



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2018/0754/O Recommendation: Refuse	Target Date: 12 September 2018
Proposal: Dwelling and garage	Location: 20 Metres West Of 35 Moss Road Ballymaguigan Magherafelt
Applicant Name and Address: Christopher Cassidy 58 Aughrim Road Magherafelt	Agent name and Address: Cmi Planners Ltd 38 Airfield Road Toomebridge
Summary of Issues: <p>This application was first before Members at September 2018 Planning Committee. It was recommended at that time to refuse the application under policies CTY 1, CTY 8, CTY 13 and CTY 14 of PPS 21. It was agreed to defer the application for an office meeting with Dr Boomer. The applicant also submitted a supporting statement in advance of the office meeting which has been fully considered.</p> <p>It is recommended that Members refuse this application for the reasons that were previously presented and the justification for this recommendation is detailed further in this report.</p>	
Summary of Consultee Responses:	
Characteristics of the Site and Area <p>The application site is a 0.1 hectare plot of vacant land located 20m West of number 35 Moss Road, Ballymaguigan, Magherafelt. It is just outside the settlement limit of Ballymaguigan as is designated in the Magherafelt Area Plan 2015. The site is flat and partially hard cored. Access to site comes directly off the Moss Road and the access point is currently blocked up with high metal fencing. The remainder of the roadside boundary is defined by a mix of low level hedgerow and high hedgerow. The Eastern and Southern boundaries are defined by thick mature hedgerow. The Western boundary is undefined with the exception of a vacant portable unit.</p>	

This area is rural in character and has a flat topography. To the East and SE of the site are 2 detached dwellings and associated outbuildings. Opposite the site and within the development limits of Ballymaguigan are a grouping of commercial buildings "Moss Tiles" and a detached dwelling. To the NW of the site is another detached dwelling. Lough Neagh, A European Designated Site, is located approx. 500 to the East of the site.

Description of Proposal

This is an outline application for a dwelling and garage.

Deferred Consideration:

This site and its immediate surrounds have a very extensive planning and enforcement history, some of which is material in my consideration of the proposal.

Relevant Planning History

H/2002/0467/F - Site of Dwelling and Garage on land adjacent to 35 Moss Road, Ballymaguigan, Magherafelt. Application Withdrawn on 17.10.2002

H/2004/0708/O - Site of Two Storey Dwelling. 58 Metres West of 35 Moss Road, Ballymaguigan, Magherafelt. Refused and Appeal Dismissed.

H/2004/0714/O - Site of two storey dwelling. 38m west of 35 Moss Road, Ballymaguigan, Magherafelt. Refused and Appeal Dismissed.

H/2011/0360/O - Infill Dwelling and Garage. 20m West of 37 Moss Road. Refused on 20.01.12

LA09/2015/0347/LDE - Portacabin used by CMI Planners for meeting and storage rooms on lands adjacent to 35 Moss Road, Magherafelt. Application required to be submitted.

LA09/2015/0598/F - Replacement office and storage unit associated with an established business (retrospective) 50m West of 35 Moss Road, Ballymaguigan, Magherafelt. Refused on the 25.05.2016

LA09/2016/0635/LDE - Portacabin for storage purposes, 40m NW of 35 Moss Road, Ballymaguigan, Magherafelt. Permitted Development.

LA09/2016/0761/F - Extension to existing portacabin to provide storage and office accommodation 40m North West of 35 Moss Road, Ballymaguigan, Magherafelt. Permission Refused on the 05.10.2017

LA09/2017/1405/F - Part use of portacabin for office use (retrospective) - 40m South of 35 Moss Road. Under consideration.

LA09/2021/0511/F - Storage shed to replace existing store - 20m West of 35 Moss Road. Under Consideration.

LA09/2022/0556/O - Infill Dwelling adjacent to 37 Moss Road. Refused 20.4.23

Relevant Enforcement History

LA09/2015/0055/CA - Unauthorised modular structure, set on supporting concrete bases and hardcore. Adjacent to 35 Moss Road, Ballymaguigan, Magherafelt, Londonderry, BT45 6LJ. Closed

LA09/2016/0174/CA - Unauthorised sign attached to Portacabin adjacent to 35 Moss Road. Closed

LA09/2017/0076/CA Unauthorised change of use of portacabin from storage to office accommodation on lands adjacent to 35 Moss Road, Ballymaguigan, Magherafelt,

Londonderry, BT45 6LJ. Closed

LA09/2023/0155/CA - Alleged unauthorised building adjacent to 35 Moss Road. Under investigation.

The application has been submitted for a dwelling and garage to be considered under infill policy. The proposal is primarily considered under Policy CTY 8 of PPS 21 which states that 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 proposal is relying on a dwelling and garage at number 35 Moss Road and a portacabin in the NW portion of the site as being part of a substantial and built up road frontage. It was initially determined that the portacabin could not be considered a "building" for the purposes of being part of a built up road frontage, nor could the detached garage associated with number 35 Moss Road. The applicant has submitted a supporting statement in which he refers to several planning approvals by the Council in which temporary structures and set back detached garages have been accepted. Having visited this site I would be of the opinion that the garage associated with number 35, is set back and is of a scale and size that it cannot be read as part of the frontage. This is the view also taken by the PAC in decision 2016/A0070 (paragraph 31). I am also not convinced that the portacabin can be considered as part of this frontage. Whilst previous decisions have accepted temporary and similar structures, there are other examples of cases where such applications have been recommended for refusal and subsequently withdrawn rather than been issued as a refusal due to their temporary nature, small scale and visibility with other buildings (eg LA09/2022/1761/F). The portacabin in question has such a low key presence in this landscape due to its scale, that it cannot be regarded as contributing towards a substantial and built up frontage to meet the test of the policy.

Members should also note that at Planning Committee on the 4th April 2023 it was agreed to refuse an infill dwelling to the immediate South of this application site (LA09/2022/0556/O). Members agreed that there was no substantial and built up road frontage at this location as well as the fact that the site was set back off the Moss Road. The refusal of LA09/2022/0556/O is material to the consideration of this application and as there has been no change in policy since that application was refused, Members are advised that this application before them remains at conflict with Policy CTY 8. It is important to also note that there is a live enforcement case (LA09/2023/0155/CA) on this site for an alleged unauthorised building.

The proposal was also considered under Policy CTY 13 of PPS 21 - Design and Integration and Policy CTY 14 of PPS 21 - Rural Character. This is an outline application therefore design is not under consideration. Integration is however a material consideration. Given the flat topography of the site and the lack of any long term critical views from the Moss Road, a modest single storey dwelling would not appear overly prominent in the local landscape. Existing boundary treatment along the roadside boundary, if retained, will screen views into the site to a certain degree. The existing Eastern boundary, if retained, will also assist integration and will act as a backdrop when travelling in a SE direction along the Moss Road. Additional planting along the Western and Southern boundaries will further aid integration but will not be primarily relied upon for the purposes of integration. This site was deemed acceptable in terms of integration under

Appeal Decision 2006/A1003 (Paragraph 4) and similar to the previous officers consideration, in my opinion, remains acceptable.

As referred to above, a single storey dwelling on this site will not appear overly prominent given its flat topography and the lack of long term critical views. I do however have concerns that a dwelling on this site would result in a build-up of development in this particular rural area. The site, despite the presence of the existing portable unit just outside the NW boundary, still acts as visual break between the edge of the settlement of Ballymaguigan and the existing rural properties, numbers 35 and 37 Moss Road. A dwelling on this site would result in a visual consolidation between these dwellings and their outbuildings and the development within the settlement limit of Ballymaguigan. I do acknowledge that the rural character of this area may have already suffered from a high level of existing development, but this does not justify a further erosion of rural character. This was also the view taken by the Planning Appeals Commission in (Paragraph 31) of Appeal Decision 2016/A0070 and (Paragraph 6) of Appeal Decision 2006/A1003. Furthermore I would refer Members to April 2023 Planning Committee in which a decision to refuse LA09/2022/0556/O was taken. Members agreed that another dwelling in this area would lead to an unacceptable build up of development and CTY 14 was a reason for refusal. This decision again is material in this recommendation.

I have also considered Policy CTY 15 - The Setting of Settlements. I agree with the previous case officers view that if a dwelling were to be approved on this site, it would result in a visual consolidation between number 35 and 37 Moss Road, their associated outbuildings and the existing development within the development limit of Ballymaguigan. In effect it would mar the distinction between the settlement and the surrounding countryside and would be contrary to this policy. This also was recognised in Appeal Decision 2016/A0070 (Paragraph 32).

There have been no objections to this application from any third party.

In the scenario that the new Mid Ulster District Council Local Development Plan is adopted in the future and if there is any change or extension to the settlement limit of Ballymaguigan which would take in this site, then the applicant would have the opportunity at that time to submit an application for a dwelling which may be more policy compliant, but as it stands, I recommend that Members refuse this application under Policies CTY 1, CTY 8, CTY 14 and CTY 15.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that the site is not located within a substantial and built up road frontage

Reason 3

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to further erode the rural character of the countryside.

Reason 4

The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would if permitted mar the distinction between the defined settlement limit of Ballymaguigan and the surrounding countryside.

Signature(s):Karla McKinless

Date: 12 February 2024



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4/9/18	Item Number:
Application ID: LA09/2018/0754/O	Target Date: 12/9/18
Proposal: Dwelling and garage	Location: 20 metres West of 35 Moss Road Ballymaguigan Magherafelt
Referral Route: Application is being recommended for refusal	
Recommendation: Refuse	
Applicant Name and Address: Christopher Cassidy 58 Aughrim Road Magherafelt	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge
Executive Summary: Proposal fails to Comply with policies CTY 1, CTY 8, CTY14 and CTY 15 of PPS 21	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

The following neighbouring properties have been notified and to date there have been no objections from any of these occupants or any other third party.

- 30 Moss Road, Magherafelt, Londonderry, BT45 6LJ,
- 32 Moss Road, Magherafelt, Londonderry, BT45 6LJ,
- 35 Moss Road, Magherafelt, Londonderry, BT45 6LJ,
- 37 Moss Road, Magherafelt, Londonderry, BT45 6LJ,
- 36 Moss Road, Magherafelt, Londonderry, BT45 6LJ,

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There have been no objections from any consultee.

Characteristics of the Site and Area

The application site is a 0.1 hectare plot of vacant land located 20m West of number 35 Moss Road, Ballymaguigan, Magherafelt. It is just outside the settlement limit of Magherafelt as is designated in the Magherafelt Area Plan 2015. The site is flat and partially hard cored. Access to site comes directly off the Moss Road and the access point is currently blocked up with high metal fencing. The remainder of the roadside boundary is defined by a mix of low level hedgerow and high hedgerow. The Eastern and Southern boundaries are defined by thick mature hedgerow. The Western boundary is undefined with the exception of a vacant portable unit.

This area is rural in character and has a flat topography. To the East and SE of the site are 2 detached dwellings and associated outbuildings. Opposite the site and within the development limits of Ballymaguigan are a grouping of commercial buildings "Moss Tiles" and a detached dwelling. To the NW of the site is another detached dwelling. Lough Neagh, A European Designated Site, is located approx. 500m to the East of the site.

Description of Proposal

This is an outline application for a dwelling and garage.

Relevant Planning History

H/2002/0467/F - Site of Dwelling and Garage on land adjacent to 35 Moss Road, Ballymaguigan, Magherafelt. Application Withdrawn on 17.10.2002

H/2004/0708/O - Site of Two Storey Dwelling. 58 Metres West of 35 Moss Road, Ballymaguigan, Magherafelt. Refused and Appeal Dismissed.

H/2004/0714/O - Site of two storey dwelling. 38m west of 35 Moss Road, Ballymaguigan, Magherafelt. Refused and Appeal Dismissed.

LA09/2015/0347/LDE - Portacabin used by CMI Planners for meeting and storage rooms on lands adjacent to 35 Moss Road, Magherafelt. Application required to be submitted.

LA09/2015/0598/F - Replacement office and storage unit associated with an established business (retrospective) 50m West of 35 Moss Road, Ballymaguigan, Magherafelt. Refused on the 25.05.2016

LA09/2016/0635/LDE - Portacabin for storage purposes, 40m NW of 35 Moss Road, Ballymaguigan, Magherafelt. Permitted Development.

LA09/2016/0761/F - Extension to existing portacabin to provide storage and office accommodation 40m North West of 35 Moss Road, Ballymaguigan, Magherafelt. Permission Refused on the 05.10.2017

Relevant Enforcement History

LA09/2015/0055/CA - Unauthorised modular structure, set on supporting concrete bases and hardcore. Adjacent to 35 Moss Road, Ballymaguigan, Magherafelt, Londonderry, BT45 6LJ.

LA09/2016/0076/CA Unauthorised change of use of portacabin from storage to office accommodation on lands adjacent to 35 Moss Road, Ballymaguigan, Magherafelt, Londonderry, BT45 6LJ,

Planning Assessment of Policy and Other Material Considerations

The primary policy considerations in this assessment are:

Magherafelt Area Plan 2015
SPPS – Strategic Planning Policy Statement for Northern Ireland
PPS 2 – Natural Heritage
PPS 3 – Access, Movement and Parking
PPS21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

This site is outside any settlement defined in the Magherafelt Area Plan (MAP) 2015 and is not affected by any MAP designations. The MAP offers no specific policy or guidance in respect of the proposed development and is therefore not material. PPS21 policy provisions are therefore applicable in this assessment.

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

PPS 2 – Natural Heritage

This site is located approximately 500m to the West of Lough Neagh SPA/RAMSAR, a European Designated site and there is a water course to the South of the application site that has the potential to link into Lough Neagh. This has triggered an informal consultation with Shared Environment Service (SES). SES have confirmed that there is a buffer of 55m between the site and the watercourse which is sufficient to ensure no run-off pollutants. I am therefore satisfied that the proposal if approved would not have any significant effect on the features of this European Site. The site is not within any NIEA consultation zones for ornithology.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. A direct access onto the Moss Road is proposed. DFI Roads have been consulted and have no objections subject to the provision of 2.4m x 65m splays and a 65m forward sight distance. This can be dealt with by planning condition.

PPS21 – Sustainable Development in the Countryside

Policy CTY 8 – Ribbon Development

Policy CTY 8 of PPS21 states that 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 applicant has indicated on his site location plan that he considers that the existing portable unit to the immediate West of the site, the detached dwelling at number 35 and its associated detached garage be considered as a line of 3 buildings along this section of the Moss Road. I however, would disagree. It is my opinion that the garage associated with number 35 does not read as part of this frontage given its subordinate and setback position. This was also the view taken by the Planning Appeals Commission in paragraph 31 of Appeal Decision 2016/A0070. I would further question as to whether or not the existing portable unit, which is temporary by its very nature can be considered as a building. Mid Ulster District Council has accepted that the portable unit for storage purposes approved under LA09/2016/0635/LDE has been on site in excess of 5 years and is immune from any enforcement action. This approval simply permits the applicant to use it for storage purposes. It is my opinion that it is more representative of a "Caravan", in that it is a structure which is capable of being moved from one place to another (whether being towed, or by being transported on a motor vehicle or trailer). As such, the application site cannot be considered as a gap within a substantial and built up frontage as the frontage only comprises one building (ie) detached dwelling at number 35.

Policy CTY 13 – Design and Integration

This is an outline application therefore design is not under consideration. Integration is however a material consideration. Given the flat topography of the site and the lack of any long term critical views from the Moss Road, a modest single storey dwelling would not appear overly prominent in the local landscape. Existing boundary treatment along the roadside boundary, if retained, will screen views into the site to a certain degree. The existing Eastern boundary, if retained, will also assist integration and will act as a backdrop when travelling in a SE direction along the Moss Road. Additional planting along the Western and Southern boundaries will further aid integration but will not be primarily relied upon for the purposes of integration. This site was deemed acceptable in terms of integration under Appeal Decision 2006/A1003 (Paragraph 4) and in my opinion remains acceptable.

Policy CTY 14 – Rural Character

As referred to above, a single storey dwelling on this site will not appear overly prominent given its flat topography and the lack of long term critical views. I do however have concerns that a dwelling on this site would result in a build-up of development in this particular rural area. The site, despite the presence of the existing portable unit just outside the NW boundary, still acts as visual break between the edge of the settlement of Ballymaguigan and the existing rural properties, numbers 35 and 37 Moss Road. A dwelling on this site would result in a visual consolidation between these dwellings and their outbuildings and the development within the settlement limit of Ballymaguigan. I do acknowledge that the rural character of this area may have already suffered from a high level of existing development, but this does not justify a further erosion of rural character. This was also the view taken by the Planning Appeals Commission in Paragraph 31 of Appeal Decision 2016/A0070 and Paragraph 6 of Appeal Decision 2006/A1003.

Policy CTY 15 – The Setting of Settlements

If a dwelling were to be approved on this site, it would result in a visual consolidation between number 35 and 37 Moss Road, their associated outbuildings and the existing development within the development limit of Ballymaguigan. In effect it would mar the distinction between the settlement and the surrounding countryside and would be contrary to this policy. This also was recognised in Appeal Decision 2016/A0070 (Paragraph 32)

Neighbour Notification Checked**Yes/No****Summary of Recommendation:**

I recommend the application to be refused as it fails to comply with CTY 1, CTY 8, CTY 14 and CTY 15 of PPS 21.

Refusal Reasons

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site is not located within a substantial and continuously built up road frontage.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to further erode the rural character of the countryside.
4. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, mar the distinction between the defined settlement limit of Ballymaguigan and the surrounding countryside.

Signature(s)**Date:**

ANNEX	
Date Valid	30th May 2018
Date First Advertised	14th June 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 30 Moss Road Magherafelt Londonderry The Owner/Occupier, 32 Moss Road, Magherafelt, Londonderry, BT45 6LJ, The Owner/Occupier, 35 Moss Road Magherafelt Londonderry The Owner/Occupier, 37 Moss Road Magherafelt Londonderry The Owner/Occupier, Moss Tiles 36 Moss Road Magherafelt	
Date of Last Neighbour Notification	9th July 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0754/O Proposal: Dwelling and garage Address: 20 metres West of 35 Moss Road, Ballymaguigan, Magherafelt, Decision: Decision Date: Ref ID: LA09/2017/1405/F Proposal: Part use of Port A Cabin for office use (retrospective) Address: 40m South East of 35 Moss Road, Ballymaguigan, Decision: Decision Date: Ref ID: LA09/2015/0598/F Proposal: Replacement office and storage unit associated with an established business (retrospective) Address: 50m West of 35 Moss Road, Ballymaguigan, Magherafelt, Decision: PR Decision Date: 25.05.2016	

Ref ID: LA09/2015/0347/LDE

Proposal: Portacabin used by CMI Planners for meeting and storage rooms

Address: Lands adjacent to 35 Moss Road, Magherafelt,

Decision: PR

Decision Date:

Ref ID: H/2004/0708/O

Proposal: Site Of Two Storey Dwelling

Address: 58 Metres West Of 35 Moss Road, Ballymaguigan, Magherafelt

Decision:

Decision Date:

Ref ID: H/2002/0467/F

Proposal: Site of Dwelling and Garage

Address: Adjacent to 35 Moss Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 17.10.2002

Ref ID: H/2004/0714/O

Proposal: Site of two storey dwelling.

Address: 38m west of 35 Moss Road, Ballymaguigan, Magherafelt.

Decision:

Decision Date:

Ref ID: H/1998/0679

Proposal: DWELLING ANG GARAGE

Address: IN FRONT OF 37 MOSS ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2006/0693/F

Proposal: Replacement dwelling and detached garage

Address: 37 Moss Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 08.12.2008

Ref ID: H/1992/0061

Proposal: ALTS & ADDS TO DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2003/0365/F

Proposal: Proposed sun room extension and first floor conversion to dwelling.

Address: 37 Moss Road, Magherafelt.

Decision:

Decision Date: 29.07.2003

Ref ID: H/1993/0120

Proposal: SITE OF REPLACEMENT DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1989/0106

Proposal: SITE OF REPLACEMENT DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1999/0025

Proposal: REPLACEMENT DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1997/0292

Proposal: SITE OF REPLACEMENT DWELLING

Address: 37 MOSS ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2004/1497/F

Proposal: Extension to a dwelling and detached garage

Address: 37 Moss Road, Magherafelt

Decision:

Decision Date: 22.05.2005

Ref ID: H/2009/0190/O

Proposal: Site of proposed residential housing development and proposed widening of Moss Road and provision of footway between the proposed site and B18 Ballyronan Road.

Address: No 36 Moss Road, Ballymaguigan, Magherafelt including lands immediately to the east and the west.

Decision:

Decision Date: 10.12.2009

Ref ID: H/2011/0360/O
Proposal: Proposed infill dwelling and garage
Address: 40m NW of 37 Moss Road, Ballymaguigan, Magherafelt,
Decision:
Decision Date: 20.01.2012

Ref ID: LA09/2016/0197/F
Proposal: Alterations and extension to existing dwelling to form additional single storey sun lounge
Address: 37 Moss Road, Ballymaguigan, Magherafelt,
Decision: PG
Decision Date: 31.03.2016

Ref ID: LA09/2016/0761/F
Proposal: Extension to existing portacabin to provide storage and office accommodation
Address: 40m North West of 35 Moss Road, Ballymaguigan, Magherafelt,
Decision: PR
Decision Date: 05.10.2017

Ref ID: LA09/2016/0635/LDE
Proposal: Portacabin for storage purposes
Address: 40m NW of 35 Moss Road, Ballymaguigan, Magherafelt,
Decision: PG
Decision Date:

Summary of Consultee Responses

DFI – Roads – No objections subject to standard conditions
NIW – No objections
EH – No objections
SES (informal) – No objections

Drawing Numbers and Title

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Further Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/0179/F	Target Date: <add date>
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm (Amended Noise Impact Assessment)	Location: Lands 70m South of 177 Annagher Road Coalisland.
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Summary of Issues: The proposed hours of operation extend into that is common night-time hours and could result in nuisance to neighbouring residential properties. Objectors are concerned about the existing factory and nuisance from it, they are concerned this will make matters worse. The operator has implemented procedures they say limit any noise and impact on neighbouring properties.	
Summary of Consultee Responses: EHO – met with the applicants noise consultants on site and undertook visits to the site. Note that ambient noise levels can be affected by various factors at different times of the year, the proposal could affect residential amenity during quiet sleep hours (23:00 – 07:00), conditions could mitigate against any issues.	
Characteristics of the Site and Area: This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage.	

The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Description of Proposal

This is an application for variation of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Deferred Consideration:

This application was recommend as a refusal to the Planning Committee in September 2021, October 2022 and September 2023 where it was deferred to allow further consideration of mitigation to prevent noise at neighbouring properties before 7.00 am, nighttime hours.

Neighbours were notified about a revised amendment of the condition stating:

Between the hours of 0600hrs and 0700hrs:

- there shall no activities within the building except for: welding components; quality checking components, paint preparation
- cleaning of equipment, welding, mixing of paint and spraying;
- all doors into the building shall remain closed except for pedestrian doors for access and egress purposes only;
- there shall be no loading, unloading or movement of any materials or finished products;
- there shall be no activities in the yard areas except for workers arriving at the site: and no deliveries shall be received at the site.

Reason: In the interest of residential amenity

Two additional objections have been received which reconfirm the concerns in relation to noise and other nuisances from the existing factory any also for any change to the hours of operations. It has been stated there is a statutory nuisance occurring under the terms of the Clean Neighbourhoods and Environment Act (NI) 2011 as well as a breach of planning control. They advise site operations routinely start at 5:30 in the morning and the Council has a duty of care to the residents to ensure they are not subjected to a statutory nuisance. Noise will be heard before 6:00am as the workers arrive at the site in cars and

machinery is started. The additional hours of operation will mean more painting and more environmental impact and impact on health from the fumes.

Environmental Health Officers have been consulted with the additional objections, they have advised they are in receipt of 37 complaints about the factory and have carried out investigations but have not determined there to be any action to be taken by them. The proposal will extend the hours of operations into the period deemed to be quiet sleeping hours, 23:00hrs to 07:00hrs. There could be nuisances associated with noise from the car park as workers arrive at the factory, such as vehicles moving, engines idling, employees talking on exiting their vehicles, car door slams and car alarms. This could be worse during periods of warm weather where nearby residents may wish to sleep with windows open for ventilation purposes. In relation to odours and fumes, EHO have advised the site is subject to a PPC permit which is subject to conditions one of which requires all emissions to be free from offensive odours beyond the site boundary.

Members are advised the proposed amended condition will result in activity between the hours of 06:00am and 07:00am being constrained to activities that are not of themselves particularly noisy. The activities will be contained within the existing building and as such are unlikely to create additional noise at the closest receptors. It is noted there will be vehicles arriving at the site before the factory becomes operational. Assurances have been offered to state there will only be a small number of staff at the site for the 06:00am start time and so limited vehicular activity is expected. Members may take account of other mitigation to reduce the noise from the carpark, such as the existing earth bund to the south and the factory building which will screen this area from the objectors properties. Given the limited activities that have been proposed between 06:00hrs and 07:00hrs, I consider it is reasonable to accept this will be the case.

There are currently no conditions that limit when vehicles can be at the site or in relation to the operations of the fans associated with the spray booths. This application is under Section 54 of the Planning Act (NI) 2011 which allows the Council to consider removing, amending or retaining conditions of planning permissions issued. The Council may add conditions that are considered relevant to the condition that it is being asked to amend but cannot amend any time commencement conditions. In this case if the Council were to decide to amend the condition about the hours of operation, additional conditions limiting the activities to be carried out before 7:00am could be attached. The Council could also attach conditions about other operations or activities that should be restricted before this time in the interests of the amenity of the adjoining residents.

In summary this site has had a long history with the Planning Department and breaches of planning control, before and after it was granted planning permission. The Council is being asked to weight up the business interests and ongoing employment of workers at this site against the amenity of neighbouring properties who live close to this industrial development. The operator has given assurances they have put processes in place to limit the impacts on the residents. Residents are complaining that they are experiencing nuisances as the site is already operating to these hours and before. Environmental Health Officers have advised there may be some nuisances from the proposed extension to the hours of operation, they have investigated complaints and have not taken any further action under their powers. Additional conditions to restrict when the fans are turned on and to introduce controls on when goods and deliveries can be received to and dispatched from the site may assist in preventing further nuisance to the residents.

In light of the mitigation and additional conditions to restrict operations on the site, I recommend this application is approved.

Conditions:

1. The development hereby permitted shall not remain open for business prior to 06:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

2. Between the hours of 0600hrs and 0700hrs:
 - there shall no activities within the building except for: welding components; quality checking components, paint preparation
 - cleaning of equipment, welding, mixing of paint and spraying;
 - all doors into the building shall remain closed except for pedestrian doors for access and egress purposes only;
 - there shall be no loading, unloading or movement of any materials or finished products;
 - there shall be no activities in the yard areas except for workers arriving at the site: and no deliveries shall be received at or goods dispatched from the site.

Reason: In the interest of residential amenity

3. All extractor fans in the spray booths shall not be operational before 0800hrs or after 20:00hrs.

Reason: In the interest of residential amenity

4. No vehicular traffic shall be on site, except for emergencies, essential maintenance activities or in accordance with condition 2, prior to 06:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interest of residential amenity

5. The species rich hedgerow with trees to the south-east of the site and on neighbouring land in the control of the developer shall be retained.

Reason: To retain the biodiversity interest within the site.

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

Reason: In the interests of visual amenity





Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Further Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/0179/F	Target Date: <add date>
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm (Amended Noise Impact Assessment)	Location: Lands 70m South of 177 Annagher Road Coalisland.
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Summary of Issues: The proposed hours of operation extend into that is common night-time hours and could result in nuisance to neighbouring residential properties. Operator has implemented procedures they say limit any noise and impact on neighbouring properties.	
Summary of Consultee Responses: EHO – met with the applicants noise consultants on site and undertook visits to the site. Note that ambient noise levels can be affected by various factors at different times of the year, the proposal could affect residential amenity during quiet sleep hours (23:0 – 07:00)	
Characteristics of the Site and Area: This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage.	

The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Description of Proposal

This is an application for variation of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Deferred Consideration:

This application was recommend as a refusal to the Planning Committee in September 2021 and October 2022 where it was deferred to allow further consideration of mitigation to prevent noise at neighbouring properties before 7.00 am, nighttime hours.

The operator advises that only activities that do not create noise will occur before 7.00am, these include, pre-heating metal for spraying, mixing paint for spraying, spraying and welding. The operator advises that all doors will remain closed until 7:00am to prevent any noise escaping and that no movement of the products will occur during these times as the jigs for welding and products for spraying will have been moved into position the evening before, therefore minimising the risk of noise from them being moved. The operator also advised one person has the keys to all the main doors and is responsible for ensuring these are not opened before 7:00am. The operator also advises that fans associated with the spray booths are on timers and do not activate until 8:00am. As already stated the operator advises they need to change the hours to retain staff as the working pattern is shifting to a 4 day week, though they stress that not all staff work this pattern and it is only some of the staff who work this pattern.

Members are advised the operator has indicated they already do these processes to limit the noise, however there are still concerns from local residents who have recently advised:

- they live close to the factory and are disturbed in the morning and wish to have some quiet time in the evening
- the factory is operating from 5:30am and after 8:00pm and is causing nuisance to them due to noise, smell, fumes, loss of air quality and residue from paint spraying.

This application is under Section 54 of the Planning Act (NI) 2011 which allows the Council to consider removing, amending or retaining conditions of planning permissions

issued. The Council may add conditions that are considered relevant to the condition that it is being asked to amend but cannot amend any time commencement conditions. In this case if the Council were to decide to amend the condition about the hours of operation, additional conditions limiting the activities to be carried out before 7:00am could be attached. The Council could also attach conditions about other operations or activities that should be restricted before this time in the interests of the amenity of the adjoining residents.

This site has had a long history with the Planning Department and breaches of planning control, before and after it was granted planning permission. The Council is being asked to weight up the business interests and ongoing employment of workers at this site against the amenity of neighbouring properties who live close to this industrial development. The operator has given assurances they have put processes in place to limit the impacts on the residents, however the residents are advising they are still experiencing nuisances. In view of the continued objections from the neighbours and EHO not being in support of the extended hours of operation, I consider the proposal should be refused and the hours of operation not extended.

Refusal Reasons:

1. The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal;

- will not harm the amenities of nearby residents;
- will not create a noise nuisance.

2. The proposal is contrary to paragraph 3.8 of SPPS in that it has not been demonstrated that proposal will not cause harm to interests of acknowledged importance, namely rural character and residential amenity. The proposal could, if granted permission, result in a detrimental impact to residential amenity through impacts from noise, nuisance and general disturbance.



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/0179/F	Target Date: <add date>
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm (Amended Noise Impact Assessment)	Location: Lands 70m South of 177 Annagher Road Coalisland.
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Summary of Issues: The proposed hours of operation extend into that is common night-time hours and result in nuisance to neighbouring residential properties.	
Summary of Consultee Responses: EHO – met with the applicants noise consultants on site and undertook visits to the site. Note that ambient noise levels can be affected by various factors at different times of the year, the proposal could affect residential amenity during quiet sleep hours (23:0 – 07:00)	
Characteristics of the Site and Area: This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage.	

The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Description of Proposal

This is an application for variation of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Deferred Consideration:

This application was recommend as a refusal to the Planning Committee in September 2021 and was deferred to allow a meeting with the Planning Manager and Environmental Health Officers.

At the meeting a number of proposals were put forward by the applicants for ways to reduce the noise between 6 – 7 am and to provide constant monitoring equipment in the site. Following the meeting the applicant advise they have appointed a Compliance Manager whose role is to ensure doors are closed, forklifts do not operate outside and that noise generating activities are not carried out or impact on neighbours. A revised noise assessment was also submitted by Grainger Associates on 12 December 2021 and this indicated significantly lower levels of noise at the nearest properties than shown in the previous report in March 2021. Neighbours were notified of the revised report and there were 2 additional comments received objecting to the proposals as it will impact on sleeping times in the morning and peaceful times in the evening and that no regard has been had to the other application for the revised car park which will reduce the effect of the buffer mound.

Due to the significant differences Environmental Health Officers carried out their own survey between 06:45 – 07:30 on 18 January 2022 and noise measurements obtained by EH show noise levels similar to those outlined within the March 2021 report and noise from DMAC was clearly audible and noted to consist of constant fan noise, FLT movements, reverse alarms and banging & clanging of metal/steel.

A further report was submitted (24 March 2022) which outlined a number of Pre and post 07:00hrs activities along with a number of other noise management proposals and included a summary of joint monitoring visit which took place on 22 March

2022. EHO have noted the noise that was witnessed at the neighbouring property on 22 March 2022 would be unlikely to impact residential amenity.

EH carried out a further visit at 6:30am on 5th May 2022 and noted the environment was dominated by birdsong though occasional impulsive noises (bangs/clangs) were heard above the ambient noise.

In response to EHO comments the applicants have advised the was agreement at a site meeting on 22 March that noise heard could not impact residents, DMAC have a stringent monitoring plan and procedures to limit activity and ensure all doors are kept closed until 7:00am with no outdoor activity taking place. They note there may be noise from sources not associated with DMAC eg thunder, passing lorries which are occasional. They also set out there may be very occasional sounds from DMAC.

Mr Daniel McShane indicates that without the earlier opening hours DMAC may have problems retaining staff who may move to other organisations that can provide this 4 day week work pattern. This may have an impact on the continued operations of the business at this site.

Following the receipt of the additional noise reports, neighbours were notified and 2 additional letters of objection were received which raise the following points:

- Health Implications
 - World Health Organisation guidelines recommend night time (11pm to 7:00am) exposure to noise is limited to 40dB
 - research indicates that nighttime exposure above 55dB can raised blood pressure and lead to heart attacks, some residents have these conditions
- Noise coming from DMAC every day before they should, as early as 5:30am

In light of the Environmental Health Officers findings and following DMACs changes to the operations and employment of a Compliance Officer, there is the potential for the earlier opening hours to effect the amenity of nearby residents. In the opinion of the Environmental Health Officers, the operations could, at certain times of the year adversely impact on the amenity of the nearby residents. The applicants have indicated they have put in place stringent measures to control noise and activities, they also note there may be very occasional sounds from DMAC site. EH Department has noted noises from the site following these mitigation measures being put in place as such I recommend the proposed extension to the hours of operation is refused.

Refusal Reasons:

1. The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal;
-will not harm the amenities of nearby residents;
-will not create a noise nuisance.

2. The proposal is contrary to paragraph 3.8 of SPPS in that it has not been demonstrated that proposal will not cause harm to interests of acknowledged importance, namely rural character and residential amenity. The proposal could, if granted permission, result in a detrimental impact to residential amenity through impacts from noise, nuisance and general disturbance.





**Development Management Officer Report
 Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0179/F	Target Date:
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm	Location: Lands 70m South of 177 Annagher Road Coalisland.
Referral Route: Recommendation to refuse, objections.	
Recommendation:	Refuse
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent Name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Executive Summary: It has not been demonstrated by the applicant/agent that this proposal will not result in detrimental impacts to residential amenity, especially in the morning time between the hours of 6am and 7am Monday to Friday.	
Signature(s):	

Case Officer Report

Site Location Plan: 01



Representations:

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

Summary of Issues

A number of objections have been received and issues raised include;

- the extension of opening hours would have an adverse affect on health and well being;
- noise that is currently experienced all day long would be extended in the morning time and would have a detrimental impact on peace and private amenity;
- currently already in breach of opening hours (enforcement are aware);
- extended opening hours would result in more noise and fumes from the factory;
- the reason for the condition being added was to protect private amenity, however as applicant has not stuck to this condition and as a result private amenity is currently being adversely impacted.

Description of proposal

This is an application for non-compliance of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Characteristics of site and area

This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage.

The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Planning Assessment of Policy and Other Material Considerations

Planning Act 2011

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

Area Plan

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.

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

Relevant Planning Policy

SPPS- Strategic Planning Policy Statement
PPS21- Sustainable Development in the Countryside
PPS4- Planning and Economic Development

Relevant Planning History

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

Condition 12 of this permission reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

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

An enforcement notice was served on this site for unauthorised breached in planning control and the offender fined 15,000. These buildings have now been removed and this part of land now lies bare with exposed soil. This site also contains drainage for the adjacent DMAC Factory site, and is the subject to two current application where decisions are pending (see below);

-LA09/2019/0838/F- Hobby/Storage shed, porta cabin to be used as a canteen and recreation room, raised flower beds, poly tunnels and car parking associated with Coalisland mens shed club, permission granted 09.03.2021.

-LA09/2018/0943/F- Extension to existing factory premises to provide staff car parking (under consideration- deferred for further consideration).

There is also some current enforcement action on the DMAC site relating to hours of operation and unauthorised chimney flues with associated odour.

3rd Party Objections

A number of objections have been received and issues raised include;

- the extension of opening hours would have an adverse affect on health and well being;
- noise that is currently experienced all day long would be extended in the morning time and would have a detrimental impact on peace and private amenity;
- currently already in breach of opening hours (enforcement are aware);
- extended opening hours would result in more noise and fumes from the factory;
- the reason for the condition being added was to protect private amenity, however as applicant has not stuck to this condition and as a result private amenity is currently being adversely impacted.

Consideration

The applicant wants to amend condition 12 of planning ref M/2011/0126/F, to extend hours of operation from 7am-8pm Mon-Fri to 6am-8pm Mon-Fri. It has been raised by objectors that DMAC may already be in breach of this condition, and this is being investigated by the Planning Enforcement Team.

The reason for the condition is to protect existing residential amenity. Objectors currently complain about noise levels, especially early in the morning. To consider the impacts of noise, nuisance and general disturbance I consulted Environmental Health. On 21st June 19 Environmental Health provided comment stating that commencement of operations would impinge on what is generally regarded as quiet sleeping hours (11pm-7am) where a higher level of protection is afforded to residential amenity to facilitate sleep between these hours. Environmental Health go on to say that two objectors have stated that current noise levels are impacting their amenity and extension of operating hours to 6am would further impact them and for this reason the applicant is required to provide a noise impact assessment and/or mitigation measures to control noise emissions from the premises.

Following on from this the agent then provided a Noise Impact Assessment and on 10.08.2021 Environmental Health provided a response. Environmental Health conclude that the Noise Impact Assessment shows that the impact of amending opening hours to 6am would have an excess of rating noise level over background noise level of +7 dB. BS 4142 states that a difference of +5 dB is likely to be an indication of adverse impact, depending on context, whilst a difference of +10 dB or more is likely to be an indication of significant adverse impact.

Environmental Health conclude that this difference of + 7 dB indicates that variation of the opening hours is likely to impact neighbouring residential amenity.

In response to Environmental Health comments the agent has provided an e-mail to put forward his interpretation of how he envisages this change in opening hours will impact on nearby residents. This e-mail is only his view, and in my opinion should not override the concerns of Council's Environmental Health Department.

In my view, I would have significant concern about allowing the factory to open at 6am. This would mean machines, extractor fans, vehicles, welding, metal work, spraying etc. starting before 7am. Plus employees would be arriving to the site by car before 6am, and would involve the starting and stopping of engines, and the opening and slamming of doors. It is difficult to see how noise, nuisance or general disturbance could be mitigated against so as not to cause detriment to residential amenity, given that current noise levels are found by objectors to be having detriment to their existing residential amenity.

The agent states that only 5 people would be arriving at 6am to turn on machines etc. I am not sure that Council could appropriately control this. A variance of condition can only consider the condition itself, and I am not sure if it would be lawful to control numbers of people attending the site or noise levels, as it is only hours of operation that are being considered.

I find it important to note that there is a pending application for the extension of a staff carpark to the south of the existing DMAC factory. This proposal will involve the cutting through of an existing earth bund that currently acts as a noise buffer to properties to the

south. Should both proposals be granted then this will mean factory noise escaping through a hole in an earth bund, and cars parking closer to where current objectors live. In my view both proposals need to be looked at carefully to consider both scenarios, given the sensitivities currently experienced at the site.

The applicant/agent has been provided with ample opportunity to demonstrate that earlier opening hours would not have a detrimental impact on existing residential amenity and this has not been demonstrated.

I recommend to Members that this application is refused as it will result in detrimental impacts to nearby residential amenity.

Under paragraph 3.8 of SPPS the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. I contend that, on current information before me, that it has not been clearly demonstrated that harm to interests of acknowledged importance (i.e. residential amenity) will not occur. The applicant/agent has been given a fair chance to demonstrate otherwise, and has failed to do so. I advise Members to refuse this proposal. At this time and in absence of any additional information I find the objectors concerns to be determining.

PPS21 Sustainable Development in the Countryside states that there are a range of types of development which in principle considered to be acceptable in the countryside, one is industry and business uses in accordance with PPS4.

Policy PED 9- General Criteria for Economic Development of PPS4 has a number of criteria that have to be met including criteria;

- (b) does not harm the amenities of nearby residents;
- (e) does not create a noise nuisance.

In my view the applicant/agent has failed to demonstrate these points, and that the condition as stands meets the lawful tests of a condition and is necessary to control the impacts of current operations on this site on nearby residential amenity.

The proposal is contrary to SPPS paragraph 3.8, PPS21 policy CTY1 and PPS4 policy PED9 in that it has not been demonstrated that the proposed hours of operation will not have a detrimental impact to existing residential amenity.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission is refused for the following reasons;

Reasons for Refusal:

1. The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal;

-will not harm the amenities of nearby residents;
-will not create a noise nuisance.

2. The proposal is contrary to paragraph 3.8 of SPPS in that it has not been demonstrated that proposal will not cause harm to interests of acknowledged importance, namely rural character and residential amenity. The proposal will, if granted permission, result in a detrimental impact to existing residential amenity through impacts noise, nuisance and general disturbance.

ANNEX

Date Valid	8th February 2019
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Date First Advertised	21st February 2019
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Date Last Advertised	
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Details of Neighbour Notification (all addresses)

The Owner/Occupier,
161 Annagher Road, Coalisland, Tyrone, BT71 4NF
The Owner/Occupier,
172 Annagher Road, Coalisland, Tyrone, BT71 4NF
The Owner/Occupier,
174 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
175 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
175a ,Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
177 Annagher Road, Coalisland, Tyrone, BT71 5DA
Martin Dooey
181 Annagher Road, Coalisland, BT71 5DA
The Owner/Occupier,
181 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
32 Washingbay Road, Coalisland, Tyrone, BT71 4PU
The Owner/Occupier,
36 Washingbay Road Coalisland Tyrone
James Hughes

Date of Last Neighbour Notification	
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Date of EIA Determination	N/A
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ES Requested	No
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Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2021/0480/F Recommendation: Approve	Target Date: 19 May 2021
Proposal: Proposed new dwelling and domestic garage within existing cluster	Location: 75M West Of 11 Grange Road Cookstown
Applicant Name and Address: Mr Paddy Donnelly 65A Lissan Road Cookstown	Agent name and Address: Cmi Planners Ltd 38B Airfield Road Toomebridge BT41 3SG
Summary of Issues: Neighbour Notifications and press advertisement has been carried out in line with the Council's statutory duty. One letter of objection has been received. All other material considerations have been addressed within the determination within the report.	
Summary of Consultee Responses: 	
Characteristics of the Site and Area The application site is identified as lands approximately 75m West of 11 Grange Road, Cookstown, which is identified within the Cookstown Area Plan 2010 as land within the countryside and is not located within any settlement limit. The site is not located within any specific environmental designations. The immediate area, despite being in the rural remainder, experiences a medium levels of development, which includes detached dwellings, agricultural buildings, industrial buildings and a redundant petrol filling station, which is operating as a car washing facility. There are a number of established businesses in close proximity to the site, including Allingham Transport, DBS Building Supplies. The site forms the portion of a grass field that borders the Tullywiggan Road to the west; boundaries comprise of timber fence with low level hedgerow; the south boundary has a post and wire fence abutting a farm laneway; further beyond a small farm shop. The other remaining boundaries to the east and north open onto the field and are undefined. Further east is a small corrugated and timber shed used for keeping horses. The surrounding topography within the site is relatively flat.	

Description of Proposal

Full planning permission is sought for a new dwelling and domestic garage within existing cluster located 75m West of 11 Grange Road, Cookstown.

Deferred Consideration:

This application was presented before the Planning Committee in March 2022 with a recommendation to refuse as it was not considered the site is located at or near a focal point, and the site does not provide a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster. It was agreed to defer the application for an office meeting with the Service Director. At that meeting the agent stated the neighbouring approval to the immediate north would commence on site within 2 weeks so we agreed to hold the application until the approved dwelling was constructed to wall plate level and take a report back to Planning Committee. Although some 22 months have elapsed, and a site visit carried out by me on 25 January 2024 has demonstrated that no development has yet commenced on the ground on the neighbouring approval works do not need to commence until 8 December 2026.

Having carried out a site inspection it is clear the site is in close proximity to Allingham Transport, a commercial business which is based in a significant building in close proximity to the application site and I consider this to be a focal point for the purposes of CTY 2a. For the approval to the immediate north which has not yet been constructed it has been accepted there is a cluster of development at this location, and it does appear as a visual entity in the local landscape. Although there is a lack of landscaped boundaries to provide enclosure a dwelling on this site will not appear as either visually intrusive or prominent in the local landscape. Although the approved dwelling to the north has not yet commenced there is development to the south of the application site in the form of farm buildings. The Grange Road runs alongside the application site on the other side of which there is a mix of dwellings and agricultural fields on the opposite side of that road. A new dwelling on this site will not significantly alter the existing character or visually intrude into the open countryside and development would not adversely impact on residential amenity.

In summary although the application does not strictly adhere to all the criteria in CTY 2a I consider a recommendation to approve can be made based on meeting the overall spirit of a new dwelling in a cluster of development.

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 dwelling hereby permitted shall not be occupied until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow planted on the inside.

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

Condition 3

The vehicular access, including visibility splays and any forward sight line shall be provided in accordance with drawing no 2, rev 2 bearing the date stamp 10 July 2021, prior to the commencement of any works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 4

The gradient of the access 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):Karen Doyle

Date: 21 February 2024



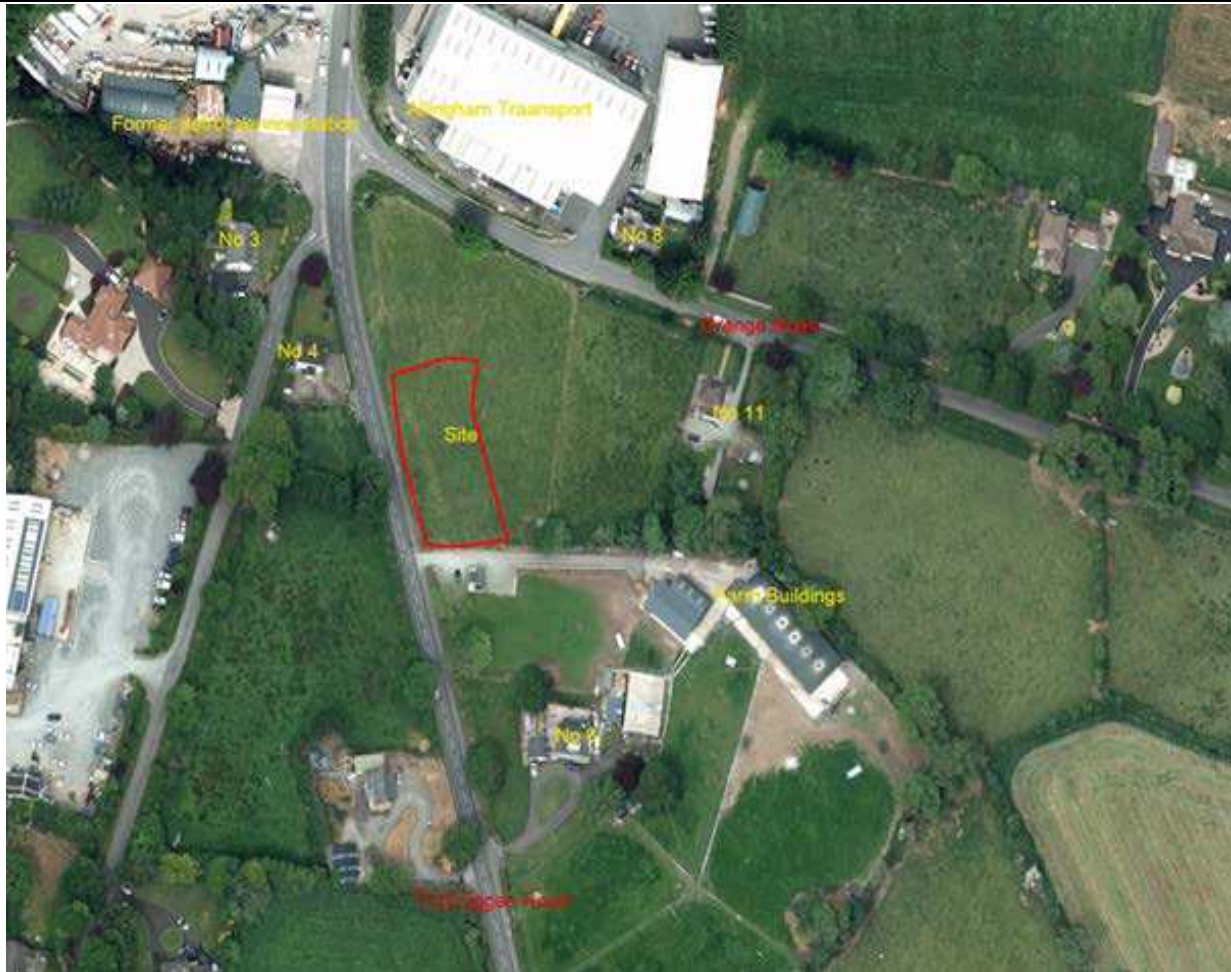
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0480/F	Target Date:
Proposal: Proposed new dwelling and domestic garage within existing cluster	Location: 75m West of 11 Grange Road Cookstown
Referral Route: <ol style="list-style-type: none"> 1. Refusal- Contrary to Policies CTY1 and CTY2a of PPS 21 2. Letter of objection 	
Recommendation:	Refusal
Applicant Name and Address: Mr Paddy Donnelly 65a Lissan Road Cookstown	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
Executive Summary: Neighbour Notifications and press advertisement has been carried out in line with the Council's statutory duty. One letter of objection has been received; all other material considerations have been addressed within the determination within the report.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice

Representations:

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

Summary of Issues

Full planning is sought for a dwelling and garage within an existent cluster in accordance with Planning Policy CTY2a of PPS 21.

Characteristics of the Site and Area

The application site is identified as lands approximately 75m West of 11 Grange Road, Cookstown, which is identified within the Cookstown Area Plan 2010 as land within the countryside and is not located within any settlement limit. The site is not located within any specific environmental designations.

The immediate area, despite being in the rural remainder, experiences a medium levels of development, which includes detached dwellings, agricultural buildings, industrial buildings and a redundant petrol filling station, which is operating as a car washing facility. There are a number of established businesses in close proximity to the site, including Allingham Transport, DBS Building Supplies.

The site forms the portion of a grass field that borders the Tullywiggan Road to the west; boundaries comprise of timber fence with low level hedgerow; the south boundary defined by a post and wire fence which borders a farm lane; further south is a small farm shop. The other remaining boundaries to the east and north open onto the field and are undefined. Further east is a small corrugated and timber shed used for keeping horses.

The surrounding topography within the site is relatively flat.

Description of Proposal

Full planning permission is sought for a new dwelling and domestic garage within existing cluster located 75m West of 11 Grange Road, Cookstown. The proposed dwelling is to provide a two storey detached with a ridge height of 8m; frontage 13m; and a depth of 12m. Full details and external finishes and proposed landscaping are annotated on Drawing Nos 03 and 04 date stamp 24/03/2021.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk

Planning history.

LA09/2019/0891/F - junction of Tullywiggan road and Grange Road, Cookstown for a nw dwelling and garage within existing cluster PG. 21.10.2019

LA09/2020/0421/F - approx. 55m SW of 8 Grange Road, Cookstown - New dwelling and garage within existing cluster. PG 16.09.2020.

LA09/2021/0750/F - proposed new dwelling and garage within an existing cluster. PG 09.12.2021

Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing one objection has been received. This application was initially advertised in the local press on w/c 05/04/2021 (publication date 06/04/2021).

Six (6) notification letters sent on 13/04/2021; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

EIA Determination. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015; the proposal has been considered and does not fit within any categories or threshold identified in Schedule 2 of Environment Impact Assessment.

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, there is no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site.

Consultees.

1.DFI Roads were consulted in relation to access, moving and parking arrangement on 26/072021 and responded on 16/08/2021 no objection subject to standard conditions and Informatives.

Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Cookstown Area Plan 2010 does not contain provided by PPS 21 and the SPPS.

1. Strategic Planning Policy Statement (SPPS);
2. Regional Development Strategy 2035;
3. Cookstown Plan 2010;
4. PPS 3 Access, Movement and Parking & DCAN 15 vehicular Standards;
5. PPS 21 Sustainable Development in the Countryside (CT2a, CTY 13 & 14);
6. Building on Tradition A sustainable design guide for rural NI.
7. MUDC Draft Area Plan 2030

Cookstown Area Plan 2010

The CAP acts as the local development plan for the area the site is located in however there are no provisions in the LDP that are material to the determination of the application.

Regional planning policies of relevance to this application are set out in the Strategic Planning Policy Statement for Northern Ireland (SPPS) and other retained policies, specifically Planning Policy Statement 21 Sustainable Development in the Countryside (PPS 21).

There is no conflict or change in policy direction between the provisions of the SPPS and the retained PPS 21 insofar as it relates to this application. Therefore the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS.

Supplementary planning guidance is found in Building on Tradition. A Sustainable Design Guide for the Northern Ireland Countryside (BOT).

Policy CTY1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The first of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. Other types of development will only be permitted where there are overriding reasons why that development is essential.

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

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

There are a number of dwellings surrounding the site - Nos 3 & 4 are located NW of the site consisting of detached dwellings with roadside frontages; No 8 detached dwelling located north; and No 11 a detached dwelling located NE of the site. Therefore, I am content that it lies outside of a farm and consists of four or more buildings, of which more than three are dwellings.

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

I am content that the site and cluster is able to appear as a visual entity in the local landscape. As I already alluded to the immediate area, despite being in the rural remainder, experiences a medium levels of development, which includes detached dwellings, agricultural buildings, industrial buildings and a redundant petrol filling station, which is operating as a car washing facility.

There are a number of established businesses in close proximity to the site, including Allingham Transport, DBS Building Supplies. I am satisfied the cluster as a visual entity with the surrounding landscape.

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

It is noted the site is not associated with a focal point such as a social / community building/facility, or is located at a cross-roads. However, there is located established industrial bossiness in the vicinity of the site. It is also noted that it is established practice in MUDC that have considered economic development / industrial buildings to represent a focal point within a cluster. It is particularly noteworthy that a site bordering the application was considered to represent development in existing cluster approved under LA09/2019/0891/F

I am of the view that it has been recognised as a cluster in the above application and that a precedent has been established on the basis of development previously approved within an existent cluster.

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

-

Upon review of the submitted plans and from my site observations it is clear that the site's red line does not development on at least 2 of its boundaries.

I acknowledge whilst there is planning approval adjacent to proposed site however in the absence of no construction works site does not represent development.

It is noted that laneways and public roads are not defined as development and cannot therefore be considered material in this application.

The proposal fails the criteria not having other development on at least two sides in the cluster;

I am content that development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and whilst I note that the site does not have other development on at least two of its boundaries and fails this criteria of CTY 2a.

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

Given the proposed location and the separation distance with other residential properties the design and layout of the proposed dwelling I am content that it is unlikely to have an adverse impact on residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a in that it is not bounded on at least two sides with other development in the cluster.

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. Taking into consideration the design and layout I would be content on balance that the dwelling should not appear as a prominent feature in the landscape and that the dwelling and ancillary works would be able to visually integrate into the landscape given the existing landscaping coupled with new landscaping and the land form. In terms of the proposed design I am content that this is acceptable on balance within this rural context.

In terms of Policy CTY 14 that deals with rural character and states that planning permission will be granted where the building it does not cause detrimental change to, or further erode the rural character of the area. As stated I am content that an appropriately designed dwelling will not be

Objection Assessment

A letter of objection from Ross Planning on behalf of a local resident, which was received by MUDC Planning date stamp 05/08/2021.

I have assessed the points raised in the objection and discussed at DM Group meeting. Summary of issues as follows:-

- Site fails Policy CTY2a in that it is not associated with a focal point;
- The applicant does not have control of all lands;
- Lacks integration and does not have other development on at least two boundaries;
- Site acts as a visual break along the Tullywiggan Road;
- Roads issues that no forward distance annotated on plans; and
- The cluster appears as a visual entity in the local landscape;

The agent was made aware that the redline incorporated lands not in his control. This was rectified and amended site location and block plans showing reduced redlines were received.

It is noteworthy the immediate area, despite being in the rural remainder, experiences a medium levels of development, which includes detached dwellings, agricultural buildings, industrial buildings and a redundant petrol filling station, which is operating as a car washing facility.

I am content the site is within existing cluster and as a visual entity in the local landscape.

In terms of road concerns - Roads were consulted and responded having no objection and recommended approval subject to conditions.

I am in agreement with the objector that the site is not bounded on at least two sides with other development in the cluster and fails the policy in this respect.

Other Material Considerations

There are no concerns with regards to flooding, residential amenity or ecology.

The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues faced with COVID19, this period has been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.

Neighbour Notification Checked

Yes

Summary of Recommendation:

1. Refusal- Contrary to Policies CTY1 & CTY2a of PPS 21
2. Letter of objection

Reasons for Refusal:

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not associated with a focal point and the site does not provide a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster.

Signature(s)

Date:

ANNEX	
Date Valid	24th March 2021
Date First Advertised	6th April 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 3 Ardumber Road Cookstown Tyrone The Owner/Occupier, 4 Tullywiggan Road, Cookstown, Tyrone, BT80 8SD The Owner/Occupier, 7 Ardumber Road Cookstown Tyrone The Owner/Occupier, 8 Grange Road Cookstown Tyrone Hayley Dallas 9a, Clare Lane, Cookstown, Londonderry, Northern Ireland, BT80 8RJ Hayley Dallas 9a, Clare Lane, Cookstown, Londonderry, Northern Ireland, BT80 8RJ	
Date of Last Neighbour Notification	13th August 2021
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2018/1604/O Proposal: Renewal of outline planning approval LA09/2015/0798/O for a dwelling and garage Address: 20m North of 8 Tullywiggan Road, Cookstown, Decision: PG Decision Date: 17.09.2019 Ref ID: LA09/2020/0421/F Proposal: New dwelling and garage within existing cluster Address: Approx. 55m SW of 8 Grange Road, Cookstown, Decision: PG Decision Date: 16.09.2020 Ref ID: LA09/2019/0891/O Proposal: Proposed new dwelling and garage within existing cluster. Address: Junction of Tullywiggan Road and Grange Road Cookstown,	

Decision: PG
Decision Date: 21.10.2019

Ref ID: LA09/2021/0480/F
Proposal: Proposed new dwelling and domestic garage within existing cluster
Address: 75m West of 11 Grange Road, Cookstown,
Decision:
Decision Date:

Ref ID: LA09/2015/0798/O
Proposal: Proposed dwelling and garage
Address: 20m North of 8 Tullywiggan Road, Cookstown,
Decision: PG
Decision Date: 09.12.2015

Ref ID: I/1995/6016
Proposal: Proposed site Grange Road, Cookstown
Address: Grange Road, Cookstown
Decision:
Decision Date:

Ref ID: I/1977/0115
Proposal: ERECTION OF 6 NO. BUNGALOWS
Address: ARDCUMBER, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1976/0061
Proposal: ERECTION OF 6 PRIVATE BUNGALOWS
Address: ARDCUMBER, COOKSTOWN
Decision:
Decision Date:

Summary of Consultee Responses

Content

Drawing Numbers and Title

Drawing No. 01 (Rev-1)
Type: Site Location Plan
Status: Submitted

Drawing No. 02 (Rev-1)
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 03
Type: Proposed Plans
Status: Submitted

Drawing No. 04
Type: Proposed Plans
Status: Submitted

Notification to Department N/A

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1672/F	Target Date: <add date>
Proposal: Proposed change of house type and relocation of dwelling and domestic garage from that originally approved under M/2013/0414/F and domestic garage	Location: Approx. 100m North of 34 Ferry Road Coalisland Dungannon
Applicant Name and Address: Mr Patrick And Mrs Lisa Trainor 4 Ferry Road Coalisland Dungannon	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application is for the relocation of a house and garage from the previously approved location. The house is located on a more exposed and visible site, it is much larger than originally approved and the design is not typically rural in appearance. The applicants have been offered the opportunity to amend the design and the location however they have instead provided a revised landscaping scheme and asked that it is conditioned to allow the house to be approved and built.	
Summary of Consultee Responses: DFI Roads - no objection subject to sight line improvements SES – HRA carried out and unlikely to have significant effects on European Designations NIEA – condition consent to discharge for septic tank and requested preliminary ecological assessment (desk top analysis)	

Characteristics of the Site and Area:

The site is located in the rural countryside outside any defined settlement limit designated under Dungannon and South Tyrone Area Plan 2010, approximately 2km southeast of Killeen. Lough Neagh lies approx. 200 – 300m to the north and northeast of the site.

The site in effect comprises two relatively square shaped plots, one larger southwest plot and one smaller northeast plot cut from the same much larger rectangular shaped host field. The larger southwest plot, previously approved for a dwelling and a garage under planning application M/2013/0414/F, comprises the overgrown foundations of a garage and a pre-fabricated modular building in use as a dwelling. The smaller northeast plot is where the current application seeks to relocate the previously approved scheme with a change of house type including garage. The site is set back approx. 450m from and accessed off the Ferry Rd via an existing gravelled laneway. A mix of native hedgerows and vegetation bounds the host field, which sits above the level of the adjacent lough shores. The boundaries of the site within the host field are undefined. The land rises through the site from southwest to northeast as such the smaller northeast plot sits substantially elevated above the larger southwest plot.

Critical views of the site are from the Ferry Rd around its access off the road and on the approach to it from the lane serving it. From these views, the vegetation bounding the host field and land rising within it would provide a dwelling on the lower southwest plot with a sense of enclosure and backdrop. However, from these views a dwelling on the higher northeast plot, as currently proposed, is likely to sit in the skyline and be unduly prominent in the landscape, as it is bound only to one side.

The area surrounding the site is predominantly agricultural land interspersed with detached dwellings, ancillary buildings and farm groups. Significant peat operations exist in the area along the lane leading to the site.

Description of Proposal

This is a full planning application for the proposed relocation and change of house type of a dwelling and garage previously approved and deemed to have commenced on site under planning application M/2013/0414/F.

Planning application M/2013/0414/F on the 14th October 2014 granted permission for a dwelling and garage on a farm in the southwest body of the current site (see Fig 1, below). Works under the aforementioned permissions were to have commenced prior to the 14th October 2019.

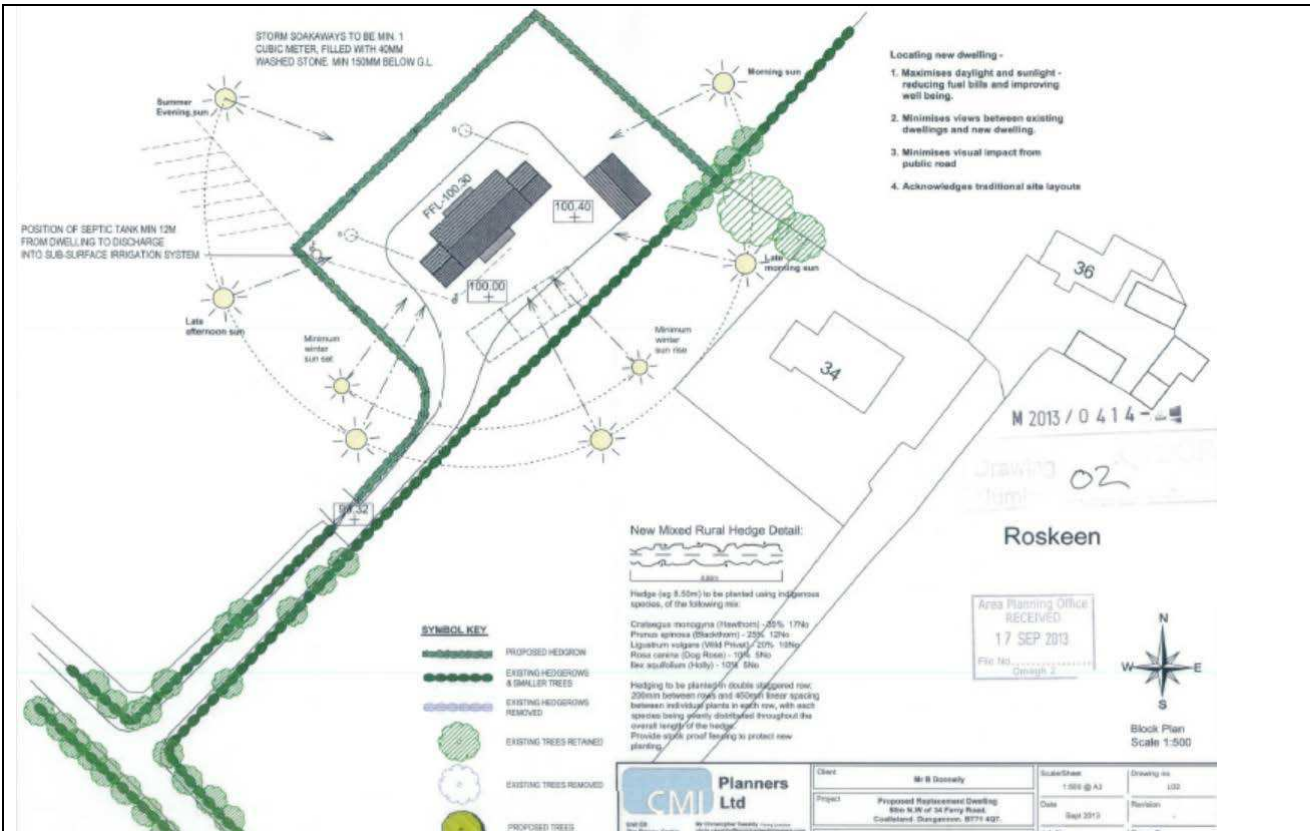


Fig 2: Block plan of dwelling and garage approved under M/2013/0414/F



Fig 3: Elevations of dwelling and garage approved under M/2013/0414/F

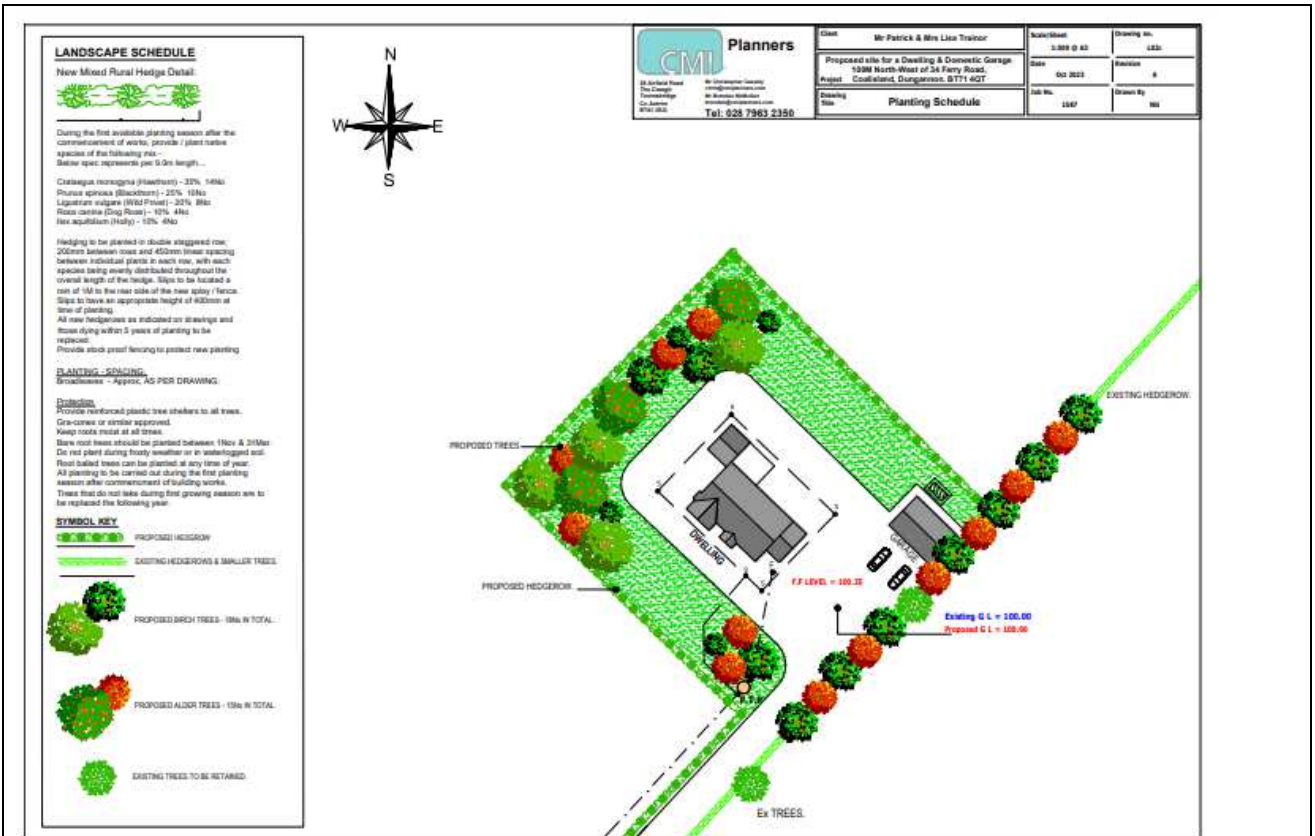


Fig 4: Block plan of dwelling and garage currently proposed, including revised landscaping plan



Fig 5: Floor plans and elevations of dwelling and garage currently proposed

As seen above in Figs 1, 2, 3, 4 & 5 above the previously approved scheme was for a modest single storey dwelling and single storey detached garage whilst the new proposal is for a substantial two-storey dwelling and single storey detached garage. The previous scheme was located in the southwest body of the current site on lower enclosed lands whilst the new scheme is to be located in the northeast body of the current site on elevated open lands.

Deferred Consideration:

This application was before the Planning Committee in July 2022 where it was deferred to allow a meeting with the Service Director and again in November 2023 where it was deferred for a members site visit.

A site visit was conducted on 20 November 2023 and following the visit the applicants were asked to consider revising the siting and design of the proposed dwelling. Recent correspondence from the applicants indicates the wish to have this application decided on the basis of the information currently in front of the Committee.

Members will be aware from the previous report the concerns in relation to the prominent nature of the proposed dwelling and the inappropriate design proposed. The additional landscaping proposed is welcome, however the policy makes it clear that landscaping cannot be used to over come issues in relation to a prominent development.

The proposed dwelling will be prominent in public views and as such it is recommended this application is refused.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and the design of the dwelling is inappropriate for the site and its locality due to its size, scale and massing, and if permitted it would be a prominent feature in the landscape.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside..

Signature(s)**Date:**



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
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Critical views of the site are from the Ferry Rd around its access off the road and on the approach to it from the lane serving it. From these views, the vegetation bounding the host field and land rising within it would provide a dwelling on the lower southwest plot with a sense of enclosure and backdrop. However, from these views a dwelling on the higher northeast plot, as currently proposed, is likely to sit in the skyline and be unduly prominent in the landscape, as it is bound only to one side.

The area surrounding the site is predominantly agricultural land interspersed with detached dwellings, ancillary buildings and farm groups. Significant peat operations exist in the area along the lane leading to the site.

Description of Proposal

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Planning application M/2013/0414/F on the 14th October 2014 granted permission for a dwelling and garage on a farm in the southwest body of the current site (see Fig 1, below). Works under the aforementioned permissions were to have commenced prior to the 14th October 2019.

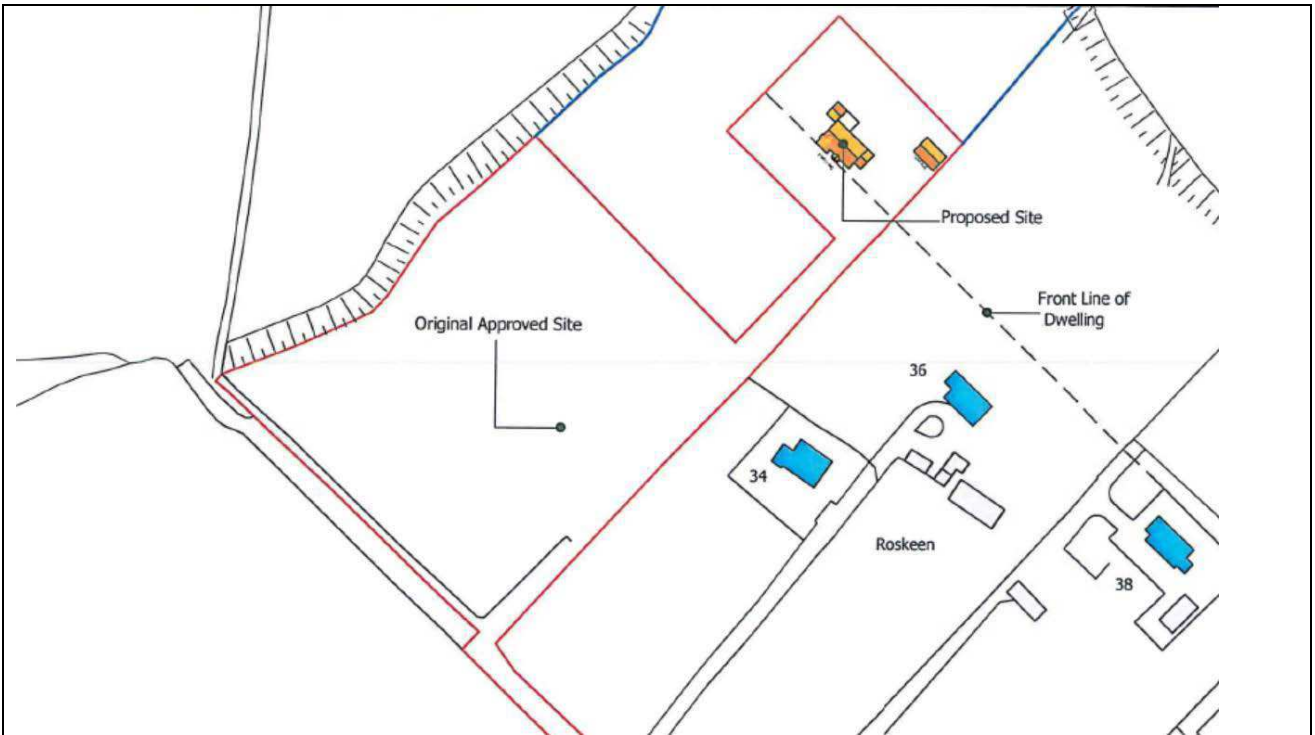


Fig 1: Current site location plan showing approx. location of previously approved dwelling and garage; and location of the change of house type including garage proposed.

Works on site would appear to have commenced in accordance with M/2013/0414/F. The access into the site and foundations of the garage appear to have been put in place within the specified timeframe as approved; and building control confirmed they carried out an inspection of the foundations on the 25th September 2019, as per a Building Control letter and invoice submitted alongside this application.

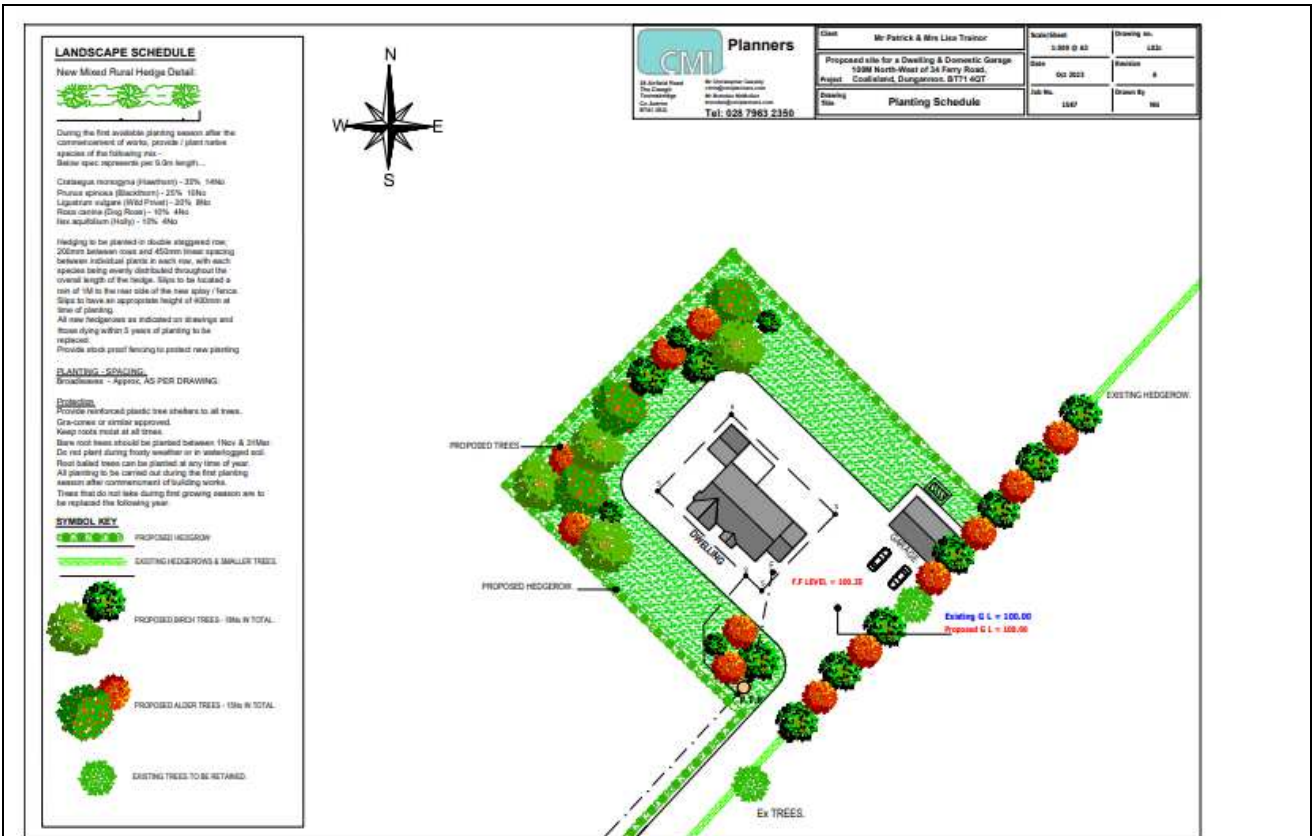


Fig 4: Block plan of dwelling and garage currently proposed, including revised landscaping plan



Fig 5: Floor plans and elevations of dwelling and garage currently proposed

As seen above in Figs 1, 2, 3, 4 & 5 above the previously approved scheme was for a modest single storey dwelling and single storey detached garage whilst the new proposal is for a substantial two-storey dwelling and single storey detached garage. The previous scheme was located in the southwest body of the current site on lower enclosed lands whilst the new scheme is to be located in the northeast body of the current site on elevated open lands.

Deferred Consideration:

This application was before the Planning Committee in July 2022 where it was deferred to allow a meeting with the Service Director. A meeting was held on 16 September and a further site visit was undertaken. At the site visit it was noted roadside vegetation has been removed which further opened up the site to views from the junction with Derryloughan Road and from this location the proposed dwelling would be prominent in the landscape on a local ridge line. Fig 6 shows the proposed dwelling superimposed onto the view from the junction, This view shows how prominent the site is and is a reasonable indication of how the dwelling will appear. It is noted the dwelling, especially in this view, will be divorced from the other buildings here will appear prominent in the landscape.

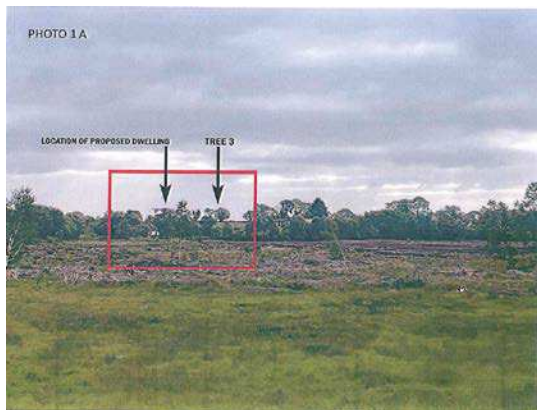


Fig 6 – Site identified and agent has superimposed dwelling in view from Derryloughan Road/Ferry Road junction.

The agent was advised to reduce the dwelling and resite, however additional information was provided about other houses in the immediate area. The dwellings referred to are located to the south east of the application site. as shown in Fig 7 below.

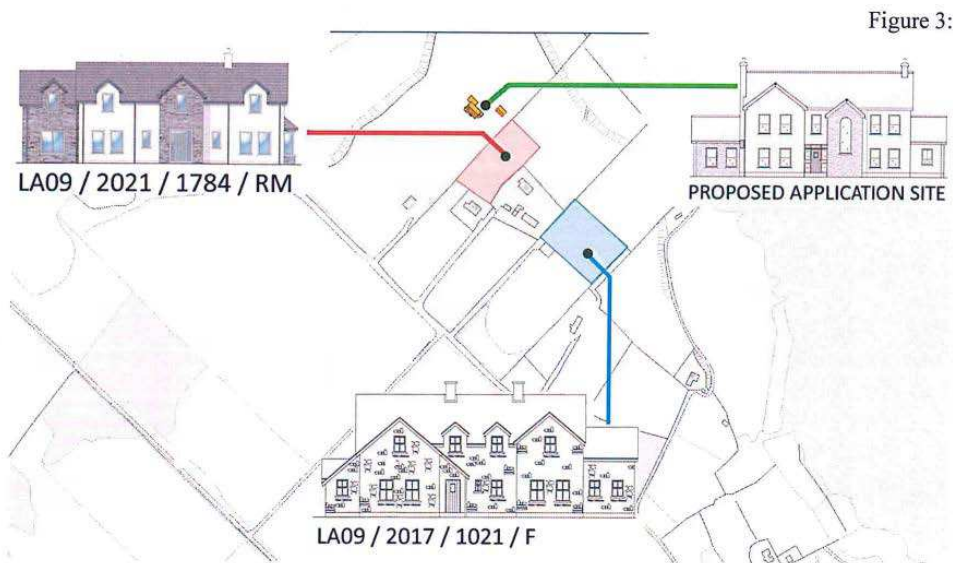


Figure 3:

Fig 7 – other houses approved nearby

At a meeting with Linda Dillon MLA, the applicants and the agent on 16 October 2023, these dwellings were discussed and everyone was advised about how applications are each considered on their own merits. The identified dwellings were assessed in relation to the integration prospects due to existing buildings and vegetation around them and were considered acceptable. The dwelling in blue on fig 7 has been constructed on site, it is lower in the landscape and so well enclosed by vegetation that it is not visible from the public road, the dwelling in red is on a site that is enclosed by vegetation and other buildings. The applicants were requested to revise the proposal and reduce the impact of the dwelling. The agent indicated they would submit a revised landscaping plan and wished to have a decision on the proposal.

Members are advised that CTY13, para 3.59 – 3.64 deal with the issue of integration and that dwellings on top of slope/ridge locations will be unacceptable. It further sets out that new planting alone will not be sufficient and a dwelling on an unacceptable site cannot be integrated by the use of landscaping. The reason for this is the time period that is necessary for landscaping to mature. The proposed dwelling will be prominent in public views as indicated in fig 6 and as such it is recommended this application is refused.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and the design of the dwelling is inappropriate for the site and its locality due to its size, scale and massing, and if permitted it would be a prominent feature in the landscape.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside..

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1672/F	Target Date:
Proposal: Proposed change of house type and relocation of dwelling and domestic garage from that originally approved under M/2013/0414/F and domestic garage	Location: Approx. 100m North of 34 Ferry Road Coalisland Dungannon
Referral Route: Refuse	
Recommendation: Refuse	
Applicant Name and Address: Mr Patrick And Mrs Lisa Trainor 4 Ferry Road Coalisland Dungannon	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	NIEA	Advice

Representations:

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

Description of Proposal

This is a full planning application for the proposed relocation and change of house type of a dwelling and garage previously approved and deemed to have commenced on site under planning application M/2013/0414/F.

Planning application M/2013/0414/F on the 14th October 2014 granted permission for a dwelling and garage on a farm in the southwest body of the current site (see Fig 1, below). Works under the aforementioned permissions were to have commenced prior to the 14th October 2019.

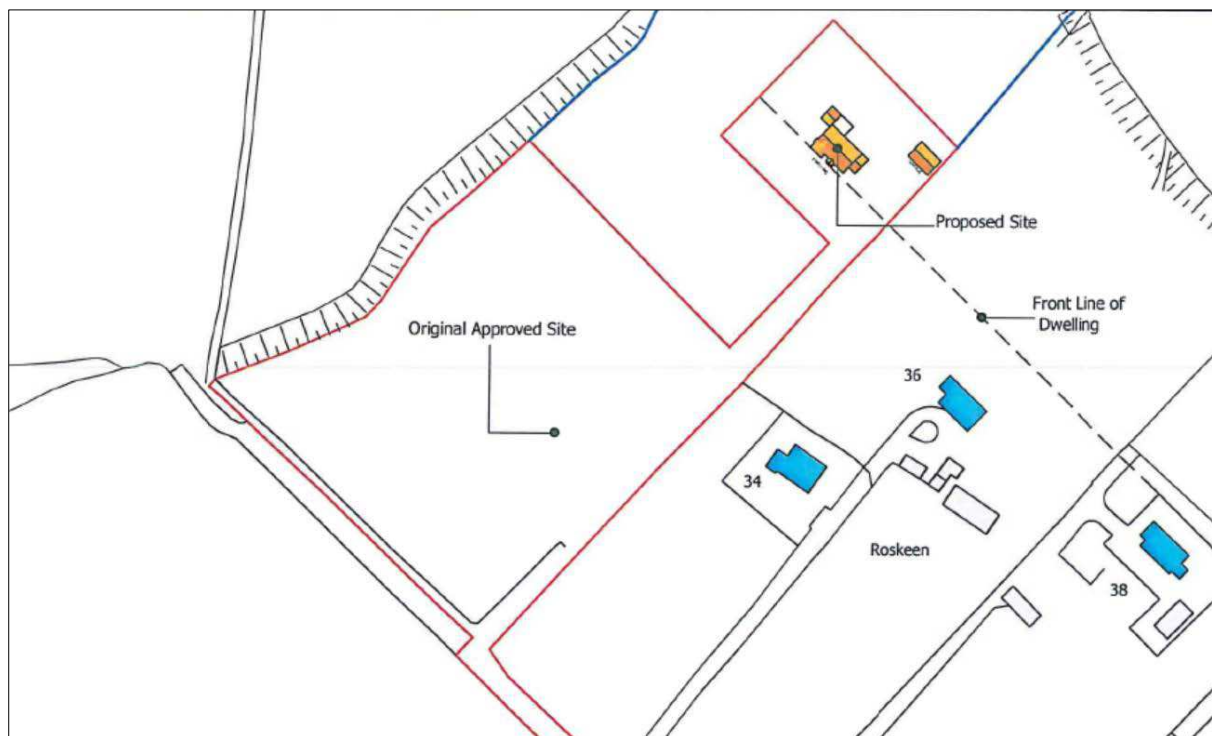


Fig 1: Current site location plan showing approx. location of previously approved dwelling and garage; and location of the change of house type including garage proposed.

Works on site would appear to have commenced in accordance with M/2013/0414/F. The access into the site and foundations of the garage appear to have been put in place within the specified timeframe as approved; and building control confirmed they carried out an inspection of the foundations on the 25th September 2019, as per a Building Control letter and invoice submitted alongside this application.

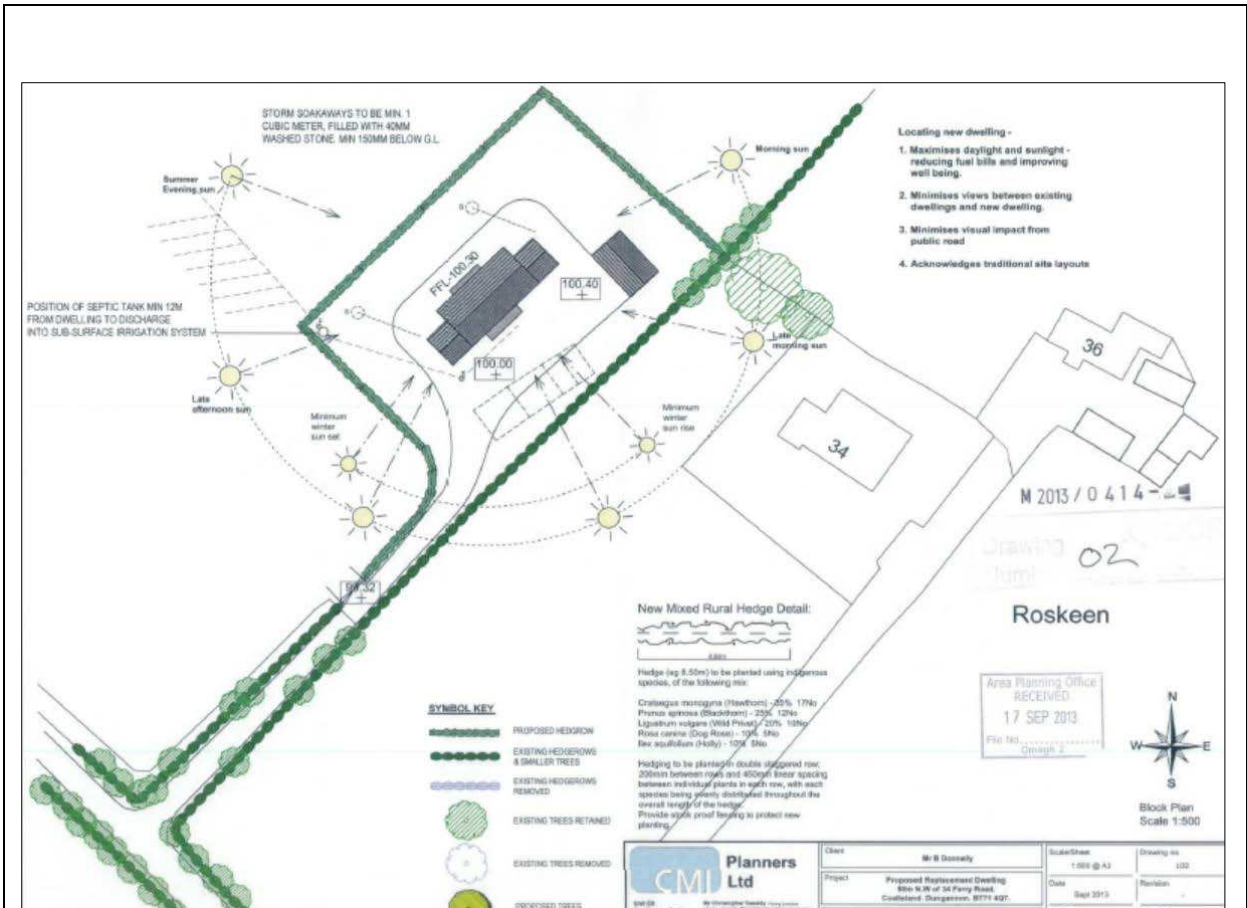


Fig 2: Block plan of dwelling and garage approved under M/2013/0414/F



Fig 3: Elevations of dwelling and garage approved under M/2013/0414/F



Fig 4: Block plan of dwelling and garage currently proposed



Fig 5: Floor plans and elevations of dwelling and garage currently proposed

As seen above in Figs 1, 2, 3, 4 & 5 above the previously approved scheme was for a modest single storey dwelling and single storey detached garage whilst the new proposal is for a substantial two-storey dwelling and single storey detached garage. The previous scheme was located in the southwest body of the current site on lower enclosed lands whilst the new scheme is to be located in the northeast body of the current site on elevated open lands.

Characteristics of the Site and Area

The site is located in the rural countryside outside any defined settlement limit designated under Dungannon and South Tyrone Area Plan 2010, approximately 2km southeast of Killeen. Lough Neagh lies approx. 200 – 300m to the north and northeast of the site.

The site in effect comprises two relatively square shaped plots, one larger southwest plot and one smaller northeast plot cut from the same much larger rectangular shaped host field. The larger southwest plot, previously approved for a dwelling and a garage under planning application M/2013/0414/F, comprises the overgrown foundations of a garage and a pre-fabricated modular building in use as a dwelling. The smaller northeast plot is where the current application seeks to relocate the previously approved scheme with a change of house type including garage. The site is set back approx. 450m from and accessed off the Ferry Rd via an existing gravelled laneway. A mix of native hedgerows and vegetation bounds the host field, which sits above the level of the adjacent lough shores. The boundaries of the site within the host field are undefined. The land rises through the site from southwest to northeast as such the smaller northeast plot sits substantially elevated above the larger southwest plot.

Critical views of the site are from the Ferry Rd around its access off the road and on the approach to it from the lane serving it. From these views, the vegetation bounding the host field and land rising within it would provide a dwelling on the lower southwest plot with a sense of enclosure and backdrop. However, from these views a dwelling on the higher northeast plot, as currently proposed, is likely to sit in the skyline and be unduly prominent in the landscape, as it is bound only to one side.

The area surrounding the site is predominantly agricultural land interspersed with detached dwellings, ancillary buildings and farm groups. Significant peat operations exist in the area along the lane leading to the site.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 21 - Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 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.

Representations

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

Relevant Planning History

On Site

- M/2002/0984/O - Replacement Dwelling House - 100m West of 34 Ferry Rd Coalisland - Withdrawn 1st March 2003 it would appear as there was no justification for it in a countryside policy area; and the dwelling did not meet replacement criteria.
- M/2005/0520/O - One dwelling - 100m West of 34 Ferry Rd Coalisland - Withdrawn 23rd September 2005 it would appear as there was no justification for it in a countryside policy area
- M/2013/0414/F - Farm dwelling and garage - 50m NW of 34 Ferry Rd Coalisland - Granted 14th October 2014
- LA09/2021/0063/CA - Alleged unauthorised modular building - 32 Ferry Road Coalisland - Assessment of enforcement case

Adjacent

- LA09/2020/1443/O - Proposed dwelling on a farm (CTY 10) - Adjacent to 34 & 36 Ferry Rd Dungannon - Granted
- LA09/2021/1784/RM - Proposed dwelling & garage - Adjacent to 34 & 36 Ferry Rd Dungannon - Granted

The above applications relate to lands to the rear of no. 34 Ferry Rd and immediately southeast of where the dwelling and garage under the current application is proposed to be sited. The dwelling approved under the above applications was 1 ¾ storey with a 7.5m ridge height above FFL.

Consultees

1. Dfi Roads were consulted in relation to access arrangements and have raised no objections to this proposal, subject to standard conditions and informatives. Accordingly, subject to these conditions and informatives I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Shared Environmental Services (SES) were consulted in relation to any potential hydrological link from the development to a European site as the site is located within Lough Neagh Ramsar Site; the applicant intends to use a package treatment plant for foul sewage; and both foul & storm drainage is to be taken to an existing open stream boundary.

SES have carried out a Habitats Regulation Assessment (HRA) report responded that having considered the nature, scale, timing, duration and location of the project, concluded it would not be likely to have a significant effect on any European site, either alone or in combination with any other plan or project and therefore an appropriate assessment is not required. In reaching this conclusion, no account was taken of measures intended to avoid or reduce potential harmful effects of the project on any European site. No likely significant effect is predicted due to the scale/nature of the proposed development, the presence of existing development in the vicinity and the quality of the habitat that will be lost to facilitate the proposed development.

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 SES, dated 24th March 2022. This found that the project would not be likely to have a significant effect on any European site.

3. NIEA were consulted in relation to any potential hydrological link from the development to a European site as the site is located within Lough Neagh Ramsar Site; the applicant intends to use a package treatment plant for foul sewage; and both foul & storm drainage is to be taken to an existing open stream boundary.
 - Water Management Unit (WMU) and Inland Fisheries – WMU has considered the impacts of the proposal on the surface water environment and is content with the proposal subject to conditions, any relevant statutory permissions being obtained and the applicant referring and adhering to DAERA Standing advice. Inland Fisheries is content.
 - Natural Environment Division (NED) - Noted no ecological information had been submitted with the application and advised they required further information to fully assess the likely impacts on natural heritage interests. Based on aerial photography and the proposal drawings it appears that the site is likely to contain significant natural heritage interest. NED considers that a Preliminary Ecological Appraisal (PEA) is required to assess the potential impacts. A PEA will provide direction as to whether more detailed and/or targeted surveys should also be carried out. NED notes that the site contains suitable habitat for breeding birds and considers that site vegetation clearance works should not be undertaken during the birdbreeding season (which extends from 1st March to 31st August) unless an appropriate survey has been carried out by a suitably experienced ecologist which confirms the absence of active nests.

With regards NED's response above, I note it was a desk-based response, the lands within the site comprise improved grassland and existing vegetation bounding the site could be conditioned to be retained, should any development be accepted

Consideration

Dungannon and South Tyrone Area Plan 2010 - is the statutory local development plan for the application site. The site is located outside any development limit and the development plan offers no specific policy or guidance in respect of the proposal.

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 Policy CTY1 of PPS21.

I am content the principle of this development, a dwelling and garage, has been established on site through the previous approval M/2013/0414/F and the subsequent commencement of development. As detailed in 'Description of Proposal' further above works on site would appear to have commenced in accordance with M/2013/0414/F. The access into the site and foundations of the garage appear to have been put in place within the specified timeframe as approved (prior to the 14th October 2019); and building control confirmed they carried out an inspection of the foundations on the 25th September 2019, as per a Building Control letter and invoice submitted alongside this application.

The above said with respect to the relocation and design of the dwelling and garage proposed it must still comply with Policies CTY 13 and 14 of PPS 21. CTY 13 states that the proposed development must be able to visually integrate into the surrounding landscape and be of an appropriate design. Policy CTY 14 allows for a building in the countryside where it does not cause detrimental change to or further erode the rural character of the area.

In this instance, I do not believe the site has the capacity to absorb the proposed dwelling in accordance with Policy CTY13 and 14 in that the proposed site has only one established (eastern) boundary and therefore is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. Furthermore, the size, scale, and massing of the dwelling in my opinion is inappropriate for the site and locality and if permitted would be a prominent feature in the landscape when viewed from the surrounding vantage points (see 'Characteristics of the Site and Area') leading to a detrimental change to the rural character of the area.

Whilst the previous dwelling was a low ridge bungalow of modest size and scale on lower more enclosed lands, the proposed dwelling is a substantial 2-storey dwelling (ridge height approx. 8.7m above FFL) on more elevated open lands, which in my opinion would have a significantly greater visual impact when viewed from surrounding vantage points. I would also note that the previously approved scheme was relatively simplistic in design and consistent with simple rural form whereas the new dwelling has two large front projections not considered typical of simple rural form.

Accordingly, the agent was contacted via email on the 12th May 2022 and advised Planning did not consider the design of the dwelling to be consistent with simple rural

form; and that due to its size, scale and location on an elevated and open site it would not integrate and appear prominent in the landscape. The agent was offered the opportunity to submit the following additional information for further consideration within 21 days from the of the email i.e. the 2nd June 2022:

- An amended design showing the size and scale of the property reduced;
- An amended block to show the dwelling moved lower down the field onto lower lands near the position of the previously approved dwelling; and
- A few existing (from a fixed point i.e. on the public road) and proposed spot levels.

To date no additional information for consideration has been received.

Other Policy/Considerations

Whilst the location and design of the dwelling including garage is not considered acceptable I had no concerns regarding it impacting the amenity of any existing or potential (see Planning History LA09/2020/1443/O & LA09/2021/1784/RM) neighbouring properties to any unreasonable degree owing to its location and the separation distances retained.

In addition to checks on the planning portal Historic Environment Division map viewer available, online has been checked and identified no built heritage assets of interest on site or within the immediate vicinity.

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding

The development is under the 15.2m height threshold in the area requiring consultation to Defence Estates relating to Met Office - Radar. The development is located within an area of constraint on wind turbines; the development is not for a turbine.

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

Neighbour Notification Checked	Yes
Summary of Recommendation:	Refuse

Reasons for Refusal:

1. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and the design of the dwelling is inappropriate for the site and its locality due to its size, scale and massing, and if permitted it would be a prominent feature in the landscape.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if

permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/0714/O Recommendation: Approve	Target Date: 19 September 2022
Proposal: Dwelling and domestic garage	Location: 120M SW Of 119 Mullaghboy Road Bellaghy BT45 8JH
Applicant Name and Address: Mr Peter Doherty 22 Viewfort Dungannon BT71 6LP	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: This application was first before members at March 2023 Planning Committee. It was recommended for refusal as it was considered that the proposal was contrary to policies CTY 1, CTY 10 & CTY 13 of Planning Policy Statement 21 in that the site did not visually link with or cluster with an established group of buildings on the farm. Members agreed to defer the application for an office meeting with Dr Boomer which was facilitated. Following a site inspection by myself I am now recommending this application for approval and the justification for this is detailed further in this report.	
Summary of Consultee Responses: There were no new or additional consultations issued to inform this deferred consideration.	
Description of Proposal This is an outline planning application for a dwelling and domestic garage to be assessed under CTY 10	

Deferred Consideration:

This outline application for a dwelling on a farm has been assessed under primarily under policy CTY 10 of PPS 21. Following consultation with DAERA it is accepted that there is an active and established farm for the required period as is set out in policy. No development opportunities have been sold off the holding in the last 10 years and no other farm dwelling has been approved under this farm business number. The main area of contention is the proposed siting of the dwelling and whether or not it is sited to cluster or visually link with an established group of buildings on the farm.

The farm in question is located at 119 Mullaghboy Road, which is approximately 115m to the NE of the application site. The farm group consists of a dwelling and several agricultural outbuildings. There is also a standalone farm building located in the Northern section of the site which is separate from the main farm group.

Having viewed the farm maps submitted with the application as well as carrying out a site inspection it is evident that the most acceptable site in terms of clustering and visual linkage is currently being developed as part of an infill approval. The dwelling was up to roof level on the day I visited the site. The application site is on the closest available land to the main farm group. Whilst a dwelling on the site will not cluster with the farm group, it is my opinion that there is a degree of visual linkage, albeit minimal. Policy CTY 10 is not prescriptive in terms of distances when referring to visual linkage. There is opportunity within the host field to site a dwelling closer to the main farm group however this would result in a dwelling that would be more prominent and less integrated due to the topography of this section of the field.

A dwelling with a ridge height of no more than 6m, sited in the Western portion of the site would be acceptable in terms of integration and rural character and is not at conflict with CTY 10 in terms of visual linkage.

Approval is recommended.

Conditions/Reasons for Refusal:**Approval Conditions****Condition 1**

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

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

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

Condition 2

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

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

Condition 3

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the RS1 form available to view on Public Access.

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

Condition 4

The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level.

Reason: To ensure that the development satisfactorily integrates.

Condition 5

The proposed dwelling shall be sited in the area shaded green as identified on drawing no. 01

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

Condition 6

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

Reason: To ensure the dwelling integrates into the landform.

Condition 7

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 8

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation. -

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

Condition 9

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

Reason: In the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

Signature(s):Karla McKinless

Date: 14 February 2024

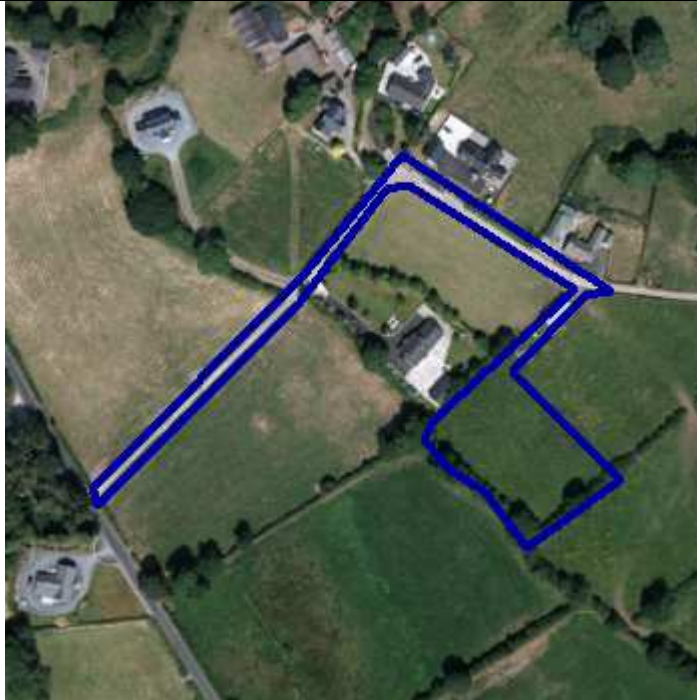


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 March 2023	Item Number: 5.17
Application ID: LA09/2022/0714/O	Target Date: 19 September 2022
Proposal: Dwelling and domestic garage	Location: 120M SW Of 119 Mullaghboy Road Bellaghy BT45 8JH
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Peter Doherty 22 Viewfort Dungannon BT71 6LP	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-0714-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx There is no drawings attached with this application. Upload drawings.

Representations:

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

Summary of Issues

The proposal is contrary to Policy CTY 1, CTY 10 & CTY 13 of Planning Policy Statement 21. The proposed site does not visually link with or cluster with an established group of buildings on the farm.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application site includes a corner portion of a larger agricultural field. Access is taken from a shared laneway with the land rising from the public road in a north eastern direction with the laneway then turning in an eastern direction with the site located south of the laneway. The site itself fall gently in a southern direction. There are strong boundaries on both the northern and southern boundaries with mature trees providing strong screening of the site. The surrounding area is a mix of agricultural land uses with a number of residential dwellings located on this laneway.

Representations

No third party representations have been received in relation to this application.

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

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

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

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

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

(a) the farm business is currently active and has been established for at least 6 years;
(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.

Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

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

DAERA were consulted and confirmed the farm business has been active and established for more than 6 years, therefore I am content that criteria A has been met.

Following a search on the planning system I am content that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With regards criteria C which states that the new building is visually linked or sited to cluster with an established group of buildings on the farm. From the farm maps provided, there is an established group of farm buildings located in and around the dwelling at 119 Mullaghboy Road shown outlined in yellow in the image below which are approximately 116m north east of the application site. There is one single agricultural building, owned by the farm business which is shown highlighted in orange.



The policy relates to an established group of buildings on the farm, and it is clear the established group is located at 119 Mullaghboy Road which a new dwelling should visually link with or be sited to cluster with. Given the topography of the land and the separation distance between this established group and the application site I do not believe there is any visual linkage between the two sites. The buildings outlined in yellow sit at a level lower than the field to the south west, with the land then falling back behind a hill where the proposed site is, therefore there is no visual link between the two sites. When viewed on the laneway there is no clear visual link between the proposed site and the established group.

There is land available within the applicants ownership as shown in blue on the site location map where a site would visually link with the established group of buildings on the farm. No justification has been provided for the alternative site in accordance with policy CTY 10. The agent contends the site visually links with the farm building highlighted in orange and that it is wasn't for the strong mature tree line on the southern boundary of the site, the visual linkage would be there between a dwelling on the proposed site and the established group of buildings shown in yellow. As mentioned given the topography of the site I do not believe there is a visual linkage and the proposed site does not cluster with the established group of buildings on the farm and therefore fails to comply with CTY 10.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, I am content the site could take a single storey dwelling limited to a

ridge height of 6m above finished floor level. Planting should be retained on the existing boundaries which would ensure a dwelling would not be a prominent feature in the landscape and would integrate into the landscape. However, criteria (g) of CTY 13 requires it to visually link with or be sited to cluster with an established group of buildings on the farm and for this reason it fails to comply with CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. I am content a dwelling at this location would not result in a detrimental change to or erode the rural character of the area.

PPS 3 - Access, Movement and Parking:

DfI Roads advised that they have no objection to the proposed development subject to conditions. They also advised that the developer, future purchasers and their successors in title should note that the access way and parking areas associated with this development are, and will remain, private. The DfI Roads has not considered, nor will it at any time in the future consider, these areas to constitute a "street" as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. Responsibility for the access way and parking areas rests solely with the developer.

Other Material Considerations

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually

linked or sited to cluster with an established group of buildings on the farm.

Signature(s): Ciaran Devlin

Date: 22 February 2023

ANNEX	
Date Valid	6 June 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 113 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 111 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 115 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 117 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 110 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 109 Mullaghboy Road Bellaghy Londonderry BT45 8JH</p>	
Date of Last Neighbour Notification	27 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/1993/6054 Proposals: ELECTRICITY SUB-STATION AND 110 KV/33 KV OVERHEAD LINES NEAR BELLAGHY MAGHERAFELT Decision: QL Decision Date:</p> <p>Ref: LA09/2022/1623/F Proposals: Proposed change of house type and relocation of extant planning approved (REF: LA09/2018/1657/F) Two storey dwelling. Curtilage to be extended with garage to remain as previously approved. Decision: PG Decision Date: 17-FEB-23</p> <p>Ref: LA09/2022/0714/O</p>	

Proposals: Dwelling and domestic garage

Decision:

Decision Date:

Ref: H/1994/0432

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1996/0144

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: H/1992/6123

Proposals: SITE OF DWELLING McKENNAS LANE BELLAGHY

Decision: QL

Decision Date:

Ref: LA09/2020/1601/F

Proposals: New dwelling

Decision: PG

Decision Date: 10-MAR-21

Ref: LA09/2020/0501/O

Proposals: Proposed Site for Dwelling and Garage Under CTY 10

Decision: PG

Decision Date: 04-SEP-20

Ref: H/2005/0661/F

Proposals: Replacement two storey dwelling & detached garage

Decision: PG

Decision Date: 19-OCT-05

Ref: H/1978/0245

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: H/1996/6006

Proposals: SITE OF DWELLING MULLAGHBOY ROAD BELLAGHY

Decision: QL

Decision Date:

Ref: H/1987/0399

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG
Decision Date:

Ref: H/1984/0373
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE
Decision: PG
Decision Date:

Ref: H/1980/0139
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE
Decision: PG
Decision Date:

Ref: H/2014/0378/F
Proposals: Replacement dwelling
Decision: PG
Decision Date: 19-JAN-15

Ref: H/2013/0143/F
Proposals: Two storey extensions to the front of existing dwelling and single storey side extension
Decision: PG
Decision Date: 01-JUL-13

Ref: LA09/2016/1380/F
Proposals: Proposed 2 storey farm dwelling
Decision: PG
Decision Date: 09-MAR-17

Ref: LA09/2018/1657/F
Proposals: Proposed two storey dwelling and garage (on a farm)
Decision: PG
Decision Date: 17-MAY-19

Ref: H/1996/0333
Proposals: DWELLING AND GARAGE
Decision: PG
Decision Date:

Ref: LA09/2019/0670/RM
Proposals: Proposed dwelling and garage.
Decision: PG
Decision Date: 25-SEP-19

Ref: H/2004/0403/RM
Proposals: Erection of one no. bungalow and detached garage. (Outline

Ref:H/2001/0188).

Decision: PG

Decision Date: 24-MAY-04

Ref: H/2003/0973/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 04-AUG-04

Ref: H/2003/0211/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 16-APR-03

Ref: H/2003/0238/O

Proposals: Site of dwelling and garage.

Decision: PG

Decision Date: 17-SEP-03

Ref: H/2003/0643/O

Proposals: Site of a Chalet - Type dwelling.

Decision: PG

Decision Date: 31-JAN-05

Ref: H/2005/0211/F

Proposals: Dwelling and garage

Decision: PG

Decision Date: 27-JUN-05

Ref: H/2003/0883/O

Proposals: Site of dwelling.

Decision:

Decision Date:

Ref: H/2004/0552/F

Proposals: Extension to sides and rear of dwelling

Decision: PG

Decision Date: 02-JUL-04

Ref: H/2012/0062/O

Proposals: Proposed two storey farm dwelling with domestic garage

Decision: PG

Decision Date: 01-MAY-12

Ref: H/2011/0364/F

Proposals: Replacement of Existing Two Storied Vacant Dwelling with new 1 1/2 Storey

Dwelling House with Associated Carport and Garage

Decision: PG

Decision Date: 14-NOV-11

Ref: H/1998/0578

Proposals: DWELLING AND GARAGE

Decision: PG

Decision Date:

Summary of Consultee Responses

DAERA - Coleraine-Consultee Response LA09-2022-0714-O.DOCX

DFI Roads - Enniskillen Office-Outline resp.docx There is no drawings attached with this application.

Upload drawings.

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1367/F Recommendation: Approve	Target Date: 23 December 2022
Proposal: Two Storey Dwelling and Garage under CTY2a	Location: Site 10M North Of 56 Quarry Road Knockcloghrim
Applicant Name and Address: Gerard Ward 82 Gulladuff Road Knockloughrim Magherafelt BT45 8QB	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Summary of Issues: <p>This application was first before Members at October 2023 Planning Committee. The proposal was recommended for refusal as it failed to comply with Policies CTY 1 and CTY 2a of PPS 21. It was considered that there was no cluster of development which consisted of 4 or more buildings. Members agreed to defer the application for an office meeting with Dr Boomer. This meeting was facilitated and following a site inspection I am now recommending that the application be approved. The justification for this recommendation is detailed further in this report.</p>	
Summary of Consultee Responses: <p>No new consultations were carried out to inform this deferred consideration. Environmental Health were initially consulted due to the application's close proximity to the local GAC's floodlights. Environmental Health had no objection, subject to conditions. They did note that the applicant should take into consideration that this proposal is located in close proximity to a GAA pitch, and such activities may have a resulting impact upon the amenity enjoyed by the proposal due to noise.</p>	

Description of Proposal

This is a full application for a Two Storey Dwelling and Garage to be assessed under policy CTY2a – Dwelling in a existing cluster.



Deferred Consideration:

This outline application has been submitted for a dwelling in an existing cluster. The main area of contention was that it was considered that there was no cluster of development that consisted of four or more buildings, three of which had to be dwellings. All other clustering criteria was considered to have been met. When this proposal was initially assessed it was noted that there were 2 dwellings approved to the North of the site (LA09/2022/1375/F and LA09/2022/1379/F) but development had not commenced on either of these. As such, there was no substantive cluster consisting of 4 or more buildings.

I have recently carried out a site inspection and the 2 dwellings to the North of the site are substantially built, one to roof level and the other has the roof on and windows installed.

It is my opinion that this cluster now consists of the 2 new dwellings, another existing dwelling further to the North and the GAC building to the immediate south. This constitutes 4 buildings, 3 of which are dwellings. The dwellings to the East of the site are located within the settlement limits and so can not be considered as part of the cluster for the purposes of this assessment. Nevertheless, the site is bound on 2 sides by development. I am also convinced that a dwelling on the site can be considered as a natural rounding off and consolidation of the cluster which is an intention of the policy. A dwelling in this location will have no negative impact on rural character, will be subject to no critical views and has a design which will compliment the adjacent residential development.

There have been no objections to this proposal from any third party.

Approval is recommended subject to the conditions detailed below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

Condition 2

The existing natural screenings of the site shall be permanently 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 3

The vehicular access including visibility splays 2.4 x 90 metres and a 90 metre forward sight distance, shall be provided in accordance with Drawing No.PL 03a bearing the date stamp 09 Sept 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 4

The existing access indicated on Drawing No PL03a bearing the date stamp 09 Sept 2022 shall be permanently closed and the footway / verge properly reinstated to DfI Roads satisfaction within 2 months of the date of approval.

Reason: In order to minimise the number of access points on to the public road in the interests of road safety and the convenience of road users.

Signature(s):Karla McKinless

Date: 14 February 2024

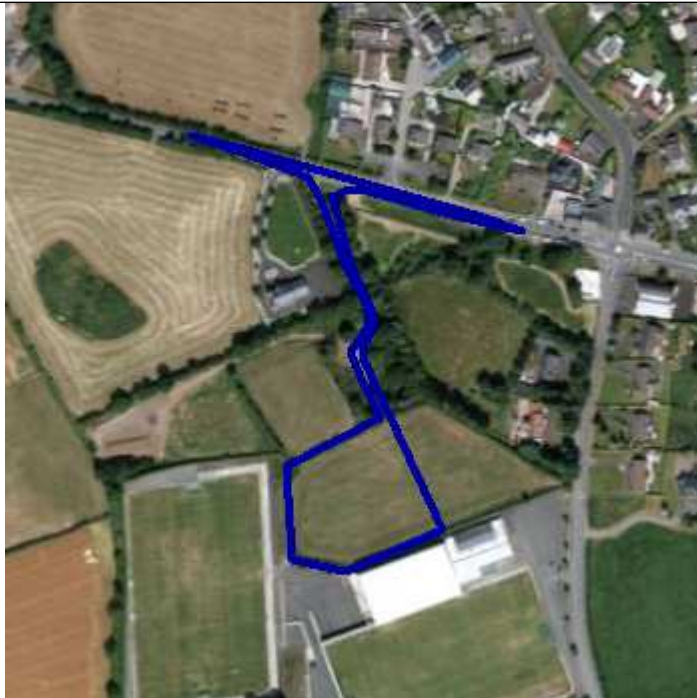


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 3 October 2023	Item Number: 5.6
Application ID: LA09/2022/1367/F	Target Date: 23 December 2022
Proposal: Two Storey Dwelling and Garage under CTY2a	Location: Site 10M North Of 56 Quarry Road Knockcloghrim
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Gerard Ward 82 Gulladuff Road Knockloughrim Magherafelt BT45 8QB	Agent Name and Address: Newline Architects 48 Main Street Castledawson BT45 8AB
Executive Summary: <p>The current application for a proposed dwelling and garage is presented as a refusal as it fails to meet Policy CTY1 and CTY 2a of PPS 21.</p> <p>CTY 1 – This proposal fails to meet 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.</p> <p>CTY 2a – This proposal fails to meet Policy CTY2a of PPS 21 as the site is not located within a cluster of development in the countryside. The cluster does not consist of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-1367-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2022.1367.F.doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	

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 within the open countryside, just outside the settlement limits of Gulladuff as per the Magherafelt Area Plan 2015. The site is identified as 10m North of No. 56 Quarry Road, Knockcloghrim. The proposal site is part of a much larger agricultural field, and cannot be seen from the roadside. Existing boundaries are defined by large, mature trees, and the remaining boundaries are undefined. East of the site lies the settlement of Gulladuff, containing a mix of development, and to the west the lands are predominately agricultural in nature. Immediately south of the site are buildings and playing fields all of which are part of Erins Own Lavey GAC. There is also a training pitch immediately west of the site.

At the time of site visit, in the field to the north of the application site, the top soil had been stripped and diggers were on site.

Description of Proposal

This is a full application for Two Storey Dwelling and Garage under CTY2a. The site is located 10m North of No. 56 Quarry Road, Knockcloghrim.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Eleven neighbour notification letters were issued in relation to this application, however no representations were received.

Relevant Planning History

LA09/2022/1375/F – Change of house type and relocation of previously approved dwelling and garage with new access onto Main Road. Existing access to be permanently closed. Previous Reference H/2013/0025/F. Permission Granted – 16.01.2023.

LA09/2022/1379/F – Change of house type and relocation of previously approved commenced dwelling and garage with proposed new access onto main road. Existing access to be permanently closed. Previous References: H/2013/0068/F + LA09/2018/1351/F. Permission Granted – 16.01.2023.

LA09/2018/1351/F – Renewal of extant planning approval H/2013/0068/F. Permission Granted – 22.01.2019.

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 2a – New Dwellings in Existing Clusters

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 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.

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 a new dwelling in an existing cluster therefore this development must be considered under CTY 2a of PPS 21. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

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 building located south of the site, there are no other buildings bounding the site. Policy CTY 2a requires four or more buildings of which at least three are dwellings. North of the site two dwellings have recently been approved (LA09/2022/1375/F and LA09/2022/1379/F), however at the time of the site visit, these developments had not commenced, and therefore cannot be considered as part of the cluster. Immediately East of the site lies an agricultural field, and further East lie dwellings No. 62 and 64 Quarry Road which are located within the Gulladuff Settlement Limit, and therefore cannot be considered as part of the cluster.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that the size of the proposed dwelling is reflective of the immediate area, and such I am content that the proposed dwelling is unlikely to appear as visually prominent, and given the position and surrounding landscaping is able to visually integrate. I am content that the proposed design is acceptable within this rural context without detriment to neighbouring amenity. As such I am content that the application complies with CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Upon review of the plans, I am content that the proposed dwelling in this location will not cause a detrimental impact to the character of the area and as

such complies with CTY 14.

Other policy and material considerations

I have no flooding, ecological or residential amenity concerns.

Summary of Recommendation:

Refuse is recommended

Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.

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 2a of Planning Policy Statement 21: Sustainable Development in the Countryside as the site is not located within a cluster of development in the countryside. The cluster does not consist of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.

Signature(s): Seáinín Mhic Íomhair

Date: 13 September 2023

ANNEX	
Date Valid	9 September 2022
Date First Advertised	20 September 2022
Date Last Advertised	20 September 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 60 Quarry Road Knockcloghrim Londonderry BT45 8NS</p> <p>The Owner / Occupier 60A Quarry Road Knockcloghrim Londonderry BT45 8NS</p> <p>The Owner / Occupier 49 Gulladuff Road Gulladuff Londonderry BT45 8NT</p> <p>The Owner / Occupier 62 Gulladuff Road Gulladuff Londonderry BT45 8NT</p> <p>The Owner / Occupier 61 Gulladuff Road Gulladuff Londonderry BT45 8NT</p> <p>The Owner / Occupier 64 Gulladuff Road Gulladuff Londonderry BT45 8NT</p> <p>The Owner / Occupier 61 Gulladuff Road Gulladuff Londonderry BT46 5EN</p> <p>The Owner / Occupier 1 Jacksons Drive Gulladuff Londonderry BT45 8NN</p> <p>The Owner / Occupier 2 Jacksons Drive Gulladuff Londonderry BT45 8NN</p> <p>The Owner / Occupier 4 Jacksons Drive Gulladuff Londonderry BT45 8NN</p> <p>The Owner / Occupier 3 Jacksons Drive Gulladuff Londonderry BT45 8NN</p>	
Date of Last Neighbour Notification	20 October 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/1982/0031 Proposals: SOCIAL CLUB Decision: PG Decision Date:</p>	

Ref: H/1994/6082

Proposals: SITE OF 4 DWELLINGS GULLADUFF ROAD KNOCKLOUGHRIM

Decision: QL

Decision Date:

Ref: H/2012/0008/F

Proposals: Proposed extension to existing shop and change of use from existing conservatory to dwelling to storage to shop

Decision: PG

Decision Date: 12-MAR-12

Ref: H/1981/0323

Proposals: SITE OF BUNGALOW

Decision: PR

Decision Date:

Ref: LA09/2021/1540/F

Proposals: Retrospective application for part use of a domestic storage shed for the sale of general builders merchandise.

Decision:

Decision Date:

Ref: H/2002/1011/O

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 19-MAY-03

Ref: LA09/2019/0981/NMC

Proposals: Proposed housing development with 4no. Semi Detached dwellings and private shared access road, Lands between 4 Meadow Villas and 5 Jackson drive.

Repositioning of 4no. Semi Detached dwellings within the approved site.

Decision: CR

Decision Date: 27-AUG-19

Ref: H/1974/0227

Proposals: 11KV AND MV O/H LINES (C.4617)

Decision: PG

Decision Date:

Ref: H/2014/0104/O

Proposals: Proposed dwelling on the farm

Decision: PR

Decision Date: 16-FEB-15

Ref: H/2005/0973/F

Proposals: Replacement Dwelling & Garage

Decision: PG

Decision Date: 07-APR-06

Ref: H/2013/0068/F

Proposals: Change of housetype from previously approved replacement dwelling
H/2005/0973/F

Decision: PG

Decision Date: 11-NOV-13

Ref: LA09/2018/1351/F

Proposals: Renewal of extant planning approval H/2013/0068/F

Decision: PG

Decision Date: 22-JAN-19

Ref: H/2013/0025/F

Proposals: Erection of 1 no. single storey dwelling with attic conversion and garage

Decision: PG

Decision Date: 02-JUL-13

Ref: H/2006/0235/O

Proposals: Site of New Dwelling & Garage.

Decision: APPUH

Decision Date: 15-MAY-08

Ref: LA09/2016/0966/PAD

Proposals: Mixed use application of both residential and commercial use

Decision: PAD

Decision Date: 04-OCT-18

Ref: H/2000/0547/O

Proposals: Site of Dwelling and Garage

Decision: PR

Decision Date: 05-APR-01

Ref: H/2002/0883/RM

Proposals: Dwelling & Garage

Decision: PG

Decision Date: 19-NOV-02

Ref: H/2007/0484/F

Proposals: Retrospective change of access and driveway including pillars and gates at roadside.

Decision: PG

Decision Date: 11-JUN-09

Ref: H/2003/0542/F
Proposals: Dwelling and garage.
Decision: PG
Decision Date: 10-FEB-04

Ref: H/2012/0463/F
Proposals: Multi-sports outdoor skills alley
Decision: PG
Decision Date: 04-FEB-13

Ref: H/1994/0010
Proposals: RELOCATION AND IMPROVEMENT OF ACCESS
Decision: PG
Decision Date:

Ref: H/1997/0111
Proposals: NEW FLOOD LIGHTING AT EXISTING PLAYING FIELDS
Decision: PG
Decision Date:

Ref: H/2007/0696/F
Proposals: Alterations to existing building incorporating single storey front and side extensions to existing club building, to include fitness suite, family activity room, wc's, plant, storage and outdoor play area. Also triple height indoor sports hall with 4no additional basement changing rooms, storage and wc's and site works comprising of the realignment of the existing playing field and spectators terracing area and including revised parking arrangements and fencing to the site frontage.
Decision: PG
Decision Date: 16-JUN-08

Ref: H/1998/0449
Proposals: NEW PLAYING FIELD AND NEW FLOODLIGHTING, GENERATOR AND PERIMETER FENCE
Decision: PG
Decision Date:

Ref: H/1979/0366
Proposals: HV O/H LINE (BM 3066)
Decision: PG
Decision Date:

Ref: LA09/2022/1367/F
Proposals: Two Storey Dwelling and Garage under CTY2a
Decision:
Decision Date:

Ref: LA09/2022/1375/F

Proposals: Change of house type and relocation of previously approved dwelling and garage with new access onto Main Road. Existing access to be permanently closed. Previous Reference H/2013/0025/F

Decision:

Decision Date:

Ref: LA09/2022/1379/F

Proposals: Change of house type and relocation of previously approved commenced dwelling and garage with proposed new access onto main road. Existing access to be permanently closed. Previous References: H/2013/0068/F + LA09/2018/1351/F.

Decision:

Decision Date:

Ref: H/2000/0048/Q

Proposals: Site For Residential Development

Decision: ELR

Decision Date: 15-AUG-00

Ref: H/1995/6040

Proposals: SITE OF RETIREMENT DWELLING GULLADUFF ROAD GULLADUFF

Decision: QL

Decision Date:

Summary of Consultee Responses

NI Water - Single Units West-LA09-2022-1367-F.pdf

DFI Roads - Enniskillen Office-Full Resp.docx

Environmental Health Mid Ulster Council-LA09.2022.1367.F.doc

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-

Drawing Numbers and Title

Site Location Plan Plan Ref: PLI01

Site Layout or Block Plan Plan Ref: PL03a

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2023/0025/F Recommendation: Approve	Target Date: 24 April 2023
Proposal: Retention of existing shed for mix of domestic storage and agricultural machinery	Location: Adjacent to 26A Brookmount Road Ballinderry Bridge Cookstown
Applicant Name and Address: Francis Rocks 26A Brookmount Road Ballinderry Bridge BT80 0BB	Agent Name and Address: Manor Architects Ltd Stable Buildings 30A High Street Money more BT45 7PD
Summary of Issues: <p>This application was first before Members at August 2023 Planning Committee. It was recommended for refusal as the proposal was considered to be contrary to Policies CTY 1, CTY 12 and CTY 13 of PPS 21. It was argued that the farm business was not active and established, it wasn't necessary and that the scale of the development would have a negative impact on rural character. Members agreed to defer the application for an office meeting, which was facilitated. Following the submission of revised information and after carrying out my own site inspection I am recommending this application for approval. Justification for this revised recommendation is detailed further in this report.</p>	
Summary of Consultee Responses: <p>No new consultations were issued to inform this deferred consideration.</p>	
Description of Proposal <p>This is a full planning application. It was initially submitted for the retention of an agricultural shed to store machinery. During the deferred process the description was amended to the retention of an existing shed for a mix of domestic storage and agricultural machinery. This</p>	

revised description was re-advertised and all relevant third parties were notified of the change.





Deferred Consideration:

The main areas of contention with this application centre around whether the farm business can be considered active and established, whether the shed is considered necessary along with the scale of the existing building and its impact on rural character.

Policy CTY 12 of PPS 21, which deals with agricultural buildings, requires there to be an active and established agricultural holding. The applicant has a farm business ID which was allocated on the 26th April 2005. DAERA have confirmed that this is correct and that it is a dormant category 1 number. This "dormant" categorisation only means that it has not been used to makes claims of the land in the last 5 years. I am satisfied that as the applicant was allocated a farm business ID in 2005 that the farm business has been established for the required 6 year period. The applicant has submitted 2 "affidavits" which in effect are signed conacre agreements and are not affidavits signed off by a solicitor. Notwithstanding their description as "affidavits", these are typical of the signed conacre agreements we regularly accept as evidence that the farm is currently active (ie) being farmed by another farmer. At the office meeting the applicant also advised that he also helps keep his land in good agricultural condition which is why he owns a tractor, link box and rotavator. For the purpose of the policy test, I am satisfied that the active and established test has been met.

At the deferred office meeting the applicant was asked specifically about what the shed was used for. He explained that it was used for the housing of some farm machinery which he used to keep his land in good agricultural condition, along with the storing of some domestic items. I have since carried out a site inspection in which I requested to see inside the building and I would agree that the shed is being used for those purposes. On the day of my site visit the shed was being used for no other purposes. For this reason a revised description was sought which more accurately reflects the use of the shed. The use of this shed goes some way to explaining why it is necessary for the efficient use of the holding, as is another policy test of CTY 12. As a standalone agricultural shed, the level of farming carried out by the applicant may not justify a shed of this size, however as it also has a domestic element, it is not unreasonable to require this size of building. As I have been inside the building I can confirm that it houses a car and many other domestic items which require storage outside of the dwelling house. Also, material

to this element of the assessment is the fact that approval was granted for a replacement domestic shed on this site under LA09/2021/0011/F. The building subject to this application is located at the same location within the yard as the previous approval, however it has a larger footprint. This would indicate that a domestic storage use has already been considered acceptable at this location.

In terms of Policy CTY 12 which requires an agricultural building to be necessary for the efficient use of the holding, it is my opinion that as the building is only in part being used for the purposes of agriculture (ie) storing machinery for the up keep of the land, then I accept that there is no major conflict with the policy and it is necessary for the use of the holding.

The scale of the building and its impact on the character of the area was a concern raised by the previous case officer. It was considered that its scale was not merited as the shed was not deemed necessary for the efficient use of the holding. As I now consider it necessary to store both agricultural and domestic items, then the scale of the building is considered more generally. The building proposed has a floorspace of 181sqm and a ridge height of approx. 7m. In comparison to standard agricultural buildings throughout the district, this is typical in scale, massing and design. It is not much bigger than what was previously approved on the site. It is set back of the public road and it sits on land that is slighter higher than the applicants dwelling. The photograph in the site characteristics section above shows it in context when viewed from the public road and in my opinion its scale and impact on rural character is not concerning. It will have no impact on residential amenity by way of overshadowing, loss of light, dominance, loss of privacy or unacceptable odours or noise. As such, it is my opinion that there is no conflict with Policy CTY 13.

Since this application was last before Members, 1 further objection has been submitted on 23rd Nov 2023. Issues raised by the objector centre on scale and massing, which I have addressed above, agricultural justification, which have addressed above and non-compliance with the previous approval. Members should note that this retrospective application has been submitted on the back of an enforcement case (LA09/2021/0195/CA) and if Members are minded to approve, the Enforcement Team will review its status. There are no material planning issues raised by the objector which would merit the refusal of this application.

It is therefore recommended that Members approve this application subject to the conditions referred to below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

Reason: This is a retrospective application

Condition 2

The building hereby approved shall be used only for a mix of domestic and agricultural storage and not for the keeping of livestock or any other use.

Reason: In the interests of Natural Heritage and to protect residential amenity

Signature(s):Karla McKinless

Date: 19 February 2024



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 August 2023	Item Number: 5.5
Application ID: LA09/2023/0025/F	Target Date: 24 April 2023
Proposal: Retention of Agricultural Shed to store machinery	Location: Adjacent to 26A Brookmount Road Ballinderry Bridge Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Francis Rocks 26A Brookmount Road Ballinderry Bridge BT80 0BB	Agent Name and Address: Manor Architects Ltd Stable Buildings 30A High Street Moneymore BT45 7PD
Executive Summary: <p>The proposal has been assessed against under all relevant policy including the Cookstown Area Plan, SPPS, PPS 21, PPS 2 and PPS 3. It is my opinion that the proposal fails to comply with PPS 21 policy CTY 12 in that it has not been demonstrated that the development is on an active and established agricultural holding. The agent contends that the landowner rents fields out on conacre, but no evidence has been provided by way of a conacre agreement and this has been requested previously.</p> <p>The agent also contends the building is to store agricultural vehicles & machinery used for the maintenance and upkeep of field boundary hedgerows, fences & gates. However, it is my opinion that the building larger than what is required for this work. There was a previous approval granted on the site for a domestic shed however, this shed was built instead and is of a larger scale. This application has been made retrospectively to retain the shed built without planning permission. An enforcement case is currently live on the site, with enforcement proceedings on hold pending the outcome of this planning application, as if this application was approved it would rectify the breach.</p> <p>Two letters of objection have been received from one neighbour and have been considered fully in the body of this report and consultee advice sought where necessary.</p>	

Points raised in the objections relate to the scale of the building, the proposed use of the building not relating to agricultural use, drainage arrangements including discharge to a nearby watercourse and health and safety issues regarding the laneway.

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0025-F.DOCX
Non Statutory Consultee	Rivers Agency	75584 - Final Response.pdf
Non Statutory Consultee	NIEA	PRT LA09-2023-0025-F.PDF
Non Statutory Consultee	NIEA	PRT LA09-2023-0025-F.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Full response.docxDC Checklist 1.doc

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

Two letters of objection received. The proposal is contrary to policy CTY 1, CTY 12 & CTY 13.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits and outside any other designations as per the Cookstown Area Plan 2010. The red line of the application site includes part of an existing shared laneway which extends south from Brookmount Road until it meets the site of the building which is located in an existing yard to the rear of 26A Brookmount Road. At the time of the site visit the building was completed with the top of the building finished with metal cladding and block work with smooth render on the bottom half of the building. The yard is relatively flat with the existing shared laneway located adjacent to the southern boundary and travelling west, with the lane rising to a level above the ground level of the building. The southern boundary was defined by a post and wire fence with a low level wall being built at the corner of the laneway. The northern boundary is defined by an existing mature laurel hedgerow with the western boundary defined by a post and wire fence. The surrounding area is rural in nature with the predominant land use being agricultural fields and dispersed dwellings.

Description of Proposal

This is a full planning application for the retention of Agricultural Shed to store machinery

Site History

LA09/2021/0011/F- Replacement shed Adjacent To 26A Brookmount Road Ballinderry Bridge. Permission Granted 4th March 2021.

This shed was approved with the condition that the shed shall be used only for purposes ancillary to the residential use of the dwelling known as No.26a Brookmount Road.

Below is an image of the previous approval and another image shown the building on site at the time of the site visit. The building subject to this application is located at the same location within the yard as the previous approval, however it has a larger footprint.



Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010
 Strategic Planning Policy Statement (SPPS)
 PPS 21: Sustainable Development in the Countryside
 PPS 2: Natural Heritage
 PPS 3: Access, Movement and Parking

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, with regards to determining if the agricultural holding is active and established as set out within Policy CTY 10, DAERA responded to a consultation response after a P1C form was submitted to confirm that the Business ID was established in April 2005 but it has since been closed because it has no agricultural activity for the last five years. The agent then provided a statement of case in which he advised the applicant does not currently use the land for agricultural activity but instead hires it out to two other farmers (David Porte & Andrew Paterson) under conacre. They state further that under this agreement the applicant is obliged to maintain the boundaries, fences and gates and this building is to store the machinery needed. However, no evidence of the conacre agreement was provided to indicate that the business has been active and established for the last 6 years. The agent was asked for evidence of this conacre agreement on 7th June and nothing has been received to date. From this the proposal is contrary to Policy CTY 12 in that it has not been demonstrated the farm holding is active and established.

Although it hasn't been demonstrated that the farm holding is active and established the proposal will be further assessed under Policy CTY 12.

Regarding the policy requirement stating it should be necessary for the efficient use of the holding, following internal group discussions I believe the building on site is not necessary. The agent has stated its purpose is for the storage of agricultural vehicles and machinery used for the maintenance and upkeep of field boundaries and hedges on the farm holding. The farm maps provided (which aren't up-to-date as no single farm payment has been claimed so up-to-date farm maps are not provided by DAERA) show the holding being a modest 8.2hectare and no evidence of the machinery has been provided to justify a building of this size. It should be noted that the previous approval for a domestic shed with a footprint of 132sqm with the new building measuring 181sqm with the ridge height measuring similar to what was approved.

In terms of the character and scale of the building I am not satisfied it is appropriate for its location given the applicant hasn't justified the need for the building to be this large and it is not located on an active and established farm holding, it is therefore contrary to criteria B.

With regards to the building visually integrating, the building is visible when travelling north western on Brookmount Road however given how far it is set back from the road I am content it will integrate. Additional planting would be required on the southern and

western boundaries which has not been shown on the plans but could be addressed by way of a condition.

With regards to the impact on natural or built heritage the objector raised concerns regarding the development a trench being dug and pipes laid running in the direction of a watercourse. NIEA were consulted as a result of these comments and responded to state, "Water Management Unit note the letter of objection and advise that NIEA do not consent storm water discharges to the environment but do, where appropriate, consent discharges of effluents and potentially contaminated site drainage generated during construction or due to the activity taking place at the site." The applicant must refer to and adhere to relevant precepts in DAERA Standing Advice Discharges to the Water. They also stated Discharge to Consent may be required for the development. I am content as NIEA did not raise any planning concerns that the development will not have an adverse impact on the natural or built environment.

In terms of any impact on neighbouring amenity I am content that the proposal is far enough removed from any third party dwellings as to avoid any nuisance. The objector raised concerns regarding the use of the building was not for agricultural purposes but this can be dealt with by way of a planning condition should the application be approved to ensure it is only used for the storage of agricultural machinery and no livestock or business operations should take place in the premises.

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.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. As previously mentioned, I am content the building integrates into the landscape but does require additional planting however does not rely solely on this new planting in order to integrate. As previously mentioned, I am not satisfied the design of the building is appropriate for the site and its locality as it is a large building and a strong enough case has been put forward justifying the need for a building of this size. As such fails to comply with CTY 13.

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.

PPS 3: Access, Movement and Parking

DFI Roads development control offer no objection to the above mentioned proposal on the condition that it is constructed and maintained to that detailed on plan No 02. The vehicular access is existing and sight visibility lines of 2.4 x 60m are insitu and in place, to be maintained.

Other Material Considerations

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that; there is an active and established farm holding, the building is necessary for the efficient use of the agricultural holding and in terms of character and scale it is not appropriate to its location.

Reason 3

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that in terms of character and scale it is not appropriate to its location.

Signature(s): Ciaran Devlin

Date: 7 July 2023

ANNEX	
Date Valid	9 January 2023
Date First Advertised	14 March 2023
Date Last Advertised	24 January 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 26A Brookmount Road Cookstown Londonderry BT80 0BB</p>	
Date of Last Neighbour Notification	3 March 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2023/0025/F Proposals: Replacement Agricultural Shed Decision: Decision Date:</p>	
<p>Ref: I/1977/0095 Proposals: BUNGALOW Decision: PG Decision Date:</p>	
<p>Ref: I/1977/009501 Proposals: ERECTION OF FARMHOUSE BUNGALOW. Decision: PG Decision Date:</p>	
<p>Ref: I/1999/0641/F Proposals: Extension to dwelling to provide seperate accommodation. Decision: PG Decision Date: 04-MAY-00</p>	
<p>Ref: LA09/2021/0011/F Proposals: Replacement Shed</p>	

Decision: PG
Decision Date: 04-MAR-21

Ref: I/2005/0047/F
Proposals: Proposed single storey dwelling & domestic garage.
Decision: PG
Decision Date: 15-MAR-05

Ref: I/2004/0432/RM
Proposals: Proposed Domestic Dwelling & Garage
Decision: PG
Decision Date: 17-JUN-04

Ref: I/2003/1042/O
Proposals: New Dwelling
Decision: PG
Decision Date: 21-JAN-04

Ref: I/2004/0675/O
Proposals: Proposed dwelling & domestic garage
Decision: PG
Decision Date: 29-SEP-04

Summary of Consultee Responses

DAERA - Coleraine-Consultee Response LA09-2023-0025-F.DOCX
Rivers Agency-75584 - Final Response.pdf
NIEA-PRT LA09-2023-0025-F.PDF
NIEA-PRT LA09-2023-0025-F.PDF
DFI Roads - Enniskillen Office-Roads Consultation - Full response.docxDC Checklist
1.doc

Drawing Numbers and Title

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

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	
Case Officer: Phelim Marrion	
Application ID: LA09/2023/0251/F	Target Date: 20 June 2023
Proposal: Proposed 2 storey dwelling with 1 1/2 storey garage attached via carport	Location: 50M East of No.55 Killycanavan Road Dungannon, Ardboe
Applicant Name and Address: Eugene Devlin 55 Killycanavan Road Ardboe BT71 5BP	Agent Name and Address: No Agent
Summary of Issues: This application is for a dwelling in a gap site. The gap is off a private lane to a 2 storey farm house and farm complex. There is a bungalow at the end of the lane with a frontage to the lane, previous concerns about the dwelling being prominent have been addressed by reorienting the dwelling with the 2 storey element beside the 2 storey dwelling and single storey portion towards the bungalow.	
Summary of Consultee Responses: DFI Roads – no objections, access sight lines in placed to be retained	
Characteristics of the Site and Area: The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approximately 2.2km southeast of Ardboe and 0.8km west of Lough Neagh.	

The site is a square shaped plot comprising a flat agricultural field set back from, and accessed off, the Killycanavan Road via a short length of lane. The site, which fronts north onto the lane serving it, sits within a line of existing development accessed off and running along the south side of the lane including no. 55 Killycanavan Road (a two storey dwelling with ancillary farm buildings running to its rear / south and west) located immediately to the west of the site; and no. 55a Killycanavan Road (a single storey dwelling with a large shed to its rear / south and a couple of smaller sheds to its west side) located immediately east of the site. The site is bound to its north, west and south by post and wire fencing and low hedging. The remaining east boundary is defined in part by the sheds ancillary to 55a Killycanavan Road and in part by close boarded fencing enclosing the curtilage of another single storey dwelling bounding the site, no. 55b Killycanavan Road located just south of no. 55a. Views of the site will be open from the Killycanavan Road on the northwest approach to its access off the Killycanavan Road due the flat topography of the area and the vegetation within the vicinity of the site and bounding it being relatively low. Views of the site are screened on the northeast approach from the Killycanavan Road due to existing development adjoining and in the wider vicinity screening it screening it. The area surrounding the site is rural in character comprising relatively flat agricultural landscape typical of the Lough shores interspersed with single dwellings, ancillary buildings, and farm groups.

Description of Proposal

This is a full planning application for a 2-storey dwelling with a 1 ½ storey garage attached via carport to be located on lands 50m east of no.55 Killycanavan Road Dungannon Ardboe.

Deferred Consideration:

This application was before the Planning Committee in December 2023 where it was deferred for a meeting with the Service Director for Planning. Following the meeting on 14 December 2023 and a subsequent site visit, the applicants have provided amended plans showing the house reorientated with the 2 storey hipped roof element beside the existing 2 storey dwelling.

Members will recall from the previous report this relates to a dwelling up a private lane. The principle of the gap site has been accepted as private lanes can also be taken into account in CTY8 and the bungalow and garage to the west have a frontage to the lane as have the 2 storey dwelling and farm complex to the east. The issue was the design of the house and its prominent nature in the gap. A revised plan has been submitted which shows the house reorientated on the site, the 2 storey element sits beside the existing 2 storey dwelling and the lower portion towards the bungalow. I am of the opinion this reflects the scale of the adjoining development and would not become a prominent feature in the ribbon. The hipped roof element is not typical of dwellings in the locality. That said on the opposite side of the lane is a bungalow which has a gable fronting the road and a hipped roof to the end away from the road. This creates an L-shaped footprint with gables at the 2 ends and the L and a hip at the corner where both parts meet (Fig 1).



Fig 1. Bungalow opposite with gable and hipped roof

The proposed dwelling is also beside a farm complex which has a mix of rooflines and types. For these reasons I do not consider the hipped roof would be out of character in this location.

DFI Roads have advised the existing access onto the public road has sightlines of 2.0m x 33.0m and they have no objections provided these are retained. This can be conditioned on any subsequent planning permission.

In light of the above, I recommend the application is approved as it meets with Policy CTY8 for a dwelling in a gap site.

Conditions:

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

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

2. The area within the 2.0m x 33.0m sight visibility splays, where the laneway meets the public road shall be permanently kept clear of an obstructions higher than 250mm above the level of the adjoining carriageway.

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

3. All hard and soft landscape works as detailed on drawing no 02 Rev 2 received on 19 January 2024 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 and biodiversity.

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 December 2023	Item Number: 5.10
Application ID: LA09/2023/0251/F	Target Date: 20 June 2023
Proposal: Proposed 2 storey dwelling with 1 1/2 storey garage attached via carport	Location: 50M East of No.55 Killycanavan Road Dungannon, Ardboe
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Eugene Devlin 55 Killycanavan Road Ardboe BT71 5BP	Agent Name and Address: No Agent
Executive Summary:	

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.docxDC Checklist 1.doc

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 in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approximately 2.2km southeast of Ardboe and 0.8km west of Lough Neagh.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a square shaped plot comprising a flat agricultural field set back from, and accessed off, the Killycanavan Road via a short length of lane. The site, which fronts north onto the lane serving it, sits within a line of existing development accessed off and running along the south side of the lane (see Fig 2, above) including no. 55 Killycanavan Road (a two storey dwelling with ancillary farm buildings running to its rear / south and west) located immediately to the west of the site; and no. 55a Killycanavan Road (a single storey dwelling with a large shed to its rear / south and a couple of smaller sheds to its west side) located immediately east of the site. The site is bound to its north, west and south by post and wire fencing and low hedging. The remaining east boundary is defined in part by the sheds ancillary to 55a Killycanavan Road and in part by close boarded fencing enclosing the curtilage of another single storey dwelling bounding the site, no. 55b Killycanavan Road located just south of no. 55a.

Views of the site will be open from the Killycanavan Road on the northwest approach to its access off the Killycanavan Road due the flat topography of the area and the vegetation within the vicinity of the site and bounding it being relatively low (see Fig 3, below). Views of the site are screened on the northeast approach from the Killycanavan Road due to existing development adjoining and in the wider vicinity screening it.

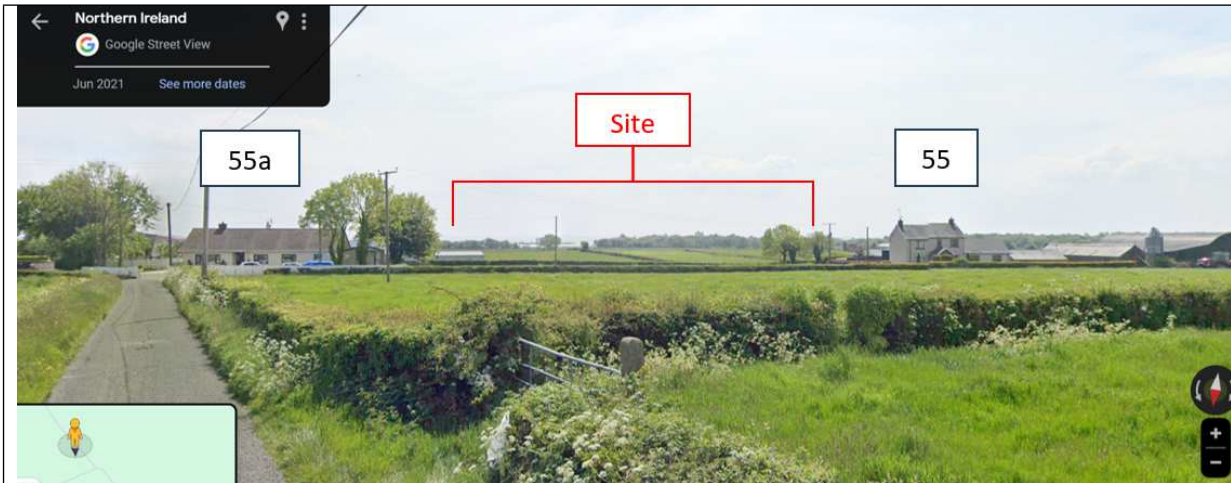


Fig 3: Google Street View of site on northwest approach to its access off the Killycanavan Road.

The area surrounding the site is rural in character comprising relatively flat agricultural landscape typical of the Lough shores interspersed with single dwellings, ancillary buildings, and farm groups.

Description of Proposal

This is a full planning application for a 2-storey dwelling with a 1 ½ storey garage attached via carport to be located on lands 50m east of no.55 Killycanavan Road Dungannon Ardboe.

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 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable

Design Guide for the Northern Ireland Countryside.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 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.

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.

Relevant Planning History

N/A

Consultees

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject standard conditions and informatives, which will be applied to any subsequent decision notice to comply with the requirements of PPS 3 Access, Movement and Parking.

Consideration

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland advises that the retained policies relevant to this proposal including Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 and include the development of a small gap site in accordance with Policy CTY8 Ribbon Development.

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

I consider this application in principle acceptable under Policy CTY8 in that the site does constitute a small gap site sufficient only to accommodate a dwelling within an otherwise substantial and continuously built-up frontage including a line of more than 3 buildings as

detailed further above in ‘Characteristics of the Site and Area’ running along the south side of the lane serving the site including a dwelling to the east side and another dwellings to the west side with ancillary farm building extending on.

The above said whilst I believe a dwelling including garage of an appropriate siting, size, scale and design could integrate into this gap site to respect the existing development pattern along the frontage with minimal disruption to the rural character of the area I do not consider the proposal as submitted respects the existing development pattern due to its substantial size, scale and hipped roof design.

Whilst the dwelling to the west of the site is 2 storey of similar height to the dwelling proposed its main body has a modest footprint and a pitched roof design; and the dwellings to the east of the site are modest and single storey with pitched roofs, furthermore due to the flat topography of the area and the vegetation within the vicinity of the site and bounding it being relatively low I consider the dwelling including garage proposed would be a prominent feature in the landscape when viewed from the surrounding vantage points (see ‘Characteristics of the Site and Area’ and Fig 3 further above) leading to a detrimental change to the rural character of the area. I would note that hipped roofs are not typical of the area.

Accordingly, I contacted the applicant / agent on the 30th June 2023 and offered him the opportunity to submit an amended scheme to reflect the scale of the development to either side or information (this could be a streetscape) to show how the proposal meets the design guide principles for infill. Subsequently, the applicant / agent submitted a streetscape on the 23rd October 2023 to show how the proposal meets the design guide principles for infill (see Fig 4, below).



Fig 4: Streetscape of proposal within existing development

Whilst the streetscape submitted has been considered, my opinion remains as before that the proposal as it stands does not respect the existing development pattern along the frontage due to its substantial size, scale and design. I consider the streetscape reinforces this opinion. Accordingly, I consider the proposal should be refused as contrary to:

1. Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling and garage would not respect the existing development pattern along the substantial and continuously built up frontage within which it sits by reason of its size, scale and design.
2. Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the size, scale and design of the proposed dwelling and garage is inappropriate for the site and its locality.
3. Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling and garage by reason of its size, scale and design would if permitted, be unduly prominent in the landscape resulting in a

detrimental change to the rural character of the countryside.

Additional considerations

I consider a suitably designed scheme, to respect the existing development pattern along the frontage within which it would sit, could integrate on this site without having any unreasonable impact on the neighbouring properties amenities in terms of overlooking or overshadowing given in particular the separations distances that could be retained but also the existing vegetation, fencing and building bounding the site.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED), map viewers available online have been checked. No built heritage assets of interest were identified on or near the site; and whilst NED map viewer identified the site to be within an area known to breeding waders, the works are to be located on improved grassland within a line of development therefore are unlikely to harm the population of breeding waders.

NI Flood Maps indicate no flooding on site.

Recommendation: Refuse

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 dwelling and garage would not respect the existing development pattern along the substantial and continuously built up frontage within which it sits by reason of its size, scale and design.

Reason 2

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the size, scale and design of the proposed dwelling and garage is inappropriate for the site and its locality.

Reason 3

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling and garage by reason of its size, scale and design would if permitted, be unduly prominent in the landscape resulting in a detrimental change to the rural character of the countryside.

Signature(s): Emma Richardson

Date: 22 November 2023

ANNEX	
Date Valid	7 March 2023
Date First Advertised	21 March 2023
Date Last Advertised	21 March 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 57 Killycanavan Road Dungannon Tyrone BT71 5BP The Owner / Occupier 55B Killycanavan Road Dungannon Tyrone BT71 5BP The Owner / Occupier 55A Killycanavan Road Dungannon Tyrone BT71 5BP The Owner / Occupier 55 Killycanavan Road Dungannon Tyrone BT71 5BP	
Date of Last Neighbour Notification	8 March 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Ref: I/2010/0208/Q Proposals: Proposed Dwelling on a Farm Decision: 211 Decision Date: 30-JUN-10 Ref: I/1974/0197 Proposals: MV O/H LINE Decision: PG Decision Date: Ref: LA09/2023/0251/F Proposals: Proposed 2 storey dwelling with 1 ½ storey garage attached via carport Decision: Decision Date: Ref: I/1995/0381 Proposals: Extension to processing plant Decision: PG	

Decision Date:

Ref: I/1978/0151

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2022/0255/LDP

Proposals: The construction of a new agricultural shed to be used for milking cows and ancillary farm office on first floor

Decision: WDN

Decision Date: 19-JUL-22

Ref: I/2010/0494/F

Proposals: Proposed dwelling max ridge height 6.30 metres with front gable and rear returns with detached domestic garage (amended site plan).

Decision: PG

Decision Date: 27-JUN-11

Ref: I/1974/0118

Proposals: IMPROVEMENTS TO DWELLING HOUSE

Decision: PG

Decision Date:

Ref: I/1996/0131

Proposals: Proposed extension to dwelling.

Decision: PG

Decision Date:

Ref: I/1975/038201

Proposals: ERECTION OF SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: I/1975/0382

Proposals: ERECTION OF SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Consultation - Full response.docxDC Checklist 1.doc

Drawing Numbers and Title

Proposed Plans Plan Ref: 01
Cross Sections Plan Ref: 02

Notification to Department (if relevant)

Not ApplicableNot 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	
Case Officer: Phelim Marrion	
Application ID: LA09/2023/0629/O	Target Date: 16 September 2023
Proposal: Proposed gap site for dwelling and domestic garage	Location: Lands Approx 60M NE of 45 Derrytresk Road Coalisland
Applicant Name and Address: Mary Daya 45 Derrytresk Road Coalisland BT71 4QL	Agent Name and Address: McKeown and Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
Summary of Issues: This application is being assessed under CTY8 and CTY10, the farming case has not been clearly demonstrated as active and established farming. Additional information in relation to the historical use of the land and buildings indicates the property has a frontage to the lane allowing the proposal to meet with the policy for infill development. Members should note an objection was received, however this was withdrawn.	
Summary of Consultee Responses: DFI Roads – access acceptable with conditions	
Characteristics of the Site and Area: The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan approx. 2.37km southeast of Annaghmore and 2km north of the Tamnamore roundabout. The site is a relatively flat plot comprising the roadside frontage and northern half of a much larger field. The site is bound by a line of road frontage development including 3 dwellings, nos. 39, 41 & 43 Derrytresk Road with ancillary buildings running respectively to	

the north of the site; and bound to the south by the remainder of its host field with a small paddock / field extending further south beyond. The small paddock / field is located to the southeast side of no. 45 Derrytresk Road, a small single storey dwelling with ancillary outbuildings.

The north boundary is defined by a relatively low close boarded fence and the west boundary by relatively low hedgerow vegetation. The southern boundary of the site is undefined onto the host field. The west boundary of the lane proposed to serve the site is undefined onto the host field and onto a small paddock / field located to the south of the host field, which it is proposes to cut through; and the east boundary of the lane proposed to serve the site is defined by relatively low hedgerow vegetation.

Views of the site will be from the Derrytresk Road when travelling west to east and vice versa over a few hundred meters on the approach to and passing along it's access of the Derrytresk Road. Whilst the area surrounding the site is primarily rural in character comprising largely agricultural lands it has come under development pressure in recent years with a large no. of roadside dwellings, ancillary buildings and farm groups extending along both, but particularly to the south side of the Derrytresk Rd, a minor rural road.

Description of Proposal

This is an outline planning application for a dwelling and domestic garage to be located on lands approx. 60m NE of 45 Derrytresk Road Coalisland.

Deferred Consideration:

This application was before the Planning Committee in December 2023 where it was deferred for a meeting with the Service Director for Planning. Following the meeting on 14 December 2023 and a subsequent site visit, the applicants have provided amended plans showing how an access can be achieved without adversely impacting the setting of the house.

Members will be aware that Policy CTY8 allows for up to 2 dwellings in a small gap in a substantial and continuously built up frontage. For the purposes of the policy a road frontage also means a private lane. In this case the existing dwelling at the junction of the lane and the public road was not considered to have a frontage with the lane. Discussions at the office meeting revolved around the use of the area between the dwelling and the lane, it was advised this was historically used as a paddock area associated with the house and would have kept a donkey or horse. At the site visit I noted the septic tank is located in this area and there is a hedge arch into this area. (Fig 1)



Fig 1 recent photo of the existing dwelling

Historical orthophotography and google Streetview images (See Appendix A) indicate this area is used independently of the adjoining fields with some fruit trees and what appears to be a garden seat in place. I do not see any indication that the area was fenced off in any way which would tend to support the applicants claims this is a paddock area associated with the existing dwelling. In light of that I am of the view 'Maggies Cottage' does have a frontage with the existing lane. As this has a frontage with the existing lane, it can, in my opinion be assessed as part of the development along the laneway. There is a dwelling here and further down the lane, fronting onto the lane are 2 more bungalows separated by outbuildings and a cottage at the end of the lane. The 2 houses and outbuildings have a frontage of approx. 83metres in length onto the lane. The application site is in a field that has a frontage of approx. 78 metres with the lane. In my opinion the proposed site is within a gap that could, taking into account the existing development, accommodate up to a maximum of 2 dwellings and as such meets with Policy CTY8. I consider it appropriate and necessary to restrict the height of any dwelling to 4.5m, to reflect the existing buildings in the frontage.

In light of the above, I recommend this application is approved with the conditions proposed.

Conditions/Reasons for Refusal:

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.0m x 60.0m in both directions, 60.0m forward sight line and any other details set out in the DFI Roads response received 06 July 2023, shall be provided in accordance with a 1:500 site plan submitted and approved at reserved matters stage. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of all trees and hedges within and on the site boundaries to be retained, measures for their protection during the course of development and long term maintenance. The scheme shall also provide details of native species hedging to be planted along all new boundaries of the site, along the new access lane and behind the sight lines. For the avoidance of doubt, the new access shall be designed to ensure the minimum amount of removal of mature vegetation along the roadside. 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.

5. The proposed dwelling shall have a ridge height of less than 5.0 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape.

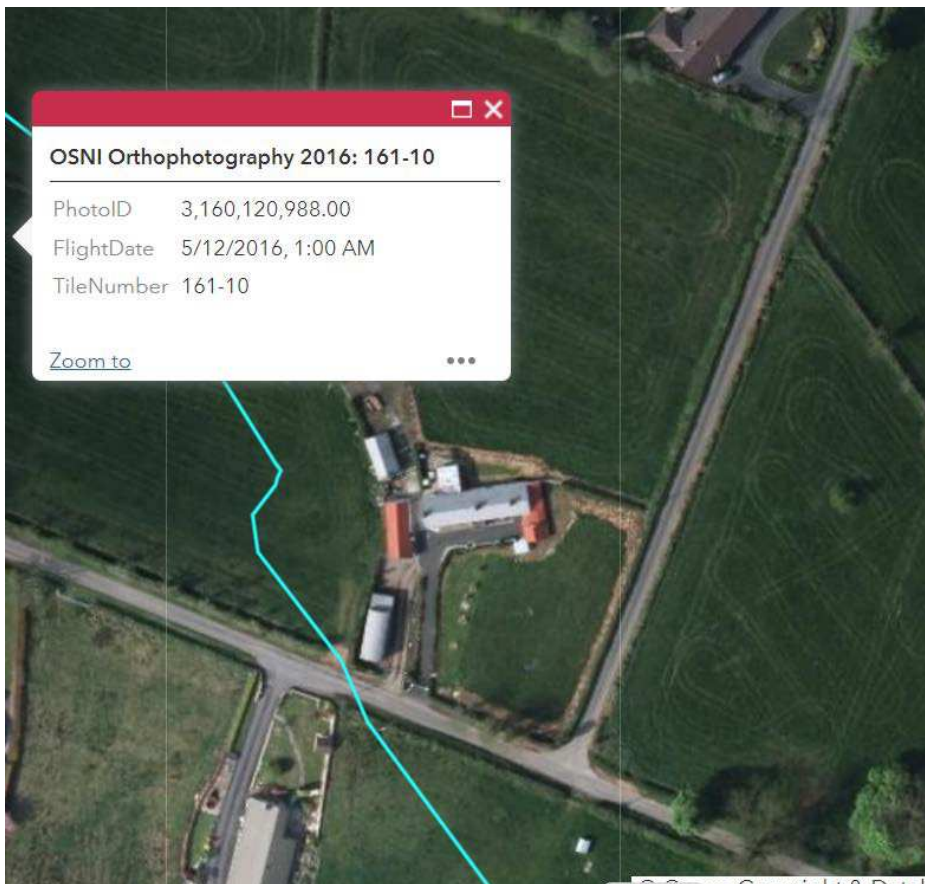
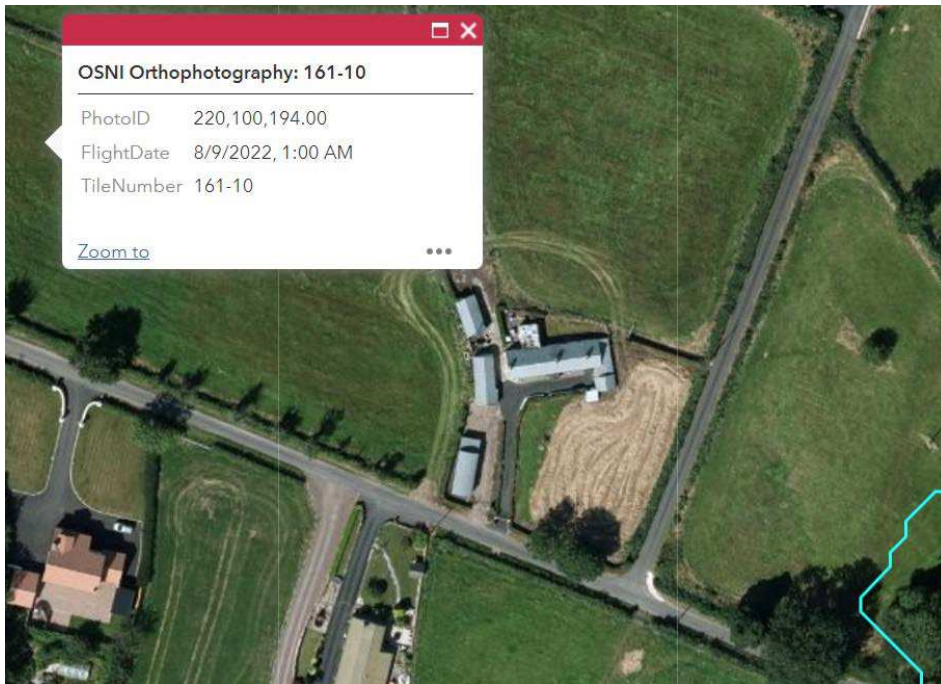
6. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

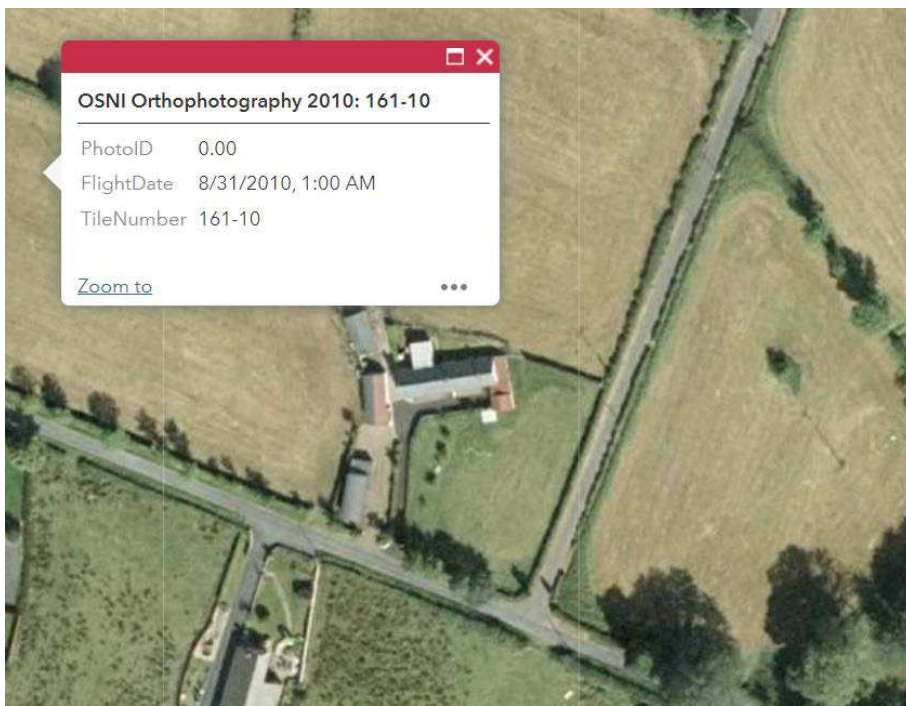
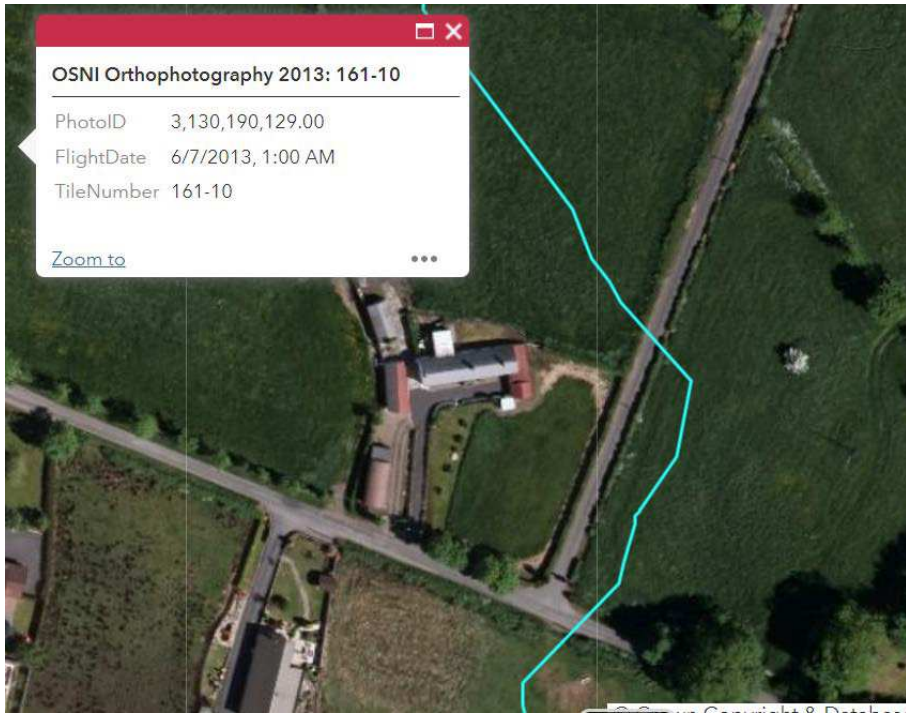
Reason: In the interest of visual amenity.

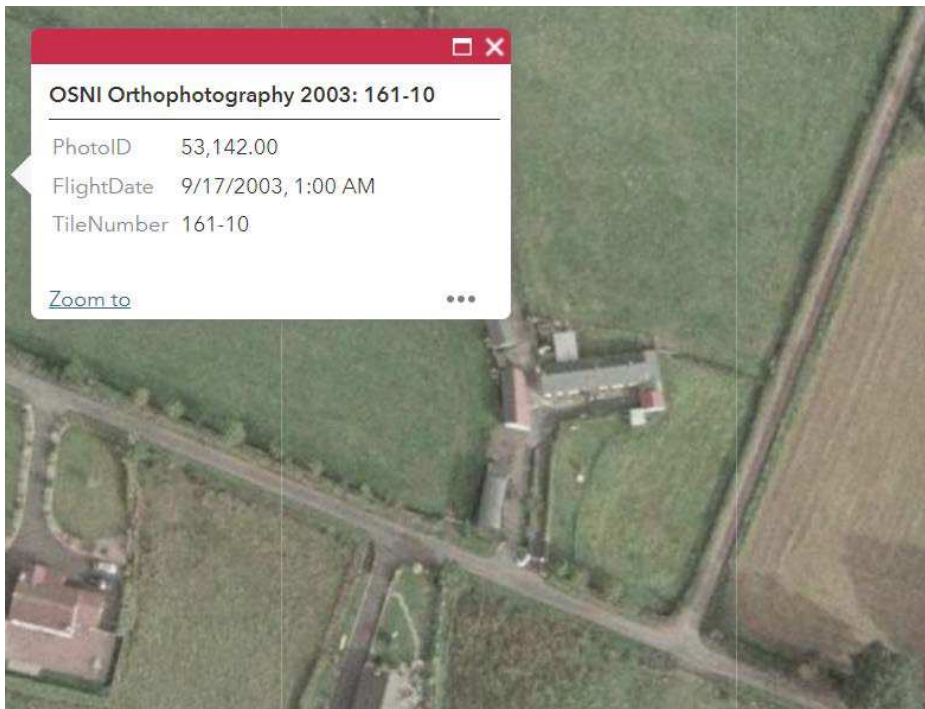
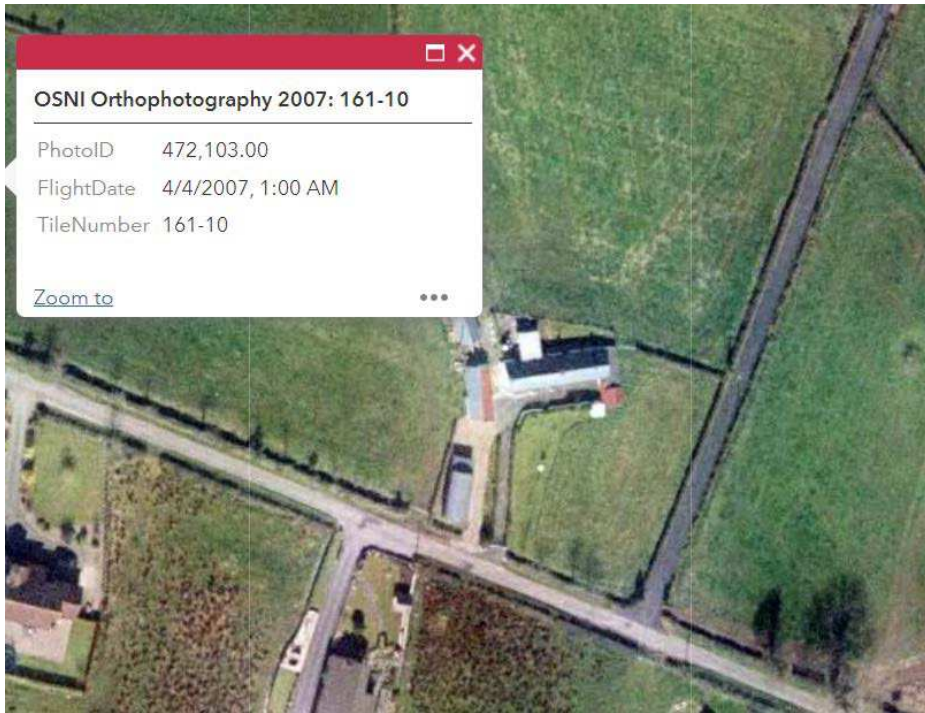
Signature(s)

Date:

APPENDIX A – Historic Aerial Photography and Streetview Images









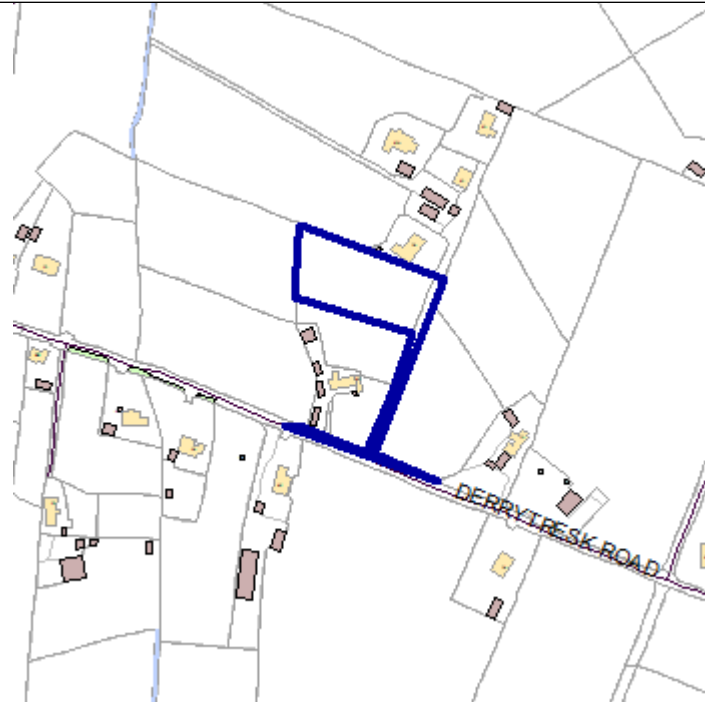


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 December 2023	Item Number: 5.16
Application ID: LA09/2023/0629/O	Target Date: 19 September 2023
Proposal: Proposed gap site for dwelling and domestic garage	Location: Lands Approx 60M NE of 45 Derrytresk Road Coalisland
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mary Daya 45 Derrytresk Road Coalisland BT71 4QL	Agent Name and Address: McKeown and Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
Executive Summary: <p>This proposal at the outset was applied for as the development of a small gap site under Policy CTY 8 of Planning Policy Statement 21 'Ribbon Development'. During the processing of the application as it was not considered to meet the exception within Policy CTY 8 to permit a dwelling on a small gap site the applicant was given the opportunity to submit a farm case for consideration under Policy CTY 10 Dwellings on Farms. A farm case was submitted however it was not considered sufficient to demonstrate that the farm business that has been established for at least 6 years and is currently active.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0629-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docDC Checklist 1.docRoads 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 located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan approx. 2.37km southeast of Annaghmore and 2km north of the Tamnamore roundabout.

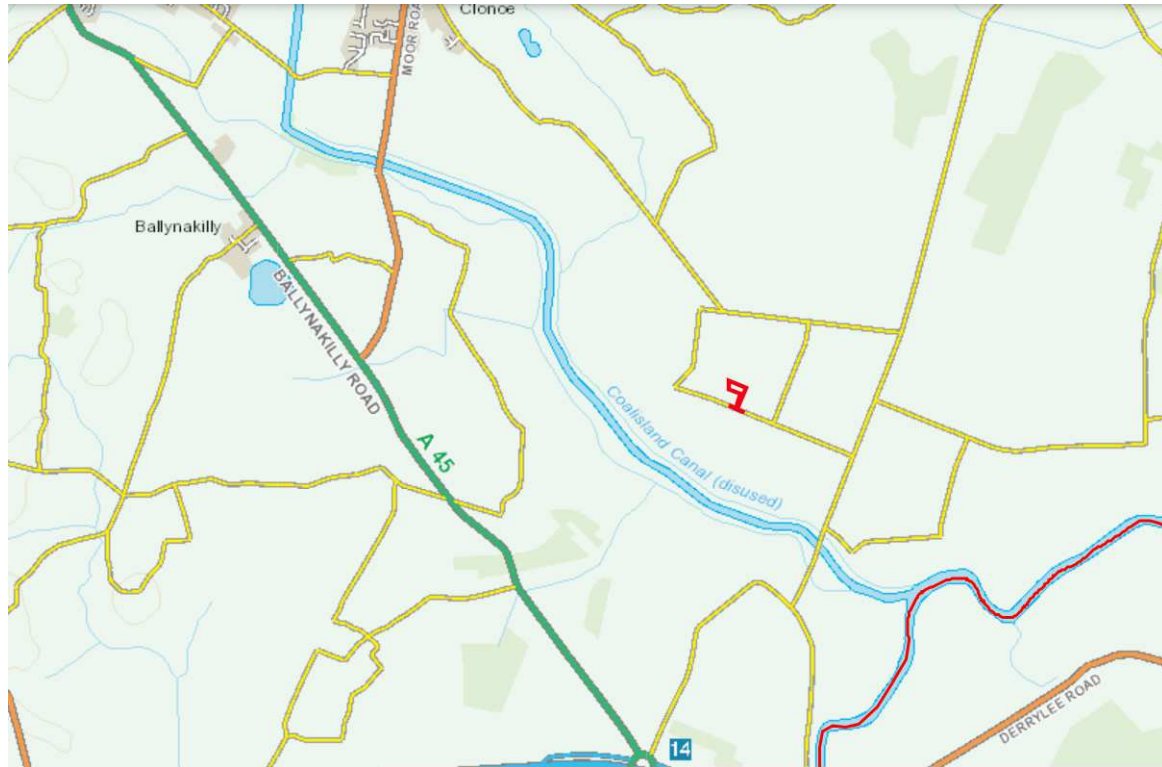


Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a relatively flat plot comprising the roadside frontage and northern half of a

much larger field. The site is bound by a line of road frontage development including 3 dwellings, nos. 39, 41 & 43 Derrytresk Road with ancillary buildings running respectively to the north of the site; and bound to the south by the remainder of its host field with a small paddock / field extending further south beyond. The small paddock / field is located to the southeast side of no. 45 Derrytresk Road, a small single storey dwelling with ancillary outbuildings.

The north boundary is defined by a relatively low close boarded fence and the west boundary by relatively low hedgerow vegetation. The southern boundary of the site is undefined onto the host field. The west boundary of the lane proposed to serve the site is undefined onto the host field and onto a small paddock / field located to the south of the host field, which it is proposes to cut through; and the east boundary of the lane proposed to serve the site is defined by relatively low hedgerow vegetation.

Views of the site will be from the Derrytresk Road when travelling west to east and vice versa over a few hundred meters on the approach to and passing along it's access of the Derrytresk Road.

Whilst the area surrounding the site is primarily rural in character comprising largely agricultural lands it has come under development pressure in recent years with a large no. of roadside dwellings, ancillary buildings and farm groups extending along both, but particularly to the south side of the Derrytresk Rd, a minor rural road.

Description of Proposal

This is an outline planning application for a dwelling and domestic garage to be located on lands approx. 60m NE of 45 Derrytresk Road Coalisland.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 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.

Representations

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

Planning History

N/A

Consultees

1. Dfi Roads – were consulted in relation to access 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.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted on this application and advised the farm business stipulated on the P1C Form accompanying the application whilst allocated in 1992 had been closed as it has had been no agricultural activity for the last 5 years.

Dungannon and South Tyrone Area Plan 2010 - 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 relevant to this proposal including Planning Policy Statement 21: Sustainable Development in the Countryside 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 Policy CTY1 of PPS 21. This proposal has been applied for under one of these instances, the development of a small gap site under Policy CTY 8 of PPS 21 'Ribbon Development'.

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings

along a road frontage without accompanying development to the rear.

I do not consider this application in principle acceptable under Policy CTY8 as the site is not located within a line of 3 or more buildings along a road frontage without accompanying development to the rear. Whilst a line of road frontage development including 3 dwellings runs immediately to the north of the site, it is not bound by road frontage development to the south. It is bound to the south by the remainder of its host field, with a small paddock / field extending further south beyond. The small paddock / field is located to the southeast side of no. 45 Derrytresk Road, small single storey dwelling with ancillary outbuildings. No. 45 Derrytresk Road does not have a road frontage therefore is unable to bookend the site's host field to the south. This proposal would also be contrary to Policy CTY14 of PPS 21 in that it would result in the extension of ribbon development along the road it fronts onto leading to a further erosion of the areas rural character.

Accordingly, the agent / applicant was advised that the proposal submitted, in Planning's opinion, does not comply with Policy CTY8 of PPS 21 and as such asked had all other cases for a dwelling in the countryside been explored? E.g. does the applicant farm, is there any investment and return from farming, does an opportunity exist under Policy CTY 10 of PPS21 for a dwelling on a farm? If there is a possible farm case information should be submitted to demonstrate compliance with Policy CTY10 of PPS 21.

The agent / applicant subsequently submitted additional information to make a case for a dwelling on a farm under Policy CTY10 of PPS21 this included:

- a completed P1C form detailing that the applicant had taken over farm business, that was established over 50 years ago, from John McNally her deceased brother. Later evidence from the applicant states the farm owner John McNally was her uncle. Noting the P1 C form completed was signed by the agent not the applicant, it appears the relationship of the applicant to the farmer business owner appears to simply have been an error, that the business owner was her uncle.
- a letter of support from the applicant stating she inherited the farmstead and has been doing works to restore it to its former glory including works to the buildings on it. That Brian Donnelly has helped with the front garden, hedges and shrubs and Seamus Donnelly a local farmer maintains the lands in a farming capacity and takes care of drains and hedges.
- a letter of support from Brian Donnelly stating that in relation to the upkeep of the farm area belonging to the applicant he has looked after and maintained the garden, hedges and shrubs.
- a letter of support from Seamus Donnelly stating he has taken the applicant's lands in conacre for the past 15-20 years. That he along with the applicant's family, who have always owned the lands, has maintained them until now cleaning drains, cutting hedges, replacing gates and fences.

The Department of Agriculture, Environment and Rural Affairs (DAERA) were consulted in relation to the farm business detailed above. DAERA advised that whilst the business was allocated in 1992, DAERA had closed it as it had no agricultural activity in the last 5 years. As such the business detailed was no longer established and the additional information as detailed above did not support that the business has been established

more than 5 years and currently active. It did not demonstrate investment and return from farming.

The agent / applicant was advised of Planning's opinion, that the proposal at present does not comply with Policy CTY10 of PPS 21 as it has not been demonstrated that the farm business is currently active and has been established for at least 6 years. That DAERA's consultation response advised the business detailed had been closed. Planning offered the agent / applicant the opportunity to submit evidence of the con acre agreement/payments to the owner and invoices/receipts for the works the owner has paid for to maintain the land in good agricultural condition for past 6 years.

The applicant / agent subsequently submitted further information regarding how the applicant's uncle's farm business that she had inherited operated largely in goodwill. This included a letter of support from the applicant's brother Peter Campbell stating the lands were maintained by the family. Whilst the additional information was taken into account it was not considered sufficient to demonstrate the applicant's investment and return from farming and that the farm business that has been established for at least 6 years and is currently active.

Bearing in mind the above, I have considered other instances listed under Policy CTY1 of PPS 21 whereby the development of a dwelling in the countryside is considered acceptable however like the infill opportunity and farm dwelling under polices CTY 8 and CTY 10 respectively this proposal fails to meet with these instances.

Other Policy and Material Considerations

I consider had a dwelling been deemed acceptable on this site in principle under one of the instances listed in Policy CTY1 of PPS 21, subject to a suitably designed scheme, it should not have had any unreasonable impact on the neighbouring properties amenity in terms of overlooking or overshadowing given the separation distances that could have been retained.

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.

Recommendation

Refuse

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

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

Reason 3

The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active and has been established for at least 6 years.

Signature(s): Emma Richardson

Date: 23 November 2023

ANNEX	
Date Valid	6 June 2023
Date First Advertised	20 June 2023
Date Last Advertised	20 June 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 46 Derrytresk Road Coalisland Tyrone BT71 4QL The Owner / Occupier 39 Derrytresk Road Coalisland Tyrone BT71 4QL The Owner / Occupier 45 Derrytresk Road Coalisland Tyrone BT71 4QL	
Date of Last Neighbour Notification	9 June 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DAERA - Omagh-LA09-2023-0629-O.docx DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docDC Checklist 1.docRoads outline.docx	
Drawing Numbers and Title Site Location Plan Plan Ref: 01	

Notification to Department (if relevant)

Not Applicable