Cookstown for Calvert Developments Ltd

Agenda Item 5.11 – LA09/2021/1653/F – Extension of facilities, provision of new workshop, provision of new access to public road to replace existing substandard



access, provision of adequate parking, associated site works and landscaping at site immediately E of 19 Annagh Road, Lungs, Clogher for Malcolm Keys

Agenda Item 5.17 – LA09/2022//0454/F – Dwelling and garage on a farm at land approx. 60m SW of 6 Beaghbeg Road, Dunamore, Kildress for Louise Devlin

Agenda Item 5.21 – LA09/2022/0624/F – Section 54 application requesting to remove the requirement of road widening & provision of an additional footpath along the frontage of the development (LA09/2017/0487/F) at O’Rahilly GFC, 93 Washingbay Road, Coalisland for Clonoe O’Rahilly GFC

Agenda Item 5.23 – LA09/2022/0630/O – 5 No. 2 storey dwellings (1 detached and 4 semi-detached) at 73 Main Street, Tobermore for Mr C Beatty

Agenda Item 5.24 – LA09/2022/0657/O – Dwelling & domestic garage at 40m W of 62 Ballynargan Road, Stewartstown for Nuala McReynolds

Agenda Item 5.31 – LA09/2022/1686/O – Dwelling and garage at 61 Ballynakilly Road, Coalisland for Terry McCann

Agenda Item 5.34 – 2022/1736/O – Dwelling and garage at approx. 210m SE of 59 Glengorma Road, Draperstown for Sean Donnelly

Agenda Item 5.36 – LA09/2022/1734/O – Dwelling and garage at approx. 30m W of 5 Carrydarragh Road, Money more for Mr Randall Crooks

Agenda Item 5.42 – LA09/2023/0076/O – Infill dwelling and garage at land between 6 and 15 Dungororan Road, Dungannon for Jessica Brown

Agenda Item 5.43 – LA09/2023/0141/O – Farm building for sheep handling and sheep feed store at 15m E of 101 Bancran Road, Draperstown for Dermot Brown

Agenda Item 5.49 – LA09/2023/0219/F – Proposed off-site replacement dwelling and garage in substitution of M/2007/0028/RM for Tiarnan McKenna

Agenda Item 5.53 – LA09/2023/0284/F – Single storey dwelling and access lane at lands approx. 20m NW of 10 Colliers Lane, Coalisland for Mr Brian Carron

Agenda Item 5.54 – LA09/2023/0317/F – Infill dwelling and garage 15m North West of 259 Hillhead Road, Knockloughrim for Albert Speer

The Chair referred to Agenda Item No. 5.50 – LA09/2034/0232/O – Infill site for dwelling between 139 and 143 Drumagarner Road, Kilrea for Mr Brian McCloskey – deferral sought as agent was on holidays – agreed

Proposed by Councillor Black  
Seconded by Councillor Kerr and

**Resolved** That the planning applications listed above be deferred for office meetings.

The Strategic Director of Planning (SD: PI) referred to request from the objector for a deferral relating to Agenda Item 5.18 - LA09/2022/0465/F - 25m high lattice telecommunications tower on elevated ground with antenna & dishes located within a new compound area to be enclosed with a 1.2m high timber stock proof fence & access track to installation at area of field approx. 750m NE of Ballnagilly Road, Lissan, Cookstown for Cornerstone Telecommunications.

The SD: PI advised that when an objector requests a deferral, it would not be automatically granted as this could hold up applications indefinitely. He said that he was conscious that this was a 25m high lattice tower in an AONB and whilst it was to be debated tonight, felt it may be more appropriate for it to be deferred for a Members' site visit.

Councillor Clarke concurred with the SD: PI and felt that this would be a good idea.

Proposed by Councillor Clarke  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2022/0465/F be deferred for a Members site visit.

## **Matters for Decision**

### **P051/23 Planning Applications for Determination**

The Chair drew Members attention to the undernoted planning applications for determination.

#### **LA09/2019/0335/F Six semi-detached 2 storey dwellings with private drive and associated site works at Lands opposite 9 Cabragh Road, Cabragh, Dungannon for Laurence McGuigan**

Members considered previously circulated report on planning application LA09/2019/0335/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2019/0335/F be approved subject to conditions as per the officer's report.

#### **LA09/2019/0937/F Amendment to road junction (approved LA09/2015/0881/F) to include new footpath along Anneeter Road and Ardean Close at Junction of Anneeter Road & Battery Road, Cookstown for St Malachy's GAC Moortown**

Members considered previously circulated report on planning application LA09/2019/0937/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/0937/F be approved subject to conditions as per the officer's report.

**LA09/2020/0368/F Change of use from a barber shop to a gym at 11-13 Rainey Street, Magherafelt for Shane Maguire**

Members considered previously circulated report on planning application LA09/2020/0368/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0368/F be approved subject to conditions as per the officer's report.

**LA09/2020/0472/F Winning and working of minerals (sand and gravel) across an area of c.12 ha; construction of a new site access and haul route; erection of processing plant and machinery (washing plant), weighbridge and office with restoration to agriculture (further info - Noise/Dust Report) at lands to the W of Iniscarn Road and N of Crocknamohil Road, Draperstown for Hollow Park Sand and Gravel Ltd**

Members considered previously circulated report on planning application LA09/2020/0472/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Carney and

**Resolved** That planning application LA09/2020/0472/F be approved subject to conditions as per the officer's report.

**LA09/2020/0780/O Furniture storage/warehouse facility at site 80m W of 37 Charlemont Street, Moy, Dungannon for Moy Furniture Centre Ltd**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0966/F Housing development of 26 two storey dwellings (20 semi-detached dwellings, 5 Townhouses and 1 detached dwelling), site road and associated site works at lands 20m W of 180 Battery Road, Moortown for Loughview Developments**

Members considered previously circulated report on planning application LA09/2020/0966/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0966/F be approved subject to conditions as per the officer's report.

**LA09/2020/1423/F** 1 two-bedroom apartment and 2 one bedroom apartments at 28m NE of 30 Augher Road, Clogher, BT76 for RMS Civils

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/0205/F** Mixed use redevelopment of former convent building & school to include: public, community & interpretive spaces; event space including a restaurant/function room; Parish office, archive store & library facility; General office space; Existing chapel to be retained for occasional mass services; Nursery & Creche facility; Ancillary spaces & redevelopment of surrounding curtilage to provide gardens, interpretive space & car parking plus waste water treatment plant (revised description) at Sisters of Mercy Convent, 9 Northland Row, Dungannon, for Drumglass Parish Trust Fund

Members considered previously circulated report on planning application LA09/2021/0205/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/0205/F be approved subject to conditions as per the officer's report.

**LA09/2021/1396/O** Site for housing development at 34 Main, Tullyhogue, Cookstown for Calvert Development Ltd

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/1559/LBC** Mixed use redevelopment of former convent building & school to include: public, community & interpretive spaces; event space including a restaurant/function room; Parish office, archive store & library facility; General office space; Existing chapel to be retained for occasional mass services; Nursery & Creche facility; Ancillary spaces & redevelopment of surrounding curtilage to provide gardens, interpretive space & car parking plus waste water treatment plant (revised description) at Sisters of Mercy Convent, 9 Northland Row, Dungannon, for Drumglass Parish Trust Fund

Members considered previously circulated report on planning application LA09/2021/1559/LBC which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/1559/LBC be approved subject to conditions as per the officer's report.

**LA09/2021/1653/F**      **Extension of facilities, provision of new workshop, new access to public road to replace existing substandard access, adequate parking, associated site works and landscaping at site Immediately E of 19 Annagh Road, Lungs, Clogher for Malcolm Keys**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/1708/F**      **Access at 276 Mountjoy Road, Stewartstown, Dungannon. for Mr Stephen Hughes**

Members considered previously circulated report on planning application LA09/2021/1708/F which had a recommendation for approval.

Proposed by Councillor Carney  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2021/1708/F be approved subject to conditions as per the officer's report.

**LA09/2022/0047/F**      **Store & associated parking at 80m N of 74 Kilmasally Road, Ardboe for Gary Campbell**

Members considered previously circulated report on planning application LA09/2022/0047/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/0047/F be approved subject to conditions as per the officer's report.

**LA09/2022/0264/F**      **Renewal of LA09/2016/0361/F -free range poultry house at approx. 690m NE of 16 Greenhill Road, Ballygawley for Mr Eugene McBride**

Mr Marrion (SPO) presented a report on planning application LA09/2022/0264/F advising that it was recommended for refusal.

Councillor Mallaghan requested that this application be held for 60 days as it was his understanding that there was a breakdown of communication between the agent and the applicant who was unaware that this application was coming forward tonight. The

member advised that there was a matter of an air dispersal model that has to be purchased from a private consultancy and the applicant needs to make a decision on whether this was something he needs to do and if permission was granted to hold this application for 60 days then he would have an opportunity to either get it done or let it go.

Proposed by Councillor Mallaghan  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2022/0264/F be held for 60 days for submission of information and bring back to Committee.

**LA09/2022/0281/F Housing development of 13 units (12 two storey semi detached and 1 two storey detached) opposite Cluntoe Park, Ardboe Rd, Cookstown, for Hagan Builders**

Members considered previously circulated report on planning application LA09/2022/0281/F which had a recommendation for approval.

Ms McKinless (SPO) advised that this application was on for an approval and no speaking rights have been requested but there was a gentleman in the viewing gallery who was raising his hand to speak.

The Chair advised that no speaking rights had been made on this application.

The gentleman remained in the viewing gallery and advised that he had contacted Planning Department to raise his objection to the application.

The SD: PI said that Mr Quinn needed to go through the correct protocol which was clearly displayed on the Council website for everyone to see and was not a matter just turning up to a meeting and expect to speak when no request was submitted. When a later speaker wishes to raise an objection, then the Chair can do so at his discretion and may help the committee to let members of the committee know who he was.

The gentleman stated that he was Mr P Quinn and he was objecting to the approval of the application.

The Chair advised that Planning Committee have a precedent in place and didn't allow this in the past. If Mr Quinn had of contacted a Councillor they could have spoken on his behalf, but due to the fact that committee had refused ad hoc interventions at this stage, was sorry to say that the proper protocol had to be followed.

The SD: PI advised committee that it may be beneficial for the case officer to provide a summary of the points raised.

Ms McKinless (SPO) took members through the application highlighting reasons for the approval.

The Chair advised that after hearing the case officers report that he was satisfied that everything had been fully considered and dealt with.

Councillor McFlynn said that whilst she did not know the site specifically enquired if this was on the same road as the primary school.

Ms McKinless (SPO) said that as far as she was aware it was on the same road and side as the primary school.

Councillor McFlynn stated that she was content that all issues were considered and would be happy to propose the recommendation to approve the application.

Proposed by Councillor McFlynn  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2022/0281/F be approved subject to conditions as per the officer's report.

**LA09/2022/0424/F** **Mixed use scheme comprising the erection of a three-storey building, retention and alterations to existing building on Rainey Street and existing rear return to provide 13 apartments (total), retention of 2 retail units, amenity space, car parking and ancillary site works at lands at 39-41 Rainey Street, Magherafelt, for Genmark Developments**

Members considered previously circulated report on planning application LA09/2022/0424/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Black and

**Resolved** That planning application LA09/2022/0424/F be approved subject to conditions as per the officer's report.

**LA09/2022/0454/F** **Dwelling and garage on a farm at land approx. 60m SW of 6 Beaghbeg Road, Dunamore, Kildress for Louise Devlin**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0465/F** **25m high lattice telecommunications tower on elevated ground with antenna & dishes located within a new compound area to be enclosed with a 1.2m high timber stock proof fence & access track to installation at area of field approx. 750m NE of Ballnagilly Road, Lissan, Cookstown for Cornerstone Telecommunications**

Agreed that application be deferred for site visit with Members.

**LA09/2022/0576/O** **Dwelling and garage at 35m W of 77 Carraloan Road, The Woods, Magherafelt for Mr John Gribbin**

Members considered previously circulated report on planning application LA09/2022/0576/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0576/O be approved subject to conditions as per the officer's report.

**LA09/2022/0600/F** **Battery energy storage system facility 100MW (BESS) and associated 33KV transformers, including 2 switch houses with control rooms lighting and closed-circuit television (CCTV) columns, new site boundary fencing and landscaping proposals, use of existing access and ancillary development works, including underground cabling route linking the site to Tamnamore main substation to the W at lands immediately E of Tamnamore Substation and 260m SW of 167 Ballynakilly Road, Coalisland, Dungannon for Heron Storage Ltd**

Members considered previously circulated report on planning application LA09/2022/0600/F which had a recommendation for approval.

Proposed by Councillor Carney  
Seconded by Councillor Black and

**Resolved** That planning application LA09/2022/0600/F be approved subject to conditions as per the officer's report.

**LA09/2022/0624/F** **Section 54 application requesting to remove the requirement of road widening & provision of an additional footpath along the frontage of the development (LA09/2017/0487/F) at O'Rahilly GFC, 93 Washingbay Road, Coalisland, for Clonoe O'Rahilly GFC**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0626/F** **Two agricultural sheds for housing sheep/feed/machinery and the retention of two existing sheds. at 100m WSW of 43 Tullynagee Road, Moneymore for Paul McCrystal**

Members considered previously circulated report on planning application LA09/2022/0626/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0626/F be approved subject to conditions as per the officer's report.



**LA09/2022/0630/O**    **5 no. 2 storey dwellings (1 detached and 4 semi-detached) at 73 Main Street, Tobermore, for Mr C Beatty**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/0630/O**    **Dwelling and domestic garage at 40m W of 62 Ballynargan Road, Stewartstown for Nuala McReynolds**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1183/O**    **Site for dwelling on a farm at 250m NE of 19 Derrylatinee Road, Dungannon for Caolan Gildernew**

Members considered previously circulated report on planning application LA09/2022/1183/O which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor Carney and

**Resolved**    That planning application LA09/2022/1183/O be approved subject to conditions as per the officer's report.

**LA09/2022/1193/O**    **Dwelling and domestic garage at 20m NE of 168 Washingbay Road, Coalisland for Mrs Anne Nugent**

Members considered previously circulated report on planning application LA09/2022/1193/O which had a recommendation for approval.

Proposed by Councillor Carney  
Seconded by Councillor Varsani and

**Resolved**    That planning application LA09/2022/1193/O be approved subject to conditions as per the officer's report.

**LA09/2022/1209/F**    **Dwelling and integrated garage and associated site amenities at 180m NE of 40 Foygh Road, Castlecaulfield, Dungannon for Mr and Mrs McCausland**

Members considered previously circulated report on planning application LA09/2022/1209/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McElvogue and

**Resolved**    That planning application LA09/2022/1209/F be approved subject to conditions as per the officer's report.

**LA09/2022/1420/F      Extension of existing factory to include new assembly/workshop, paint-line, offices to increase production of existing product. Extension of car parking & associated works at Emerson, Ballyreagh Industrial Estate, Cookstown for Emerson**

Members considered previously circulated report on planning application LA09/2022/1420/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved**      That planning application LA09/2022/1420/F be approved subject to conditions as per the officer's report.

**LA09/2022/1509/F      Farm Storage Shed at 170m W of 4 Dunmurry Road, Draperstown for Joe McWilliams**

Ms McKinless (SPO) presented a report on planning application LA09/2022/1509/F advising that it was recommended for refusal.

The Chair advised that a request to speak in favour of the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy advised that the applicant lives in a housing estate in the middle of Draperstown and it has been confirmed by DAERA that the farm business is active and has been established since 2009. The applicant owns 38 acres and currently owns 29 beef animals in his herd and these details has been supplied to the Council. There are currently no buildings in his holding and Council accept that there is a need for this building. Council also accept that the character and scale of the shed is appropriate as the shed is set back 270m back from the road and not near any third-party dwellings. Mr Cassidy stated that the Council also accept that this would visually integrate at this location and also accept that it would not be a prominent feature on the landscape and using an existing laneway so this would have no impact on the surrounding area. This proposal is for the first agricultural building on the holding is before members tonight and asked that exception be made to the policy as there was a clear and accepted need for this building and would ask members to reconsider the decision.

Councillor Clarke said that given what was heard and the description felt that it met any conditions and the only reason for refusal was because there were no other buildings. The member referred to *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 or forestry enterprise.* The member felt that on grounds of that and no other buildings and the necessity for the building he would propose to overturn the recommendation and approved the application.

Ms McKinless (SPO) provided members with an update on exceptions to the policy.

The SD: PI advised that the case officer was quite right but looking at what the policy maker had written and if you had buildings on your farm there are instances where you could move away and that's where there are no available sites by the buildings due to health & safety or it's essential for the purposes on the farm. The SD: PI felt that Councillor Clarke made a very valid point where he stated that this was a holding that had 38 acres and quite reasonable to expect on a holding of that size it may be felt that it be appropriate to have some hardware or machinery at the site as this could be classed as essential. Essential could be classed as something which could be very useful in the operation of the farm in this instance. The SD: PI felt that when all these factors were put into the equation with no objections to the site chosen and not a building for any other use, it would be reasonable for members to determine whilst the policy does not explicitly allow, he felt that it would be reasonable to give this application a sympathetic consideration.

The SD: PI enquired if Roads Service required any visibly splays or any other matters.

Ms McKinless (SPO) advised that DfI Roads had been consulted on the proposal and offered no objection, subject to conditions.

Mr Cassidy in response to SD: PI confirmed that his applicant would adhere to any conditions made.

Proposed by Councillor Clarke  
Seconded by Councillor Mallaghan

**Resolved** That planning application LA09/2022/1509/F recommendation for refusal be overturned to an approval subject to conditions made.

**LA09/2022/1572/O Site for 2 storey dwelling between 8 and 14 Drumvale Avenue, Cookstown for Mr Fergal Eastwood**

Members considered previously circulated report on planning application LA09/2022/1572/O which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Carney and

**Resolved** That planning application LA09/2022/1572/O be approved subject to conditions as per the officer's report.

**LA09/2022/1686/O Dwelling and garage at 61 Ballynakilly Road, Coalisland for Mr Terry McCann**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1687/F Retention of commercial access and extension to storage yard approved (LA09/2021/0899/F) at 30 Tullyodonnell Road, Rock, Dungannon, for Mr Paul McGoldrick**

Members considered previously circulated report on planning application LA09/2022/1687/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2022/1687/F be approved subject to conditions as per the officer's report.

**LA09/2022/1730/O Dwelling & detached garage (Replacement) at approx. 45m SW of 239 Coalisland Road, Dungannon for Mr JP Canavan**

Members considered previously circulated report on planning application LA09/2022/1730/O which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor Carney and

**Resolved** That planning application LA09/2022/1730/O be approved subject to conditions as per the officer's report.

**LA09/2022/1736/O Dwelling and garage at approx. 210m SE of 59 Glengorma Road, Draperstown for Sean Donnelly**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1740/O Site for farm dwelling and garage at 50m East of 18 Drummond Road, Dungannon for Mr Norman Watt**

Members considered previously circulated report on planning application LA09/2022/1740/O which had a recommendation for approval.

Proposed by Councillor Black  
Seconded by Councillor J Buchanan and

**Resolved** That planning application LA09/2022/1740/O be approved subject to conditions as per the officer's report.

**LA09/2022/1743/O Dwelling and garage at approx. 30m W of 5 Carrydarragh Road, Moneymore for Randall Crooks**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1762/F Development of the existing playing field to incorporate pedestrian trim trail, formalised car parking area, access link to the existing children's playpark to the north of the site. Provision of a 70 sqm service building, new polytunnel and rainwater collection system at existing playing field and**

**allotment area within Park View, Castledawson for Mr Johnny McNeill**

*All members present declared an interest in the above application as related to Mid Ulster District Council.*

Members considered previously circulated report on planning application LA09/2022/1762/F which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/1762/F be approved subject to conditions as per the officer's report.

**LA09/2022/1777/O 2 Storey dwelling and detached garage adjacent to and S of 14 Tullylinton Road, Dungannon for Mr R Hopper**

The Marrion (SPO) presented a report on planning application LA09/2022/1777/O advising that it was recommended for refusal.

Councillor McFlynn in response to Mr Marrion (SPO) regarding submission of further information not being received, felt that it was a pity that a final opportunity not be given to the applicant, even for a month to see if the relevant can be submitted.

The Chair said that it possibly could on what Mr Marrion (SPO) had suggested by writing to them advising of deadline of one month for submission and if not forthcoming then issue the refusal.

Proposed by Councillor S McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/1777/O be held for one month to allow applicant to submit additional information and bring back to committee.

**LA09/2023/0034/F Amended rear pedestrian access to shop & first floor apartment at 108 and 108B Main Street, Fivemiletown for Mr Gary Coote**

Members considered previously circulated report on planning application LA09/2023/0034/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor J Buchanan and

**Resolved** That planning application LA09/2023/0034/F be approved subject to conditions as per the officer's report.

**LA09/2023/0045/O Dwelling and domestic garage at lands immediately E and adjacent to 103 Old Caulfield Road, Castlecaulfield for Eugene McKenna**

Members considered previously circulated report on planning application LA09/2023/0045/O which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2023/0045/O be approved subject to conditions as per the officer's report.

**LA09/2023/0073/O Dwelling and domestic store on farm at lands 70m N of 158A Washingbay Road, Coalisland for Martin Hughes**

Members considered previously circulated report on planning application LA09/2023/0073/O which had a recommendation for approval.

Proposed by Councillor Carney  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2023/0073/O be approved subject to conditions as per the officer's report.

**LA09/2023/0076/O Infill dwelling and garage at land between 6 and 15 Dungororan Road, Dungannon for Miss Jessica Brown**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0141/O Farm building for sheep handling and sheep feed store at 15m E of 101 Bancran Road, Draperstown for Mr Dermot Brown**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0148/O Site for dwelling and garage at adjacent and S of Killygullib Orange Hall, Tamlaght Road, Kilrea for Mr Terence Birt**

Members considered previously circulated report on planning application LA09/2023/0148/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2023/0148/O be approved subject to conditions as per the officer's report.

**LA09/2023/0162/F      Change of use of existing commercial property into 2 residential apartments at 27 Union Place, Dungannon for Mr John Rafferty**

Members considered previously circulated report on planning application LA09/2023/0162/F which had a recommendation for approval.

Councillor Kerr advised that he wished to raise a few points before this application was recommended for approval.

Councillor Kerr said that whilst reading the report he felt it unusual for DfI Roads not to be asked for an opinion and this could start a precedent where a number of smaller proposals for true likeness without asking Roads Service for an opinion. There could be the potential of lots of residential apartments having 3 or 4 bedrooms having the potential of having up to 20 people living at that address. Water Service are indicating that there are continuous infrastructure issues which we should be taking heed of. The member felt that it was concerning that these two consultantees have not been consulted. The member advised that this area was continuously congested as staff working in the town used this area to park and now the new residents will do likewise and may be problematic as they wish to park close to their home. The residents of these flats will most likely have cars and will park adjacent to their property when there is already a shortage of parking.

Councillor Kerr proposed a site meeting before this application goes ahead and also consultation with Roads Service.

The SD: PI said he wished to ask the member a question primarily to protect himself and enquired if the representation in which he put forward was done so by himself or was he approached by someone and if this was the case then the member should have declared an interest in the application. The SD: PI advised that it was quite reasonable to take on someone's case but maybe this was the member's own feelings.

Councillor Kerr advised that over his 4-year term as Councillor he had consistently taken notes in which he could always refer back to and felt if an issue was worth raising then he had no issue doing so. The member said that he could wholeheartedly say that he had not been approached by anyone and does believe that it is necessary to speak to Water Service and Roads Service before making such important decisions.

*D McPeake left the meeting at 8.04 pm and returned at 8.07 pm.*

The SD: PI said that these were former offices in the town centre are quite substantial in size. During the days office are used primarily during the day which it would be on the street and in the public carparks at their busiest. He stated that the key demand is usually in the evening and whilst listening intently to the argument for 3 and 4 bedroom flats, it would be hard to see this being a problem useless it was being used by a huge family or HMO's which would be unlikely. In relation to point in regards to Water Service, members may know there are lots of objections being received from them on sewers and it would be hard to see two flats getting more use than a fully occupied office. It is difficult as Water Service is correct in its view that there is difficult in Dungannon in regards to infrastructure and there is a requirement to take each case on

its own merits otherwise there would be no housing in Dungannon. He said that it would be hard to see any more overloading or carparking in this instance. The SD: PI said that he was fully aware of concerns in regards to turning shop units on ground floor in Dungannon town centre to apartments but there is a need for people to live in town centres to give it a sense of security and vibrancy. When he referred to issue of how long it had sat vacant in the past and if it had of been viably profitable for office space, then obviously this was not the case as there was no market for it only for apartments.

Councillor Kerr said that he still believed that the points he had raised were valid and would still recommend a site meeting with Roads Service present to discuss this application further. The member also felt that this would be beneficial for members sitting on this committee to see for themselves but would ultimately accept the decision taken of the Planning Committee regardless.

The SD: PI stated that he wouldn't have any objections to facilitate this meeting as it was always healthy for members to look at things that they were not content with.

The Chair referred to comment made by Ms McKinless (SPO) regarding Roads Service advising that they felt that there were no additional pressures being put on and asked if this could be elaborated on.

The SD: PI stated that it needed to be clarified which Roads Service doesn't get also. Planning is the planning authority and we decide on an application and Roads Service determine roads safety. We have lots of applications which could have implications for road safety i.e. someone may be building an extension in a carparking space which could be close to a junction or corner, then Road Service gets involved by telling planning that there would be an impact on visibility etc and officers would be of the same opinion.

The Chair advised that in the past Roads Service were reluctant to come out to adjudicate on various planning issues as they felt that they had already contributed by way of reporting.

Councillor Kerr reiterated his previous question on whether DfI Roads Service were consulted on their opinion in regards to this application or was there a previous precedent set by Roads Service.

Mr Marrion (SPO) advised that DfI Roads Service were not consulted as they were only a statutory consultantee and only consulted when there is a proposal for either a new access or intensification using an access to a public road which is outlined in our Development Management regulations. Roads Service is not a statutory consultantee in this application as they are now proposing a new access as there was only a requirement to convert a two-storey building without any extension to it, converting it from a commercial use to apartments.

Councillor Mallaghan said that it was his understanding that in terms of policy consideration is that because this is town centre no parking was required and given the fact that there was already an existing use there was no further requirement of sewage connection because there was no intensification and only policy that needs to be given consideration to is whether or not we feel that these offices can be changed to



residential accommodation. Given those considerations and circumstances in Dungannon town centre and wanting to see more people living in our town centres. The member had attended a conference today at the Burnavon where all this was thrown into the mix where we can get more people living in town centres and proposed to accept the Officer's recommendation to approve the application.

Councillor Varsani seconded Councillor Mallaghan's proposal to accept the recommendation.

Councillor McElvogue seconded Councillor Kerr's recommendation to request a site visit with Roads Service in attendance.

Councillor Kerr's proposal to proceed with a site visit was put to the vote:

For	2
Against	12

Councillor Mallaghan's proposal to accept the recommendation was put to the vote:

For	12
Abstained	2

**Resolved** That planning application LA09/2023/0162/F be approved subject to conditions as per the officer's report.

*Council solicitor left meeting at 8.20 pm and returned at 8.24 pm.*

**LA09/2023/0164/F** **Redevelopment of existing Integrated College Dungannon to provide a new integrated post primary school to accommodate circa. 700 pupils (as existing). Works to include demolition of existing buildings, phased construction of new two-storey school accommodation and extension to existing sports block. Other works include 2 new grass pitches, 5 new tennis courts, hard play areas, a sensory garden, cycle parking area, fencing, retaining walls, car parking, landscaping and all associated site works. Vehicular and pedestrian access to the main school site will be maintained off Gortmerron Link Road and an additional access point is proposed through to Stevenson Park Rugby grounds, to facilitate the southern pitches. at Integrated College Dungannon, , 21 Gortmerron Link Road, Former Pitches to The South East and Portion of Dungannon Rugby, Club (Stevenson Pk) at 36 Moy Road, Dungannon for Board of Governors of Integrated College, Dungannon**

Members considered previously circulated report on planning application LA09/2023/0164/F which had a recommendation for approval.

Councillor Robinson sought clarification on the new access through Stevenson Park to Ranfurly Heights and enquired if local residents have been consulted.

The SD: PI advised that residents were consulted as it was backing up onto the playing fields.

In response to member's query, the SD: PI advised that the new access doesn't go onto the A29 and only Ranfurly Heights.

Ms Ms Doyle, Head of Local Planning (HLP) advised in respect of Ranfurly Heights, properties which were notified were No's 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26. A number of properties in Gortmerron Heights were also notified.

The SD: PI stated that no objections had been made by residents but obviously there had been concerns that by providing this additional rugby pitch there could be the potential intensification which could obviously disrupt traffic around Ranfurly Heights. The SD: PI said that following this, Officers had contacted the agent and a series of questions were asked.

Ms McCullagh (SPO) provided members with an update on what questions and answers were provided as follow:

- Q. Southern Pitches currently in the College's ownership or have they purchased them?
- A. The land and new pitches were owned by Donnelly Bros with an agreement in principle that they will sell the land to the college once planning permission was secured, solicitors involved and everything written up
- Q. Was there any carparking spaces being lost at Dungannon Rugby Club?
- A. No carparking spaces has been lost and referred to (overhead drawing) where vision of of pavement will be shown along the lane of the southeastern boundary, some retention of the bank along the boundary to facilitate this and removal of an LPG tank
- Q. Access for people getting to the Southern Playing Fields?
- A. No direct physical link at the moment between the school and the Southern Playing fields so a minibus is going to be used which takes approx. 3 minutes from Gortmerron Link Road to the location and staff will travel with the children.
- Q. What would happen on match day if also the Rugby pitch was operating?
- A. The College will only use the pitch during school hours 9am – 4.15pm Monday to Friday – any matches on school days or larger matches will be played on neutral grounds elsewhere and will never operate simultaneously

Councillor Robinson enquired if Dfl made any comment regarding the intensification of traffic on that road.

Ms McCullagh (SPO) advised that a condition was put in place for that:  
Condition 2 -During the construction works hereby permitted, hard surfaced areas shall be provided to provide adequate facilities for parking, servicing and circulating within the site.

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

Proposed by Councillor Varsani

Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2023/0164/F be approved subject to conditions as per the officer's report.

**LA09/2023/0175/F** **Change of house type to M/2009/0967/RM, extension of dwelling curtilage and erection of domestic garage at 103D Ballagh Road, Fivemiletown for Mr Cormac McGale**

Members considered previously circulated report on planning application LA09/2023/0175/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2023/0175/F be approved subject to conditions as per the officer's report.

*Councillor Black left the meeting at 8.26 and returned at 8.27 pm.*

**LA09/2023/0211/F** **2 infill dwellings adjacent to and immediately SE of 26 Whitetown Road, Newmills, Dungannon for Sydney Brown**

Members considered previously circulated report on planning application LA09/2023/0211/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor J Buchanan and

**Resolved** That planning application LA09/2023/0211/F be approved subject to conditions as per the officer's report.

**LA09/2023/0219/F** **Off-site replacement dwelling and garage (substitution of M/2007/0028/RM) at lands approx. 75m NE of 83 Clonavaddy Road, Galbally, Dungannon for Mr Tiarnan McKenna**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0232/O** **Infill site for dwelling between 139 and 143 Drumagarner Road, Kilrea for Mr Brian McCloskey**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0280/F** **Single storey extension to the rear of 21 Loran Vale, Cookstown for Ryan McKenna**

Members considered previously circulated report on planning application LA09/2023/0280/F which had a recommendation for approval.

Proposed by Councillor McFlynn

Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2023/0280/F be approved subject to conditions as per the officer's report.

**LA09/2023/0281/F Single storey extension and alterations at 58 Station Road, Maghera for Mr & Mrs Leslie & Sharon Smith & Lynd-Smith**

Members considered previously circulated report on planning application LA09/2023/0281/F which had a recommendation for approval.

The Chair said that by going through the report he had noticed that there had been a lot of detailed objections received and wanted to be reassured that all the objections had been taken into consideration.

Ms McKinless (SPO) advised that one letter of objection had been received and concerns raised with the objection were fully considered by the case officer. Objection related to:

- Concerns over reduction of natural light
- Raised patio area overlooks 60 Station Road
- Glazing facing 60 Station Road so concerns over privacy

Ms McKinless (SPO) stated that the case officer had noted that the objector had raised the above issues relating to:

- Loss of light issues at 60 Station Road Maghera, the 45 degree assessment was conducted and from the assessment the case officer was content that there will be no issues pertaining to overshadowing.
- Privacy of neighbouring residents, concerns over the raised patio area overlooking the property, additionally, regarding the topography of the area overlooking will not be greater than the existing.
- Onlooking glazing, the separation distance (approx. 15m) and the boundary wall separating the two dwellings, case officer concluded that the proposed will not have a greater impact on privacy than the existing.
- Unacceptable loss or damage to trees or other landscape features which contribute significantly to local environmental quality. Case officer's opinion was that this proposal will not cause loss of trees or landscape features.
- Proposed single storey extension and alterations to the existing dwelling – it was noted that part of the rear patio will be lost as part of this proposal. Overall the case officer was content that there would be sufficient space with the curtilage for recreational and domestic purposes and parking will remain unaffected.

The (SPO) advised that the case officer having evaluated the proposed single storey extension and alterations to existing dwelling was content that the proposal complies with Policy EXT1 of Addendum to PPS7: Residential Extension and Alterations. Additionally, it was felt that he could not attach any determining weight to the objectors concerns over the loss of light and privacy of neighbouring residents.

Proposed by Councillor Robinson  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2023/0281/F be approved subject to conditions as per the officer's report.

**LA09/2023/0284/F Single storey dwelling and access lane at lands approx. 20 NW of 10 Colliers Lane, Coalisland for Mr Brian Carron**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0317/F Infill dwelling and garage at 15m NW of 259 Hillhead Road, Knockloughrim for Albert Speer**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0318/O Dwelling in an existing cluster at 50m SE and adjacent to 166 Washingbay Road, Coalisland for Michelle O'Hagan**

Members considered previously circulated report on planning application LA09/2023/0318/O which had a recommendation for approval.

Proposed by Councillor Carney  
Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2023/0318/O be approved subject to conditions as per the officer's report.

**LA09/2023/0328/F Renewal of LA09/2017/1700/F extension to rear and side of dwelling to accommodate at 5 Coolmount Drive, Cookstown for Emma McAleer**

Ms McKinless (SPO) previously circulated report on planning application LA09/2023/0328/F which had a recommendation for approval.

The Chair advised that a letter of objection had been received from Councillor Wilson which was circulated with the addendum tonight.

The Chair said that it was his understanding from the SPO that all objections had been considered.

Ms McKinless (SPO) advised that this was the case as only one objection had been received to the additional objections in time of renewal and no new issues raised which have been fully considered and didn't merit a recommendation for refusal.

The SPO stated that Councillor Wilson had made a comment about the case officer not being in the back yard of an adjacent property and could confirm entirely if the case officer went into that property but were in the back garden of No. 5 which is the application site which was highlighted on the powerpoint tonight.

The Chair advised that a request to speak against the application had been received and invited Mr Suitor to address the committee.

Mr Suitor advised that he was the resident and owner of 4 Coolmount Park and stated that he wasn't notified of the initial planning application in 2017 therefore didn't have an opportunity to object at that time or make any comment to this negative impact on his property. Previous 2017 application expired on 18 April 2023 therefore no planning is technically in place and the new application was submitted on 24 March 2023. Assisted as a new application he asked how he could possibly comment on what the drawings or plans are when none are attached to this application on the portal. He assumed that he had located the correct one from the previous application but was unsure which causes doubt in his mind and possibly also the committee. The plot at 5 Coolmount Drive comes into direct contact with five other properties: No's 2, 4, 6, 10 Coolmount Park and 7 Coolmount Drive and out of those five properties, two had objected to the planning application, being 4 and 6 Coolmount Park. The committee report also indicates that there was also an objection from No. 7 Coolmount Drive which means 60% properties in direct contact have objected. He does not believe that his concern regarding the lack of sunlight has been addressed within the committee report and only those concerns at No. 7 Coolmount Drive have been addressed even though his property will suffer the most due to the two-storey extension running along the majority of his back fence. He said that he was aware that the Councillors had not viewed the property themselves and referred to the plans for ground floor and advised if you stood looking at the applicant's back kitchen door the sun would be to the left at the early part day and gradually move right and his back garden would be at the immediate right to the master bedroom on the proposed first floor plan. The further point to the front of the proposed site would be built within ½ metre from the partition between the two properties and believes will tower approx. a further 4½ metre over the the 1.8 metre fence so would result in a loss of amenity to his property. The committee report outlines its initial plans from 2017 were amended to reduce height and asked what plans were being worked to. The amendments would only benefit those affected by the proposed three-storey extension to the rear, the houses in Coolmount Park, particularly his property will be negatively affected by the oversized two-storey extension at this site. He enquired if the planning officer had assessed the impact the proposed extension would have from his property or indeed the rest of Coolmount Park and would be grateful to get a response to this query.

Mr Suitor said that he would like to invite any Councillor and members in attendance present this evening to his house to see the effect that this proposal would have on his property. In his opinion this would be an overdevelopment of the site with the property practically taking up the full footprint of the plot and all other properties in the immediate areas are similar being semi-detached 3-bedroom houses and this would be the first of its size and believes that it would be considered out of character for the area.

In summary Mr Suitor wished to object to the proposed plans on the following grounds:

1. The actual drawings of the proposals are not clear
2. Loss of amenity at his property being his outdoor space
3. No assessment made on the plans from respective of his row in Coolmount Park
4. Overdevelopment of the site and proposals being out of character in the area
5. Loss of sunlight which has been enjoyed to the rear of his property since construction over 20 years ago

Mr Suitor requested that a site visit be carried out by the committee to see for themselves the impact this proposal will have on his property and stated that the assessment not fully understood from the report he was reading.

In response a query, Ms McKinless (SPO) confirmed that Mr Suitor was not notified about the first application but was formally notified under this current application.

Mr Suitor advised that this was when he had the issue with the planning application and submitted his objection.

The SD: PI stated that he understood what the objector was saying but in this instance it was very peculiar to be in this position as normally this would go through as a straight forward approval but could equally see why the objector was concerned but could not expect not to have no development here which would be totally unreasonable, but could understand the objector's concerns.

The SD: PI said that it was up to members to decide whether to proceed to a site visit or not but felt that it may be worthwhile having further consideration of this.

Councillor Black said that by taking the comments on board and obviously during normal circumstances this would be a straight forward approval, but given the concerns which have been raised by the objector and if indeed if he was not notified of the first application and the fact that the extension does seem to be in close proximity of his property and his concerns are genuine to the loss of amenity and potential loss of light, would propose a site visit to the location by the committee to get further detail of the application on site.

*Councillor Graham left the meeting at 8.43 pm and returned at 8.45 pm.*

Proposed by Councillor Black  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0328/F be deferred for a site visit.

**LA09/2023/0407/O Infill site for dwelling with garage, driveways and septic tanks lands between 112 and 116 Lismoyle Road, Swatragh for Mr Paul Tohill**

Members considered previously circulated report on planning application LA09/2023/0407/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2023/0407/O be approved subject to conditions as per the officer's report.

**LA09/2023/0408/O Infill dwelling and garage at lands between 112 and 116 Lismoyle Road, Swatragh for Mr Bosco Tohill**

Members considered previously circulated report on planning application LA09/2023/0408/O which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0408/O be approved subject to conditions as per the officer's report.

**LA09/2023/0423/F Infill dwelling and outbuildings at lands between 7 and 11 Roughan Road, Stewartstown for Mr Martin Armour**

Members considered previously circulated report on planning application LA09/2023/0423/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2023/0423/F be approved subject to conditions as per the officer's report.

**LA09/2020/0093/O Dwelling and garage on a farm at 60m E of 43 Carnaman Road, Gulladuff for Mr James McErlean**

Members considered previously circulated report on planning application LA09/2020/0093/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2023/0093/O be approved subject to conditions as per the officer's report.

**LA09/2021/0352/F Stable and store at lands approx. 55m W of 303 Battleford Road, Dungannon for Mr Patrick McKenna**

Ms Doyle (SPO) presented a report on planning application LA09/2021/0352/F advising that it was recommended for refusal.

*Councillor McElvogue left the meeting at 8.47 pm and returned at 8.50 pm.*

Proposed by Councillor McFlynn  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2021/0352/F be refused.



**LA09/2021/0739/F Dwelling and garage/store at 150m NE of 230 Coalisland Road, Gortin, Dungannon for Mr Cathal Keogh**

Members considered previously circulated report on planning application LA09/2021/0739/F which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2021/0739/F be approved subject to conditions as per the officer's report.

**LA09/2021/1286/O Dwelling and garage under CTY10 at 30m SW of 30 Cloane Road, Draperstown for Sean Gallagher**

Members considered previously circulated report on planning application LA09/2021/1286/O which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2021/1286/O be approved subject to conditions as per the officer's report.

**LA09/2021/1366/F 5 Glamping Pods and associated external works at 170m SE of 52 Derrycourtney Road, Caledon for Mr Jim Moore**

Members considered previously circulated report on planning application LA09/2021/1366/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2021/1366/F be approved subject to conditions as per the officer's report.

**LA09/2022/0490/O Dwelling and garage on a farm at 194m SW of 8 Killybearn Lane, Cookstown for Martyn Devlin**

Members considered previously circulated report on planning application LA09/2022/0490/O which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0490/O be approved subject to conditions as per the officer's report.

**LA09/2022/0654/O Dwelling and Garage at lands 40m SW of 50 Battery Road, Coagh for Joanne Devlin**

Members considered previously circulated report on planning application LA09/2022/0654/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0654/O be approved subject to conditions as per the officer's report.

**LA09/2022/0732/O Dwelling and garage at 110m NE of 26 Broagh Road, Knockcloghrim, Magherafelt for Martin McErlean**

Members considered previously circulated report on planning application LA09/2022/0732/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/0732/O be approved subject to conditions as per the officer's report.

**P052/23 Receive Report on Revised Fees for Property Certificates**

The Service Director of Planning (SD: PI) presented previously circulated report to seek approval for revisions to the charges for Regional Property Certificates (RPC) processed by the Planning Department.

- **OPTION 1**  
The basic fee could be increased to £80.50 in line with the that implemented by Fermanagh & Omagh Council who are administering RPC's for all the other Councils'. This would keep MUDC in line with the charge for the RPC in all the other Council areas.
- **OPTION 2**  
The fee could be increased to £80.50 in line with the that implemented by Fermanagh & Omagh Council who are administering RPC's for all the other Councils'. However, a £10 administration fee could be introduced for those applications not received online when this facility becomes available. This would keep the parity with the other Council areas but would also meet the audit requirement that Council policy on claims not made online have an additional administrative charge.
- **OPTION 3**  
The fee could be increased to £90 in line with what is charged by Building Control for processing the LPC, with the £10 additional fee for those applications not received on-line when this facility becomes available. Whilst this would provide uniformity within MUDC, we could be criticized for charging more for the same service than that received for other council areas.

Proposed by Councillor Mallaghan  
Seconded by Councillor Clarke and

**Resolved** That Option 2 be approved as the preferred option and that the increases be introduced alongside the improved system implementation.

**P053/23 Receive Report on DfI's Consultation on Revised Regional Strategic Planning Policy**

The Head of Strategic Planning (HSP) presented previously circulated report and advised that the purpose of this report was to invite members views on how the Council should respond to a current public consultation exercise on a draft Regional Strategic Policy on Renewable and Low Carbon Energy. The consultation period ends at 5pm on the 30<sup>th</sup> June 2023.

Councillor Kerr referred to 3.2 and would like the relevant department to provide detail on what they mean by "emerging technologies" in regard to fracking as this is causing a devastating effect internationally around the globe. The member said that any emerging technologies should be benefitting the communities first.

The SD: PI advised that there is actually a policy relating to "emerging technologies" not just for fracking but also for gold mining where chemicals like arsenic and bio-mining which is sticking a large amount of bacteria down to eat the carbon in the atmosphere, there's also methane, a lot of emerging processes which are evolving. This Council agrees in precautional principle not to explore experimental ground as we try to ensure that things are safe and properly signed off.

Councillor Clarke said that he wished to raise a few comments regarding the Sperrins which could be the main problem. The member referred to a major application in the Sperrins and a lot of information came out of that application. Those high Sperrins is all blanket bog which is the best storage possible for carbon and although quite a bit of it has been degraded, but what should be done here is to improve the quality of the blanket bog and that would make a major improvement in the carbon sequestration. The other issue is that this area is far away from where the electricity is and infrastructure need to be moved, a new line from Magherafelt to wherever and also the need for an interconnector. The member advised that a lot of things needs to be done and people should be looking elsewhere rather than attacking the landscape and heritage that lays in that area.

The SD: PI concurred with Councillor Clarke and said that he had spoken very wise words. He said that there was something not explicit within this policy to steer us to put wind turbines exactly where we don't want to and if members remember during the Development Plan we looked to see where there were areas which were ideal and one of the criteria's was to keep a single turbine at least 500m from the nearest residential property. An exercise was carried out where officers plotted on map the distance from each property in the district of what would be 500m and low and behold we only come across two areas which had those distances, one was in the Sperrins and the other was in Fivemiletown area, Clogher Valley. Fivemiletown was being protected because the ridgeline along the Clogher Valley is marvellous and Fivemiletown was purposely kept out because of the windfarm to allow for further expansion. The SD: PI advised that

further areas could be identified but that would be causing a blanket for the residents in those areas. Pomeroy is a prime example as it has the height but quite highly populated which means that you could be put into a situation and could be quite feasible that you could put into an area where properties which could be blighted and no-one signed up for that. The SD: PI said that he really felt that this policy hasn't been thought through properly in any form as every single paragraph was about windfarms and there was a need for more thought on the policy.

Councillor Mallaghan advised that there needs to be a more considered approach to the micro-generation of power because an opportunity should be there to allow people to be more self-sustainable rather than all the time focusing on the micro, the big stuff. The member said that there was a warning on the news today that the single operator for the electricity network issued an amber warning that there wasn't going to be enough electricity produced for the needs of today due to not enough wind and wind turbines not blowing to generate that extra need for electricity. The member agreed that there was too much focus on wind energy and should be more focus on providing people with that micro-opportunity and all government approach to do that. The member felt that there was going to be a serious drive in technology over the next 10 – 15 years and should keep an open mind until we see what these new technologies look like. He felt that the report had covered well the concerns that Councillors on this Council have particularly where it comes to areas where they really need our protection.

Councillor Clarke said that he would be very concerned about removing dwelling from the scene, previously you could install 24 solar panels and now this is reduced to 16 panels. The price that is given from the electricity supplier is ridiculous 4 pence per unit and they are selling it around 36 pence and feels that the householder should be paid more.

The Chair asked that members comments be incorporated into the report.

Proposed by Councillor Kerr  
Seconded by Councillor Mallaghan and

**Resolved** Agreed that this report is forwarded to the Department as its formal response to the consultation exercise.

### **Matters for Information**

#### **P054/23 Minutes of Planning Committee held on 4<sup>th</sup> April 2023**

Members noted minutes of Planning Committee held on 4<sup>th</sup> April 2023.

#### **P055/23 Receive Planning Department Service Plan 2023-24**

Members noted Planning Department Service Plan for the period 2023-2024.

*Live broadcast ended at 9.22 pm.*

## Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Kerr  
Seconded by Councillor D McPeake 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 P056/23 to P063/23.

### **Matters for Decision**

- P056/23 Receive Report on Staffing Structure
- P057/23 Receive Report on Advanced Notice of Listing – Fivemiletown
- P058/23 Receive Report on Advanced Notice of Listing - Maghera
- P059/23 Receive Enforcement Report

### **Matters for Information**

- P060/23 Confidential Minutes of Planning Committee held on 4 April 2023
- P061/23 Enforcement Cases Opened
- P062/23 Enforcement Cases Closed
- P063/23 Enforcement Live Cases List

### **P064/23 Duration of Meeting**

The meeting was called for 7 pm and concluded at 9.50 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting.
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute.
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item.
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.

- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.

## ADDENDUM TO PLANNING COMMITTEE AGENDA

**FOR PLANNING COMMITTEE MEETING ON: 12 June 2023**

**Additional information has been received on the following items since the agenda was issued.**

**Chairs Business –**

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.4	System pulled through 12 objections, rather than 9 mentioned on the report (3 were from one person and 2 from another). All objections were uploaded, available and fully considered in report.	Members to note
5.5	Additional information to address DFI Rivers comments and DFI Roads comments.	Members to note
5.11	Report only notes 1 letter in support, 10 letters received and an additional letter of support since the report was produced, no new issues raised. Letter received requesting meeting	Members to note
5.28	Following discussion with Env Health, Conditions 4 and 5 are no longer required.	Members to note
5.43	Letter of objection	Members to note
5.46	Report indicates 1 objection; this was recorded in error and was a non-committal query which has	Members to note



	been answered. No objection has been received.	
5.56	Letter from Cllr T Wilson	Members to note
6.5	Revised plans showing finishes and levels submitted	Members to note drawing 02B received 7 JUN 2023 to be substituted in conditions 2, 3, 4 and 6

# Enforcement Appeal Decision

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<b>Appeal Reference:</b>	2021/E0066
<b>Appeal by:</b>	Mr Christopher Cunningham
<b>Appeal against:</b>	An enforcement notice dated 22 <sup>nd</sup> Decemeber 2021
<b>Alleged Breach of Planning Control:</b>	The siting of an Unauthorised Modular Dwelling
<b>Location:</b>	Lands/Premises located at approximately 100 metres south of 28 Aghaloo Road, Aughnacloy, Co. Tyrone
<b>Planning Authority:</b>	Mid Ulster District Council
<b>Authority's Reference:</b>	EN/2021/0316
<b>Procedure:</b>	Written Representations with site visit on 2 <sup>nd</sup> March 2023
<b>Decision by:</b>	Commissioner C McDonagh dated 30th May 2023

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## Grounds of Appeal

1. The appeal was brought on Grounds A, C, F and G as set out in Section 143 (3) of the Planning Act (Northern Ireland) 2011 (the Act). There is a deemed planning application by virtue of Section 145 (5) thereof.

## The Notice

2. The Enforcement Notice (the EN) states the alleged breach of planning control is *"the siting of an unauthorised modular dwelling without the grant of planning permission so required. The approximate position of the unauthorised modular dwelling is shown highlighted in blue on the attached site location map."* The appellant considers that the EN is defective to the extent that it is a nullity as the use of the word 'siting' is misleading and confusing. It is argued that the actions for remedial works in the EN which require the removal or demolition of the building do not marry with the alleged breach and are therefore unreasonable. They consider the Council has failed to adequately identify the alleged breach and they should have identified that a change of use of the land has occurred. They conclude there is an inherent conflict between the alleged breach and remedy rendering the EN hopelessly ambiguous and unclear.
3. Case law confirms that the recipient of an EN is entitled to know *"fairly what he has done wrong and what he must do to remedy it."* The terms of an EN must not go beyond what is necessary to remedy the alleged breach of planning control nor should it seek to enforce against the right to use the land as per the parameters of the General Permitted Development Order (NI) (GPDO). Part 4 of the EN comprises of three remedies, namely, to remove from the site or demolish the

unauthorised modular dwelling; to remove all resulting debris and rubble from the site; and to restore the site to its previous condition.

4. The EN refers specifically to Section 131 (1) (a) of the Act which relates to the carrying out of development (my emphasis) without the planning permission required. The EN clearly identifies the alleged breach of planning control (the unauthorised modular dwelling) and that is the development which requires planning permission irrespective of whether it is operational development or a change of use. The accompanying aerial photograph identifies the location of the subject modular dwelling within the appeal site and the EN clearly sets out the steps required to remove it from the site. The remedies do not exceed the matter covered within the description of the alleged breach.
5. I accept the appellant's interpretation that the appeals for the siting of modular dwellings referred to by the Council were not challenged on the basis of the description of the alleged breach or in respect of ambiguity or nullity. PAC decision 2019/E0055 (for the unauthorised stationing of a caravan for use as a dwelling) is also referred to in support of the appellant's claim that the reference to 'siting' makes the EN a nullity. However, in that appeal the remedy included the removal of oil tanks, boiler housing, access steps and hardstanding which were not included in the description of the alleged breach. Accordingly, none of the appeals referred to are directly comparable to this current appeal.
6. For the reasons given above, I find that the EN is neither hopelessly ambiguous nor unclear.

**Ground (c) That those matters (if they occurred) do not constitute a breach of planning control.**

7. The appellant considers the development subject to the EN is lawful in accordance with the schedule of development permitted under Article 3 Part 5 (Class A) Temporary Buildings and Uses of The Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO). It is argued that the modular dwelling is a temporary building and connected with approval LA06/2020/1408/F for a dwelling on land to the west of the appeal site. The appeal site overlaps with that permission as it relies on the same access from Aghaloo Road.
8. Part 5 of the schedule to the GPDO, Class A states "*The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land*". It further states that "*Development is not permitted by Class A if: (a) the operations referred to are mining operations; (b) planning permission is required for those operations but is not granted; or (c) it is within a site of archaeological interest.*" While the appeal site is within 620m of an archaeological 'enclosure' the Council did not raise any concerns about the land being in an area of archaeological interest.
9. The Council considers the modular dwelling is not 'required temporarily' and has now achieved some form of permanency through the modifications carried out since it was erected in 2020 including the addition of wood cladding to the exterior and the use of the address (No. 26 Aghaloo Road). The appellant considers that no weight should be attached to *Wilson V FSS & Tewkesbury BC* which supports

the proposition that the larger and more permanent the building the less likely it is to be genuinely required temporarily. He states that the appeal building is not of a permanent design and is not built using methods or materials that could be considered in keeping with permanent construction practice.

10. I accept the appellant's intention is to remove the modular dwelling once the approved dwelling is constructed and I attach little weight to the use of the address as the receipt of mail would be required even for a temporary period. However, there is force in the Council's argument about its permanency given the modifications carried out. Also, operations referred to in the GDPO must be in connection with the building works ongoing, so they allow for a temporary workman's hut for example. They make no reference to residential uses or to residential accommodation as this use would exceed the duration of the operations. There is a relevant policy to consider such an occurrence in regional rural planning policy. The modular dwelling requires planning permission and this has not been granted.
11. As the previous agents response to a warning letter (in which they accepted the mobile would be subject to a planning application under CTY9) does not represent their final position, it has not been relied on in this consideration. The additional arguments presented by the appellant do not change the conclusion that planning permission is required.
12. I find that the modular dwelling is not permitted development in accordance with Class A of Part 5 of the schedule to the GPDO. The appeal on ground (c) fails.

#### **Ground (a) and the Deemed Planning Application**

13. The main issue is whether the development is acceptable in principle in the countryside. Matters related to integration, rural character and other environmental considerations including road safety are also relevant.
14. Section 45 (1) of the Act states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6 (4) of the Act requires the Commission, in dealing with the appeal, to have regard to the LDP, and the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Dungannon and South Tyrone Area Plan 2010 operates as the LDP for the area within which the appeal site is located. The site is in open countryside on un-zoned land. The plan provides no policies in relation to the appeal development.
15. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out the transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. In respect of the development on the appeal site, policy contained in the SPPS is broadly consistent with the policies set out in Planning Policy Statement 21

Sustainable Development in the Countryside (PPS21). Thus, in accordance with the transitional arrangements, retained policies apply.

16. Policy CTY 1 'Development in the Countryside' of PPS 21 sets out a range of types of development which, in principle, are considered to be acceptable in the countryside. Such examples include a residential caravan or mobile home in accordance with Policy CTY 9 'Residential Caravans and Mobile Homes'. Policy CTY 1 continues that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. The Council and third parties consider the development does not meet policies CTY 1 and CTY 9.
17. Policy CTY 9 states that planning permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances. Such circumstances include the provision of temporary residential accommodation pending the development of a permanent dwelling; or where there are compelling, and site specific reasons related to personal and domestic circumstances. The use of the word 'or' between them indicates that if the stated circumstances are consistent with either of the examples cited, they will meet the policy test.
18. The appellant relies on the first exceptional circumstance cited in Policy CTY 9 as outlined above. Planning permission LA09/2020/0479/F was granted for a dwelling on 4th September 2020 (change in house type to that previously approved under M/2008/1007/F in November 2008). A further planning permission LA09/2020/1408/F for another change in house type was subsequently granted on 3rd February 2021. The modular dwelling was delivered to the site in October 2020, and it has been in use as residential accommodation by the appellant's family since March 2021. They advise this is a temporary measure whilst the dwelling house is built on the adjacent site. The accompanying amplification text at paragraph 5.36 of Policy CTY9 states that a mobile home can be a sensible temporary solution to meeting the need for residential accommodation in the countryside.
19. The Council refer to little progress being made on the construction of the approved dwelling since the initial works were undertaken. I observed foundations and ground floor slabs with some block corners on the adjacent site where the permanent dwelling is to be erected. A retaining wall has also been constructed along the lower section of the laneway leading to the vehicular access with the road. These works are not recent. However, the appellant anticipates that more progress will be made on building the dwelling during 2023. Also, there are extant planning permissions for a change of house type on the adjacent site. Policy CTY 9 provides for accommodation for a temporary period only and states that all permissions will normally be subject to a three-year time limit. The modular dwelling has been on site for less than three years. On this limited basis, I accept that the first exceptional circumstance is met.
20. Policy CTY 9 goes on to state that permission will depend on the ability to integrate the unit within an existing building group and screen it from public view. As the planning permissions on the adjacent site relate to a single dwelling which has not progressed beyond foundation stage, it could not be considered 'an existing building group' for the purposes of the policy. There is an existing building group

to the north of the appeal site. However, there are fields in between and they are at a distance of over 70m away. I do not therefore agree that the modular dwelling is integrated with them at all or even 'to a marginal extent' as claimed by the appellant.

21. The appeal site is a relatively flat roadside field with a central area of hardstanding aggregate on which the modular dwelling is located. The northern, eastern and western boundaries of the site comprise of post and wire fencing. To the west and rear of the modular dwelling adjacent to the car park area is a wooden garden shed with pitched roof used as a washer/dryer alongside a dog kennel. A children's treehouse/slide set and oil tank are also located to the rear of the modular dwelling. A soil mound sits within the appeal site to the south of the modular dwelling separating it from the lane leading to the commenced dwelling under construction.
22. The appellant accepts that the modular dwelling can be seen from Aghaloo Road however, he argues this is tempered by the small scale of the development, its temporary nature and its elevational treatment with wood cladding. I agree with the appellant that the road alignment, mounding inside the access area and the wide upward sloping grass verge across the site frontage assists with screening the unit from public view when viewed from the south. However, the downward sloping nature of the topography and absence of vegetation along the fenced northern and western boundaries on approach from the north means that the modular dwelling does not benefit from sufficient screening when viewed from these public vantage points. The limited scale and use of material finish does not assist with blending the building into the landscape given its road frontage location. The modular dwelling therefore does not satisfactorily visually integrate with an existing building group nor is it adequately screened from public view.
23. Policy CTY 9 also says that the siting of a mobile home will be subject to the same planning and environmental considerations as a permanent dwelling. The Council and third parties also consider the modular dwelling to be contrary to Policy CTY 13 'Integration and Design of Buildings in the Countryside' of PPS 21 and supplementary guidance within 'Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside'. They argue that the design of the appeal building is not suitable for this countryside location.
24. The justification and amplification text at paragraph 5.35 of Policy CTY13 states that the design and finishes of a residential caravan or mobile home limits its potential for integration into the landscape. It continues, for this reason, planning permission will not be granted for a permanently sited residential caravan or mobile home in the countryside.
25. The scale and design of the modular dwelling is typical of that of a temporary mobile home with windows of different scale and proportion with a shallow pitched roof. Since it was delivered to the site additions have included the external fixing of wood panelling, a wooden deck area around the western and southern elevation, additional sheds and children's play equipment. It also has underground drainage services/manhole, an oil tank and electrical connection. To my mind, the modular dwelling no longer exhibits temporary characteristics and given the lack of screening, its road frontage location means that it appears visually incongruous in the local landscape. For this reason and those outlined above, I consider that the appeal development fails to visually integrate into the surrounding landscape

and is not in keeping with the form and design of permanent dwellings in the area. Accordingly, the third party objections and Council's refusal reason relating to Policy CTY 13 are sustained.

26. The Council also consider the appeal development to be contrary to Policy CTY 14 'Rural Character' of PPS 21. They argue it adds to an existing build-up of development resulting in 'suburban style build up' and its retention would have a detrimental impact on rural character. The appellant refers to a scattered development pattern in the area, with single houses and associated farm/out buildings being common. To the north of the appeal site there is a group of buildings. No. 28 Aghaloo Road (approximately 85m to the north of the appeal site) is a one and a half storey road frontage dwelling with associated out-buildings and garage. A bungalow at No. 30 Aghaloo Road (approximately 70m to the northwest of the appeal site) shares its access with No 28 Aghaloo Road. It can be viewed set back from the Aghaloo Road behind an agricultural field. A further dwelling (No. 27 Aghaloo Road) and its associated farm buildings are located across from No 28 Aghaloo Road. These buildings are visually linked with one another. While there is a gap between this group and the modular dwelling, I consider that given its road frontage location, the topography and the lack of sufficient intervening vegetation, the modular dwelling reads with the aforementioned dwellings when travelling along Aghaloo Road, particularly from the north. There is an appreciable awareness of the modular dwelling behind this grouping which results in suburban style build-up of development. This is detrimental to the rural character of the area. Accordingly, the Council's concerns in respect of Policy CTY 14 are sustained.
27. Policy CTY 9 also implicitly allows for exceptional circumstances other than those listed. The appellant did not argue that they had compelling, and site-specific reasons related to their particular personal circumstances. While they referred to the current economic climate impacting on building costs for the adjacent dwelling and causing delays in its construction, this argument is not persuasive and insufficient to meet the policy hurdle. Accordingly, while the modular dwelling provides for temporary residential accommodation pending the development of a permanent dwelling, the remaining requirements of Policy CTY 9 are not satisfied. The Council's and the third party objections based on Policy CTY 9 are sustained.
28. In addition to matters related to the principle of development which are discussed above and the loss of quality agricultural land, third parties also raise concerns in respect of the removal of a hawthorn hedge and associated displacement of nesting birds. The vegetation remains in place alongside the access laneway to the south of the modular dwelling. Based on the aerial photograph attached to the EN, a hedge fronting Aghaloo Road appears to have been removed since that image was taken. Notwithstanding, I was not provided with any persuasive evidence that birds, which are a protected species under the Wildlife and Natural Environmental (NI) Act 2011 will be affected by the appeal development. This aspect of the third-party objection is not therefore sustained. Furthermore, there is nothing in the policy that prohibits the loss of quality agricultural land.
29. Third Parties refer to the soil that was excavated which remains on site in a large mound alongside the access laneway, describing it as an eyesore and a road safety risk as it obstructs sight lines when exiting the site. The appellant states that the site access was formed a number of years ago. I have not been provided with any consultation from Transport NI in respect of road safety. I must therefore rely

on my own observations whilst on site. The mound sits behind the visibility splay to the left of the exit and it did not obstruct my view onto Aghaloo Road. I also observed low volumes of traffic which was moving at an average speed of approximately 30 miles per hour and no evidence of any accidents because of the access was provided. Furthermore, the use of the access is (and would be) limited to a single property. For these reasons, I do not consider the soil mound raises any adverse road safety impact. This objection is not sustained.

30. The previous advice provided by the Council, the intentions of the third parties, the motives of the appellant, the alternative siting options and the other issues raised are noted, but they would not, either individually or cumulatively, warrant the refusal of the deemed planning application. Notwithstanding this, as the appeal development fails to meet the requirements of policies CTY 9, CTY 13 and CTY 14 of PPS 21, it does not constitute an acceptable form of development in the countryside. As no overriding reasons as to why the development is essential have been provided, it also fails to comply with Policy CTY1. Accordingly planning permission is refused and the appeal on ground (a) fails.

**Ground (f) - that the steps required by the notice to be taken, or the activities required to cease, exceed what is necessary to remedy the breach of planning control.**

31. The EN requires that the modular dwelling is to be removed from the site or demolished, that all resulting debris or rubble is removed, and the site is restored to its previous condition. Matters in respect of alleged ambiguity of the EN have already been considered. The steps to be taken are proportionate to remedy the breach of planning control. Accordingly, the appeal on ground (f) fails.

**Ground (g) – that the period for compliance falls short of what should reasonably be allowed.**

32. The appellant seeks to extend the 120-day period to twelve months to allow him adequate time to seek alternative accommodation locally and allow for site restorative works. The evidence presented including the rising cost of construction materials, the cost-of-living crisis, or economic uncertainty does not justify the time extension sought which would be tantamount to granting temporary permission for a year. Accordingly, the appeal on ground (g) fails.

### **Decision**

The decision is as follows: -

- The appeal on Ground (c) fails.
- The appeal on Ground (a) fails.
- The appeal on Ground (f) fails.
- The appeal on Ground (g) fails.
- The Enforcement Notice is upheld.

**COMMISSIONER CARRIE McDONAGH**



List of Documents

Planning Authority: -  
Mid Ulster Council

"A1" Statement of Case and Appendices  
"A2" Rebuttal Comments

Appellant: -  
Chris Cunningham

"B1" Statement of Case, CD Consulting  
"B2" Further Comments and Rebuttal, CD Consulting

Third Parties: -

"C1" Statement of Case by O Mallon  
"C2" Statement of Case by J Coote  
"C3" Statement of Case by A Coote

Chris Boomer  
Mid Ulster District Council

By Email:  
[chris.boomer@midulstercouncil.org](mailto:chris.boomer@midulstercouncil.org)

Date: 31 May 2023

**Natural Environment Division**  
3<sup>rd</sup> Floor  
Klondyke Building  
Cromac Avenue  
Gasworks Business Park  
Malone Lower  
Belfast  
BT7 2JA

Telephone: 028 90 569579

Email: [Mark.hammond@daera-ni.gov.uk](mailto:Mark.hammond@daera-ni.gov.uk)

Your reference: N/A

Our reference: AE2-20-15721~2

Dear Head Planner

### Planning Consultations for Agricultural Developments

Over the last number of months NIEA have been continuing to consider our standing advice on air pollution and agricultural developments, and as a result a decision has been taken to pause the issuing of ammonia planning advice pending the outcome of these considerations.

You will have also noted the recent announcement by the Office of Environmental Protection (OEP) that it intends to carry out an investigation into the advice given by the Department of Agriculture, Environment and Rural Affairs (DAERA) on ammonia emissions in Northern Ireland. DAERA will be engaging positively with the OEP during the course of the investigation and looks forward to considering any recommendations which may result.

The Department intends to publish a call for evidence to support the development of new guidance in the coming weeks.

Yours sincerely,



**MARK HAMMOND**  
Director – Natural Environment Division - NIEA

*Sustainability at the heart of a living, working, active landscape valued by everyone.*

If you are deaf or have a hearing difficulty you can contact the Department via the Next Generation Text Relay Service by dialling 18001 + telephone number.



ITEM 5-5

7<sup>th</sup> June, 2023

Mr Peter Hughes  
Mid-Ulster District Council  
Planning Department  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

Ref: LA09/2020/0780/O – Proposed Furniture Storage/Warehouse Facility at Site 80m West of 37 Charlemont Street, Moy, Dungannon

Dear Sir,

We are writing to respond to the latest DfI Rivers planning consultation response dated 7<sup>th</sup> April 2023, and in order to try and simplify/clarify the current status of this application with regard to flooding.

At the outset of this outline planning application, our client hoped to construct a larger storage/warehouse facility and to locate it further southwest within the site than shown on the latest drawings issued to planning.

The original proposed location of the warehouse was within the 1 in 100 year flood plain as depicted on Strategic Flood Maps (NI). This floodplain was derived from a detailed hydraulic model prepared for DfI Rivers by JBA Consulting in 2014.

We were advised by our technical consultants at RPS Consulting that any challenge to that floodplain was unlikely to be successful – given that the river had already been modelled in detail. However, in any case, our client was willing to engage RPS Consulting to undertake a detailed assessment and prepare a Flood Risk Assessment.

Unfortunately, as has already been covered in numerous correspondences to date, that exercise by RPS Consulting was undermined by the disturbance of ground levels within the applicant site prior to the completion of the topographical survey that was used in the RPS model build. This survey and the resultant model was used to inform the first Flood Risk Assessment issued by RPS Consulting in August 2020.

However, during a visit to site in October 2020, DfI Rivers discovered the disturbance of ground levels on site. Therefore, they were unable to validate the ground levels used in the RPS model. To all intents and purposes, this invalidated the RPS model in terms of its use for determining the predicted floodplain for this site.

Following subsequent correspondence, we significantly altered the proposed site layout to relocate the proposed warehouse outside of the 1 in 100 year flood plain as depicted on Strategic Flood Maps (NI). RPS Consulting issued a revised Flood Risk Assessment in December 2020 – showing the new site layout. Figure 5.1 of that report clearly shows the proposed building outside of the floodplain. However, for clarity, we enclose a further A1-size site layout plan showing the building outside the floodplain.

Effectively in December 2020, and in our correspondence ever since, we have withdrawn our challenge to the DfI Rivers' floodplain as depicted on Strategic Flood Maps (NI). Instead, we have amended our proposal to take the proposed building out of the flood plain and, as outlined in detail in section 5 of the December 2020 RPS report, we have identified a range of mitigation measures for the other portions of the site.

However, in the latest DfI Rivers' consultation response dated 7<sup>th</sup> April 2023 – and in their correspondence with RPS since then – they have confirmed that their investigation of the floodplain is due to the original "challenge" to their floodplain in the original RPS FRA report. Figure 5 – included in the DfI Rivers consultation response has been produced by using the RPS model that was submitted as part of the original FRA report.

In our opinion, this further investigation of the floodplain is unwarranted and unnecessary. As soon as the issues with the topographical survey and ground levels used in this model became evident, we abandoned our "challenge" to the DfI Rivers floodplain and, instead, revised the site layout as described above.

In our opinion, to partially use the RPS model, which, through no fault of theirs, has been undermined by the inability to validate the survey data used, is unreasonable. It is also entirely unnecessary, given that we have revised our proposals substantially and accepted the DfI Rivers floodplain as depicted on the Strategic Flood Maps (NI).

In other words, if we were submitting our current proposals today, the suggested alternative flood plain, as described by DfI Rivers in their latest response, would never have been introduced or considered.

#### Principle of Development in the Floodplain

DfI Rivers have correctly advised that this is a matter for the planning authority to address and, therefore, they have not commented on this in their consultation response.

From our perspective, we would reiterate the position below:

Policy FLD1 of Revised PPS15 does not permit development within the 1% AEP fluvial floodplain unless the applicant can demonstrate that the proposal constitutes an exception to the policy.

The site layout has been designed so that the warehouse building is outside of the DfI River floodplain.

As a general standard in Northern Ireland for sites where there is potential for river flooding DfI Rivers recommend that a Finished Floor Level in all new developments be above the 1% AEP flood level, plus a freeboard of 600 mm. The proposed FFL of the building will be above this level.

The only part of the proposed development that will be in the floodplain are the car and lorry parks. The car and lorry parks will be constructed at existing levels (i.e. levels as recorded by LIDAR in March 2010) and therefore will still be available as floodplain. You will be aware of other planning proposals in the Mid-Ulster area in recent years where parking and turning areas have been deemed an exception to the policy under the criteria of agricultural use, transport and utilities infrastructure – specifically where vehicles are easily moved and land levels are not raised.

Flooding of the car/ lorry parks will not be an issue as it can easily be cleaned up following a flood event. There is no infrastructure that will be adversely affected by flooding. Mitigation measures have therefore been proposed, in the FRA report provided, to ensure there are no vehicles or people in the car park if a river flood event is predicted. This includes flood warning and flood evacuation.

As stated in the Flood Risk Assessment report issued by RPS Consulting Engineers in December 2020, the development is therefore compliant with Policy FLD1.

Finally, we would reiterate the very important point below:

DfI Rivers have confirmed that the fluvial flood plain indicated on Flood Maps (NI) is the only publicly available version of flood plain mapping produced by DfI. Paragraph 6.106 of the SPPS directs the reader to Footnote 31 which identifies the flood plains *as those depicted "on the Strategic Flood map on the DARD Rivers Agency website"*.

It has been stated in previous correspondence that the flood plain extents could be more accurately defined. However, that is true of any development site – but is not applied. Furthermore, the re-defining of the flood plain based on a model that has been undermined is not a reasonable or fair approach.

### Conclusion

We have accepted the points raised by DfI Rivers in their previous consultation responses – and revised our proposals accordingly. As outlined previously, works will be undertaken on site to ensure ground levels on site are consistent with LIDAR levels from March 2010. This should remove any anxiety or caution in relation to the perceived reduction of the available floodplain. We accept the predicted floodplain as depicted on the Strategic Flood Maps. We are clear that

the proposed building is not within that floodplain, it is to be provided with a freeboard of 600mm and mitigation measures have been identified for the car park area.

I trust this is acceptable and allows you to proceed with approval of this planning application.

Thank you for your assistance.

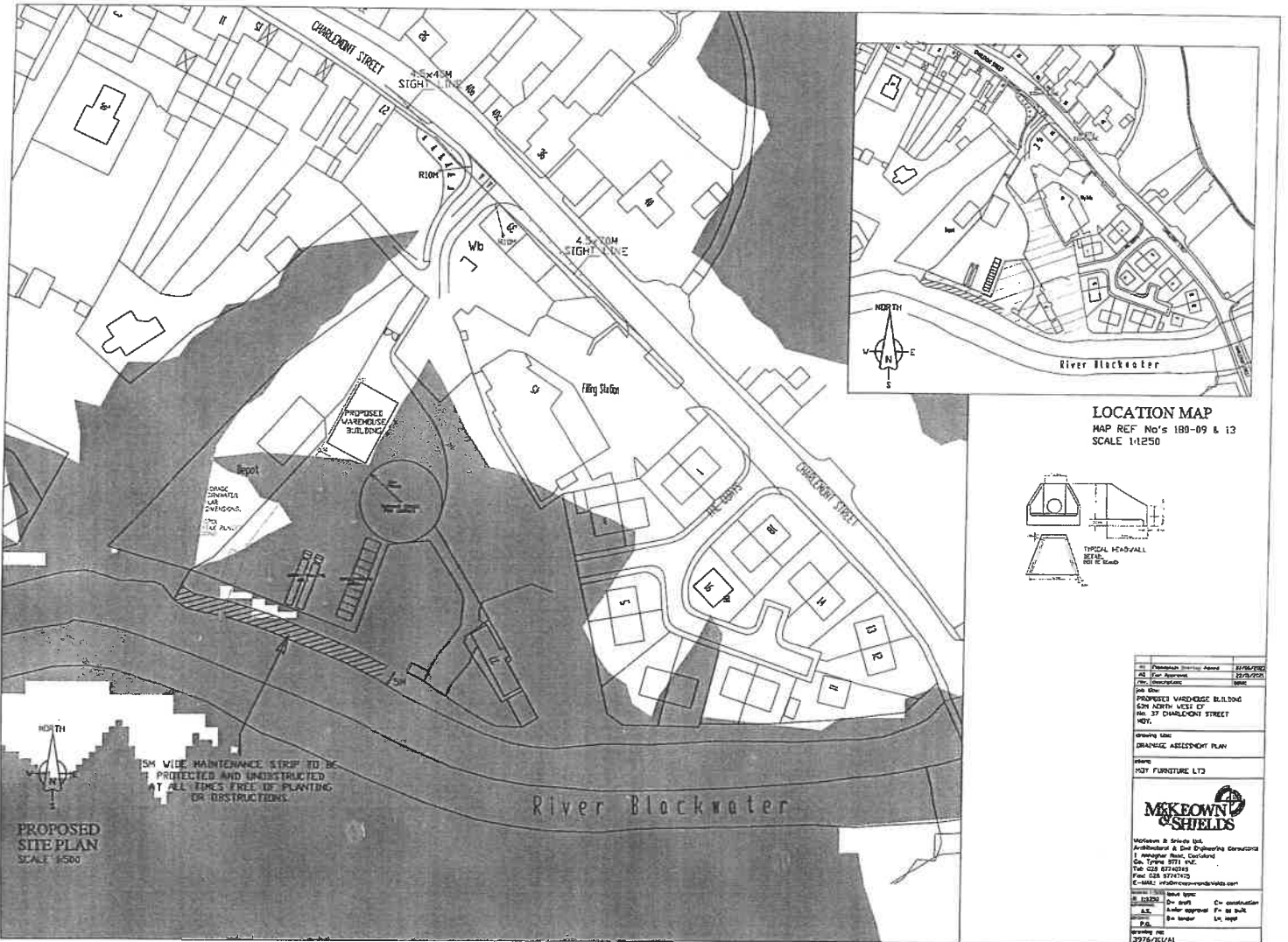
Yours faithfully



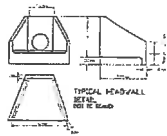
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Aidan Shields

ITEM 5.5



**LOCATION MAP**  
 MAP REF No's 189-09 & 13  
 SCALE 1:1250



Client	Protonics (Australia) Limited	27/06/2020
AS	For Approval	28/06/2020
Drawn by	DR/MS	10/06/20
Job No	PROPOSED WAREHOUSE BUILDING	
	62M NORTH WEST CP	
	37 CHARDON STREET	
	HEV	
Drawn by	DR/MS	
Checked by	DR/MS	
Scale	1:500	
Project	HEV FURNITURE LTD	
<b>MCKEOWN &amp; SHIELDS</b>		
MCKEOWN & SHIELDS LTD Architectural & Civil Engineering Consultants 1 Ambergate Street, Coalbrookdale Coalbrookdale, Shropshire, UK Tel: 01527 874219 Fax: 01527 874218 E-MAIL: info@mcspe-and-shields.com		
Issue No	01	01/06/20
AS	For Approval	28/06/2020
DR	Drawn	10/06/20
MS	Checked	10/06/20
MS	Author Approval	10/06/20
MS	For Issue	10/06/20
Project No	2976/HEV/1	

ITEM 5-5

**Phelim Marrion**

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**From:** Declan Diamond <ddiamond@kevinmcshane.co.uk>  
**Sent:** 06 June 2023 16:24  
**To:** Peter Hughes  
**Cc:** 'McKeown & Shields'; 'Adrian'; mcshane@btinternet.com; Phelim Marrion  
**Subject:** RE: LA09/2020/0780/O - Proposed furniture storage/warehouse facility. Site 80m West of 37 Charlemont Street, Moy, Dungannon

Good Afternoon Peter,

We note with dismay the planning recommendation to refuse application LA09/2020/0780/O. However, we do understand that a deferral is currently being considered.

With reference to the reasons for refusal, we wish to note the following on record on the applicant's behalf.

Specially, we note refusal Reason 2:

*"The proposal is contrary to AMP2 of Planning Policy statement 3, access movement and parking, in that it would, if permitted, result in the intensification of use of a substandard access onto a Main traffic Route (protected route), thereby prejudicing the free flow of traffic and conditions of general safety."*

We respectfully request that this reason for refusal be reconsidered in light of the following:

Planning Policy AMP 2 of PPS3

Policy AMP 2 of PPS3 notes:

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

- o Such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*
- o The proposal does not conflict with policy AMP 3 Access to protected routes."*

Prejudice road safety or significantly inconvenience the flow of traffic.

The application has been considered by statutory consultees including DfI Roads.

On 12<sup>th</sup> April 2023 DfI Roads noted:

*"If Council Planning are happy with the validity of the information contained within the "Service Management Plan dated January 2022 and the P1 Form, i.e. 8.2m Rigid HGV two collections per day and a 16.5m Artic HGV one delivery per month, then DfI Roads offer no objections subject to the following conditions.*

*Conditions:*

*RS-C-01*

*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 general accordance with drawing number 1 G bearing date stamp 7th November 2022.*

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

*At Reserved Matters Stage parking and servicing shall be in accordance with the requirements of the Department's current published Parking Standards.*

*REASON: To ensure the provision of adequate parking facilities to meet the needs of the development and in the interests of road safety and the convenience of road users."*

The key consideration here is that DfI Roads have offered no objection to the proposal.

Moreover, the Department have offered planning conditions to mitigate against any potential impact on the convenience of road users and road safety.



We respectfully request that Council Planning consider DfI Roads consultation and planning conditions as materially significant in the determination of the application.

The applicant fully accepts the offer of planning conditions in the interests of road safety and minimising the inconvenience of road users.

### Intensification of an Existing Access

#### Application Site

The application site proposes to utilise an existing access onto A29 Charlemont Street.

With reference to the P1 application form, the Transport Assessment Form and the Service Management Plan associated with this application, the development, if permitted is anticipated to generate an *additional 2no. vehicle movements per day*.

#### Planning History of Adjacent Lands

The existing access onto A29 Charlemont Street facilitates vehicle movements associated with the adjacent Petrol filling Station and associated retail unit (Eurospar).

The PFS site gained planning approval in May 2017 for the extension to existing retail premises, reconfiguration of parking layout and access arrangements (Planning Ref: LA09/2016/0654/F).

This planning approval has since been implemented and is currently operational.

Within the application documents of the PFS site it is noted that the associated Transport Assessment Form highlights that the site will generate 116 car driver movements daily.

The TAF further notes that access to the PFS is facilitated through three separate locations.

Therefore, c.39 movements per access ( $116/3=39$ )

Extract from TAF – LA09/2016/0654/F – date stamped 9<sup>th</sup> May 2016

*“...The north most access will be improved to provide two exit lanes and the visibility splay to the left when exiting will be improved...”*

The ‘north most access’ refers to the access onto A29 Charlemont Street which our application site will utilise.

Additionally, lands located to the northwest of the PFS site and our application site gained planning approval in April 2022 for the provision of 17no residential apartments (Planning ref: LA09/2020/0486/RM).

This development will utilise and amend the same access onto A29 Charlemont Street as our application site.

Taking a low estimate assumption of two vehicle movements per residential unit per day means the site has the potential to generate c.34 vehicle movements.

At the time of submission, this planning permission is still live (valid until April 2024) but has not yet been implemented.

In planning and traffic generation terms this application is extant.

### DCAN15

DCAN15 sets out the considerations for vehicle access standards.

Para 1.2 of DCAN15 defines the term of Intensification:

*“Intensification is considered to occur when a proposed development would increase the traffic flow using an access by 5% or more.”*

The table below sets out the potential vehicle generations at the access to A29 Charlemont Street.

Development	Daily Vehicle Movements
Operational PFS And Retail Unit	39
Approved Residential Units	34
<b>Extant Total</b>	<b>73</b>
Proposed Storage/ Warehouse	+2

% Increase of Storage/ Warehouse	3%
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The table highlights that the proposed Storage/ warehouse development has the potential to increase traffic flow at the access by c.3%.

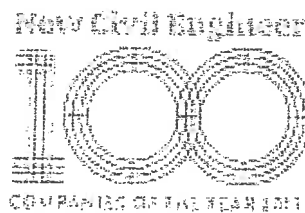
Therefore, our application site will not intensify the proposed access.

Accordingly, we respectfully suggest that as the proposed access arrangement is not a new access, nor has intensification of an existing access been demonstrated, then the planning test for PPS3 AMP 2 has not been met. Subsequently, we believe a refusal notice on the basis of non-compliance with AMP2 cannot be implemented.

We would be most appreciative if you would consider the information provided and would welcome any opportunity to discuss this matter with you and your colleagues directly, at your convenience.

Kind Regards,

Declan Diamond BSc (Hons) MTPS



1<sup>st</sup> Floor, Albany House, 73-75 Great Victoria St, Belfast BT2 7AF

T:028 9560 9798 | E:[ddiamond@kevinmcshane.co.uk](mailto:ddiamond@kevinmcshane.co.uk)

From: Declan Diamond  
 Sent: Wednesday, April 13, 2022 2:33 PM  
 To: peter.hughes@midulstercouncil.org  
 Cc: McKeown & Shields <info@mckeownandshields.com>; Adrian <adrian@mckeownandshields.com>; Sean McGeown <sean@kevinmcshane.co.uk>; mcshane@btinternet.com  
 Subject: LA09/2020/0780/O - Proposed furniture storage/warehouse facility. Site 80m West of 37 Charlemont Street, Moy, Dungannon

Good Afternoon Peter,

We are working on behalf of the applicant of the above.

We submitted supporting information in response to a November 2021 DfI Roads consultation in January 2022.

We note the latest correspondence from the Department uploaded to planning portal today (13/04/2022).

The Department note:

*"DfI Roads acknowledge receipt of the Service Management Plan and the letter from Kevin McShane bearing the date stamp 10 January 2022.*

*Both the above documents have Auto Track drawings attached but the background of the drawings is not visible, therefore DfI Roads cannot make any comments on them until clear drawings are presented."*

There seems to have been issues with the hard copies of the documents when scanned onto the planning portal.

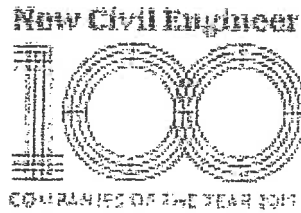
E-copies of both documents are attached.

If possible, would you mind circulating these to the Roads Case officer or alternatively we are happy to issue ourselves if you can advise who the case officer is on this one.

Many thanks.

Kind Regards,

**Declan Diamond BSc (Hons) MTPS**



The Studio, 555 Lisburn Road, Belfast, BT97GQ

T:028 9560 9798 | E:[ddiamond@kevinmcshane.co.uk](mailto:ddiamond@kevinmcshane.co.uk)

ITEM 5.11

**Phelim Marrion**

---

**From:** OBrien Design <obriendesign@btinternet.com>  
**Sent:** 01 June 2023 14:30  
**To:** Cathy Hughes  
**Cc:** Phelim Marrion  
**Subject:** FW: M Keys Transport Ltd planning application (LA09/2021/1653/F)

Good afternoon, Cathy,

Please see below letter of support for the above application from Karro Food Group. I would ask that you please place on file.

Regards

John

**From:** William de Klein <william.de.klein@sofinafoods.co.uk>  
**Date:** 31 May 2023 at 20:41:03 BST  
**To:**  
**Cc:** William de Klein <william.de.klein@sofinafoods.co.uk>, Malcolm Keys <malcolm@mkeystransport.com>  
**Subject:** M Keys Transport Ltd planning application (LA09/2021/1653/F)

To whom it may concern,

Karro Food Group would like to express their support for the planning application under consideration by Mid Ulster District Planning Department from M Keys transport Ltd on lands east to 19 Annagh Road, Clogher, Co Tyrone.

M Keys transport Ltd is a vital supply chain partner in the Northern Irish pork processing industry; as livestock Haulier, M Keys Transport Ltd is responsible for the 'just in time' delivery of more than a third of all pigs into our Cookstown processing facility.

Over the years, M Keys has grown with our business and now is considered our 'go-to' supplier for livestock haulage services.

In our view, the expansion as outlined in the application is vital to safeguard future growth and cost control in our supply chain.

M Keys Transport Ltd is one of several businesses in the M Keys group of companies in which it plays an important role. Investment into this part of the business will contribute to further growth of the other parts of the group of companies.

Karro Food group fully support this planning application and see the investment involved as key to the further development of the Northern Irish Pork processing industry.

For further questions, please do not hesitate to contact me directly.

Yours Sincerely,

William de Klein

Director Business Development and Agriculture  
Karro Food Ltd.  
Part of Sofina Food Group  
Mobile: 07792653803

This email is sent to you from Karro Food Ltd, a company registered in Scotland under company number SC220000 with registered office at 13 Queens Road, Aberdeen, Scotland, AB15 4YL, and whose head office is at Karro Food Group, Hugden Way, Malton, North Yorkshire, YO17 9HG. Confidentiality: The contents and any attachments of this electronic mail message are confidential and may be privileged and intended only for the named addressees. Dissemination, forwarding, publication, copying or other use of the message or attachments by any unauthorised person is strictly prohibited. If you are not the intended recipient of this e-mail, please delete this message and any attachments and notify the sender immediately. WARNING: Although the company has taken reasonable precautions to ensure no viruses are present in this email, the company cannot accept responsibility for any loss or damage arising from the use of this email or attachments. Internet e-mails are not necessarily secure. We do not accept responsibility for changes made to this message after it was sent. Any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the company. Privacy: We may monitor e-mails for compliance and other purposes. A copy of our privacy policy is available on our website or a copy may be requested from us. Trading terms and conditions: If we are doing business with you, our standard terms and conditions for the relevant transaction which are available at the following webpage <https://www.sofinafoods.com/europe/trading-terms-conditions/> shall be incorporated into the contract between us, to the entire exclusion of any other terms and conditions that you may seek to impose or otherwise incorporate into the contract, or which are implied by trade, custom, practice or course of dealing, unless there is a negotiated, agreed and signed written contract in place between us ("bespoke agreement"). If we have signed a bespoke agreement, it will prevail over our standard terms and conditions except to the extent that our standard terms and conditions expand upon or supplement that bespoke agreement, for example, and including but not limited to, in relation to the impact of Brexit or Pandemic. Unless you are advised otherwise, the legal entity with which you are trading is Karro Food Ltd, a part of Sofina Foods Inc.

ITEM 5.11

"Ardvarna", 7 Derreens Road,  
Bellanaleck, Co. Fermanagh,  
N. Ireland, BT92 2BY.

**John O'Brien**  
ARCHITECTURAL CONSULTANTS LTD

Telephone: 028 6634 8455

Email: obriendesign@btinternet.com

Website: www.johnobriendesign.co.uk

VAT Reg. No. 836 1047 42

Dr Chris Boomer  
Director of Planning  
Mid Ulster Council  
Ballyronan Road,  
Magherafelt  
BT45 6AN

08 June 2023

Dear Dr. Boomer,

**Extension of facilities, provision of new workshop, new access to public road to replace existing substandard access, adequate parking, associated site works and landscaping at site immediately E of 19 Annagh Road, Lungs, Clogher, for Malcolm Keys**

**Application Number: LA09/2021/1653/F**

We are contacting you to request an office meeting with The Planning Management team to discuss the above application and in particular the case officers report.

On reading this report we feel there was no consideration given the wider economic impact ie. 143 jobs, £5.3m in annual salaries and £40m spent on payments to local suppliers and retailers— all that is mentioned by the planning officer who wrote the report is 'I am not convinced an increase in 8 staff members would be considered to be a significant contribution to the local economy.....'.

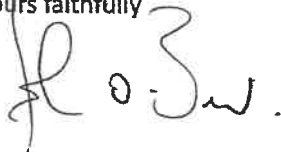
This application was not based on the increase in staff numbers but of the sustainability of the existing 143 jobs.

The report deals with the size of the building and makes no mention of the Computer-Generated Images (CGIs) submitted which are important in demonstrating how landscaping will soften the visual impact of the proposal.

We would also intend to raise the issues of Health and Safety which is a major consideration for the Client due to ever increasing regulation, and this has driven the design of the new building with the inclusion of a Crane to remove decks of lorries safely. This is presently carried out with the use of chains controlled by a Tele-handler and digger and this is not compliant or sustainable.

We would be grateful if you could accommodate such a meeting to discuss in detail these and other issues.

Yours faithfully



John O'Brien



FILEM 5-43

Local Planning Office  
Mid Ulster District Council  
50 Ballyronan road  
Magherafelt  
BT456EN

Oliver Bradley  
Bosanci House  
101 Bancran road  
Draperstown  
BT457da

05/06/23

Planning Ref LA09/2023/0141/0  
New farm building for sheep handling and sheep feed store  
15M East of 101 Bancran Road Draperstown

Dear Sir/Madam

Regards the above application I submit the following objections and bring your attention to errors.

- [1] The photos the applicant supplied 17/04/23 are misleading. This proposed site is a very exposed site to the East. See photos attached.
- [2] In Dareas comments they say this is a yard. This is not a yard, this is a 1.25 acre green field. I have spoken to Darea and they are happy to rectify. See photos.
- [3] I strongly object to this application on the grounds of noise, my partner is a nurse who works nights and sleeps during the day and this proposed building is 15 Meters from her bedroom, actually closer than the kitchen is to her bedroom!!

[4] This proposed building is for a feed store, I object on the grounds of pest, odour, effluent etc.

This field in question is 1.25 acres in total. I question the reason/logic in reducing this isolated field with a shed, yard and access lane way to less than 1 acre.

ESPECIALY when Mr brown has recently renovated sheep pens 300 meters away on the Bancran road [3 field lengths to the West] situated on a parcel of land approximately 6 acres. see photos.

He also has a slated sheep house along with sheds and a yard 250 meters away to the South of this proposed site.

He also a large purpose block built holding area 2 mile away on the Glenelly road set on a large parcel of land. See photos.

4 mile in the opposite direction on the Drumderg road Mr Brown has a large yard with lots of outbuildings and again another sheep holding area.

I want to point out parking has never been an issue regards this field.

I acknowledge Mr Brown has a right of way over my land into his field and I have never hindered or obstructed him or his father in any way over this past 30 years, in fact the contrary, I have accommodated him I and will continue to do so.

Please acknowledge confirmation of my objection.

Yours faithfully

*Oliver Bradley*

ITEM 5.56

From: Councillor T Wilson <Trevor.Wilson@midulstercouncil.org>

Date: 9 June 2023 at 21:16:39 BST

To: Zoe Douglas <Zoe.Douglas@midulstercouncil.org>

Subject: LA09/2023/0328

Hi Zoe

I wish to support the objections to the above planning application on the following grounds

1. This extension is out of character with the rest of the area
2. It will have an adverse effect on the amount of natural light especially to Nos 4,5 and 6 Coolmount Park
3. I believe that this application has not been viewed by a planning officer from the back of No 4 which will be the house most affected.

I would ask that these points are taken into consideration when you are making your decision.

Thanks

Trevor

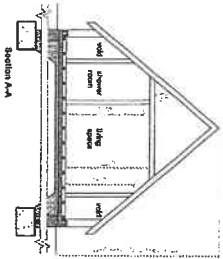
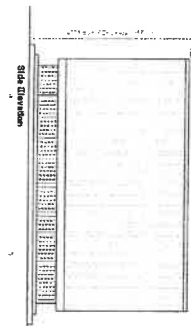
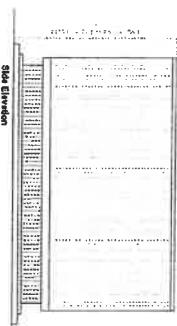
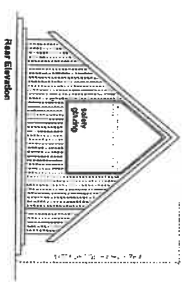
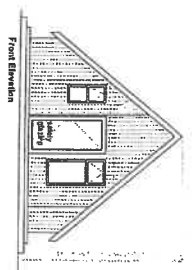
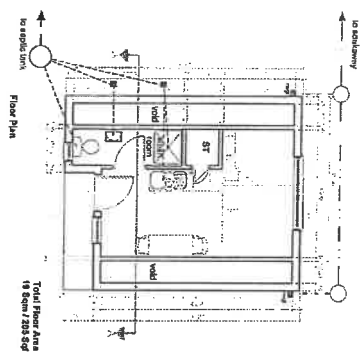
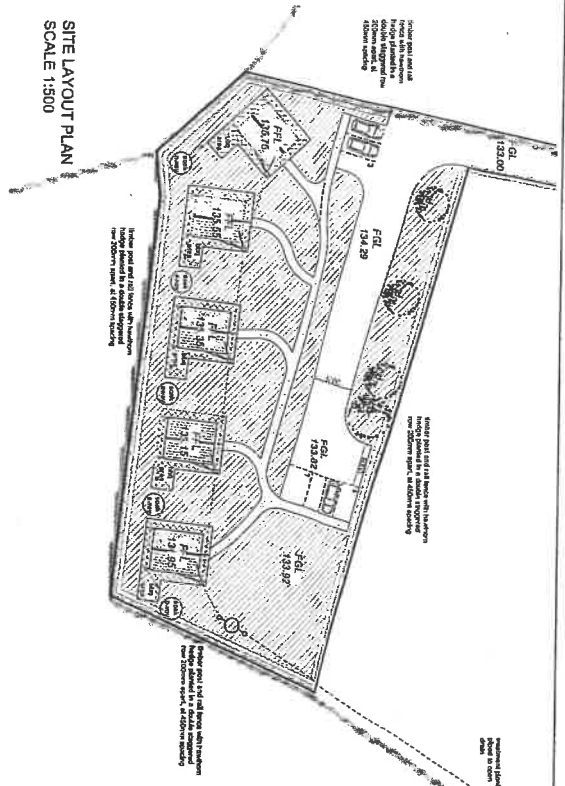


ITEM 65

**SITE LOCATION MAP**  
SCALE 1:2500



**SITE LAYOUT PLAN**  
SCALE 1:500



**Schedule of Finishes**  
100mm Insulated Kingspan roof panels - Anthracite  
Timber framed pod with untreated western red cedar  
Timber external windows and doors with double glazing  
Chalk in situ concrete base

**RICS**

**Holmes & Doran Ltd**  
14 Race, The Old Swanp Ark  
Avenue Street  
Caledon, BT8 8JQ  
Tel: 028 2562 2222  
Email: info@holmesanddoran.co.uk

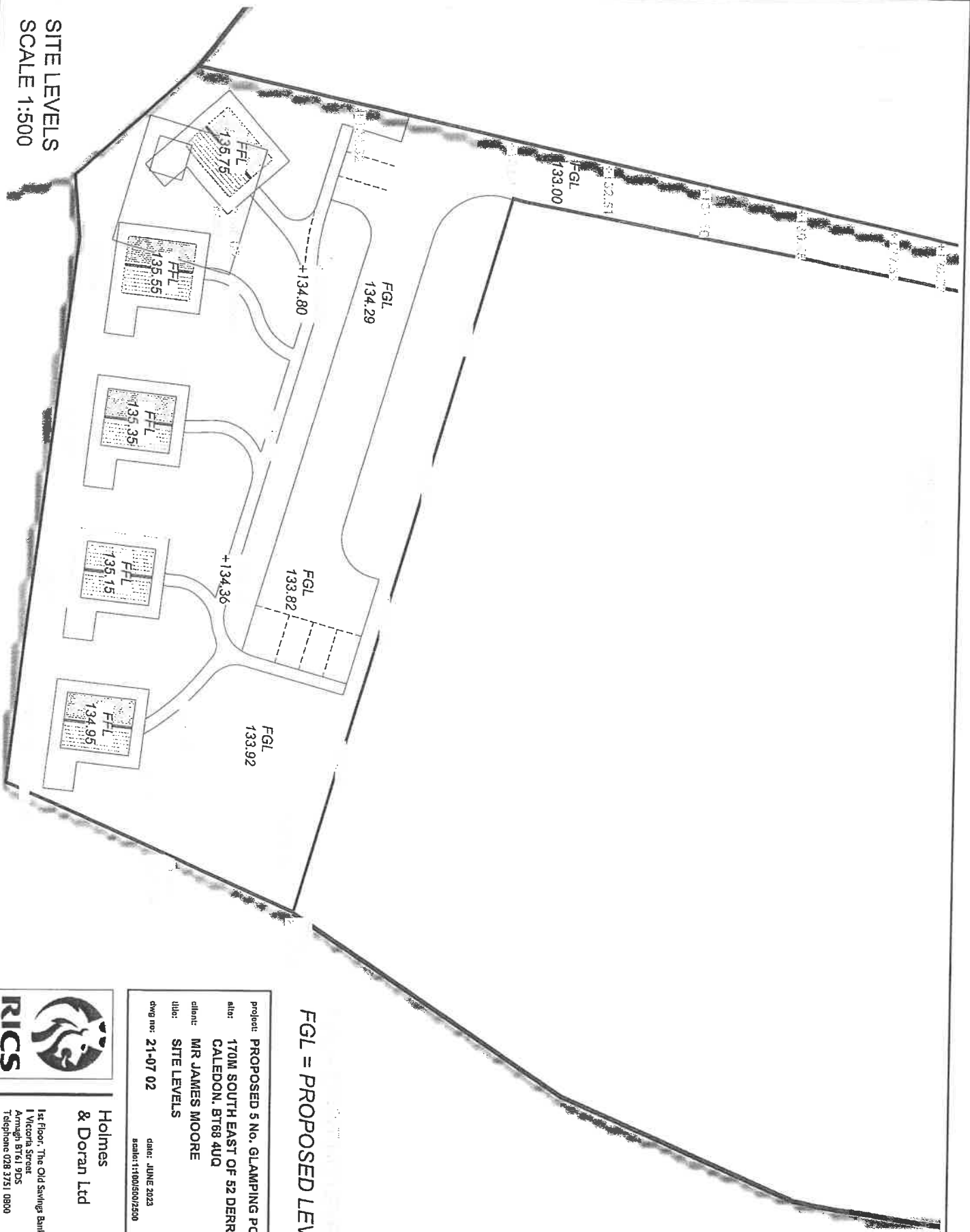
**Chartered Surveyors**  
Regulated by RICS

**Project: PROPOSED 5 No. GLAMPING PODS**  
410M SOUTH EAST OF D2 DERRYCOURTNEY ROAD,  
CALEDON, BT8 8JQ  
client: MR JAMES MOORE  
title: PLANS, ELEVATIONS, SEC AA  
SITE LAYOUT & SITE LOCATION MAP  
drawing no: 21-07 01  
date: 04/03/2021  
scale: 1:1000/2500

drawn by: JMD  
checked by: KE

Plan 6.5

SITE LEVELS  
SCALE 1:500



FGL = PROPOSED LEVELS



project: PROPOSED 5 No. GLAMPING PODS  
 site: 170M SOUTH EAST OF 52 DERRYCOURTNEY ROAD,  
 CALEDON. BT68 4UQ  
 client: MR JAMES MOORE  
 title: SITE LEVELS  
 dwg no: 21-07 02  
 date: JUNE 2023  
 scale: 1:100/500/2500  
 drawn by: JMCQ  
 checked by: KE



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 1 Victoria Street  
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 Telephone 028 3751 0800  
 Email info@holmesanddoran.co.uk

Chartered  
Surveyors

Regulated by RICS