



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	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1046/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of and relocation of partially constructed Farm Shed for Farm machinery storage, and animal shelter and amendments to the design of that approved under LA09/2017/0977/F	<b>Location:</b> 40m North East of 28A Toomog Galbally Dungannon
<b>Applicant Name and Address:</b> Noel Mc Elduff 66 Killyharry Road Castlecaulfield	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Co Antrim BT41 3SG
<b>Summary of Issues:</b>  The applicant received planning permission for an agricultural building, he has partially constructed a large building. The building has not been completed yet awaiting a decision in this application. The neighbour has objected about impacts on their amenity, access to their buildings, scale of the building and impacts on the countryside, need for the building and drainage from the building.	
<b>Summary of Consultee Responses:</b> DFI Roads – no objections subject to conditions for access DAERA – active and established farm EHO – no objection subject to conditions restricting the use to storage in the machinery store NI Water – standard response SES – no connection to European site NIEA – content with the proposal	

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

This application site is a square shaped plot of land measuring 0.3 hectares, located along the Toomog Road. The site includes the applicant's dwelling at No 28A and a partially constructed building. It is located just under 4 kilometres south west of Donaghmore village and 2 kilometres south east of Galbally. The site lies in the countryside as is identified in the Dungannon & South Tyrone Area Plan (DSTAP). The area surrounding the site can be described as a rural upland area and is characterised by undulating topography. The immediate area surrounding the site and along the Toomog Road is quite enclosed by landform and mature vegetation and the winding nature of the road network. There is a greater degree of openness in the landscape to the west of the site where more open views across the wider landscape. That is due to less development on that side of the road in comparison with to the south of the road where the site is located.

The applicant's dwelling is a steeply pitched bungalow which is along the roadside and is sited in the western corner of the application site. In the eastern corner of the site is the partially constructed building which has all the block work and steel framework constructed and the wall and roof cladding was absent at the time of the site visits.

There is a wide verge along the roadside where the western boundary of the site comprises a post and wire fence. This dissects the site defining the curtilage of the applicant's dwelling. The post and chicken wire fencing with barbed wire atop continues along the northern boundary of the site. Number 28 Toomog Road is a single storey dwelling which abuts the northern boundary and is the closest property to the partially constructed building. This neighbouring plot includes a number of outbuildings, two are to the rear of the dwelling with one sitting parallel with this site boundary and another with the gable facing it. A hardcore area has been created between the road and the building and a concrete wall sits to the inside of the fence along both the western and northern boundaries. Some small mounds are located close to the corner where land has been cleared, adjacent to the neighbouring outbuildings.

### **Description of Proposal**

This application seeks full planning permission for the retention of and the relocation of partially constructed Farm Shed for farm machinery storage, and animal shelter and amendments to the design and siting of that approved under LA09/2017/0977/F.

### **Deferred Consideration:**

This application was before the Planning Committee in October 2021 and again in November 2022. At the meeting in November 2022 the application was deferred to allow consideration of additional information.

Additional information has been provided in relation to the operations on the holding. The information sets out that there are 2 herds registered to the same address, one with 18 cattle and one with 25 cattle. The applicants currently only have one group of buildings for housing both herds and this presents issues for overwintering, especially cross contamination of TB. The proposed shed will allow the herd of 18 pedigree beef cattle to be housed in isolation from the other herd. In the event of an outbreak of TB, this means only one herd is closed and not both. There have been 5 occasions in the previous 2 ½ years where both herds have been closed. The applicants are unable to move any animals in these times and this is valuable income for the family.

The building is similar in size and scale to the previously approved building on the site as can be seen below. The main changes are the relocation of the building 3.4m to the north, the footprint has increased by 8m in length and 1m in width. The proposed building is now located 6.5m from the boundary with the neighbouring property when it was previously approved as 17.9m from the boundary. The previously approved building was primarily for feed and machinery storage with 34sqm pens for housing animals. The proposal now includes 161sqm of floorspace on the lower part of the building, for keeping animals. The applicant has advised the animals will be housed on dry bedding. This will be removed and stored in heaps for spreading on the applicant's land at Killyharry and Tullydraw. Given this information presented in relation to the need for the building to be this size, I am of this opinion this building is required for the efficient function of the holding.



Fig 1 Proposed building and approved building



Fig 2 Proposed layout and approved layout

This proposed building is closer to the neighbouring property and the objector did indicate the access to his building was impacted by this development. I noted on site that a side hung door opens towards the application site in the elevation of the objectors shed facing towards this site. Members can see this in the google Streetview map from March 2009 below (Photo 1). This appeared to be an agricultural building and I note there is room on the other side of the building to provide a similar opening if needed. It is clear the applicant has control of the field the shed door opened towards and this has not been disputed. He is entitled to erect a fence along the boundary of his lands without the need for planning

permission. I do not consider the access into the objectors shed will be adversely affected by the proposed building as it is 6.5m from the boundary. Access may be obtained, if needed, from the other side of the shed in the objectors lands.

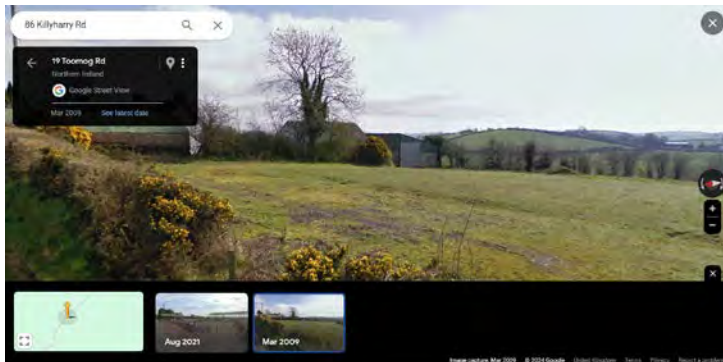


Photo 1 – view of objectors shed with door facing into the field

The objector raised issues about the scale of the proposed development and impact on his amenity due to the dominance. The objectors lives in a single storey dwelling due north of the building. It sits at a higher level than the shed and the rear of the property looks out onto the objectors own buildings. The building subject to this application is 24 metres from corner of the objectors house. Due to the difference in levels, the separation distance of 24m and the intervening building, I do not consider the proposal will have an unduly adverse impact on the objectors property by reason of overdominance or loss of light.



Photo 2 view of objectors house from site and Photo 3 view from objector towards the shed



Photo 4 – view from south showing the location of the building and the objectors property.

The objector has indicated surface water from the proposal has not been adequately considered and that it is not permitted to discharge into the drain in his field. The proposal indicates the yard will be stoned and as such any rainwater will be able to soak into the ground and not create significant run off from it. The storm water from the roof is proposed to be collected and piped to an open drain at the field boundary. An alternative to this would be a soakaway, where a pit is dug in the ground, filled with stones and the pipe directed into it. Discharge into a soakaway or into a field drain are the most common ways to deal with storm water in the countryside. As can be seen in photo 1 above the site sloped towards the objectors field and as such any run off from the field would historically have gone in that direction. DFI Rivers provide agreements for discharge into drains and as such I consider a condition could be attached to any permission requiring the applicant to obtain and provide proof of an agreement with DFI Rivers for discharge into the watercourse or provide an alternative means of disposal before part of the roof covering is installed.

The objector also raised issues in relation to the scale of the shed and its appearance in the countryside. Members are advised there was an approval for an agricultural building here, the proposed building is 8m longer than the previously approved building. It does occupy a skyline site, however it is typical of agricultural buildings that are located in the countryside (see Photos 5, 6 and 7 below). In this case the building is also located in a cluster of buildings, the applicant is proposing to provide additional landscaping to the rear and side which I consider will assist to screen part of the development. In light of the above I consider this agricultural building is appropriate in the countryside on this site.

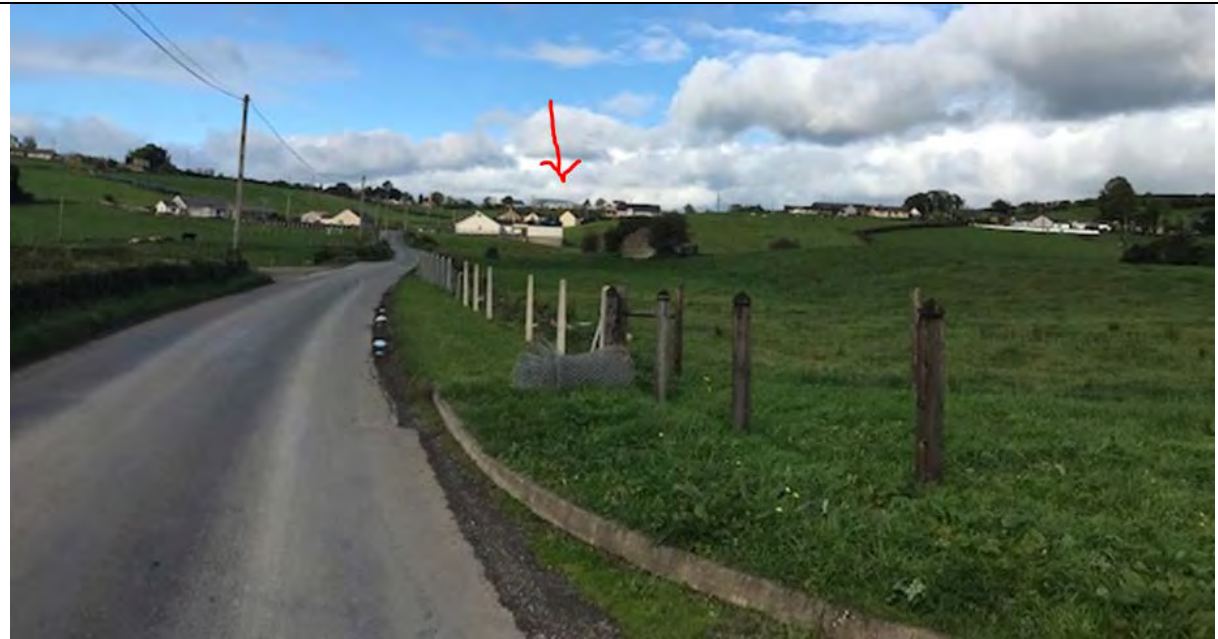


Photo 5 – building on skyline from south east long distance



Photo 6 – closer view from South East – middle distance



Photo 7 – view from close up from south east.

The objector has indicated the applicant no longer lives in the house. A land registry check was carried out it indicates the property is owned by Kevin McElduff and Noel McIlduff and there are no pending entries to suggest the ownership has changed. I am satisfied this is still in the applicants ownership.

SES, NIEA and EHI have all been consulted with this scheme and none have raised any objections, provided conditions are attached in relation to the use of the building. It has been proposed as a machinery store, feed store and for housing animals with dry bedding being used. I consider it is appropriate and necessary to condition its use for these purposes and tie this to the floor plan as submitted and proposed.

As I have concluded the proposal is acceptable given its location, previous planning history and the need set out, I recommend this application is approved.

**Conditions:**

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

Reason: This is a retrospective application.

2. Within 3 months of the date of this decision, the vehicular access, including visibility splays of 2.4m x 45m in both directions, shall be provided in accordance with drawing No 03 Rev 5 received on 29 September 2023. The area within the

visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The building hereby approved shall be used solely for the storage of agricultural machinery, feed stuff storage and animal housing and these uses shall be carried out only as detailed in the areas identified on the floor plan on drawing No 04 Rev 5 received 29 September 2023. At no time shall any other activities or machinery repairs be carried out within the building.

Reason: The protect residential amenity from Noise and Odour

4. There shall be no animals or live stock stored within the areas named "Machinery Store Area", "Feed/Straw Store" or "Meal" as annotated on drawing no 04 REV5, received 29 September 2023.

Reason: The protect residential amenity from Noise and Odour

5. Prior to any part of the roof of the building hereby approved being installed the applicant shall provide the Council with either:
  - a written agreement from DFI Rivers for the consent to discharge into a watercourse;
  - written confirmation from DFI Rivers that no discharge consent is necessary, or
  - provide details of a soakaway system for the collection and dispersal of the storm water from the roof of the building.

No works shall commence on the roof until the applicant has received written confirmation from the Council of a satisfactory means of disposing of the storm water.

Reason: To prevent flooding of neighbouring properties.

6. All hard and soft landscape works as detailed on drawing no 03 Rev 5 received on 29 September 2023 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried before the end of the next available planting season following the date of this decision. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

**Signature(s)**

**Date:**





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## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1046/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of and relocation of partially constructed Farm Shed for Farm machinery storage, and animal shelter and amendments to the design of that approved under LA09/2017/0977/F	<b>Location:</b> 40m North East of 28A Toomog Galbally Dungannon
<b>Applicant Name and Address:</b> Noel Mc Elduff 66 Killyharry Road Castlecaulfield	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Co Antrim BT41 3SG
<b>Summary of Issues:</b>  The applicant has knowingly constructed a building of which the scale has not been approved, in a location which was not applied for and is much closer to the neighbour who is also the objector to this proposal.	
<b>Summary of Consultee Responses:</b> DFI Roads – no objections subject to conditions for access DEARA – active and established farm EHO – no objection subject to conditions restricting the use to storage in the machinery store NI Water – standard response	
<b>Characteristics of the Site and Area:</b>  This application site is a square shaped plot of land measuring 0.3 hectares, located along the Toomog Road. The site includes the applicant's dwelling at No 28A and a partially constructed building. It is located just under 4 kilometres south west of Donaghmore village and 2 kilometres south east of Galbally. The site lies in the countryside as is	

identified in the Dungannon & South Tyrone Area Plan (DSTAP). The area surrounding the site can be described as a rural upland area and is characterised by undulating topography. The immediate area surrounding the site and along the Toomog Road is quite enclosed by landform and mature vegetation and the winding nature of the road network. There is a greater degree of openness in the landscape to the west of the site where more open views across the wider landscape. That is due to less development on that side of the road in comparison with to the south of the road where the site is located.

The applicant's dwelling is a steeply pitched bungalow which is along the roadside and is sited in the western corner of the application site. In the eastern corner of the site is the partially constructed building which has all the block work and steel framework constructed and the wall and roof cladding was absent at the time of the site visits.

There is a wide verge along the roadside where the western boundary of the site comprises a post and wire fence. This dissects the site defining the curtilage of the applicant's dwelling. The post and chicken wire fencing with barbed wire atop continues along the northern boundary of the site. Number 28 Toomog Road is a single storey dwelling which abuts the northern boundary and is the closest property to the partially constructed building. This neighbouring plot includes a number of outbuildings, two are to the rear of the dwelling with one sitting parallel with this site boundary and another with the gable facing it. A hardcore area has been created between the road and the building and a concrete wall sits to the inside of the fence along both the western and northern boundaries. Some small mounds are located close to the corner where land has been cleared, adjacent to the neighbouring outbuildings.

#### **Description of Proposal**

This application seeks full planning permission for the retention of and the relocation of partially constructed Farm Shed for farm machinery storage, and animal shelter and amendments to the design and siting of that approved under LA09/2017/0977/F.

#### **Deferred Consideration:**

This application was before the Planning Committee in October 2021 where it was deferred to meet with the Planning Manager. A meeting took place on 14 October 2021 where the issues were laid out, the applicant was granted planning permission for a smaller shed located away from the boundary with the neighbouring property. The applicant knew what permission was granted and has begun to erect a larger shed closer to the neighbour who was objecting to the application. Additional information was requested to demonstrate why this larger building was required for the efficient operations of the holding in accordance with the requirements of CTY12

Following the deferral meeting additional information was requested on 17 November 2021 and a revised layout plan showing additional landscaping along the boundary with the neighbour was submitted on 22 February 2022. The information submitted did not provide any justification for the larger building and the agent was advised of this on 23 February 2022. A reminder was issued 19 May 2022, and to date no further information had been provided.

As the building is partially erected, images are available to show the impacts this development has on the landscape. Views from Toomog Road are not necessarily critical to the proposal however the views from south east show the development on the skyline. This proposal is for a larger building than previously approved and in a different location.



Fig 1 – building on skyline from south east long distance

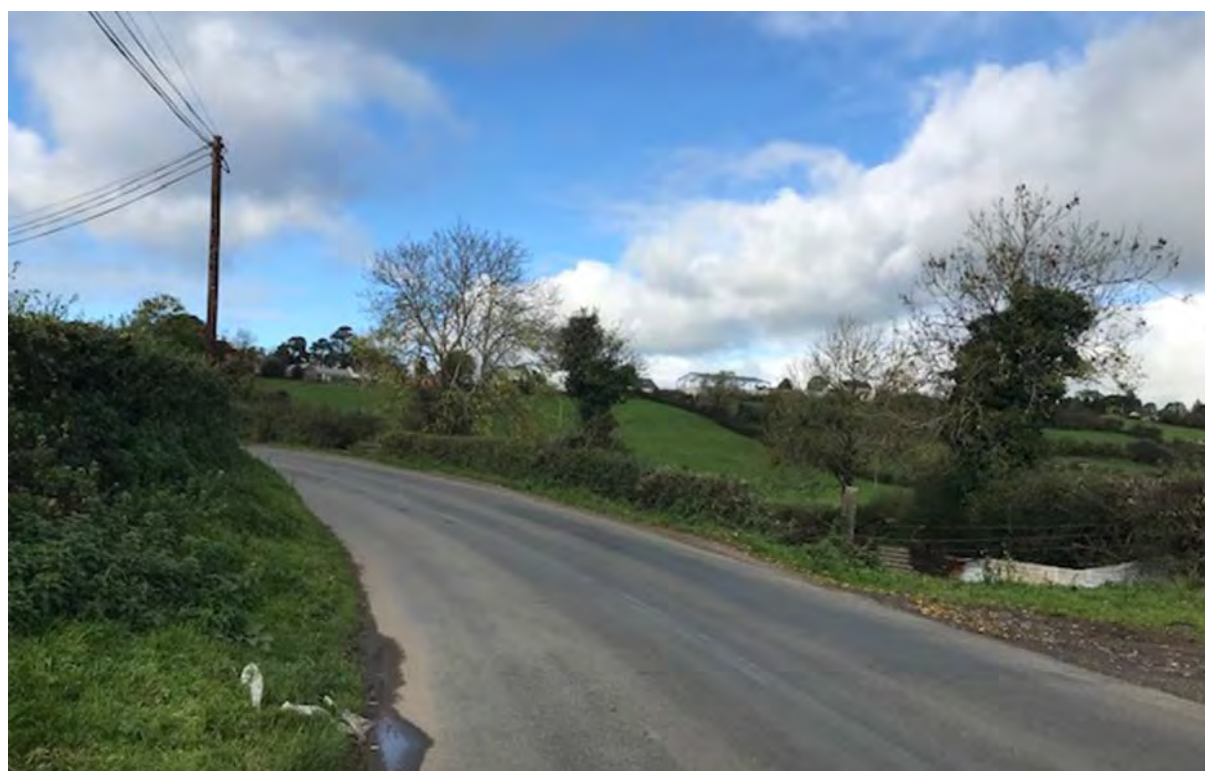


Fig 2 – closer view from South East – middle distance



Fig 3 – view from close up from south east.

The development comes much closer to the objectors dwelling than that previously approved as can be seen in the photograph below which is taken from the back door of the objectors dwelling.



Fig 4 – view from back door of objector's property

As the applicant has not provided any additional information to justify the larger building is required for the efficient operations of the farm, it is a dominant feature in the local landscape and has a dominant impact on the adjoining residential property, I recommended refusal.

**Reasons for Refusal:**

1. This proposal is contrary to Policy CTY 12 Agricultural and Forestry Development of PPS21, Sustainable Development in the Countryside in that it is inappropriate in terms and scale to its location and it fails to visually integrate into the local landscape.
2. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development, if permitted, would result in a detrimental impact on the amenity of the neighbouring residential dwelling outside of the holding by reason of dominance.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building is a prominent feature in the landscape and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building is unduly prominent in the landscape and has resulted in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s)**

**Date:**



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## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1046/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of and relocation of partially constructed Farm Shed for Farm machinery storage, and animal shelter and amendments to the design of that approved under LA09/2017/0977/F	<b>Location:</b> 40m North East of 28A Toomog Galbally Dungannon
<b>Referral Route:</b>  There are a number of objections to this proposal from an adjacent neighbouring property.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Noel Mc Elduff 66 Killyharry Road Castlecaulfield	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Co Antrim BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Planning permission was previously granted for a much smaller building on a different part of the site. What was built on the application site was not in the location or at the scale approved, resulting in a much larger building almost completely constructed closer to the objector's property and on a much larger scale than was previously granted permission.

## Characteristics of the Site and Area

This application site is a square shaped plot of land measuring 0.3 hectares, located along the Toomog Road. The site includes the applicant's dwelling at No 28A and a partially constructed building. It is located just under 4 kilometres south west of Donaghmore village and 2 kilometres south east of Galbally. The site lies in the countryside as is identified in the Dungannon & South Tyrone Area Plan (DSTAP). The area surrounding the site can be described as a rural upland area and is characterised by undulating topography. The immediate area surrounding the site and along the Toomog Road is quite enclosed by landform and mature vegetation and the winding nature of the road network. There is a greater degree of openness in the landscape to the west of the site where more open views across the wider landscape. That is due to less development on that side of the road in comparison with to the south of the road where the site is located.

The applicant's dwelling is a steeply pitched bungalow which is along the roadside and is sited in the western corner of the application site. In the eastern corner of the site is the partially constructed building which has all the block work and steel framework constructed and the wall and roof cladding was absent at the time of the site visit.

There is a wide verge along the roadside where the western boundary of the site comprises a post and wire fence. This dissects the site defining the curtilage of the applicant's dwelling. The post and chicken wire fencing with barbed wire atop continues along the northern boundary of the site. Number 28 Toomog Road is a single storey dwelling which abuts the northern boundary and is the closest property to the partially constructed building. This neighbouring plot includes a number of outbuildings, two are to the rear of the dwelling with one sitting parallel with this site boundary and another with the gable facing it. A hardcore area has been created between the road and the building and a concrete wall sits to the inside of the fence along both the western and northern boundaries. Some small mounds are located close to the corner where land has been cleared, adjacent to the neighbouring outbuildings.

### Planning History

This application site has various planning histories on it.

LA09/2017/0977/F went before Planning Committee as there were objections to it and it was granted permission in July 2018 for a proposed farm build as a cattle shed at 40m North East of 28A Toomog Road.

There are a number of enforcement histories on this site.

- LA09/2017/0041/CA - Unauthorised curtilage extension and alterations to domestic dwelling.
- LA09/2018/0150/CA - Development not in accordance with approved plans (LA09/2017/0977/F).
- LA09/2020/0040/CA - Farm building not built in accordance with planning permission
- LA09/2017/0977/F at 40m NE Of 28a Toomog Road is currently open and awaiting the outcome of this application proposal.

## Description of Proposal

This application seeks full planning permission for the retention of and the relocation of partially constructed Farm Shed for farm machinery storage, and animal shelter and amendments to the design and siting of that approved under LA09/2017/0977/F.

## Planning Assessment of Policy and Other Material Considerations

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the Local Development Plan (LDP), so far as material to the application, and to



any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

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

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

The SPPS advises that the policy provision of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) are retained. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and that includes development for agriculture and forestry. 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'.

This application site is located in the rural countryside, outside of any designated settlement limit identified in DSTAP, therefore the relevant policy context is provided by PPS 21. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted for agricultural and forestry developments.

Policy CTY 12: Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding, where the proposal satisfies all the specific criteria listed. Therefore it is necessary to first consider if the farm business is both active and if it has been established for more than the required period of 6 years.

The applicant provided a completed P1C Form (including identification of farm business ID) and has submitted Farm Maps showing the extent of the land within the farm holding. I consulted with DAERA who responded informing that the Business ID No as provided was allocated on 11th January 1992, thus demonstrating the farm has been established for a period in excess of 6 years. DAERA did state the land which includes this application site last claimed SAF in 2014 and this was by a business other than that identified as the applicant's on the P1C form and no claims by any other business have been made since 2014.

Policy CTY 12 lists five further criteria which all proposals must fulfil,

- a) the proposed development is necessary for the businesses efficient use;
- b) it must be appropriate in terms of character and scale 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.

In addition to the requirements above and in cases where a new building is proposed, applicants will also need 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.

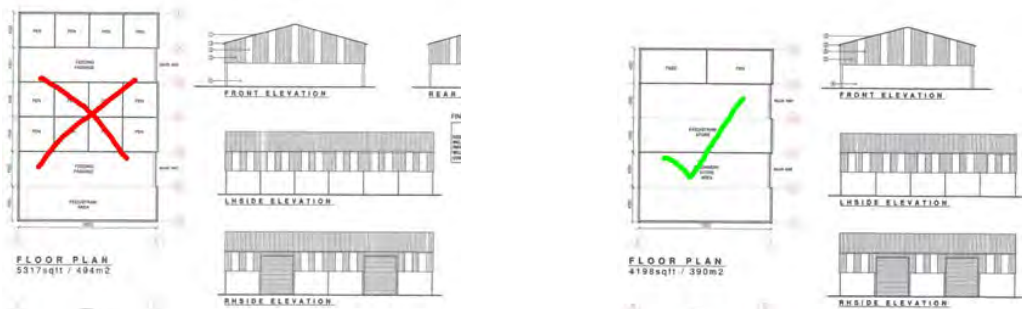
Exceptionally, consideration may be given to an alternative site away from existing farm, provided there are no other sites available at another group of buildings on the holding, and where:

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

#### LA09/2017/0977/F

As there is a current valid application approved on this site for a similar proposal, the principle of an agricultural building within this site has been established. DAERA's response to this application is the same as what they replied to the original application.

In order to give an accurate assessment of this proposal, I feel it is necessary to understand and to take into account the evaluating of application LA09/2017/0977/F as a material consideration. Initially the applicant applied for a shed which included a series of cattle pens. The Council's Environmental Health Department were concerned and the number of pens in the shed was reduced to a single pen with the majority of the shed being utilised for agricultural storage.



Original Design

Revised and Approved Design

This shed is situated away from the main group of buildings on the applicant's farm holding which are located at 87 Killyharry Road, some 2.3km away. The applicant said there was a need for this building on this site so he can be close at hand to sick/injured animals, machinery and storage facilities and this proposal was considered an exception.

There were a number of revisions to the proposal which was initially submitted, as can be seen from the illustrations provided. The length of the building was reduced 4.5 metres, the width reduced by 1 metres which resulted in the ridge height dropping 0.2 metres. It was repositioned from the neighbours adjoining northern boundary to the rear of the applicant's dwelling and along the eastern boundary.



Original Siting



Revised and Approved Siting

In terms of compliance with CTY 12, it was agreed this proposal would provide a farm building at this part of the farm, away from the established and main group of farm buildings, providing facilities for sick and/or injured livestock as well as the safe storage of farm machinery and equipment. It was also considered as a requirement to aid the efficient running of the farm business. The amended proposal to the rear of the applicant's dwelling was sited as such to cluster with this and would also read with the dwelling/outbuildings to the rear of No. 28, albeit buildings outside of the same farm holding. Proposed landscaping works surrounding the site would also help restrict the level of impact on rural character and the building would not be a prominent feature as it would integrate into the area. There are no sensitive natural or built heritage features of note within the site or the surrounding area to have any impact on.

The closest neighbouring property is the objector's land at 28 Toomog Road which is situated approx. 35m from the closest point of the proposed farm building. The Environmental Health Department (EHD) of the Council initially had concerns with the proposal relative to amenity of the objector. The applicant duly amended the layout of the proposal so that the majority of the building was to be used for the storage of farm machinery and a small corner (furthest away from the neighbouring property) to be retained as a cattle pen for injured or sick cattle or cows. This has reduced any noise, odour, lighting and privacy concerns and EHD are satisfied by this amended increased distance from the neighbouring property.

It was agreed this proposal was an exceptional case as it is sited between two areas of farm land on the holding. The siting of the building to the rear of the applicant's dwelling was accepted as a justified reason for having a farm building at this location which has an equal access to both farm holdings. The building as approved measures 22.5 metres in length and 17.4 metres wide. It covered a footprint of 392 metres squared and had a ridge height of 8 metres FGL. It was sited 20 metres from the rear elevation of the applicant's dwelling and 23 metres from the southern boundary. The finishes proposed are grey dashed render to the lower walls, green tin cladding on the roof and upper walls with some translucent sheets also.

Retention of building as Constructed

Following the site visit and discussion at group with the Principal Planner, a number of concerns were discussed which needed addressing and clarification;

- The proposal description is inaccurate as the building is substantially completed and this application proposes to retain it, therefore the description must accurately reflect the proposal.
- The building as is constructed and the large hardcore area created does not give the appearance of a "proposed cattle shed"
- No details of the concrete wall around the yard area to the front of the building have been submitted.
- Due to the presence of a basement/lower ground level evident on site, the elevations and floorplans as submitted are therefore incorrect.



The agent stated the shed is for a mixture of farming aspects (soft bed pens, meal/feed storage area, equipment storage, machinery storage) tractor, trailers, portable crusher, fertilizer spreader, grass topper. In response to the presence of a basement/lower ground feature the agent said this was constructed in order to stop the floor sinking due to the depth of infill. They also stated the applicant proposes to 'infill these lower level openings', that they were only constructed to allow for the construction of the walls and safer access while building it.



Further discussion at group concluded the building must be reduced in size to reflect the scale of building which was granted approval. The agent submitted these amended drawings illustrating the lower ground level completely removed from the proposal and the demolition of a section of the building which further reduced reduce the length by some 7 metres.



After much debate and negotiation, amended drawings as illustrated above were submitted which proposed to demolish a section of the building closest to the northern boundary. This would reduce the footprint while also increasing the separation distance from the objector. It was agreed with the Principal Planner that as a portion of what is already constructed on the site is now proposed to be removed, this would have to occur and the site revisited with a member from Enforcement prior to the granting permission of this proposal.

Having progressed the application to this stage through much discussion, the applicant submitted a letter confirming he was changing agents and the newly appointed agent would submit their proposal. In order to further develop this application to a conclusion, I informed the new agent of what discussions were had and made it clear the requirements necessary.

I do not feel these were taken into consideration as the proposal description did not correctly describe the proposal and the most recent site layout submitted also inaccurately illustrated the siting of the approved building.

Policy CTY 13 Integration and Design of Buildings in the Countryside and Policy CTY 14 Rural Character of PPS 21 are also relevant to this proposal. These policies require development to be appropriately designed and integrated into the surrounding landscape to ensure the rural character of the area is not harmed. I am not convinced this proposal respects the surrounding area nor does it integrate into the locality. The excessive scale of the building makes it a prominent feature, failing to integrate into the landscape without a detrimental impact, therefore I do not feel this proposal complies with CTY 13 and CTY 14.

### Consultations

Department for Infrastructure Roads (DFI Roads) were consulted on this application and have no objections to this proposal, subject to the provision of visibility splays of 2.4 metres by 45 metres in both directions, as well as a forward sight distance of 45 metres also. Following the implementation and permanent retention of the required visibility splays, I consider the proposal to comply with the policy requirements contained with PPS 3 - Access, Movement and Parking. NI Water have no objections to this proposal.

The Council's Environmental Health Department (EHD) sought further information on the proposed systems in place to deal with manure generated from this shed. Following the proposal description being amended to its most recent description, EHD have taken this and the objectors comments into consideration. They have concluded there is an established land use for an agricultural shed within this application site and therefore have no objections, subject to conditions restricting the use of the building to only that included within the description and that no animals or livestock are to be stored outside of the identified area on the plans. This is in order to protect the residential amenity of the neighbouring property from potential noise and odour nuisances.

Shared Environmental Services (SES) were informally consulted and they did not consider it necessary to formal consult them as they have no concerns about this proposal affecting any European protected sites.

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and RAMSAR sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats etc) Regulations (NI) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### Objections

Four letters of objection have been received from the same individual objector. This objector resides at No 28 Toomog Road which is the closest residential dwelling to the site.

The objector has raised a number of concerns regarding this proposal and is concerned as these adversely affect his amenity.

The objector has also noted they will be contacting the Ombudsman regarding this application. They have identified a number of discrepancies from what was granted permission and what has been constructed on site, as is summarised below;

- The area covered exceeds the approved 300 metres squared,
- No basement area was approved but is built,
- The building is of a much larger scale than what was approved,
- The area labelled as a paddock area has been removed,
- A large hardcore/turning area with a commercial appearance has been constructed,
- Ground levels have been altered,
- A concrete wall has been built without permission,
- No earth embankment or hedgerow has been planted as a natural screen to the site,
- The description of the proposal/what is built is incorrect,
- The building has been constructed 22 metres from my dwelling on an area which it was not granted approval on.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

The applicant has knowingly constructed a building of which the scale has not been approved, in a location which was not applied for and is much closer to the neighbour who is also the objector to this proposal.

In conclusion, members are reminded the applicant has been given numerous opportunities amend this proposal as was requested and explained above but has failed to do so. It is also worth noting the proposal under application LA09/2017/0977/F which members of the Planning Committee granted permission in July 2018 is still live. The applicant is still able to implement this proposal in the location and at the size as was approved.

Therefore taking into consideration policy requirements of the SPPS and PPS 21, concerns highlighted by the objector, combined with unsuccessful efforts to amend the proposal, I consider this proposal to be unacceptable. I recommend it is refused planning permission and the Enforcement Section be allowed to reconvene with the processing of their case which is currently awaiting the outcome of this application.

**Refusal Reasons**

1. This proposal is contrary to Policy CTY 12 Agricultural and Forestry Development of PPS 21, Sustainable Development in the Countryside in that it is inappropriate in terms and scale to its location and it fails to visually integrate into the local landscape.
2. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development, if permitted, would result in a detrimental impact on the amenity of the neighbouring residential dwelling outside of the holding by reason of dominance.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building is a prominent feature in the landscape and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would be/is unduly prominent in the

landscape and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	1st September 2020
<b>Date First Advertised</b>	14th September 2020
<b>Date Last Advertised</b>	8th June 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 28 Toomog Road, Dungannon, Tyrone, BT70 3BL Lawrence Small 28 Toomog Road, Dungannon, Tyrone, BT70 3BL Lawrence Small 28 Toomog Road, Dungannon, Tyrone, BT70 3BL L Small 28, Toomog Road, Dungannon, Tyrone, Northern Ireland, BT70 3BL The Owner/Occupier, 28a ,Toomog Road,Dungannon,Tyrone,BT70 3BL Laurence Small 28a, Toomog Road, Dungannon, Tyrone, Northern Ireland, BT70 3BL	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/1046/F Proposal: Proposed farm building as cattle shed Address: 40m North East of 28A Toomog, Galbally, Dungannon, Decision: Decision Date:  Ref ID: M/1984/0575 Proposal: BUNGALOW Address: TOOMOG, CASTLECAUFIELD, DUNGANNON Decision: Decision Date:  Ref ID: M/1984/057501 Proposal: BUNGALOW Address: TOOMOG, CASTLECAULFIELD, DUNGANNON Decision: Decision Date:  Ref ID: M/1999/4033	

Proposal: Extension to dwelling  
Address: 28A TOOMAGH ROAD CASTLECAULFIELD DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1988/0619  
Proposal: LV O/H Line Extension  
Address: TOOMOG DUNGANNON  
Decision:  
Decision Date:

Ref ID: LA09/2017/0977/F  
Proposal: Proposed farm build as cattle shed  
Address: 40m North East of 28A Toomog Road, Galbally, Dungannon,  
Decision: PG  
Decision Date: 06.07.2018

Ref ID: LA09/2020/1046/F  
Proposal: Proposed farm building as cattle shed  
Address: 40m North East of 28A Toomog, Galbally, Dungannon,  
Decision:  
Decision Date:

Ref ID: M/1984/0575  
Proposal: BUNGALOW  
Address: TOOMOG, CASTLECAUFIELD, DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1984/057501  
Proposal: BUNGALOW  
Address: TOOMOG, CASTLECAULFIELD, DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1999/4033  
Proposal: Extension to dwelling  
Address: 28A TOOMAGH ROAD CASTLECAULFIELD DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1988/0619  
Proposal: LV O/H Line Extension  
Address: TOOMOG DUNGANNON  
Decision:  
Decision Date:

Ref ID: LA09/2017/0977/F  
Proposal: Proposed farm build as cattle shed  
Address: 40m North East of 28A Toomog Road, Galbally, Dungannon,  
Decision: PG

Decision Date: 06.07.2018

### **Summary of Consultee Responses**

DFI Roads - No objection subject to visibility splays of 2.4 metres by 45 metres in both directions and forward sight distance of 45 metres also. NI Water have no objections to this proposal. Environmental Health have no objections subject to conditions restricting the use of and within the building. This is due to the precedent of an agricultural building being accepted on this site under the previously approved application. Shared Environmental Services (SES) were informally consulted and they did not consider it necessary to formal consult them as they have no concerns about this proposal affecting any European protected sites. DAERA have no objections.

### **Drawing Numbers and Title**

Drawing No. 01 REV 3  
Type: Site Location Plan  
Status: Submitted

Drawing No. 03 REV4  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04 REV4  
Type: Proposed Plans  
Status: Submitted

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

Date of Notification to Department:  
Response of Department:

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0317/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling & garage.	<b>Location:</b> Between 23 & 27a Macknagh Lane, Upperlands, Maghera.
<b>Applicant Name and Address:</b> Mr Paddy McEldowney 48 Halfgayne Road Maghera BT46 5NL	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b> Substantial and continuous frontage	
<b>Summary of Consultee Responses:</b> No issues	
<b>Characteristics of the Site and Area:</b>  The application is identified as lands between Nos 23 and 27a Macknagh Lane, Maghera, which is sited in open countryside as per the Magherafelt Area Plan 2015. The site's topography is flat and is currently used for grazing livestock. The existing boundaries consist of semi-mature deciduous trees with intermittent thick vegetation with a galvanised field gate leading to public road. There is an existing lane connecting with farmland and sheds to the northeast. Further east is a dwelling with a detached garage set to the side. To the west is another dwelling and garage with a curved driveway cutting through the front portion of the site. This property is heathy bushed, which conceals its presence with any of the surrounding built features. The surrounding landscape is defined by undulating countryside characteristic with farmsteads and single dwellings some setback from the road.	



### Description of Proposal

The applicant is seeking an outline planning permission for a proposed infill dwelling and garage between Nos 23 and 27a Macknagh Lane, Maghera.

### Deferred Consideration:

This application was presented before the Planning Committee as a deferred application, in February 2022 with a recommendation to refuse based on CTY 8 of PPS 21 in that the development would create a ribbon of development if permitted. The application was deferred for site visit with Members which took place.

Having visited the site, it is clear there is a dwelling and a garage with a frontage to the road at No 23. The dwelling being relied upon to provide a substantial and continuously built-up frontage at No 27a does not have a frontage to the road. It is only the access point that comes to the road. The garden of No 27a does not front onto the road due to the field between the house and the road and the application site which prevents it having a frontage. Following the site visit with Members I have verified the extent of the approved curtilage to No 27 Macknagh Lane, from planning permission granted under H/2010/0160/F. It is clear from that permission the approved curtilage of the dwelling does not extend to the boundary with the application site. Therefore, to accept the dwelling at number 27 has a frontage to the road would be to rely on an unauthorised extension to the approved curtilage of that dwelling.

The garages are set back from the dwellings in such a way that they do not have a significant presence to the road frontage, thus the requisite for 3 buildings along a road frontage is not met. The guidance talks about important visual breaks, keeping the area rural in character and if this site is developed it will lead to further infill opportunities along the road. I do not consider the application to be sited on a site in a continuously and built-up frontage and I recommend a continued refusal.

**Reasons for Refusal:**

1. The proposal is contrary to CTY 1 of Planning Policy Statement 21 in that there is no overriding reason why the development cannot be located within a settlement.
2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.

**Signature(s):**

**Date**

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0317/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling & garage.	<b>Location:</b> Between 23 & 27a Macknagh Lane, Upperlands, Maghera.
<b>Applicant Name and Address:</b> Mr Paddy McEldowney 48 Halfgayne Road Maghera BT46 5NL	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b> Substantial and continuous frontage	
<b>Summary of Consultee Responses:</b> No issues	
<b>Characteristics of the Site and Area:</b>  The application is identified as lands between Nos 23 and 27a Macknagh Lane, Maghera, which is sited in open countryside as per the Magherafelt Area Plan 2015. The site's topography is flat and is currently used for grazing livestock. The existing boundaries consist of semi-mature deciduous trees with intermittent thick vegetation with a galvanised field gate leading to public road. There is an existing lane connecting with farmland and sheds to the northeast. Further east is a dwelling with a detached garage set to the side. To the west is another dwelling and garage with a curved driveway cutting through the front portion of the site. This property is heathy bushed, which conceals its presence with any of the surrounding built features. The surrounding landscape is defined by undulating countryside characteristic with farmsteads and single dwellings some setback from the road.	



### **Description of Proposal**

The applicant is seeking an outline planning permission for a proposed infill dwelling and garage between Nos 23 and 27a Macknagh Lane, Maghera.

### **Deferred Consideration:**

This application was presented before the Planning Committee in October 2021 with a recommendation to refuse based on CTY 8 of PPS 21 in that the development would create a ribbon of development if permitted. The application was deferred for an office meeting which took place on 14 October 2021 with the Planning Manager. It was agreed that I would visit the site and consider if a dwelling on this site would change rural character.

Having visited the site it is clear there is a dwelling and a garage with a frontage to the road at No 23. The dwelling being relied upon to provide a substantial and continuously built up frontage at No 27a does not have a frontage to the road. It is only the access point that comes to the road. The garden of No 27a does not front onto the road due to the field between the house and the road and also the application site which prevents it having a frontage.

The garages are set back from the dwellings in such a way that they do not have a significant presence to the road frontage, thus the requisite for 3 buildings has not been met. The guidance talks about important visual breaks, keeping the area rural in character and if this site is developed it will lead to further infill opportunities along the road. I do not consider the application to be sited on a site in a continuously and built up frontage and I recommend a continued refusal.



**Reasons for Refusal:**

1. The proposal is contrary to CTY 1 of Planning Policy Statement 21 in that there is no overriding reason why the development cannot be located within a settlement.
2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.

**Signature(s):**

**Date**



**Development Management Officer Report  
 Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0317/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling & garage.	<b>Location:</b> Between 23 & 27a Macknagh Lane Upperlands Maghera.
<b>Referral Route:</b>  Contrary to Planning Policy Statement 21 - CTY8	
<b>Applicant Name and Address:</b> Mr Paddy McEldowney 48 Halfgayne Road Maghera BT46 5NL	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>  Gerard Lynch	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Content

#### Representations:

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

#### Summary of Issues

Neighbour Notifications and press advertisement has been carried out in line with the Council's statutory duty. No third-party representations have been received. All other material considerations have been addressed within the determination within the report.

#### Description of Proposal

The applicant is seeking an outline planning permission for a proposed infill dwelling and garage between Nos 23 and 27a Macknagh Lane, Maghera.

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal involves the construction of a new access.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk).

### Site History.

Reference	Location	Proposal/Complaint	Status	Date
LA09/2021/0317/O	Between 23 & 27a Macknagh Lane, U	Proposed infill dwelling & garage.	VALID APPLICATION RECEIVED	
H/2008/0259/RM	180m North East of 24 Macknagh Lane	Proposed dwelling and detached double domestic gara	PERMISSION GRANTED	17.09.2008
H/2004/0327/O	180m North East of 24 Macknagh Lane	Site of dwelling and garage.	PERMISSION GRANTED	26.07.2005
H/2009/0690/F	180m north east of 24 Macknagh Lane	Re-location of existing approved dwelling and extensior	PERMISSION GRANTED	15.02.2010
H/2009/0454/F	35m South of 25 Macknagh Lane, Upp	Proposed 1? storey detached dwelling	PERMISSION GRANTED	16.10.2009
H/2001/0476/RM	Junction of Macknagh Lane & Tirgarvil	Dwelling and garage	PERMISSION GRANTED	21.08.2001
H/2007/0898/O	Lands at the junction of Macknagh Lar	Site of proposed dwelling & garage	APPLICATION WITHDRAWN	16.11.2007
H/2010/0562/O	Site located 70metres north west of No	Proposed site for a dwelling in accordance with Policy (	APPLICATION WITHDRAWN	29.06.2011
H/2010/0160/F	180m NE of 24 Macknagh Lane, Magh	Change of house type from previously approved under	PERMISSION GRANTED	23.07.2010
H/2015/0065/O	Land approx. 120 metres North East of	Proposed detached dwelling and domestic garage to in	APPLICATION WITHDRAWN	15.06.2015

### Consultees.

1.DFI Roads were consulted in relation to access, moving and parking arrangement and have responded with no objection subject to standard conditions and Informatives, which I am satisfied the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and parking.

### 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 no objections or representations were received. This application was initially advertised in the local press on w/c 15.03.2021 (Publication date 16.03.2021). One (1) neighbouring properties was notified on 15.03.2021, and two (2) neighbouring properties wre notified on 17.09.2021; 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.

### 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 Magherafelt Area Plan 2015 does not contain provided by PPS 21 and the SPPS.

1. Strategic Planning Policy Statement (SPPS);
2. Regional Development Strategy 2035;
3. Magherafelt Area Plan 2015;
4. PPS 21 Sustainable Development in the Countryside (CT8, CTY 13 & 14);
5. PPS 3 Access, Movement and Parking & DCAN 15 vehicular Standards;
6. Draft. Mid Ulster District Council Area Plan 2030.

**Supplementary planning guidance:-**

Building on Tradition A sustainable design guide for rural NI; and

Planning Advice Note (PAN) on 'Implementation of Strategic Planning Policy for Development in the Countryside' August 2021.

**Magherafelt Area Plan 2015.**

The site lies in the rural countryside and outside any designated settlement limits as depicted in the MAP 2015, which has no specific planning policies relevant to this application.

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

Planning Policy Statement 21: 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 being met. These are listed in Policy CTY1 of PPS21.

The applicant has applied for a dwelling and garage as an infill site under Policy CTY 8 of PPS 21. Sustainable Development in the Countryside.

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.

There was no supporting statement with this application however the agent was contacted to ask if he wanted to submit why he considered the site an infill opportunity. No response was forthcoming.

I have visited and noted my observations and have reviewed the policies I do not consider this site meets the requirements in accordance with Policy CTY3 of PPS21.

Whilst I can content the site has the capacity to absorb a dwelling and ancillary garage of an appropriate size, scale and design would fail to meet the policy test in accordance with planning policy CTY8 of PPS 21.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for one infill dwelling CTY 8 is the relevant policy in the assessment.

I have screened the proposal against two additional policies which it did not meet the criteria in CTY 2a for a new dwelling in an existing cluster and failed to meet the criteria in CTY3 for a replacement dwelling as there is no dwelling at the site to be replaced.

The application site is a small agricultural field accessing onto Macknagh Lane via a field gate, Upperlands near Maghera. There is a farm lane located on the site's eastern boundary, further to the east of the site is a dwelling and garage at No. 27. There is a garden area to the front of this property and I am content the dwelling has a frontage onto Macknagh Lane. I note there is a garage at No. 27 but recent Planning Guidance states that for garages and outbuildings to be considered as buildings for infill they have to be substantial. Paragraph 22 states that a domestic garage is not a substantial building for infill policy. The garage at No. 27 a small single storey building which is set back behind the dwelling so I do not consider the garage at No. 27 can be considered a building for infill policy in this case.

To the west of the site is a dwelling at No. 27 Macknagh Lane. However, the dwelling is set back from the public road and is concealed from public view dose not in my view represent a dwelling with a frontage.

Further west is a dwelling No 20 Macknagh Lane, which has 2 outbuildings within its curtilage and would in my view represent a road frontage. However, this property whilst having a road frontage would be a considerable away from the proposed site.

The site is not in my view located within an otherwise substantial and continuously built frontage i.e. line of 3 or more buildings running along Macknagh Lane, without accompanying development to the rear

#### **Other Considerations**

Checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online identified no built heritage assets of interest or natural features of significance on site.

NI Flood Maps have been checked no flooding issues have been identified on the site.

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

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

#### **Neighbour Notification Checked**

**Yes**

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

Recommendation. Refuse
Reasons for Refusal:  1. The proposal is contrary to CTY 1 of Planning Policy Statement 21 in that there is no overriding reason why the development cannot be located within a settlement.  2. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would create ribbon development.
<b>Signature(s)</b>  <b>Date:</b>

<b>ANNEX</b>	
<b>Date Valid</b>	1st March 2021
<b>Date First Advertised</b>	16th March 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 23 Macknagh Lane Upperlands Maghera The Owner/Occupier, 25 Macknagh Lane Maghera Londonderry The Owner/Occupier, 25a Macknagh Lane Maghera The Owner/Occupier, 27 Macknagh Lane Upperlands Maghera	
<b>Date of Last Neighbour Notification</b>	15th March 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0317/O Proposal: Proposed infill dwelling & garage. Address: Between 23 & 27a Macknagh Lane, Upperlands, Maghera. Decision: Decision Date:  Ref ID: H/2008/0259/RM Proposal: Proposed dwelling and detached double domestic garage Address: 180m North East of 24 Macknagh Lane, Maghera Decision: Decision Date: 17.09.2008  Ref ID: H/2004/0327/O Proposal: Site of dwelling and garage. Address: 180m North East of 24 Macknagh Lane, Maghera. Decision: Decision Date: 26.07.2005  Ref ID: H/2009/0690/F Proposal: Re-location of existing approved dwelling and extension of curtilage from previously approved applications H/2004/0327/O and H/2008/0259/RM) Address: 180m north east of 24 Macknagh Lane, Maghera Decision:	



Decision Date: 15.02.2010

Ref ID: H/2009/0454/F

Proposal: Proposed 1? storey detached dwelling

Address: 35m South of 25 Macknagh Lane, Upperlands

Decision:

Decision Date: 16.10.2009

Ref ID: H/2001/0476/RM

Proposal: Dwelling and garage

Address: Junction of Macknagh Lane & Tirgarvil Lane, Upperlands

Decision:

Decision Date: 21.08.2001

Ref ID: H/2007/0898/O

Proposal: Site of proposed dwelling & garage

Address: Lands at the junction of Macknagh Lane and Tirgarvil Lane, Maghera

Decision:

Decision Date: 16.11.2007

Ref ID: H/2010/0562/O

Proposal: Proposed site for a dwelling in accordance with Policy CTY10 of PPS21

Address: Site located 70metres north west of No.23 Macknagh Lane, Maghera,

Decision:

Decision Date: 29.06.2011

Ref ID: H/2010/0160/F

Proposal: Change of house type from previously approved under application ref H/2009/0690/F

Address: 180m NE of 24 Macknagh Lane, Maghera

Decision:

Decision Date: 23.07.2010

Ref ID: H/2015/0065/O

Proposal: Proposed detached dwelling and domestic garage to include all associated site works.

Address: Land approx. 120 metres North East of 24 Macknagh Lane Maghera,

Decision: WITHDR

Decision Date: 15.06.2015

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**Summary of Consultee Responses**

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**Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0480/F <b>Recommendation:</b> Refuse	<b>Target Date:</b> 19 May 2021
<b>Proposal:</b> Proposed new dwelling and domestic garage within existing cluster	<b>Location:</b> 75M West Of 11 Grange Road Cookstown
<b>Applicant Name and Address:</b> Mr Paddy Donnelly 65A Lissan Road Cookstown	<b>Agent name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  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.	
<b>Summary of Consultee Responses:</b>  	
<b>Characteristics of the Site and Area</b>  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. 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.

In light of no development having taken place I recommend this application be issued as a refusal. Having carried out a site inspection the site is in close proximity to Allingham Transport which is based in a significant building in close proximity to the application site and thus I would recommend withdrawing this element of refusal based on CTY 2a, all other reasons are still considered appropriate as cited in the previous report to Members.

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.

**Signature(s):** Karen Doyle

**Date:** 25 January 2024



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0480/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed new dwelling and domestic garage within existing cluster	<b>Location:</b> 75m West of 11 Grange Road Cookstown
<b>Referral Route:</b>  1. Refusal- Contrary to Policies CTY1 and CTY2a of PPS 21 2. Letter of objection	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Paddy Donnelly 65a Lissan Road Cookstown	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b>  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.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	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](http://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:**

<b>ANNEX</b>	
<b>Date Valid</b>	24th March 2021
<b>Date First Advertised</b>	6th April 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (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	
<b>Date of Last Neighbour Notification</b>	13th August 2021
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	No
<b>Planning History</b>  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:



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2021/0676/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 17 August 2021
<b>Proposal:</b> Proposed relocation of existing approved site LA09/2018/1646/O to opposite side of road	<b>Location:</b> 70M South West Of 11 Motalee Road Magherafelt
<b>Applicant Name and Address:</b> Mrs Gillian Montgomery 29 Thornhill Road Thornhill Glebe Pomeroy Dungannon	<b>Agent name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> <p>This application was first before Members at September 2022 Planning Committee with a recommendation to refuse. It was considered that the proposal failed to comply with policies CTY 1, CTY 8 and CTY 14 of PPS 21 in that it would add to ribbon development along the Motalee Road and harm the rural character of the area. Members agreed to defer the application for 2 separate office meetings with the applicant and the objector. These took place on the 21st September 2022. I have since carried out a site inspection of the application site and it is my opinion that the initial recommendation to refuse the application be upheld with my justification for this detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b> <p>The proposed site is located approximately 0.63km north west of the development limits of Magherafelt and from this the site is located within the open countryside as per defined in the Magherafelt Area Plan 2015. The red line covers part of an existing agricultural field on the east of Motalee Road, where permission was previously granted for a dwelling under reference LA09/2018/1646/O and then extends across the road to the west and is part of a larger agricultural field where the applicant wishes to site. The proposed site is relatively flat and has strong mature boundaries on all sides apart from the north west which is currently undefined</p>	

and extends into the rest of the field. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

#### Relevant Planning History

LA09/2018/1646/O- Proposed site for dwelling and domestic garage / store under policy CTY 10 - dwelling on a farm. 55mts South / South East of No. 11 Motalee Road, Magherafelt. Permission Granted 27.03.2019

LA09/2019/0710/O- Proposed "off site" replacement dwelling & domestic garage/store. "under policy CTY 3". 70m SW of 11 Motalee Road, Magherafelt. Permission Refused 29th December 2020.

#### Description of Proposal

This is an outline planning application for the proposed relocation of existing approved site LA09/2018/1646/O to opposite side of road.

#### Deferred Consideration:

At the outset it is important for Members to understand the planning history surrounding this case. On the 26.03.2019 outline approval was granted for a farm dwelling on lands to the East of the application site (LA09/2018/1646/O). The applicant then submitted this current application proposing to relocate the dwelling to the West of and at the opposite side of the road to the site approved under LA09/2018/1646/O. As this current application is a full application the applicant has submitted a P1C and a Farm Map to be considered. There is no reference in the description to the proposal being a dwelling or even a farm dwelling however I am satisfied that this is not necessary in terms of validity. It states that it is for the relocation of an approved site and makes reference to the planning application number which can be easily looked up on Public Access. The proposal remains to be for a dwelling and I have considered it under CTY 10, as well as holding weight to the live outline approval. A consultation was issued to DAERA to establish if the farm business is currently active and has been established for at least 6 years. DAERA responded to confirm the farm business has been in existence since the 20.05.2003 however no payments are being claimed by the farm business. They have advised that the site is located on lands claimed by another farm business. A detailed farm case to prove activity was requested at the deferred office meeting but all that has been received to date is a farm map and a some 2013/14/15 DAERA (SFP) correspondence addressed to Mrs Mary Stewart at 11 Motalee Road. Mrs Stewart has signed the P1C as being a member of the farm business. There is no formal conacre agreement or receipts to demonstrate current activity. As such I do not agree the that farm business is currently active for the purposes of CTY 10.

A land registry check was carried out on 9th August 2022 by the previous case officer and it showed that this site is still legally in the ownership of the applicant. I have carried out a more recent land registry check (19th Jan 2024) and it shows that the applicant does own all the land shown on blue on the site location. I am satisfied that there are no development opportunities on this land that have been transferred or sold of the holding.

The address of the farm business is noted on the P1C as being 29 Thornhill Road, Pomeroy which is some distance away from the application site. Under LA09/2018/1646/O it was accepted that a dwelling would visually link and cluster with the farm buildings at number 11



Motalee Road, which the applicant showed as being in her ownership on the site location plan at that time and also under this current application. No farm map was submitted showing the extent of the farm under LA09/2018/1646/O. The farm map submitted with this application shows the site and lands immediately adjacent however it does not provide the Farm Business ID or the address/details of the farm business. It is not unreasonable to assume the farm map relates to whoever takes these lands in conacre. Following my land registry check I am satisfied that the farm buildings at 11 Motalee Road are within the ownership of the applicant and can be considered as a group of buildings on the holding. The initial case officer assessing this application was content that there would be a visual link between the proposed site and the existing farm buildings at number 11 if it weren't for the presence of existing vegetation. From visiting the site I would agree with that assessment. Paragraph 5.41 of PPS 21 allows for these scenarios, "planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation."

Members should also be aware that refusal was issued for an off-site replacement dwelling on the current application site under LA09/2019/0710/O. It was refused under CTY 8 and CTY 14 of PPS 21 in that it would add to ribbon development and impact on rural character. This was appealed and the appeal was dismissed on 29.12.2020 (2019/A0199). The current application was submitted less than 2 years from the PAC decision. Unless there is a material difference between the new application and the refused application on a site then the Council should not be making a decision on it. The applicant was asked on numerous occasions over the past year and a half to demonstrate how both applications were materially different. This was never forthcoming however it has now been more than 2 years since the PAC issued its decision on the appeal site and so I am content to assess the application and proceed with making a recommendation to Members.

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development along a road (including private laneways). It is my opinion that a building at this location would result in an addition to an existing ribbon of development along the laneway running off Motalee road (taking in dwellings at numbers 6, 8 and 10 Motalee Road). The addition or creation of a ribbon is also contrary to CTY 14 in that it will negatively impact on rural character. This was also the view of the PAC under 2019/A0199.

I therefore recommend that Members refuse this application as it fails to comply with CTY 8, CTY 10 and CTY 14 of PPS 21.

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

##### **Refusal Reasons**

###### **Reason 1**

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

###### **Reason 2**

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

**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, add to a ribbon of development along the Motalee Road and would therefore result in a detrimental change to erode the rural character of the countryside.

**Reason 4**

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active.

**Signature(s):**Karla McKinless

**Date:** 19 January 2024



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 September 2022	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2021/0676/O	<b>Target Date:</b> 29 June 2021
<b>Proposal:</b> Proposed relocation of existing approved site LA09/2018/1646/O to opposite side of road	<b>Location:</b> 70M South West Of 11 Motalee Road Magherafelt
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mrs Gillian Montgomery 29 Thornhill Road Thornhill Glebe Pomeroy Dungannon	<b>Agent Name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Characteristics of the Site and Area</b> <p>The proposed site is located approximately 0.63km north west of the development limits of Magherafelt and from this the site is located within the open countryside as per defined in the Magherafelt Area Plan 2015. The red line covers part of an existing agricultural field on the east of Motalee Road, where permission was previously granted for a dwelling under reference LA09/2018/1646/O and then extends across the road to the west and is part of a larger agricultural field where the applicant wishes to site. The proposed site is relatively flat and has strong mature boundaries on all sides apart from the north west which is currently undefined and extends into the rest of the field. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.</p>	
<b>Relevant Planning History</b> <p>LA09/2018/1646/O- Proposed site for dwelling and domestic garage / store under policy</p>	

CTY 10 - dwelling on a farm. 55mts South / South East of No. 11 Motalee Road, Magherafelt. Permission Granted 27.03.2019

LA09/2019/0710/O- Proposed "off site" replacement dwelling & domestic garage/store. "under policy CTY 3". 70m SW of 11 Motalee Road, Magherafelt. Permission Refused 29th December 2020.

### **Description of Proposal**

This is an outline planning application for the proposed relocation of existing approved site LA09/2018/1646/O to opposite side of road.

### **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 Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes 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.

A consultation was issued to DAERA to establish if the farm business is active and have been established for at least 6 years. DAERA responded to confirm the farm business has been in existence for 6 or more years however no payments are being claimed by the farm business, However the site is located on lands claimed by another farm business with the land being let to another farmer, therefore I am content the proposal complies with Criteria A.

In relation to criteria B an objection raised the comments made by the agent on another application for the same applicant, (LA09/2019/0710/O) which was for the site this application proposes to site. Whilst addressing the committee the agent stated that "the applicants sister had been gifted the site of the approved dwelling by the applicant and similarly the applicants other sister will be gifted the site for this application." Paragraph 5.40 of PPS21 states that for the purposes of CTY 10, the term sold off means any development opportunity disposed of from the farm holding to any other person including a member of the family. A land registry check was carried out on 9th August 2022 and it shows that this site is still legally in the ownership of the applicant. I am content that Criteria B has been met.

Criteria C states that any new building should be visually linked with or sited to cluster with an established group of buildings on the farm. The existing farm buildings have been identified on the site location map being on the opposite side of the road, north east of the proposed siting. I am content there is a visual link between the proposed site and the existing farm buildings opposite. It is noted that the proposed site and the existing farm buildings are well screened from the public road and as per paragraph 5.41 of PPS 21 which states, "planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation."

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is an outline application in which the exact design and siting details have not been submitted. The site is currently well screened from the public road and I am content that it will integrate into the landscape with some additional landscaping to aid integration. A ridge height condition should be applied to any approval to limit the dwelling to 6.5m above finished floor level.

Policy CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. However as determined by application LA09/2019/0710/O and

appeal reference 2019/A0199 a dwelling at this location, if permitted, would result in the addition of ribbon development along the Motalee Road and would result in the creation of a ribbon and a suburban build-up of dwellings. Therefore, this proposed re-location fails to meet Policy CTY 14.

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. As previously mentioned a building at this location would result in the addition of a ribbon of development along the Motalee Road. This site does not meet the exception criteria contained within CTY 8 and therefore fails to comply.

There is ample space within this site to provide a private package treatment provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private package treatment provision. In my view, the proposal does not offend policy CTY16 of PPS21.

### PPS 3: Access, Movement and Parking

DfI Roads were consulted and offered no objection.

### Other Material Considerations

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

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

<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
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<b>Summary of Recommendation:</b>
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Refuse is recommended

<b>Refusal Reasons</b>
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**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 CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Motalee Road and would, if permitted, result in the creation of a ribbon and suburban build up of dwellings.

**Case Officer:** Ciaran Devlin

**Date:** 18 August 2022

<b>ANNEX</b>	
<b>Date Valid</b>	4 May 2021
<b>Date First Advertised</b>	18 May 2021
<b>Date Last Advertised</b>	18 May 2021
<b>Details of Neighbour Notification</b> (all addresses)	
<p>The Owner / Occupier 10 Motalee Road Magherafelt Londonderry BT45 5HG</p> <p>The Owner / Occupier 8 Motalee Road Magherafelt Londonderry BT45 5HG</p> <p>The Owner / Occupier 6 Motalee Road Magherafelt Londonderry BT45 5HG</p> <p>The Owner / Occupier 6 Motalee Road, Magherafelt, Londonderry, BT45 5HG</p>	
<b>Date of Last Neighbour Notification</b>	3 June 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2003/0653/F Proposals: New domestic garage. Decision: PG Decision Date: 18-SEP-03</p> <p>Ref: H/1993/0008 Proposals: BUNGALOW Decision: PR Decision Date:</p> <p>Ref: LA09/2017/1775/O Proposals: Proposed dwelling and garage Decision: Decision Date:</p> <p>Ref: LA09/2018/1646/O Proposals: Proposed site for dwelling and domestic garage / store under policy CTY 10 dwelling on a farm Decision: PG Decision Date: 26-MAR-19</p>	



Ref: LA09/2019/0710/O

Proposals: Proposed "off site" replacement dwelling and domestic garage / store: "unde policy CTY 3"

Decision: PR

Decision Date: 06-DEC-19

Ref: H/1998/0334

Proposals: EXT TO DWELLING AND NEW GARAGE

Decision: PG

Decision Date:

Ref: LA09/2021/0676/O

Proposals: Proposed relocation of existing approved site LA09/2018/1646/O to opposite side of road

Decision:

Decision Date:

Ref: H/2002/0894

Proposals: Disposal of railway land.

Decision: 211

Decision Date: 03-MAR-04

Ref: H/1993/0066

Proposals: CONVERSION OF GARAGE TO PROVIDE RECREATION ROOM ALSO CAR

PORT AND GARDEN STORE

Decision: PG

Decision Date:

Ref: H/1996/0582

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DAERA - Coleraine-Substantive: TBCResponseType: FR

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/1657/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed general purpose storage unit & associated works in association with an established business - Terramac Fabrication Ltd	<b>Location:</b> 25m North East of No 9 Farlough Road Dungannon
<b>Applicant Name and Address:</b> Terramac Fabrication Ltd 81 Gortgonis Road Coalisland Dungannon BT71 4QF	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application is for a new building in the countryside outside any settlement limits. There has been no justification set out why this new building is necessary in this location.	
<b>Summary of Consultee Responses:</b> DFI Roads – recommend conditions to be imposed to ensure provision of sight lines and forward sight lines for a safe access	
<b>Characteristics of the Site and Area:</b>  The site lies in the open countryside just outside the settlement limits of Coalisland and Edendork. It is designated as greenbelt in the DSTAP 2010. The area is predominantly rural in nature with the site surrounding by agricultural land on three sides. To the south east towards the Coalisland/Dungannon Road the area is a lot more built up with a mix of industrial and residential development, some inside the settlement limits of Edendork and some outside of them. The red line of the site is situated just to the north of No.9 Farlough road, and consists of a rectangular shaped cut out in the western corner of a large agricultural field. The site	

is undefined on the ground to the north and east, with a low cropped hedgerow and a scattering to trees along the roadside west and the existing industrial units to the south.



**Description of Proposal**

The proposal seeks full planning permission for a general purpose storage unit & associated works in association with an established business - Terramac Fabrication Ltd.

**Deferred Consideration:**

This application was before the Planning Committee in July 2022 and it was agreed to defer for a meeting with the Service Director. A meeting was held in on 16 September 2022 where it was indicated this is for a research and development facility for the company. The agent was advised this would require the submission of a new planning application as that is for a different proposal.

Members are advised, despite a number of reminders this application remains undetermined. No additional information has been provided to justify this new building in the countryside and no new application has been submitted with justification for a new building.

As there has been no further information for consideration and the proposal is for a new building in the countryside the application is recommended for refusal as before.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Council's Planning Policy Statement 4, PED 2 in that the site is located within the open countryside and no exceptional circumstances have been demonstrated to justify relaxation of the strict planning controls exercised in this area.
3. The proposal is also contrary to Policy PED9 of PPS4 as it would, if approved, fail to meet the following criteria, (a) it is compatible with surrounding land uses, (b) it does not harm the amenities of nearby residents, and (e) it has the potential to create noise nuisance.

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

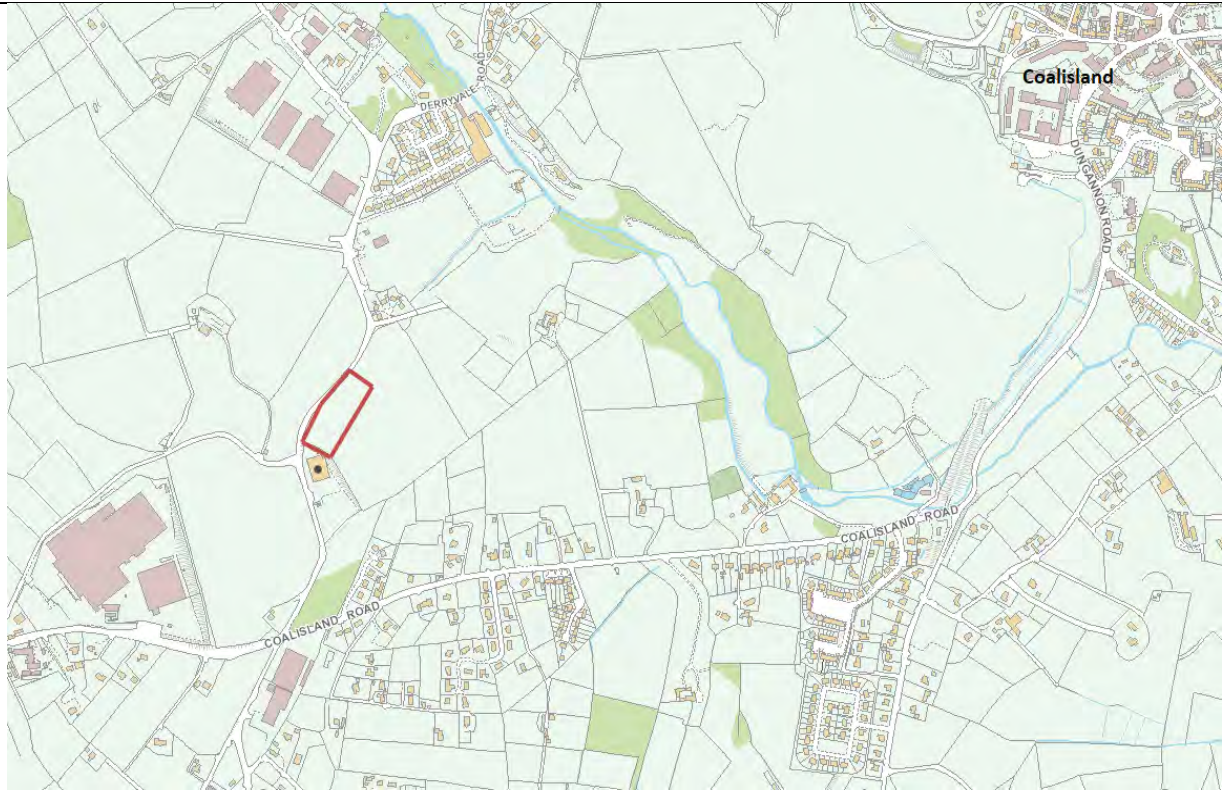


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1657/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed general purpose storage unit & associated works in association with an established business - Terramac Fabrication Ltd	<b>Location:</b> 25m North East of No 9 Farlough Road Dungannon
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Terramac Fabrication Ltd 81 Gortgonis Road Coalisland Dungannon BT71 4QF	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Contrary to PPS21 CTY1, PPS4 PED2 & PED9

### Characteristics of the Site and Area

The site lies in the open countryside just outside the settlement limits of Coalisland and also outside all other areas of constraint as depicted within the DSTAP 2010. The area is predominantly rural in nature with the site surrounding by agricultural land on three

sides, however, just a short distance to the south along the main Coalisland road the area is a lot more built up with a mix of industrial and residential.

The red line of the site is situated just to the north of No.9 Farlough road, and consists of a rectangular shaped cut out in the western corner of a large agricultural field. The site is undefined on the ground to the north and east, with a low cropped hedgerow and a scattering of trees along the roadside west and the existing industrial units to the south.



### Description of Proposal

The proposal seeks full planning permission for a general purpose storage unit & associated works in association with an established business - Terramac Fabrication Ltd





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

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- DSTAP 2010
- Planning Policy Statement 21 - Sustainable Development in the Countryside
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 4: Planning and Economic Development

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft

Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Representations**

Press advertisement and neighbour notification has been carried out in line with the Council's statutory duty. At the time of writing, there has been no third party representations.

### **History on Site**

There is no previous planning history on this site. There is planning approval for the redevelopment of a factory adjacent for what is now the Gradeall factory site, this was approved in 2005 under planning ref; M/2003/1631/F

### **Key Policy Considerations/Assessment**

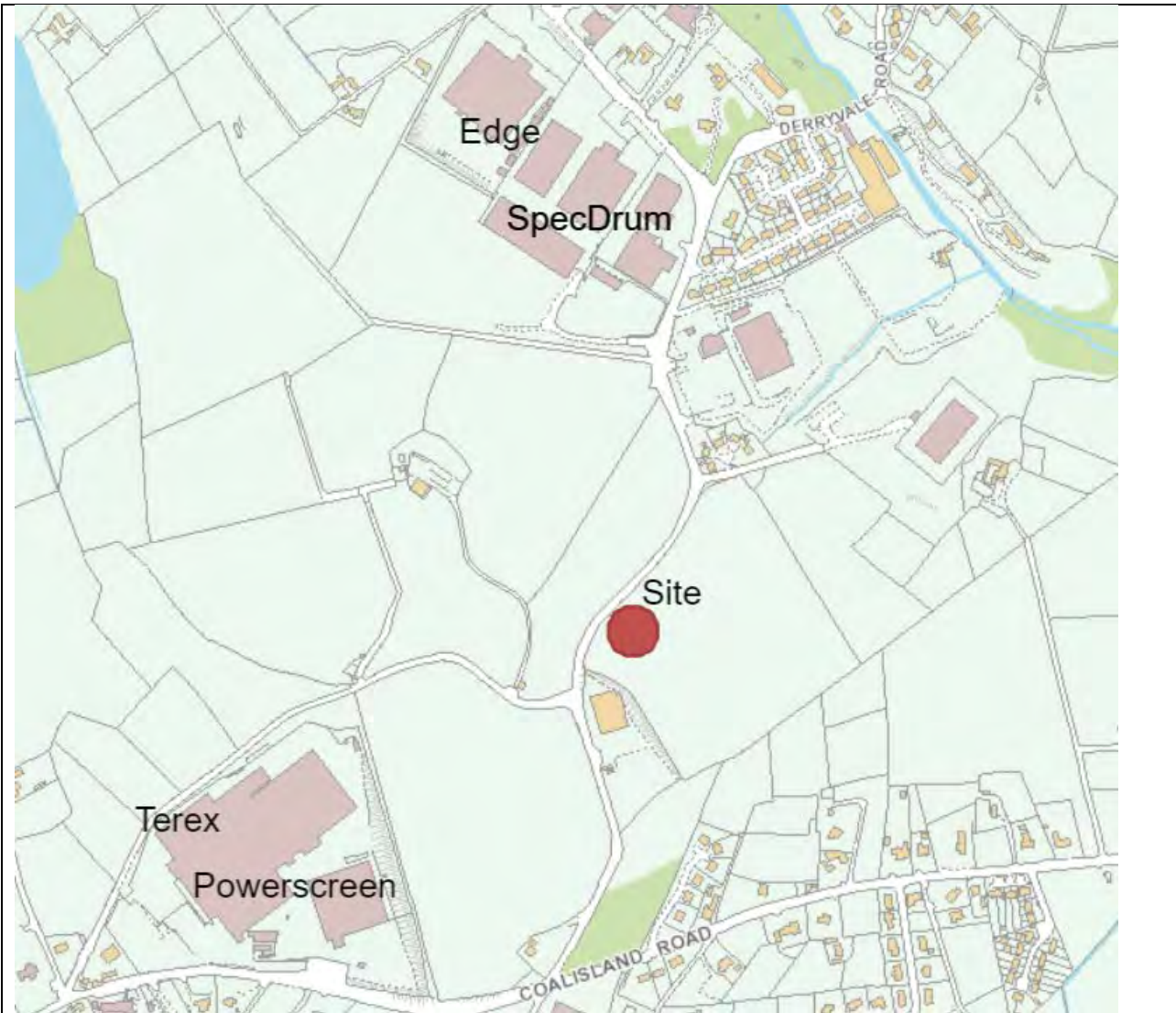
DSTAP - This site is located outside any settlement defined in the DSTAP 2010. It is not subject to any area plan designations or zonings and the plan does not have any policies for this type of development in a rural location. As such, existing planning policy will be applied (i.e.) PPS 4.

The SPPS retains the policy provisions of PPS21, PPS4 and PPS3.

PPS21, Policy CTY 1 - Development in the Countryside, outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Departments published guidance.

There is no history of this type of industrial development on the site, the site is in the rural area and not on land allocated for industrial development in the plan, and the applicant has provided no justification as to why this type of development is essential and could not be located within the settlement. It must be noted that the site adjacent to and south of proposed site is current used by Gradeall LTD which manufacture large scale industrial machinery. There is also an industrial area to the North which includes Edge and SpecDrum and to the south west a further industrial area which includes Terex and Powerscreen. (see below)

Information justifying the need for the proposed site as opposed to expanding the existing site has been sought on 13<sup>th</sup> April and 16<sup>th</sup> May and no response was received.



One type of development outlined in PPS21 which in principle is considered acceptable in the countryside and that will contribute to the aims of sustainable development: is industry and business uses in accordance with PPS 4 (currently under review)

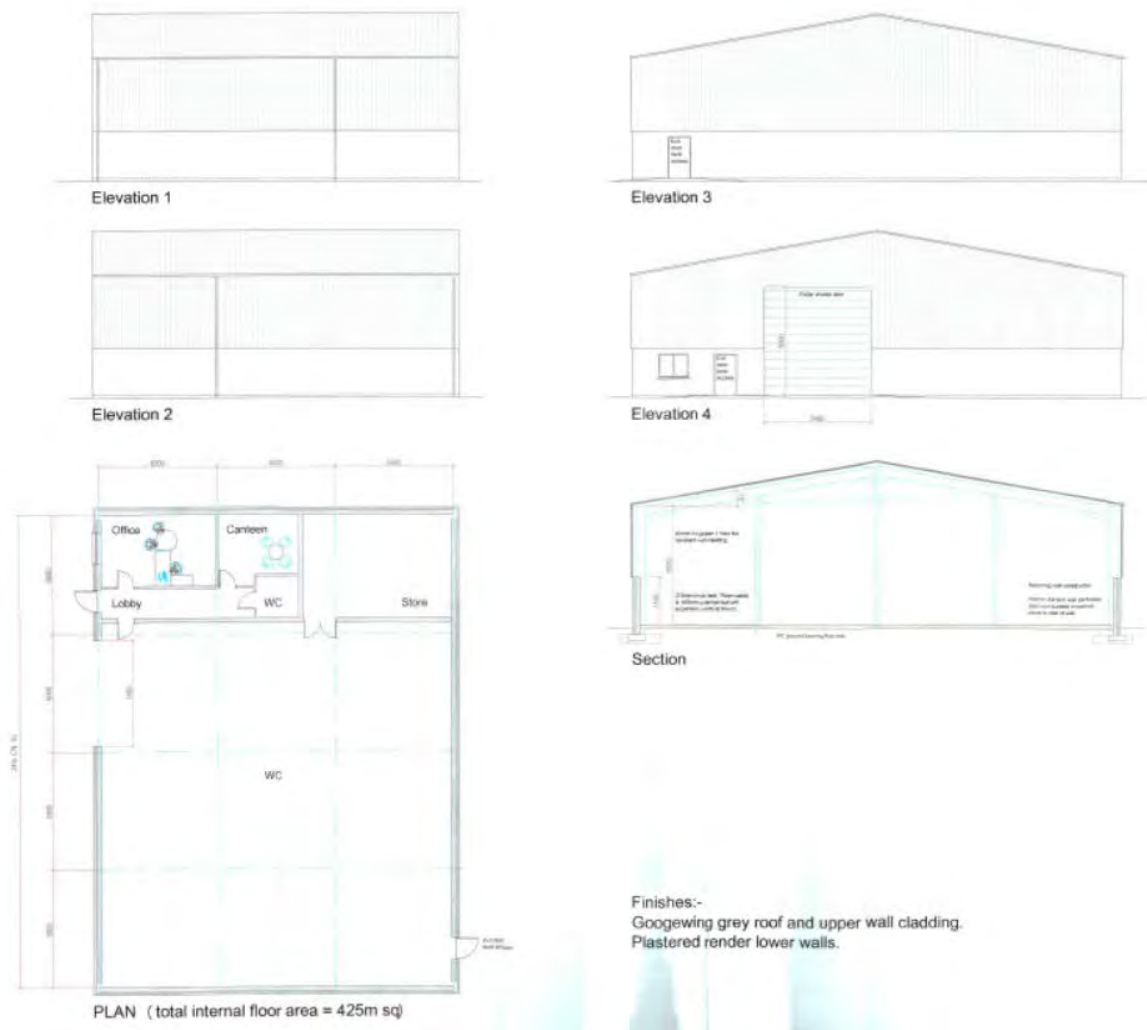
As this proposal is for a new industrial shed within the countryside and is not an extension to an already established economic development use Policies PED 2 and PED 9.

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

- The Expansion of an Established Economic Development Use – Policy PED 3
- The Redevelopment of an Established Economic Development Use – Policy PED 4
- Major Industrial Development – Policy PED 5
- Small Rural Projects – Policy PED 6

This application is not for an expansion or redevelopment of an established site, it is not considered a major industrial development or a small rural project, or an economic development associated with farm diversification schemes. All other proposals for

economic development in the countryside will only be permitted in exceptional circumstances, therefore this proposal is not compliant with PED2.



#### Policy PED 9 - General Criteria for Economic Development

In addition to Policy PED 2, this proposal is required to meet the requirements of Policy PED 9;

I consider the proposal is contrary to PPS 4 Policy PED 9 for the following reasons;

this proposal is not considered compatible with the surrounding land uses, it is noted that there is an industrial use to the South, however, this site is detached from that, and given that the site is an open field which is also surrounded by agricultural lands to the North, East and West, residential dwellings also further to the north.

This development site is in a rural area with dwellings located immediately a short distance to the North, a proposed industrial shed of this size would result in a loss of amenity to the nearest neighbouring receptor via noise nuisance.



In conclusion, the proposal if approved would introduce a new industrial development to the rural area with no supporting information to justify as to why it is essential and cannot be located within the settlement or indeed the confines of the existing industrial site associated with the applicants existing business. As can be seen below the applicant Terramac Fabrications has an existing site a few miles to the east and has provided no justification as to why this site cannot house the proposed additional storage shed nor why a completely new separate site is needed.



In addition to the above, this application would be contrary to PPS 4 PED 2 in that it does not meet any of the policy provisions and has given no justification as to why it should be considered an exceptional case. And also contrary to PED 9 in that it would if permitted fail to meet the following criteria, (a) it is compatible with surrounding land uses, (b) it does not harm the amenities of nearby residents, (e) it has the potential to create noise nuisance.

Recommendation Refusal

**Neighbour Notification Checked**

**Yes**

**Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Council's Planning Policy Statement 4, PED 2 in that the site is located within the open countryside and no exceptional circumstances have been demonstrated to justify relaxation of the strict planning controls exercised in this area.
3. The proposal is also contrary to Policy PED9 of PPS4 as it would, if approved, fail to meet the following criteria, (a) it is compatible with surrounding land uses, (b) it does not harm the amenities of nearby residents, and (e) it has the potential to create noise nuisance.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	18th November 2021
<b>Date First Advertised</b>	30th November 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 16 Farlough Road,Dungannon,Tyrone,BT71 4DT The Owner/Occupier, 3 Farlough Road,Farlough,Dungannon,Tyrone,BT71 4DT The Owner/Occupier, 4 Farlough Road,Farlough,Dungannon,Tyrone,BT71 4DT The Owner/Occupier, 9 Farlough Road,Dungannon,Tyrone,BT71 4DT The Owner/Occupier, 9 Farlough Road,Dungannon,Tyrone,BT71 4DT	
<b>Date of Last Neighbour Notification</b>	17th December 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/1996/0259 Proposal: Proposed extension to existing industrial site to provide factory accommodation for engineering works (Amended Proposal) Address: GRADEAL INTERNATIONAL FARLOUGH ROAD DUNGANNON Decision: Decision Date:  Ref ID: M/2003/1631/F Proposal: Proposed re-development of existing factory to include for new factory/office block and plant room and associated site works Address: Gradeall International, Farlough Road, Newmills, Dungannon Decision: Decision Date: 08.11.2005  Ref ID: M/1985/0513 Proposal: RETENTION OF OFFICES Address: 9 FARLOUGH ROAD, DUNGANNON Decision: Decision Date:	

Ref ID: M/1978/0330  
Proposal: MANUFACTURE AND SALE OF GENERATORS  
Address: GORTIN, COALISLAND  
Decision:  
Decision Date:

Ref ID: LA09/2021/1657/F  
Proposal: Proposed general purpose storage unit & associated works in association with an established business - Terramac Fabrication Ltd  
Address: 25m North East of No 9 Farlough Road, Dungannon,  
Decision:  
Decision Date:

**Drawing Numbers and Title**

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

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/0234/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 20 April 2022
<b>Proposal:</b> Proposed site for dwelling and garage	<b>Location:</b> Lands Approx. 100M South West Of 111 Dunnamore Road Cookstown
<b>Applicant Name and Address:</b> Mr Noel Corey 101A Dunnamore Road Cookstown	<b>Agent Name and Address:</b> Cmi Planners Ltd 38 Airfield Road Toomebridge
<b>Summary of Issues:</b> <p>This application was first before Members at September 2022 Planning Committee. It was recommended for refusal under policies CTY 1 and CTY 10 of PPS 21 as it was considered that the farm business was not currently active or established for the required 6 year period. Members agreed to defer the application for an office meeting. This was facilitated on the 21st September 2022. I have since carried out a site inspection and considered additional information that was submitted by the agent. I recommend that Members refuse the application for one of the reasons previously stated as well as an additional reason under CTY 10 - failure to site or visually link with an established group of buildings on the farm. Justification for this recommendation is provided further in this report.</p>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b> <p>The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010 and is a rural site with single dwellings sparsely located throughout the surrounding area. The site itself is a small corner site of a field and sits at a level slightly below the road level. The land is rough agricultural lands and an area of woodlands is located along the western boundary and continues south, which provides a strong backdrop for the site. A low-level post and wire fence defines the northern and eastern boundary and the site slopes gently in a southern direction. The applicant resides at an address approx. 700m to the East of</p>	

the application site (marked x). This is the address of the farm business.



## Description of Proposal

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

### Site History

I/2006/0621/O- Dwelling and garage 120m South West of 111 Dunamore Road, Cookstown.  
Permission refused. (Appealed)  
2006/A0532- Appeal Dismissed 1st June 2007.

## Deferred Consideration:

This application was submitted under Policy CTY 10 for a site for a dwelling on a farm. The first test of CTY 10 is to determine whether the farm business is currently active and established for at least 6 years. The applicant, Mr Noel Corey of 101a Dunnamore Road, has indicated that his farm business has been established since November 1999 but he only has a business ID since November 2021. He does not make any claims of his land. DAERA have been consulted and have confirmed the business ID was allocated in October 2020. The business ID has a category 3 status which means he is not entitled to claim land payments and the site is located on land not claimed by any farm business. Members will be aware that applicants can demonstrate that a farm business is active and established for the required period in the absence of having a business ID. At the deferred office meeting the agent was provided the opportunity to make this case. Evidence, which was previously submitted, has been re-submitted, namely a screen shot which shows a DAERA client ID and flock number created on the 23rd November 1999. This is not evidence in itself that there is an established farm business. Also provided are photographs of a herd book and tags, neither of which I can directly link to the applicant. Receipts have been submitted covering the years 2017-2022 which do indicate that the applicant may have been doing enough works to constitute activity on his land. A conacre agreement has also been submitted which indicates that the applicant is leasing a parcel of land immediately adjacent to

101a Dunnamore Road.

From the evidence provided it is my view that the farm business can not be regarded as established. The fact remains that the business number was only granted in Oct 2020, the herd book and tags can not be linked to the applicant with any certainty and there was no evidence of sheep being kept at 101a Dunnamore Road or on the lands owned or leased by the applicant on the day of my site inspection. The conacre agreement provided, in particular the site shown in red on the cover page, conflicts with the supporting statement which identifies leased land in blue and I hold limited weight to accepting the agreement as evidence of an established farm business. I do accept that the applicant is keeping his land in good agricultural condition by virtue of the receipt evidence provided but this alone does not prove he has an established farm business. I therefore am of the opinion that there is no established farm business for the purposes of CTY 10.

CTY 10 also requires that a dwelling is sited to cluster or visually link with an established group of buildings on the holding. The established buildings consist of a dwelling and outbuilding. I have carried out a land registry check on the lands surrounding the applicants dwelling and I am satisfied that he does not own any of these nor is there adequate space within his domestic curtilage to site a dwelling. Alternative sites can be considered where there are demonstrable health and safety reasons to site elsewhere or verifiable plans to expand the farm at the existing buildings. The applicant has not put forward a case for either. The applicant proposes to site a dwelling on the only other parcel of land he owns which is void of any farm buildings and this in itself is contrary to the siting test contained in CTY 10 of PPS21

All proposals for development in countryside should also be considered under policies CTY 13 and CTY 14 of PPS 21.

The site is road side and benefits from a backdrop of mature conifers. All other boundaries are undefined. It is open to long term views when travelling in a Northern direction along the public road. Views are restricted when travelling in the opposite direction due to the plantation of conifers. The site in my opinion could take a modest dwelling (5.5m ridge) without appearing overly prominent or impacting negatively on rural character. It would add or create a ribbon of development nor would it result in a suburban build up of development.

It is recommended that Members refuse this application under CTY 1 and CTY 10 of PPS 21

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

#### **Refusal Reasons**

##### **Reason 1**

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

##### **Reason 2**

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

has been established for at least six years and the proposed dwelling is not sited to cluster or visually link with an established group of buildings on the farm.

**Signature(s):**Karla McKinless

**Date:** 24 January 2024

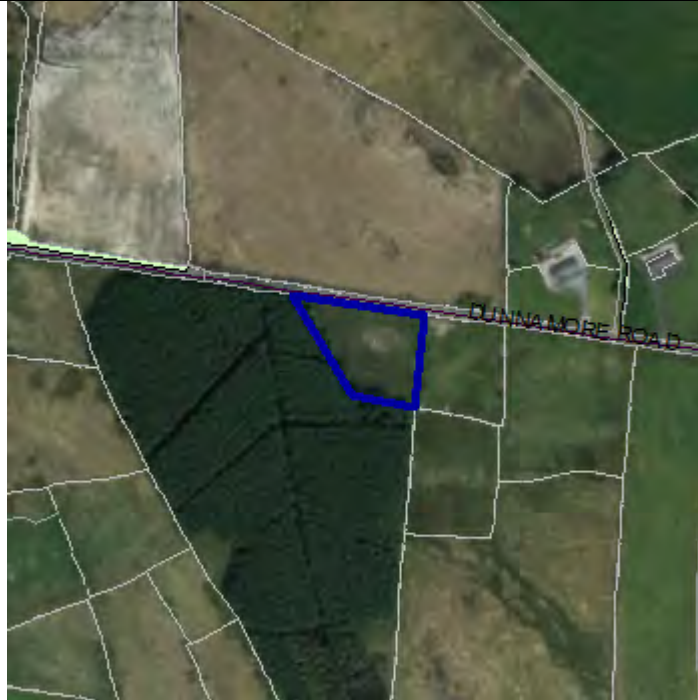


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 September 2022	<b>Item Number:</b> 5.23
<b>Application ID:</b> LA09/2022/0234/O	<b>Target Date:</b> 20 April 2022
<b>Proposal:</b> Proposed site for dwelling and garage	<b>Location:</b> Lands Approx. 100M South West Of 111 Dunnamore Road Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Noel Corey 101A Dunnamore Road Cookstown	<b>Agent Name and Address:</b> Cmi Planners Ltd 38 Airfield Road Toomebridge
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

Contrary to Policy CTY 1 and CTY 10 of PPS 21. Insufficient information provided to show the farm has been active and established for more than 6 years as Farm Business ID was allocated in October 2020.

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the

Cookstown Area Plan 2010 and is a rural site with single dwellings sparsely located throughout the surrounding area. The site itself is a small corner site of a field and sits at a level slightly below the road level. The land is rough agricultural lands and an area of woodlands is located along the western boundary and continues south, which provides a strong backdrop for the site. A low-level post and wire fence defines the northern and eastern boundary and the site slopes gently in a southern direction.

## **Description of Proposal**

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

### **Site History**

I/2006/0621/O- Dwelling and garage 120m South West of 111 Dunamore Road, Cookstown.  
Permission refused. (Appealed)  
2006/A0532- Appeal Dismissed 1st June 2007.

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

### **Policy Consideration**

Cookstown Area Plan 2010  
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 Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 -Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster' 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.

In respect to criteria (a) a consultation was issued to DAERA who confirmed the farm business has not been in existence for more than 6 years. The business ID was allocated in October 2020, the business ID is a category 3 status that is not entitled to claim land payments, and the site is located on land not claimed by any farm business. The agent was contacted on the 8th April and again on 13th June to ask if they could provide any additional evidence that a farm business has been active and established for more than 6 years, prior to the allocation of a farm business ID. No further information has been forthcoming although on the P1c form the agent provided a DARD Ref (not a business ID) stating it was established in 1999 and a screenshot for what appears to be a DARD system showing the applicants details. From this, the proposal fails to meet criteria A.

A search on the planning system does not show any dwellings or development opportunities have been sold off from the farm holding within 10 years of the application.

The proposed site is not located to visually link or sited to cluster with an established group of buildings on the farm. Within the P1c form, the applicant claims there are no other buildings on the farm in which the proposed dwelling could cluster or visually link with. As is consistent within Mid Ulster District Council, where there are no other buildings available on or close to the identified farmlands, the best available site is chosen in terms of integration within the countryside as an exception to policy. The applicant provided an old farm map dated 2012 that shows this site and the lands outlined in blue as part and the only field on the farm maps. So on the basis this is the only lands available. In terms of the access, there is no existing farm lane, only a field gate to access the field.

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, the proposed site is bounded to the west and south by existing mature trees and I am content a dwelling at this location would not be a prominent feature in the landscape. Ancillary works would integrate with the surroundings.

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. However, given the screening available at this site and the landform surrounding the site I am content an appropriately designed dwelling would not be unduly prominent in the landscape. I do not believe a dwelling here would result in a suburban style build up or development nor create or add to a ribbon of development.

#### Other Material Considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and, in their response, stated that they had no objections subject to conditions.



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

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

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 has been active and established for at least six years.

**Signature(s):** Ciaran Devlin

**Date:** 15 August 2022

<b>ANNEX</b>	
<b>Date Valid</b>	23 February 2022
<b>Date First Advertised</b>	8 March 2022
<b>Date Last Advertised</b>	8 March 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2006/0621/O  Proposals: Dwelling and domestic garage  Decision:  Decision Date:</p> <p>Ref: I/2008/0727/F  Proposals: Proposed dwelling (change of condition siting condition of approved reserved matters - I/2006/0637/RM)  Decision: PG  Decision Date: 16-MAR-09</p> <p>Ref: I/2002/0064/O  Proposals: Proposed Dwelling &amp; Garage  Decision: PG  Decision Date: 02-APR-03</p> <p>Ref: LA09/2022/0234/O  Proposals: Proposed site for dwelling and garage  Decision:  Decision Date:</p> <p>Ref: I/2006/0637/RM  Proposals: Proposed dwelling and garage  Decision: PG  Decision Date: 21-JUN-07</p> <p>Ref: I/1988/0460</p>	

Proposals: 11 KV Rural Spur  
Decision: PG  
Decision Date:  
Ref: I/1983/0286  
Proposals: ERECTION OF DWELLING  
Decision: PG  
Decision Date:  
Ref: I/2006/1034/F  
Proposals: Proposed dwelling and garage  
Decision:  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR  
DAERA - Omagh-Substantive: TBCResponseType: FR

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



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

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

## Further Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Erection of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Summary of Issues:</b> <p>This application was for the retention of a pre fabricated dwelling on a farm and has been changed to a proposed permanent dwelling on a farm. It has now been demonstrated the farm is established for the 6 years and is currently active as needed in CTY10. The development is located in a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions stated in FLD1 and a dwelling is not an exception.</p>	
<b>Summary of Consultee Responses:</b> DFI Rivers - development inside predicted 1 in 100 year flood area DFI Roads - access to be provided in accordance with proposed drawings DAERA – business allocated 16/03/2022 as category 3 (hobby business) goat herd registered 25/03/2022, no records of being used and no goats on the herd	
<b>Characteristics of the Site and Area:</b> <p>The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.</p> <p>There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application</p>	

site is a modest single storey dwelling at No. 63.

The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a prefabricated building and a shed to the rear.

### **Description of Proposal**

This is a full application for the erection of a farm dwelling at 59 Derryvaren Road, Coalisland.

### **Deferred Consideration:**

This application was before the Committee in September 2022 where it was deferred for a meeting with Service Director, it was brought back in February 2023 and November 2023 and both times additional information was submitted for consideration prior to the committee meeting.

The information submitted included receipts for works on the farm, a customer ID number issued on 30/04/2013 and clarification in relation to the recorded flood levels and impacts on the proposal. Some of the receipts have already been put forward for consideration.

Additional receipts have been provided from Shane Campbell for hay bales in 2021, 2022 and 2023 as well as from Paul McAliskey for cutting hedges, spreading slurry, cleaning drains and repairs to fencing in 2021, 2022 and 2023. These additional receipts provide some indication of the current activity on the farm, unfortunately they do not establish the farming activity back for the necessary 6 years. I consulted DEARA in relation to the customer number and to find out if they had any further information about farming activities. DEARA advised the customer id was most likely have been created in connection with land ownership but is not directly related to active farming. The business was allocated 16/03/2022 as category 3 (hobby business), a goat herd was registered 25/03/2022, they have no records of it being used and there are no goats on the herd. Members are advised the definition of farming is very broad and includes maintaining the land in good agricultural and environmental condition. The DEARA response has been helpful in that it establishes that Mr Campbell owned the land in 2013 and registered his interest in the land with them. Receipts provided for hay from 2014 until the present day tend to support this. In light of the DEARA response and the receipts submitted I am satisfied that farming has been ongoing for the required 6 year period and that is it currently active. The other criteria in CTY10 have already been discussed as being met in previous reports and so I consider CTY10 has been met in this case.

The applicant has queried the DFI Rivers comments in relation to the flooding at the site, they have advised Rivers have indicated the 1 in 100 year predicted flood level is 13.97m OD Belfast. The applicant has provided a topographical survey of the site to show the levels relative to OD Belfast (Fig1) and say the levels provided only show part of the site flooding and this does not impact on the proposed dwelling. DFI Rivers have advised the LIDAR Survey they carried out on 15 October 2010 shows the site levels below the critical level of 13.97m (Fig 2) and therefore within the predicted flood area at that time. DFI Rivers have reviewed the levels submitted by the applicant and do not dispute these are as the site currently exists. They have advised some of the levels have been altered since their survey and that some are still below the critical level 13.97m (Fig 3). It is noted the location of the proposed dwelling is above the critical level and the finished floor level is







Fig 5 Google Streetview July 2023

Members are advised to take a precautionary approach in relation to floodplains and development within them. Piecemeal infilling, as has happened on this site, can cause problems elsewhere and by granting permission there is a likelihood further infilling will be carried out here which will put other properties at risk. It is clear from the Photograph taken by DFI Rivers on 20 November 2009 (Fig 6) other development close by is on the verge of flooding, to allow further development here could cause those properties to flood. Members are also reminded of the DFI Rivers updated flood predictions map (Fig 7) which shows this site and the surrounding lands are likely to flood.



Fig 6 – flood event 20 November 2009





Fig 7 – Rivers updated flood maps, site identified on map with crosshair

Based on the precautionary approach and in consultation with DFI Rivers, I recommend this application is refused as Contrary to Policy FLD1 of PPS15 as it is likely to be at risk of flooding or may cause an unacceptable risk of flooding elsewhere.

Reasons for Refusal:

Reason 1

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood Plain and is likely to be at risk of flooding or to cause flooding elsewhere and is not an exception to policy.

**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

## Further Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Erection of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Summary of Issues:</b> <p>This application was for the retention of a pre fabricated dwelling on a farm and has been changed to a proposed dwelling on a farm. It has not been demonstrated the farm is established for the 6 years needed in CTY10. The development is located in a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions stated in FLD1 and a dwelling is not an exception.</p>	
<b>Summary of Consultee Responses:</b> DFI Rivers - development inside 1 in 100 year flood area DFI Roads - access to be provided in accordance with proposed drawings DAERA – business allocated 16/03/2022, category 3 farm	
<b>Characteristics of the Site and Area:</b> <p>The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.</p> <p>There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.</p>	

The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a prefabricated building and a shed to the rear.

**Description of Proposal**

This is a full application for the erection of a farm dwelling at 59 Derryvaren Road, Coalisland.

**Deferred Consideration:**

This application was before the Committee in September 2022 where it was deferred for a meeting with Service Director, it was brought back in February 2023 and deferred to allow the consideration of additional information that had been submitted.

The additional information submitted was a rebuttal of the reasons for refusal and included a proposed dwelling on the site instead of the retention of the existing prefabricated structure revised house type on the site, spot heights of the site and surrounding lands for DFI Rivers comment and advising that PAC Decisions have been taken on the basis of farming information submitted in support of applications.

No new farming information has been provided, it has been noted there is a Category 3 farm business issued on 16 March 2022, this does not establish the farm for the 6 years required in CTY10. The receipts previously submitted have already been assessed and are not considered to prove this is an established farm. I note the main building on the site is in existence since before 4 April 2007 and there are other temporary buildings that would appear to have been here since 2010, over 5 years. This would, in my opinion constitute a group of buildings on the farm. It has been previously accepted there are no development sites or dwellings transferred off the holding or planning permission granted for a dwelling on the farm in the last 10 years. I consider CTY10 criteria b and c have been met but criteria a has not, as such it has not been demonstrated this is an active and established farm and so is contrary to CTY10.

It has also been considered that Mr Campbell is a licensed Lough Neagh eel fisher and while there may be a proposed policy in the Draft Plan Strategy that may assist him, this is not currently adopted and the Council may not grant any development under this policy.

DFI Rivers were unable to comment on the original submission due to the spot levels being indecipherable. They have provided further information about flooding on the site and have provided clarification to the rebuttal about the land never having flooded. The classification states that historical flooding maps provide detail of lands that have flooded and are taken from surveys and photographs. The 1:100 year flood event maps are predictions of the area that will flood. The predicted flooding maps up to 2080 show the entire site is within a flood plain. (Fig 1) Members are advised that no new development is permitted in flood plains unless it meets the exceptions set out in FLD1, a dwelling is not one of those exceptions. FLD1 advocates a precautionary approach to development and indicates that where development is in an area that may flood it should be refused.



Fig 1 – Rivers updated flood maps, site identified on map

This application was for the retention of a mobile home on this site, the amended plans show a new one bedroom bungalow with 6m ridge height, storm porch with traditional dark slate or tiled roof and rendered walls. In principle, the appearance of this proposed dwelling would, in my opinion, be acceptable on this site and in this location, given the vegetation and scale and form of development around it. Following the receipt of the revised plans for the house in February 2023, neighbours were notified about these and have had the opportunity to comment on them. Additional flooding information was submitted and neighbours notified about those on 21 September 2023. Since then the description has been amended to reflect the current proposal, I do not consider this is a significant change to the proposal that would warrant re advertisement or additional notification. I am of the view that neighbours have been consulted on 3 occasions about the proposal and are aware of the development, could have made comment and are not prejudiced in any way. That said I do not consider the principle of the dwelling in policy terms has been established as it does not meet CTY10 and is located in an area that is likely to flood. As such the application is recommended for refusal.

**Reasons for Refusal:**

**Reason 1**

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

**Reason 2**

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the Countryside in that there is not an active and established farm business for the past 6 years.

**Signature(s)**

**Date:**





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retrospective application for the retention of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Summary of Issues:</b>  This application is for the retention of a pre fabricated dwelling on a farm. The development is located in a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions and a dwelling is not an exception.	
<b>Summary of Consultee Responses:</b> DFI Rivers - development inside 1 in 100 year flood area	
<b>Characteristics of the Site and Area:</b>  The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.  There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.  The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a prefabricated building which is the subject of this application and a shed to the rear.	

**Description of Proposal**

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland.

**Deferred Consideration:**

This application was before the Committee on 6 September 2022 with a recommendation to refuse, where it was deferred for meeting with the Service Director. At the deferral meeting on 16 September 2022 it was indicated the proposal is for the applicants farm dwelling and that he had been living in a caravan at the rear of the site. The proposed dwelling is of a temporary nature and the applicant only wants to live in it for a temporary period of 4 or 5 years. The site is within an area the DFI Rivers have advised is a flood plain for a 1 in 100 year flood event, the applicant is an elderly gentlemen and has never seen the site flooding. It would be costly to produce a Flood Risk Assessment and the applicant is unlikely to provide this.

No information has been submitted since the deferral meeting to provide any further information about the applicants farming case or to demonstrate the site sits outside any flood plain. Members are advised there are a number of invoices for buying feed bin, railings and grid supply(possibly cattle grid) from McLaughlin Engineering from 2015 to 2020, invoices for round silage bales from G&C McGahan from 2015 to 2020, receipts from Shane Campbell for hay bales from 2014 to 2020 and details that the farm business id was issued for a cat 3 farm on 16 March 2022. While the recent allocation of a DAERA Business ID gives some indication that farming is currently active, it has not been demonstrated the business has been ongoing for the required 6 years. I agree with the original assessment that some receipts and invoices are on a general template and do not convince me they are contemporaneous for the works carried out..

It is also submitted the applicant is a Lough Neagh Brown Eel fisherman and has licenses issued by DEARA from 2009 until 2021. Members will be aware there is a proposed policy in the Draft Plan Strategy which relates to Lough Neagh fishermen, that said the policy is in draft form and cannot currently be relied on when make decisions on applications.

The proposed dwelling is a prefabricated building and the applicant only wishes to reside here for 4 – 5 years. There is nothing in the policy that would support this proposal with temporary dwellings only permissible for a short period of time (up to 3 years) where a site has planning permission and the development is ongoing in accordance with an approval or there are compelling and site specific reasons to have it here. No new information has been provided to a make any additional case for this dwelling on a site specific basis. Members are advised that temporary buildings of this nature are not in keeping with the design guide and they are not particularly appropriate in the countryside.

DFI Rivers Maps show the site within a 1 in 100 year flood event. There are some categories of development which may be permitted in these areas however a dwelling is not one of these categories. The policy does not allow for infilling to raise development out of a flood area as this is moving the problem elsewhere and could result in someone else's property being flooded due to the displacement of flood water. A hydrological report for this area is likely to be a very costly due to the extensive nature of it as it would be modeling the entire Lough Neagh basin.



As there has been no new information presented to justify this proposal and it is in a flood plain I recommend planning permission is refused.

Reasons for Refusal:

Reason 1

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

Reason 2

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

Reason 3

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

Reason 4

Contrary to CTY 14 - Rural Character in PPS 21 in that the design of the dwelling is of a temporary nature and does not reflect the traditional pattern of settlement in the area.

**Signature(s)**

**Date:**



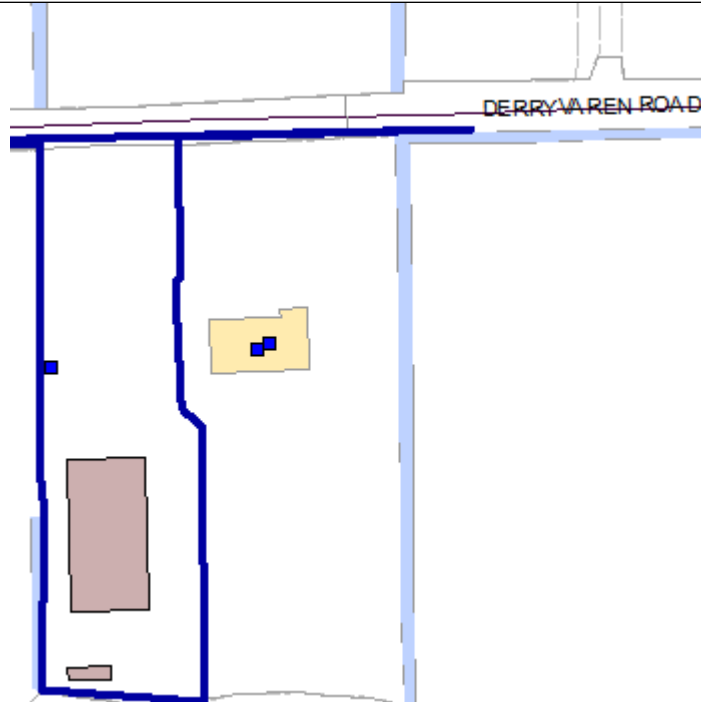


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 September 2022	<b>Item Number:</b> 5.28
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> 27 May 2022
<b>Proposal:</b> Retrospective application for the retention of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	DAERA - Omagh	Substantive: TBC
	Rivers Agency	Substantive: TBCResponseType: FR

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.

There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.

The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a mobile home which is the subject of this application and a shed to the rear.

### **Description of Proposal**

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren 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.

#### **Representations**

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

#### **Planning History**

M/2010/0538/F - Proposed domestic garage - Lands adjacent to 62 Derryvarren Road, Coalisland - Permission Granted 15.04.2011. This is the shed to the rear of the mobile home

Site across the road

M/2008/0554/F – Proposed domestic store for the storage of fisherman's boat car, turf & household utilities - To the rear of 62 Derryvarren Road, Coalisland - Permission Granted – 14.10.2009

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

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

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

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

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

DAERA have confirmed in their consultation response that the farm business has not been in existence for over 6 years and the farm business is category 3. The DAERA ID was only allocated on the 16<sup>th</sup> March 2022 even-though the applicant states on the P1C form the farm business was established more than 6 years. DAERA state there are no subsidies being claimed at the site by an farm business. The applicant is Mr James Campbell who lives at 59 Derryvaren Road in the mobile home currently on site. The applicant has submitted the following evidence to substantiate claims that the farm business has been active for the past 6 years.

Invoices from SC Groundworks for

1. Ground Maintenance on the 7<sup>th</sup> March 2018

2. Site Clearance on the 12<sup>th</sup> August 2015
3. Installation of septic tank on 7<sup>th</sup> November 2014
4. Installation of pipes on 19<sup>th</sup> October 2020
5. Levelling of stone on the 15<sup>th</sup> February 2020
6. Preparation of ground on the 17<sup>th</sup> July 2020
7. Drain Cleaning on the 11<sup>th</sup> August 2019
8. Installation of sewage pipe on the 25<sup>th</sup> September 2018
9. Laying of concrete on the 14<sup>th</sup> August 2017

Evidence from DAERA for a fishing licence registered to Mr James Campbell from the 3<sup>rd</sup> August 2021 to 31<sup>st</sup> December 2021.

A brown eel fishing permit for James Campbell valid from 1<sup>st</sup> May 2021.

Invoices from MacLaughlin Engineering for

1. A feeding bin on the 1<sup>st</sup> February 2020
2. Railings on the 6<sup>th</sup> April 2018
3. Grid Supply on the 20<sup>th</sup> June 2015

Invoices from Shane Campbell Hay and Straw Sales at 55 Derryvaren Road, Coalisland for

1. 4 Hay Bales on 1<sup>st</sup> December 2017
2. 4 Hay Bales on 7<sup>th</sup> December 2016
3. 4 Hay Bales on 3<sup>rd</sup> December 2015
4. 4 Hay Bales on 5<sup>th</sup> December 2014
5. 4 Hay Bales on 5<sup>th</sup> December 2020
6. 4 Hay Bales on 4<sup>th</sup> December 2019
7. 4 Hay Bales on 3<sup>rd</sup> December 2018

Invoices from G & C McGahan for

1. 2 round bale silage on 3<sup>rd</sup> December 2015
2. 2 round bale silage on 28<sup>th</sup> November 2016
3. 2 round bale silage on 28<sup>th</sup> September 2017
4. 2 round bale silage on 18<sup>th</sup> December 2018
5. 2 round bale silage on 13<sup>th</sup> November 2019

## 6. 2 round bale silage on 22<sup>nd</sup> September 2020

The invoices from Shane Campbell and G & C McGahan which relate to farming activity at the site are a Word format and not a named invoice from a company so it is difficult to ascertain the validity of these receipts. The only land the applicant has shown in blue on the site location plan is one field immediately west of the site. Google maps image from May 2022 appear to show the grass at the field has been cut and maintained. On the basis of the evidence provided I am not content there is an active and established farm business at the site for the past 6 years. The invoices from SC Groundworks relate to the mobile home and do not show that there is active farming at the site.

I completed a check of histories on the fields provided and no sites have been sold off from the farm holding within the past 10 years.

The only building on the site is a shed to the rear of the mobile which was granted approval under M/2010/0538/F as a domestic garage. I completed a check on Spatial NI orthophotography and the shed was on site on the 6<sup>th</sup> July 2013. I am content the shed has been on site for over 5 years and is a building can be used to cluster with. However as there is only one building on site within the farm business I do not consider there is a group of farm buildings to cluster or visually link with.

Overall, I am of the opinion the proposal does not meet the criteria in CTY 10 for a dwelling on a farm.

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

There are established trees and mature hedging along the east and west boundaries which will assist in the integration of the building into the landscape.

I have no concerns about the new access as it runs for a short distance through the middle of the site.

The building to be retained is a mobile home which is in not appropriate for a dwelling in the countryside. Mobile homes are normally only allowed on site for a temporary period agreed with the Council pending the construction of a dwelling.

Overall, I consider this dwelling would not integrate into the landscape due to the design of the building.

### **CTY 14 – Rural Character**

I consider the mobile home does not reflect the traditional pattern of settlement in the area. Mobile buildings should only be on land in the countryside for a temporary period and are unacceptable as a rural dwelling. I am of the opinion mobile buildings have an unacceptable impact on rural character and are visually prominent.

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

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

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not

prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The proposal is to retain new access at the site. DFI Roads were consulted as the statutory authority and responded with no concerns subject to visibility splays of 2.4m x 70m in both directions. I am content the new access will not prejudice road safety.

The site does not access onto a protected route so there are no concerns.

### **PPS 15 – Planning and Flood Risk**

Policy FLD 1 – Development in Fluvial (River) and Costal Flood Plains

Rivers Agency confirmed the application site is within the Q100 flood plain. As the proposal is for a farm dwelling it does not meet the criteria to be considered an exception in FLD 1.

There are no other watercourses abutting the site so consideration of other FLD's in the policy is not necessary.

### **Other Considerations**

The site is within Lough Neagh and Lough Beg Ramsar Site but due to the distance from Lough Neagh I am content the proposal is sufficiently removed from the Ramsar for there not to be an unacceptable impact on it.

I have completed checks on the statutory ecological and built heritage map viewers and there are no other issues at the site.

### **Neighbour Notification Checked**

**Yes/No**

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

#### **Reason 2**

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the

Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

**Reason 3**

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

**Reason 4**

Contrary to CTY 14 - Rural Character in PPS 21 in that the development does not reflect the traditional pattern of settlement in the area.

**Signature(s):** Gillian Beattie

**Date:** 17 August 2022



<b>ANNEX</b>	
<b>Date Valid</b>	1 April 2022
<b>Date First Advertised</b>	12 April 2022
<b>Date Last Advertised</b>	12 April 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  63 Derryvaren Road Coalisland Tyrone BT71 4QP  The Owner / Occupier  62 Derryvaren Road Coalisland Tyrone BT71 4QP  The Owner / Occupier  61 Derryvaren Road Coalisland Tyrone BT71 4QP  The Owner / Occupier  64 Derryvaren Road Coalisland Tyrone BT71 4QP  The Owner / Occupier  59 Derryvaren Road, Coalisland, Tyrone, BT71 4QP</p>	
<b>Date of Last Neighbour Notification</b>	28 April 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p>DFI Roads - Enniskillen Office-Substantive: TBC  DAERA - Omagh-Substantive: TBC  Rivers Agency-Substantive: TBCResponseType: FR</p>	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0541/F	<b>Target Date:</b> 20 June 2022
<b>Proposal:</b> Proposed farm shed for the storage of hay.	<b>Location:</b> 210M East Of 91 Ballynakilly Road Coalisland
<b>Applicant Name and Address:</b> Mr Gavin Quinn 9 Woodhouse Road Killycolpy Stewartstown	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Co Antrim BT41 3SG
<b>Summary of Issues:</b>  Planning permission was granted for an agricultural building to address the needs of the farmer, it is now proposed to erect an additional shed here and no justification has been presented to demonstrate that it is necessary for the efficient operations of the holding.	
<b>Summary of Consultee Responses:</b> DEARA – active and established farm	
<b>Characteristics of the Site and Area:</b>  The application site is located 210m East of 91 Ballynakilly Road, Coalisland within the townland of Creenagh. The site is outside the settlement limits of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010 and north-west of the settlement limit for Ballynakilly. The topography of the land is relatively flat. The common land use around the wider site area includes agricultural, industrial/commercial with some dispersed dwellings and farm holdings. The site is in close proximity to The McAvoy Group Ltd., that is to the West of the site outlined in red.	



serve this small holding. To date no additional information has been presented for consideration.

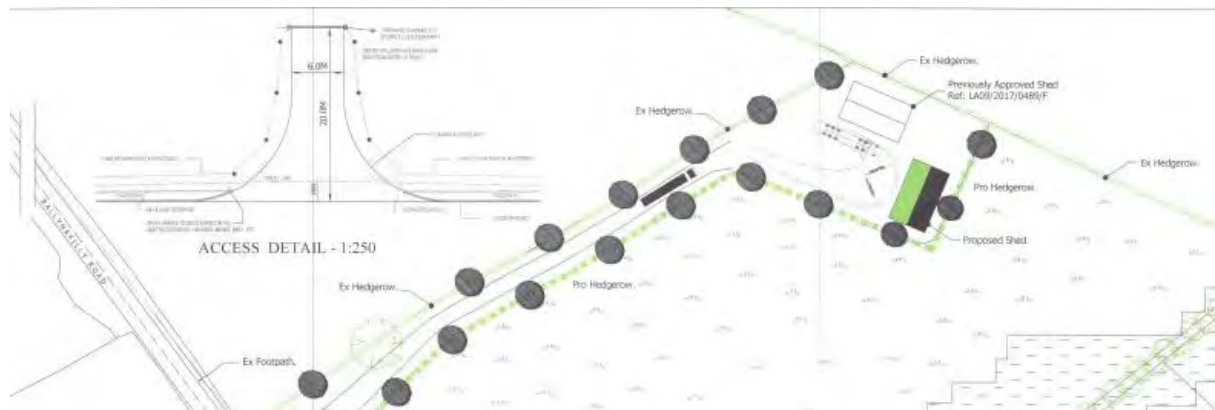


Fig 2 Proposed siting of new building

As there has not been any additional information to justify this new building for the efficient operations of the holding, it is recommended as a refusal as it is contrary to CTY12 of PPS21.

**Reasons for Refusal:**

1. Contrary to CTY 12 - Agricultural and Forestry Development in PPS 21 in that no evidence has been submitted that the building is necessary for the efficient use of the agricultural holding.

**Signature(s)**

**Date:**

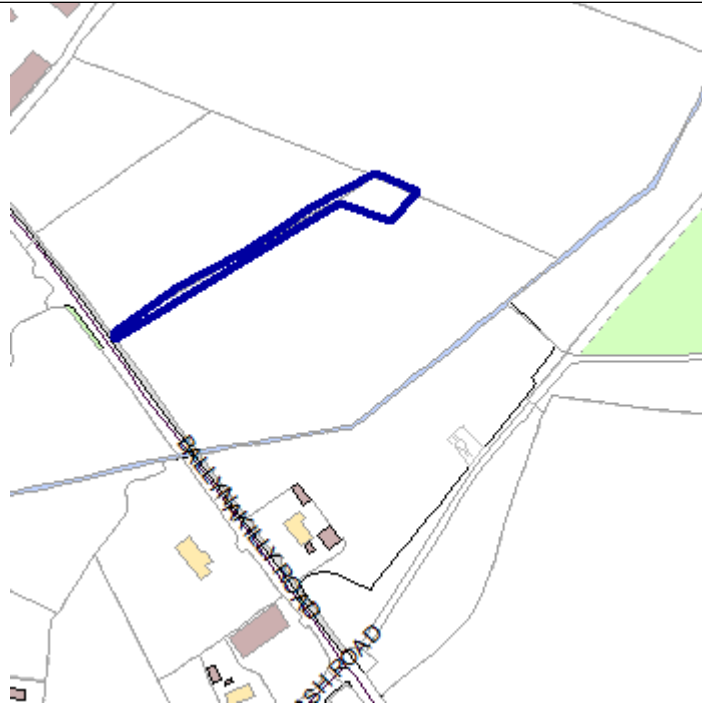


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 1 November 2022	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2022/0541/F	<b>Target Date:</b> 20 June 2022
<b>Proposal:</b> Proposed farm shed for the storage of hay.	<b>Location:</b> 210M East Of 91 Ballynakilly Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Gavin Quinn 9 Woodhouse Road Killycolpy Stewartstown	<b>Agent Name and Address:</b> Cmi Planners 38 Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>  No evidence has been submitted that there is active farm at the site and that the proposed shed is necessary for the efficient use of the farm holding.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DAERA - Omagh	Substantive: TBC

### 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 210m East of 91 Ballynakilly Road, Coalisland within the townland of Creenagh. The site is outside the settlement limits of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010 and north-west of the settlement limit for Ballynakilly.

The topography of the land is relatively flat. The common land use around the wider site area includes agricultural, industrial/commercial with some dispersed dwellings and farm holdings. The site is in close proximity to The McAvoy Group Ltd., that is to the West of the site outlined in red.

The site comprises an access lane off the Ballynakilly Road which is a highly trafficked road between Tamnamore Roundabout and Coalisland. At the site there is an agricultural shed which is finished in blockwork on the ground floor and metal sheeting on the upper level. Surrounding the shed is a gravelled yard.

### **Description of Proposal**

This is a full application for proposed farm shed for the storage of hay at 210m East Of 91 Ballynakilly 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.

#### **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 representations have been received.

#### **Planning History**

LA09/2017/0489/F - Proposed farm shed for the housing of animals and storage of farm machinery - 210M East Of 91 Ballynakilly Road, Coalisland – Permission Granted 8<sup>th</sup> June 2021

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

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



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

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

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

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

Policy CTY 1 Development in the Countryside

Policy CTY 12 Agricultural and Forestry Development.

Policy CTY 13 Integration and Design of Buildings in the Countryside

Policy CTY 14 Rural Character

Policy CTY 1 within PPS 21 highlights that there are a number of developments which may be acceptable in the countryside. One of these is agricultural and forestry developments in accordance with Policy CTY 12.

#### **CTY 12 -**

Policy CTY 12 stipulates that planning permission will be granted for development on an active and established agricultural or forestry holding and within the amplification text, it clarifies that for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10. Policy CTY 10 stipulates that the farm business should be both active and established for a period of at least 6 years.

The P1C form states that the business Id for this holding has only been created since 3<sup>rd</sup> November 2015 and DAERA confirmed this. I am content there is an established farm at the site for the past 6 years. DAERA stated the farm is a category 3 business and no farm subsidies have been claimed for the past 6 years. As the farm business is a Category 3 it is not entitled to claim farm payments from DAERA. I emailed the agent on the 29<sup>th</sup> June 2022 and 24<sup>th</sup> August 2022 requesting information to demonstrate the farm business is currently active and a supporting statement to show why the shed is necessary for the farm holding. At the time of writing no information has been received. I consider the agricultural holding is established but no evidence has been submitted to show it is currently active.

CTY 12 includes five further criteria (a-e):

(a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;  
Currently on site there is a shed which was granted approval under LA09/2017/0489/F. The applicant has submitted no evidence why a second shed is required on the farm for the efficient use of the agricultural holding.

(b) in terms of character and scale it is appropriate to its location;

The proposal presents an agricultural building which is not considered uncommon within

the context of this rural landscape. The materials used are similar to other types of agricultural development within this area. The existing pattern and type of buildings in the area are that of industrial sheds and large buildings therefore the level of impact associated with the proposal will be minimal and on that basis, I consider that the proposal will not have a significant detrimental impact on the rural character of the area.

(c) it visually integrates into the local landscape and additional landscaping is provided as necessary;

The proposed agricultural shed would benefit from the existence of natural vegetation and screening especially to the rear which surround the site area. As documented above, the location of other large buildings to the Northwest, help the proposal to fit into the wider. The proposal would not present a prominent feature in the context of this rural landscape setting, and I consider it to be successfully integrated. Additional trees and hedging was conditioned along the boundary and along the access lane as part of planning approval LA09/2017/0489/F but this had not been done at the time of my site visit.

(d) it will not have an adverse impact on the natural or built heritage;  
There are no sensitive natural heritage features of note within the site or the surrounding area. Therefore, I consider that the proposal will not have a negative impact on any natural/historic features or monuments.

(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.

It is noted that the proposal is sited some 160m away from the closest unconnected residential dwelling at No. 96 Ballynakilly Road. The agent has stated the proposed shed is for the storage of hay and there will be no animals housed within the building so I am content there will be no issues with smells to neighbouring dwellings.

### **CTY 12 - Additional Requirements**

In addition to that above and in cases where a new building is proposed applicants will also need 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 & adjacent buildings; &
- The proposal is sited beside existing farm or forestry buildings.

The applicant has provided no information why an additional shed is required, and the existing shed cannot be used to meet the needs of the farm holding. The proposed shed is the same footprint and height as the existing shed and the same external materials. I am content the design and materials are typical of an agricultural shed in the countryside. The proposed shed is sited adjacent to a farm shed already approved.

Overall, I do not consider the proposal meets all the criteria in CTY 12.

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

As the proposed shed is the same scale, massing and design as the existing shed I am content the proposal will not be a prominent feature in the landscape. The new shed will sit adjacent to the shed in critical views so I am content the shed will integrate into the landscape.

### **CTY 14 – Rural Character**

I am content the proposed shed will not have an unacceptable impact on rural character. As shown below in figure 1 the existing shed is set back from the road and in long-distance views the proposed shed will sit beside the existing shed.



Figure 1 – Roadside view of the site

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

A new access has been created as part of planning approval LA09/2017/0489/F and at the time of the site visit this access is in place, so it was not necessary to consult DFI Roads.

### **Other Considerations**

I checked the statutory map viewers, and I am content there are no other ecological, built heritage or flooding issues at the site. There is an area of surface water flooding to the southeast of the site, but I consider this will not impact on the proposal due to separation distance.

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it does not meet the criteria in CTY 12 in PPS 21.

Refusal Reasons

Reason 1

Contrary to CTY 12 - Agricultural and Forestry Development in PPS 21 in that no evidence has been submitted that there is an active farm holding and the building is necessary for the efficient use of the agricultural holding.

**Signature(s):** Gillian Beattie

**Date:** 17 October 2022

<b>ANNEX</b>	
<b>Date Valid</b>	25 April 2022
<b>Date First Advertised</b>	8 September 2022
<b>Date Last Advertised</b>	10 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 96 Ballynakilly Road, Ballynakilly, Coalisland, Tyrone, BT71 6HD The Owner / Occupier 81 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD The Owner / Occupier 91 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD The Owner / Occupier 89 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD	
<b>Date of Last Neighbour Notification</b>	6 July 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DAERA - Omagh-Substantive: TBC	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1095/F	<b>Target Date:</b> 13 October 2022
<b>Proposal:</b> Relocation of previously approved dwelling and domestic double garage due to ground conditions.	<b>Location:</b> Approx. 75M NW Of No 42 Cloghogmoss Road Coalisland BT71 4QJ
<b>Applicant Name and Address:</b> Mr Declan McShane 202 Washingbay Road Coalisland BT71 5EG	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Summary of Issues:</b>  The application site was previously approved closer to the group of buildings on the farm. Due to adverse ground conditions the dwelling was re-sited further away. The dwelling is still visually linked with buildings on the farm. There was an issue in relation to the address of the proposal, it was initially submitted as Drummurrer Lane, however the street name signs show it as Cloghogmoss Road and spatial has the address as Drumuerrer Lane. The site has been re-advertised and both addresses have been subject to advertising.	
<b>Summary of Consultee Responses:</b> GSNI – no issues of concern raised	
<b>Characteristics of the Site and Area:</b>  The site is located in the rural countryside, outside any settlement limits defined in the Dungannon and South Tyrone Area Plan 2010, approx. 1.6km northeast of Annaghmore and 2.4km west of Lough Neagh.	



Fig 1: Site outlined red



Fig 2: Site outlined red

The application site is a flat irregular shaped plot cut from the south end of a much larger agricultural roadside field. The site is in effect divide into two plots, the southern and northern.





Fig 3: Google streetview showing southern plot highlighted green and northern plot outlined red. Whilst not shown in this image the northern plot as detailed below now contains the foundations of a dwelling and garage show in Fig 4 below.



Fig 4: Photograph showing foundations of dwelling and garage on northern plot  
The southern plot is a long rectangular shaped strip of agricultural land accessed off Drummurrer Lane via recessed wooden gated entrance. A hardcore area exists to the front of the south plot just inside the access. A mix of d-rail and post and wire fencing bounds the southern plot on all four sides in addition to a mature hedgerow and trees bounding it to the east half of its southern / party boundary with no. 42 Drummurrer Lane, a neighbouring detached one and storey property on lands within the control of the applicant.

The northern plot is a relatively square piece of ground comprising the foundations of a dwelling and garage set back from and accessed off Drummurrer Lane via an existing access and gravelled driveway off Drummurrer Lane. The boundaries of the northern plot are relatively open defined only by post and wire fencing with some vegetation along the eastern boundary. This plot also contains a mobile home situated just to the southeast of the foundations of the dwelling and garage.

Critical views of the site are from Drummurrer Lane on the northern approach to and passing along the roadside frontage of the site; and from the Washingbay Rd located further to the north of the site when travelling east to west and vice versa on the approach to its junction with Drummurrer Lane.

The immediate area surrounding the site is rural in nature with the site bound to the west, north and east by agricultural lands. As detailed above no. 42 Drummurrer Lane, a detached property on lands within the control of the applicant bounds the site to the south alongside a mobile home located immediately to its west, no 42a Drummurrer Lane, also within the control of the applicant.

### **Description of Proposal**

This is a full application for the relocation of a previously approved dwelling and domestic double garage due to ground conditions on lands approx. 75m NW of no. 42 Drummurrer Lane Coalisland.

The dwelling and garage sought to be relocated was approved under outline planning

application LA09/2020/0993/O and reserved matter planning application LA09/2021/1067/RM respectively on the 10<sup>th</sup> May 2021 and 29<sup>th</sup> September 2021.



Figs 5 & 6: Site layout including location of dwelling and garage previously approved; and new site layout including relocation of the dwelling and garage sought, respectively.

**Deferred Consideration:**

This application was before the Planning Committee in March 2023 where it was deferred for a meeting with the Service Director. At a meeting on 24 March 2023 the agent indicated the dwelling was relocated as the ground conditions where it was approved to be built was so poor the house could not be constructed there. The applicant has moved the dwelling and garage further to the north and is on stable ground.

Members are advised the original permission was granted as a dwelling on a farm and the permission is still live for that dwelling with development to have commenced by 10 May 2026. I am satisfied there is a fallback position in this case, if approved this would be in substitution for the approved development and would not result in an additional dwelling being approved under the farming case within 10 years.

The original permission was granted in a position closer to the group of buildings on the farm and this would have clustered with them. That said Policy CTY10 does go on to advise a dwelling can be approved where it is visually linked with the buildings on the farm. The amplification of the policy clarifies this as 'there is no appreciation of any physical separation between them'. In my opinion the main issue in this case is whether or not the proposed dwelling is sited to visually link with a group of existing buildings on the farm with little appreciation of any physical separation between them. Travelling towards the site from the north, the dwelling has a backdrop of the existing group of buildings, it is also apparent from the road frontage in front of the site, the proposed development is visually linked with the existing group of buildings. From my inspection of the site, I am of the opinion the proposed dwelling does have the necessary visual linkage and as such meets the criteria in Policy CTY10 for siting. I do not see any discernible difference in the site now proposed and the approved site in relation to the potential for integration and note additional landscaping will be carried. As this is in substitution for the original approval I consider it is necessary to impose a condition that one dwelling shall be erected on the site to ensure only one house is allowed within 10 years under the farming case.

I recommend this application is approved.

**Conditions/Reasons for Refusal:**

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

Reason: This is a retrospective application.

2. The area within the 2.4m x 60.0m sight visibility splays shown on drawing No 02 bearing the stamp dated 30 June 2022 shall be kept cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. All hard and soft landscape works as detailed on drawing no 02 bearing the stamp dated 30- JUN- 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out before the end of the next planting season following the date of this decision. 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.

4. One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 bearing the stamp dated 30 JUN 2022.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2020/0993/O and reserved matter planning application LA09/2021/1067/RM and is not for an additional dwelling on this site.

**Signature(s)**

**Date:**



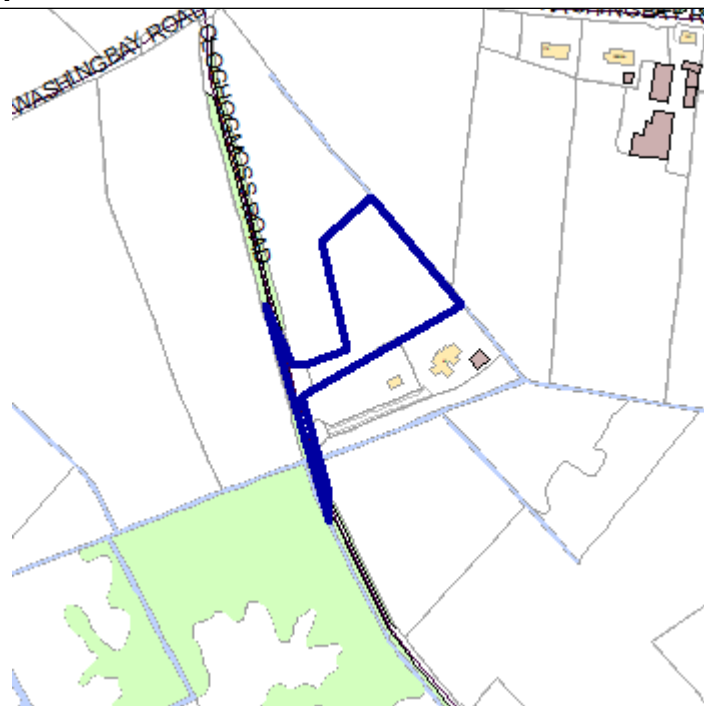


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2022/1095/F	<b>Target Date:</b> 13 October 2022
<b>Proposal:</b> Relocation of previously approved dwelling and domestic double garage due to ground conditions.	<b>Location:</b> Approx. 75M NW Of No 42 Drummurrer Lane Coalisland BT71 4QJ
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Declan McShane 202 Washingbay Road Coalisland BT71 5EG	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Geological Survey NI (DfE)	3143 MUDC Planning. Approx. 75m NW of No 42 Drummurrer Lane Coalisland BT71 4QJ.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, outside any settlement limits defined in the Dungannon and South Tyrone Area Plan 2010, approx. 1.6km northeast of Annaghmore

and 2.4km west of Lough Neagh.



Fig 1: Site outlined red



Fig 2: Site outlined red

The application site is a flat irregular shaped plot cut from the south end of a much larger agricultural roadside field. The site is in effect divide into two plots, the southern and northern.

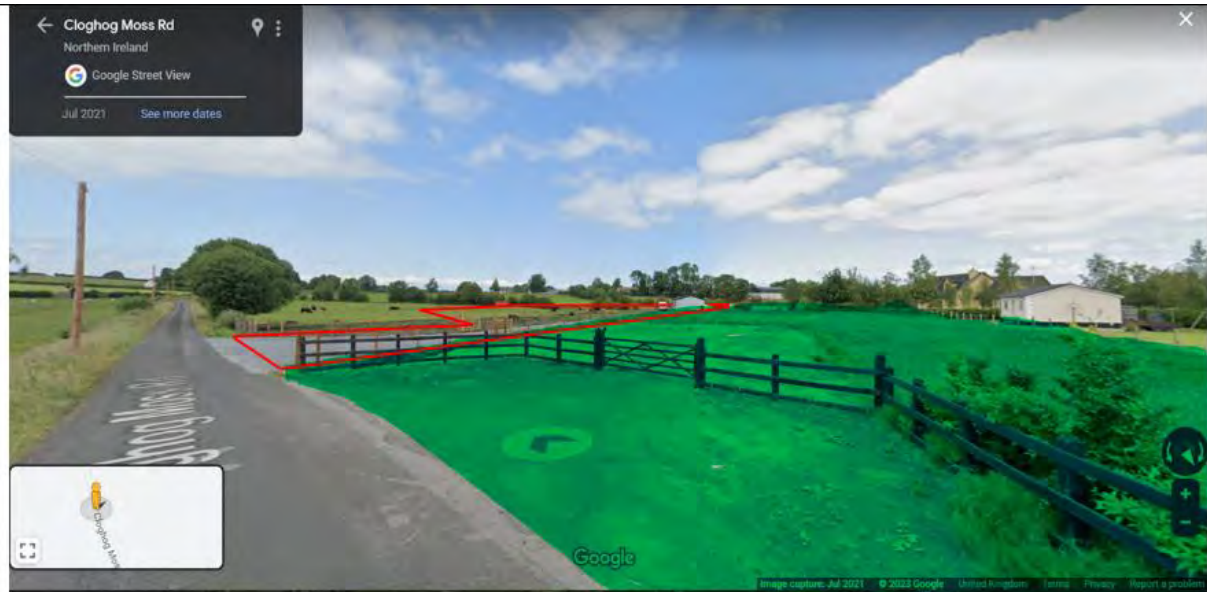


Fig 3: Google streetview showing southern plot highlighted green and northern plot outlined red. Whilst not shown in this image the northern plot as detailed below now contains the foundations of a dwelling and garage show in Fig 4 below.



Fig 4: Photograph showing foundations of dwelling and garage on northern plot

The southern plot is a long rectangular shaped strip of agricultural land accessed off Drummurrer Lane via recessed wooden gated entrance. A hardcore area exists to the front of the south plot just inside the access. A mix of d-rail and post and wire fencing bounds the southern plot on all four sides in addition to a mature hedgerow and trees bounding it to the east half of its southern / party boundary with no. 42 Drummurrer Lane, a neighbouring detached one and storey property on lands within the control of the applicant.

The northern plot is a relatively square piece of ground comprising the foundations of a dwelling and garage set back from and accessed off Drummurrer Lane via an existing



access and gravelled driveway off Drummurrer Lane. The boundaries of the northern plot are relatively open defined only by post and wire fencing with some vegetation along the eastern boundary. This plot also contains a mobile home situated just to the southeast of the foundations of the dwelling and garage.

Critical views of the site are from Drummurrer Lane on the northern approach to and passing along the roadside frontage of the site; and from the Washingbay Rd located further to the north of the site when travelling east to west and vice versa on the approach to its junction with Drummurrer Lane.

The immediate area surrounding the site is rural in nature with the site bound to the west, north and east by agricultural lands. As detailed above no. 42 Drummurrer Lane, a detached property on lands within the control of the applicant bounds the site to the south alongside a mobile home located immediately to its west, no 42a Drummurrer Lane, also within the control of the applicant.

## Description of Proposal

This is a full application for the relocation of a previously approved dwelling and domestic double garage due to ground conditions on lands approx. 75m NW of no. 42 Drummurrer Lane Coalisland.

The dwelling and garage sought to be relocated was approved under outline planning application LA09/2020/0993/O and reserved matter planning application LA09/2021/1067/RM respectively on the 10<sup>th</sup> May 2021 and 29<sup>th</sup> September 2021.



Figs 5 & 6: Site layout including location of dwelling and garage previously approved; and new site layout including relocation of the dwelling and garage sought, respectively.

## 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

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 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

**Representations**

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

**Planning History on Site**

- LA09/2020/0993/O - Proposed site for dwelling and domestic garage (Based on policy CTY10) - Approx 40m NW of 42 Drummurrer Lane Coalisland - Granted 10<sup>th</sup> May 2021
- LA09/2021/1067/RM - Proposed dwelling and domestic double garage - Approx 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021
- LA09/2021/1031/F - Retention of Existing Mobile Home for Period of 4 Years - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021 - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021
- LA09/2022/0468/NMC - Relocation of dwelling & domestic double garage. Minor amendments to internal ground & 1st floor layouts & elevations - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Withdrawn 1<sup>st</sup> July 2022

**Consultees**

1. DfI Roads were consulted in relation to the proposed access arrangements under

the previous application on site LA09/2021/1067/RM and had no objection subject to standard conditions and informatives. Accordingly, as there have been no significant changes on site or change in policy I am content as before that the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI’s “Shafts and Adits Database” indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

### **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.

The principle of the proposed development a dwelling and garage has already been established on this site under the previous applications LA09/2020/0993/O and LA09/2021/1067/RM respectively (see ‘Planning History’ further above), which granted permission for a dwelling on a farm under the provisions of Policy CTY 10 of PPS 21 ‘Dwellings on Farms’.

The key consideration here is whether the relocation of the dwelling and garage sought through increasing the red line of the previously approved site further north (see Figs 5 & 6 further above), which has already commenced on site in the form of foundations, is acceptable and in this instance I am not content that it is.

The dwelling and garage approved on this site was under the provisions of policy CTY10 ‘Dwellings on Farms’. The only buildings on the farm holding located immediately to the south of the site were the farm dwelling at no. 42 Drummurrer Lane and a small mobile no. 42a Drummurrer Lane to the west of the dwelling. Under the outline application it was considered necessary to attach a siting condition that the dwelling and garage approved, as was submitted at the reserved matters stage, be sited in the southeast corner of the site to cluster with the established group of buildings on the farm and aid integration on this open site by taking advantage of the only well-established vegetation bounding the site, along the party boundary of the site with no. 42 Drummurrer Lane.

I consider the siting condition attached to the outline application, adhered to under the subsequent reserved matters application, necessary to visually link the dwelling and garage with the associated farm holding and to integrate them on the site and into the surrounding landscape without significant impact to the character of the area. That pulling the dwelling and garage further north away from the applicant's farm group and the only well-established vegetation bounding the site will result in them having a significantly greater visual impact. This relocation will not only result in the dwelling and garage occupying a prominent position on a more open and exposed part of the host field owing to the lack of long-established vegetation bounding the site but it will also open up a gap field (see Fig 3) between the dwelling and garage and the applicant's farm group.

I consider the proposal is contrary to Policy CTY13 of PPS21 as site lacks long established natural boundaries therefore is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape and Policy CTY14 of PPS21 in that the new building would, if permitted, would be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside. Furthermore, due to the gap created (see Fig 3), which could accommodate another dwelling, I consider the dwelling and garage would no longer cluster or visually link / read with farm holding in accordance with CTY 10 of PPS21.

The above said as it had been submitted that this relocation was sought due to poor ground conditions and in this instance the alternative location may be accepted I consulted with Mid Ulster Councils Building Control however they advised that they were not aware of ground issues at this site and other construction methods could be used. Accordingly, in order to consider this proposal further justification / structural report outlining why the applicant cannot build at approved location was sought from the agent via email on the 6th February 2023.

The agent responded the same day via email with photos of the ground encountered and to advise it was peat and running soil. That foundations filled in as quickly as they were dug out. Trial holes showed better ground to the north of the approval and this is where the foundations were put in. That a house can be built on any ground if you have a never ending pot of money. In this case it would have taken in excess of 60k to pile the site approved. The common sense solution was to move it to its current location. In regard to leaving an infill opportunity this would be impossible as there is no common frontage. That he would like this application to go to Committee where he can ask members to visit the site and see the conditions for themselves.

Having taken account of the additional information submitted above I do not consider it has been demonstrated that the dwelling and garage could not be built at the approved location, albeit it may require additional works such as piling as suggested, accordingly my opinion remains as before and consider this proposal be presented to Committee as a refusal.

### **Other Policy/Considerations**

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available, online have been checked

and identified no built heritage assets or natural heritage interests of significance on site or within the immediate vicinity.

Checks of the Planning portal and Flood Maps NI indicate a small amount of surface water flooding along the frontage of the site over the access however I am content this is on already developed and hardcore ground.

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated why this development is essential at this rural location and could not be located as previously approved.

**Reason 2**

The proposal is contrary to Policies CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that proposed new building will not be visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

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

**Reason 4**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new building 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):** Emma Richardson

**Date:** 20 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	30 June 2022
<b>Date First Advertised</b>	
<b>Date Last Advertised</b>	12 July 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 42A Drummurrer Lane, Coalisland BT71 4QJ The Owner / Occupier 42 Drummurrer Lane, Coalisland BT71 4QJ	
<b>Date of Last Neighbour Notification</b>	6 July 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1095/F  Proposals: Relocation of previously approved dwelling and domestic double garage due to ground conditions.  Decision:  Decision Date:</p> <p>Ref: M/2004/1511/O  Proposals: Proposed dwelling  Decision:  Decision Date:</p> <p>Ref: M/2005/2210/F  Proposals: Proposed new storey and a half private dwelling and garage and septic tank  Decision: PG  Decision Date: 20-JUN-06</p> <p>Ref: LA09/2021/1067/RM  Proposals: Proposed dwelling and domestic double garage.  Decision: PG  Decision Date: 29-SEP-21</p> <p>Ref: LA09/2020/0993/O</p>	

Proposals: Proposed site for dwelling and domestic garage (Based on policy CTY10)

Decision: PG

Decision Date: 10-MAY-21

Ref: LA09/2022/0468/NMC

Proposals: Relocation of dwelling & domestic double garage. Minor amendments to internal ground & 1st floor layouts & elevations

Decision: WDN

Decision Date: 26-JUL-22

Ref: LA09/2021/1031/F

Proposals: Retention of Existing Mobile Home for Period of 4 Years

Decision: PG

Decision Date: 29-SEP-21

Ref: M/2005/0198/O

Proposals: Dwelling house

Decision:

Decision Date:

### **Summary of Consultee Responses**

Geological Survey NI (DfE)-3143 MUDC Planning. Approx. 75m NW of No 42 Drummurrer Lane Coalisland BT71 4QJ.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Garage Plans Plan Ref: 04

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

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1582/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 21 February 2023
<b>Proposal:</b> Proposed dwelling and garage on a farm.	<b>Location:</b> 60M NE Of 28 Cloughfin Road Killeenan Cookstown
<b>Applicant Name and Address:</b> Mr Patrick Hegarty 28 Cloughfin Road Cookstown Tyrone BT80 9EN	<b>Agent Name and Address:</b> Mr Conor McElhone Unit 4 Mid Ulster Business Park Cookstown BT809LU
<b>Summary of Issues:</b>  <p>This application was first before Members at March 2023 Planning Committee with a recommendation to refuse. It was considered that the proposal was contrary to Policies CTY 1, CTY 10, CTY 13 and CTY 14 of PPS 21 in that a dwelling on this site would not cluster or visually link with buildings on the farm, it would appear overly prominent in the local landscape and that it would rely on new landscaping for the purposes of integration. Members agreed to defer the application for an office meeting which was facilitated on the 24<sup>th</sup> March 2023. Having visited the site and reconsidered the application I recommend that it be refused with the justification for this recommendation detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b>  No new or additional consultations were issued to inform this deferred consideration	



## Description of Proposal

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

## Deferred Consideration:

This application has been submitted under Policy CTY 10 of PPS 21 for a dwelling on a farm. The first test of CTY 10 is that there must be an active and established farm business.

The applicant, Mr Patrick Hegarty of 28 Cloughfin Road, has used a third party farm business ID belonging to his uncle Mr Peter McNally of 29 Crancussy Road, and has confirmed on the application form that he has permission to use Mr McNallys farm business ID for the purposes of this application. DAERA have confirmed that the farm business has been in existence for 6 years or more and that payments have been claimed on the lands for 6 or more years. Farm maps have been provided which show all lands claimed by Mr McNally. I am satisfied that there is an active and established farm business for the purpose of CTY 10.

The business ID subject of this application has been previously used to obtain a farm dwelling permission. This approval (I/2011/0246/F) was granted on the 15.02.2012 and so can be discounted from the 1 in 10 year entitlement.

The farm buildings associated with the farm business are located at 29 Crancussy Road. I/2011/0246/F was sited beside farm buildings at 30 Limehill Road, Pomeroy so that would indicate another group of buildings on the holding. The application site is not located beside any buildings on the farm holding. There are third party farm buildings located approximately 90m south east of the site but these cannot be relied on for this application. At the office meeting the agent explained that the applicant actually does have his own farm business ID but currently owns no land which is why he did not use his own business ID. He keeps some sheep on the application site which is owned by his uncle, Mr McNally and it is hoped that the applicant will purchase/inherit this land so that he can grow and establish his own farm at this location. This site is the only parcel of land available to the applicant as Mr McNally currently farms all his other lands. Whilst the applicants intentions to start a farm at this location seem legitimate, the test of CTY 10 is to site a dwelling so that it visually links or clusters with an established group of buildings on the farm. Alternative sites are considered if there are health and safety reasons or verifiable plans for farm expansion at an existing group. In this case the justification to start a farm from this location is not a reason to accept an alternative siting and as such the proposal is at conflict with the policy. In my opinion, if the applicants intentions is to farm from here then the logical move would be to apply for farm buildings under Policy CTY 12 of PPS21. If farm buildings did exist at this location then the siting concern under CTY 10 could be overcome. As it stands the proposal fails to comply with CTY 10 of PPS 21.

It was previously considered that a dwelling on this site would fail to comply with policies CTY 13 and CTY 14 in terms of prominence and integration. Having carried out a site inspection it is evident that the site sits below the level of the road and benefits from a backdrop of rising land. Critical views are short term. There is also a grouping of semi mature trees/shrubs located along one boundary. It is my opinion that a single storey dwelling, appropriately sited with existing vegetation retained, would not appear overly prominent in this location. New landscaping would be necessary but would not be relied upon primarily for the purposes of

integration. I am therefore satisfied that there is no conflict with policies CTY 13 and CTY 14 of PPS 21.

There have been no objections to the application.

It is recommended that Members refuse this application as it fails to meet policy CTY 10 of PPS 21 and subsequently CTY 1 of PPS 21

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policies CTY 1 and CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):**Karla McKinless

**Date:** 23 January 2024



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.25
<b>Application ID:</b> LA09/2022/1582/O	<b>Target Date:</b> 21 February 2023
<b>Proposal:</b> Proposed dwelling and garage on a farm.	<b>Location:</b> 60M NE Of 28 Cloughfin Road Killeenan Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Patrick Hegarty 28 Cloughfin Road Cookstown Tyrone BT80 9EN	<b>Agent Name and Address:</b> Mr Conor McElhone Unit 4 Mid Ulster Business Park Cookstown BT809LU
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Omagh	LA09-2022-1582-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	RS1 Form a (1).doc Roads Consultation outline approval.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to Criteria C of policy CTY 10, CTY 13 & CTY 14 of PPS 21.

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The red line of the application incorporates parts of two agricultural fields with a portion of a narrow field that runs in a south eastern direction and part of a larger field that travels north. There is a fence and low hedge which separates the two fields within the red line. There is a hedge row which defines part of the eastern boundary and a post and wire fence and low level shrubbery that defines the roadside boundary. The site sits below the road level slightly. The surrounding area is mainly agricultural in nature with single dwellings located sporadically throughout the countryside.

### **Representations**

No third party representations have been received.

### **Description of Proposal**

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

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

#### **Policy Consideration**

Cookstown Area Plan 2010  
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 Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 -Sustainable Development in the countryside.

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a

dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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

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

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

The applicant has used a third party farm business ID and have confirmed on the application form they have permission to use the farm business ID for the purposes of this application. DAERA were consulted and confirmed that the farm business has been in existence for 6 years or more and that payments have been claimed on the lands for 6 or more years. From this I am content the farm business is currently active and has been established for at least 6 years.

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. There is planning history for a dwelling in February 2012, which is more than 10 years ago.

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, which is not the case in this instance. The site is an open site which is not located to any buildings on the farm holding. There are third party farm buildings located approximately 90m south east but these cannot be relied on for this application. The policy allows for an alternative site elsewhere on the farm provided there are no other sites available at another group of buildings on the farm and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. On the application form when asked to provide justification if you are applying for an alternative site removed from the existing farm group the agent answered N/A. The address of the registered farm business is 29 Crancussy Road and having reviewed the farm maps and ortho images there is an established group of buildings on the farm at this location and land available here which a dwelling could site to cluster or visually link. No justification has been provided for an alternative site; therefore, the application fails to comply with criteria C.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been

provided however, I do not believe a dwelling at this proposed siting would visually integrated in the landscape as it does not have long established boundaries to provide a suitable degree of enclosure and it would rely on new landscaping for integration resulting in it being unduly prominent in the landscape. As previously mentioned the dwelling is not visually linked or sited to cluster with an established group of buildings on a farm and fails Policy CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As stated, the proposed site lacks established boundaries resulting in it being unduly prominent in the landscape and would damage the rural character. As such, the proposal is contrary to this policy.

PPS 3 - Access, Movement and Parking;

The proposal is to create a new access. DfI Roads advised that they have no objection to the proposed development subject to conditions.

**Other Material Considerations**

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that the proposed building will be a prominent feature in the landscape and the site relies primarily on the use of new landscaping for integration.

**Reason 4**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape.

**Signature(s):** Ciaran Devlin

**Date:** 21 February 2023



<b>ANNEX</b>	
<b>Date Valid</b>	8 November 2022
<b>Date First Advertised</b>	22 November 2022
<b>Date Last Advertised</b>	22 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1582/O Proposals: Proposed dwelling and garage on a farm. Decision: Decision Date:</p> <p>Ref: I/2001/0775/O Proposals: Proposed site for one and a half storey dwelling Decision: PR Decision Date: 05-SEP-02</p> <p>Ref: I/2004/0843/O Proposals: Site for Dwelling &amp; Repositioning of Existing Private Access Decision: Decision Date:</p> <p>Ref: I/2002/0695/O Proposals: Proposed site for 2 storey dwelling and domestic garage Decision: Decision Date:</p> <p>Ref: I/1978/0057 Proposals: 11 KV O/H LINE</p>	

Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DAERA - Omagh-LA09-2022-1582-O.docx  
DFI Roads - Enniskillen Office-RS1 Form a (1).doc  
Roads Consultation outline approval.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0105/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 17 May 2023
<b>Proposal:</b> Proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm	<b>Location:</b> 60M East of 32 Drummuck Road Maghera
<b>Applicant Name and Address:</b> Grainne and Tommy Quigley 19 Tullynure Road Lissan Cookstown BT80 9XH	<b>Agent Name and Address:</b> Austin Mullan 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> <p>This application was first before Members at April 2023 Planning Committee with a recommendation to refuse. It was considered that the proposal failed to comply with policies CTY 1, CTY 8, CTY 10, CTY 13 and CTY 14 of PPS 21 in that a dwelling would not visually link or cluster with buildings on the farm and that if sited in this location it would create a ribbon of development. Members agreed to defer the application for an office meeting with Dr Boomer and myself. The application is again being recommended for refusal for the same reasons and the justification for this is detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b> <p>No new or additional consultations were issued to inform this deferred consideration</p>	
<b>Description of Proposal</b> <p>This is an outline planning application for a proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm.</p>	

## **Deferred Consideration:**

This outline application for a dwelling on a farm has been considered primarily under CTY 1 and CTY 10 of PPS 21. DAERA have been consulted and confirmed the farm business ID, which has an address at 19 Tullynure Road, Lissan, has been established for more than 6 years and that single farm payments have been claimed in each of the last 6 years. I am therefore satisfied that there is an active and established farm for the purpose of the policy. They also advised that the site is on land associated with another farm business. In effect - these lands in Gulladuff are being claimed by someone else. At the deferred office meeting it was explored why the applicants, Tommy and Grainne Quigley, could not site a dwelling adjacent to the only farm buildings on the holding at 19 Tullynure Road, Lissan as it was evident that there are sites at this location which would be policy compliant in terms of visual linkage and clustering.

The agent advised that the applicants have their main farm in Lissan and an outlying farm in Gulladuff. The Gulladuff lands extend to 25 acres and were once owned by Grainne's family. There is 14 miles between these farms and no buildings at the Gulladuff location. The agent went on to advise that on purchasing these lands, it shows a clear intent by the applicants to expand their holding and it is the intention that their son will live here and look after the holding.

Whilst this may be a realistic intention, Policy CTY 10 clearly states that a dwelling on the farm must be sited to visually link or cluster with an established group of buildings on the farm. Alternative siting will be considered if there are verifiable plans to expand the farm or if there are health and safety reasons for not siting at a group of buildings. No demonstrable health and safety reasons have been provided or any verifiable or concrete plans submitted for the expansion of the farm. The applicant was provided the opportunity to submit plans for agriculture buildings at this location to be assessed under Policy CTY 12 of PPS21, but to date these have not been received. It is my opinion that adequate time has been provided in order for these plans to be submitted (nearly 10 months). There are a group of buildings immediately adjacent the site but these have to be discounted as they are third party buildings outside the farm holding. The proposal therefore remains to be at conflict with criteria (c) of policy CTY 10 in that a dwelling here will not cluster or visually link with an established group of buildings on the farm. This also creates a conflict with Policies CTY 1 and CTY 13 of PPS 21.

As with all proposals for development in the Countryside, their impact on rural character must be considered. The creation or addition of ribbon development is considered as having a negative impact on rural character. If a dwelling were to be approved at this location it would create a ribbon of development when viewed with number 32 and its associated outbuilding. For this reason the proposal is contrary to both CTY 8 and CTY 14 of PPS 21.

Members are advised that the proposal is not acceptable in principle as it is at conflict with policies CTY 1, 8, 10, 13 and 14 of PPS21 and should be refused for the reasons set out below.

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

### **Refusal Reasons**

#### **Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is

essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

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

**Signature(s):**Karla McKinless

**Date:** 22 January 2024



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2023/0105/O	<b>Target Date:</b> 17 May 2023
<b>Proposal:</b> Proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm	<b>Location:</b> 60M East of 32 Drummuck Road Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Grainne and Tommy Quigley 19 Tullynure Road Lissan Cookstown BT80 9XH	<b>Agent Name and Address:</b> Austin Mullan 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0105-O.DOCX
Non Statutory Consultee	DAERA - Omagh	DAERA response already issued on 03/03/2023
	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to policy

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

The site is located within the open countryside, outside any defined settlement limits or any other designations as per the Magherafelt Area Plan. The red line of the application site is a front portion of a larger agricultural field which extends further north. This portion is a roadside piece of the field, with existing mature boundaries on the roadside and west. The eastern boundary is partly bounded by sparsely populated trees which provide some screening to the site with the northern boundary currently undefined with the land rising in this direction. The surrounding area is mainly agricultural lands with a third party dwelling located west and adjacent to the red line.

## **Description of Proposal**

This is an outline planning application for a proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm.

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

### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement for Northern Ireland (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS3: Access, Movement and Parking  
Mid Ulster Local Development Plan 2030- Draft Plan Strategy

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

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

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



PPS 21.

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

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

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

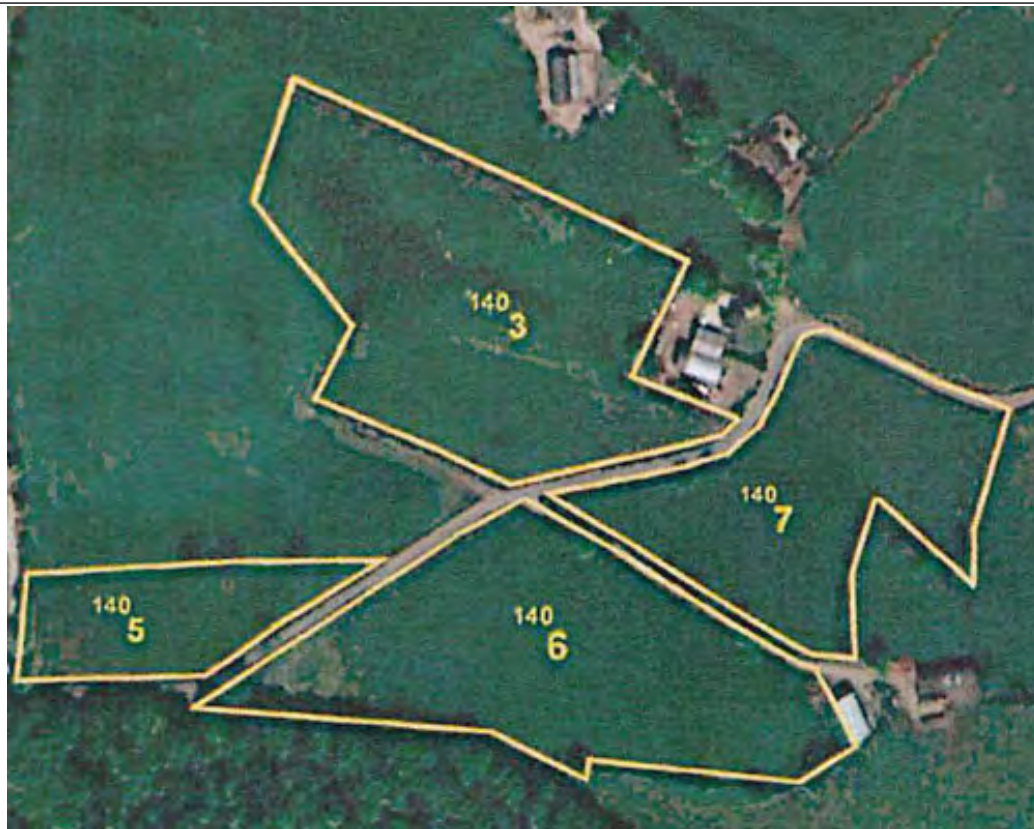
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

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

The agent provided farm details which were sent to DAERA who confirmed the farm business ID has been established for more than 6 years and that single farm payments have been claimed in each of the last 6 years. From this I am content the farm business is currently active and established.

Following a search on the MUDC Planning Portal I am content that no dwellings or development opportunities have been sold off within 10 years of the date of the application.

The new building is not visually linked or sited to cluster with an established group of buildings on the farm. The policy allows for consideration to be given to a site located away from the farm complex where there are no other sites available on the holding. Having reviewed the farm provided by the agent it showed farm lands surrounding a dwelling and associated farm buildings located at 21 Tullynure Road, Lissan. A land registry search was carried out on this address and the owner is listed as Thomas Quigley who is the applicant in this case.



From this, it would appear another site is available on the holding. The agent was asked to provide a statement of case to justify the proposed siting away from the existing holding in which they responded;

“The applicant here has his main farm in Lissan and an outlying farm in Gulladuff. The Gulladuff lands extend to 25 acres and were once owned by Grainne’s family. There is 14 miles between these farms and no buildings at the Gulladuff location. On purchasing these lands, it shows a clear intent to expand their holding and it is the intention their son will live here and look after the holding. The chosen site is well enclosed with mature trees to provide a suitable amount of integration.”

No demonstrable health and safety reasons have been provided or any plans shown on the expansion of the farm at the holding. Although the agent contends it is an expansion of the holding at the proposed application site there are no approved farm buildings associated near this site, and as such the proposal fails to comply with criteria C of CTY 10.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, I am content a dwelling with a maximum ridge height of 6m above finished floor level would not be a prominent feature in the landscape. A dwelling of this size would integrate into the landscape and the existing dwelling adjacent and the mature trees which should be retained will provide a backdrop. As previously mentioned the dwelling is not visually linked or sited to cluster with an established group of buildings

on a farm and fails Policy CTY 13.

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

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

DfI Roads were consulted on the application and offered no objection subject to the access being provided in accordance with the RS1 form.

#### **Other Material Considerations**

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

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

Refuse is recommended

#### **Refusal Reasons**

##### Reason 1

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

##### Reason 2

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

##### Reason 3

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

**Signature(s):** Ciaran Devlin

**Date:** 21 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	1 February 2023
<b>Date First Advertised</b>	14 February 2023
<b>Date Last Advertised</b>	14 February 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 32 Drummuck Road Maghera Londonderry BT46 5ES	
<b>Date of Last Neighbour Notification</b>	6 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2014/0195/RM Proposals: Replacement dwelling and garage Decision: PG Decision Date: 26-SEP-14</p> <p>Ref: H/2011/0349/O Proposals: Replacement single dwelling and garage Decision: PG Decision Date: 14-DEC-11</p> <p>Ref: LA09/2023/0105/O Proposals: Proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm Decision: Decision Date:</p>	
<b>Summary of Consultee Responses</b>	
<p>DAERA - Coleraine-Consultee Response LA09-2023-0105-O.DOCX DAERA - Omagh-DAERA response already issued on 03/03/2023 DFI Roads - Enniskillen Office-Outline resp.docx</p>	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0206/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 9 June 2023
<b>Proposal:</b> Dwelling and Garage	<b>Location:</b> 30M South of 15 Craigs Road Cookstown
<b>Applicant Name and Address:</b> Mrs Marissa McTeague 15 Craigs Road Cookstown BT80 9LD	<b>Agent Name and Address:</b> Eamonn Moore Architect Ltd 10 Knockmoyle Cookstown BT80 8XS
<b>Summary of Issues:</b> <p>This application was first before Members at September 2023 Planning Committee. It was recommended for refusal as it was considered there was no substantial and built up road frontage for the purposes of Policy CTY 8 of PPS 21. Members agreed to defer the application for an Office Meeting. This meeting took place on the 20<sup>th</sup> September 2023 and following a site inspection I am of the opinion that the original recommendation to refuse the application be upheld, with justification for this detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b> <p>No new consultations were issued to inform this deferred consideration. DFI Roads were initially consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives.</p>	
<b>Description of Proposal</b> <p>This is an outline application for a proposed dwelling and garage. The site is identified as 30M South of No. 15 Craigs Road, Cookstown.</p>	

**Deferred Consideration:**

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21. Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. To the immediate Southeast of the site is a detached dwelling set back from the road (No. 13 Craigs Road). To the immediate Northwest of the site is a detached dwelling and detached garage (No. 15 Craigs Road), which are also set back from the road.

Policy CTY 8 of PPS 21 requires a line of 3 or more buildings along a road frontage. Having carried out a site inspection, it is my opinion the buildings being relied upon - no. 13 and no. 15 do not have a road frontage with Craigs Road. Furthermore, the approved domestic curtilages of both No. 13 and No. 15 do not extend to public road. Both dwellings are set back, and an agricultural field and individual driveways separates these dwellings from the public road.

At the office meeting the applicant/agent made the case that both existing dwellings at No. 13 and No. 15 are well integrated and whilst I do not disagree with this, that is not the test of Policy CTY 8. The test is based on road frontage development and the filling of a gap between existing road frontage development which is reflective in terms of plot size, siting etc. It remains a fact that neither No. 13 or No. 15 front directly onto the road and as such, the proposal fails the test of CTY 8.

As requested at the office meeting, I have viewed other development in the surrounding area and accept that further to the South there is a build up of development including a farm complex at No. 10, a dwelling at No. 11 and other dwellings. It is my opinion the level of visual appreciation and linkage between the application site and this other development further South is limited and does not make this site any more compliant under policy CTY 8.

It was explored at the office meeting if the applicant had a farm case he could make under Policy CTY 10, however, it was confirmed that this would not be an option. The site does not meet the cluster criteria under CTY2A either.

I recommend that Members refuse this application as the proposal fails to comply with Policies CTY 1 and CTY 8 of PPS 21.



**Conditions/Reasons for Refusal:**

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up road frontage.

**Signature(s):**Karla McKinless

**Date:** 16 January 2024



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 September 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2023/0206/O	<b>Target Date:</b> 9 June 2023
<b>Proposal:</b> Dwelling and Garage	<b>Location:</b> 30M South of 15 Craigs Road Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mrs Marissa McTeague 15 Craigs Road Cookstown BT80 9LD	<b>Agent Name and Address:</b> Eamonn Moore Architect Ltd 10 Knockmoyle Cookstown BT80 8XS
<b>Executive Summary:</b> <p>The current application for a proposed dwelling and garage is presented as a refusal.</p> <p>CTY 8 – This proposal fails to meet Policy CTY 8 of PPS 21 as it cannot be deemed a substantial and built-up frontage as the policy requires a line of 3 or more buildings along a road frontage. Both dwellings immediately adjacent on either side of the proposed site (No. 13 and No. 15 Craigs Road) are both set back from the public road. The approved domestic curtilage of both No. 13 and No. 15 Craigs Road does not extend to public road. Both dwellings are set back, and an agricultural field separates these dwellings from the public road. Therefore No. 13 and no. 15 cannot be considered as road frontage for this policy test.</p> <p>CTY 13 – An appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape, therefore I am content that the application is able to comply under CTY 13.</p> <p>CTY 14 – An appropriately designed dwelling would not appear as a prominent feature in the landscape and would unlikely result in an adverse impact to the rural character of the area, therefore I am content that the application is able to comply under CTY 14.</p>	

PPS 3 – DFI Roads were consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives.

No third party objections were received in connection with this application.

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
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

This proposal fails to meet Policy CTY 8 of PPS 21 as it cannot be deemed a substantial and built-up frontage as the policy requires a line of 3 or more buildings along a road frontage.

Both dwellings immediately adjacent on either side of the proposed site (No. 13 and No. 15 Craigs Road) are both set back from the public road. The approved domestic

curtilage of both No. 13 and No. 15 Craigs Road does not extend to public road. Both dwellings are set back, and an agricultural field separates these dwellings from the public road. Therefore No. 13 and no. 15 cannot be considered as road frontage for this policy test.

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

The application site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site is identified as 30M South of No. 15 Craigs Road. The red line of the site consists of two small agricultural fields, separated by scattered trees and hedgerow. Immediately adjacent and Southeast of the proposed site is a detached dwelling, No. 13 Craigs Road. Immediately adjacent and Northwest of the proposed site is a detached dwelling and detached garage, No. 15 Craigs Road. The western boundary is roadside and undefined, the northern boundary is defined by a small wooden fence, and the remaining boundaries are defined by mature trees and hedgerow. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings.

### **Description of Proposal**

This is an outline application for proposed dwelling and garage. The site is identified as 30M South of No. 15 Craigs Road, Cookstown.

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

#### **Policy Consideration**

##### 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

No relevant planning history on this site.

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

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 8 – Ribbon Development

CTY 13 – Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

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

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

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development area are acceptable in the countryside. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21. Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. To the immediate Southeast of the proposed site is a detached dwelling set back from the road (No. 13 Craigs Road).

To the immediate Northwest of the proposed site is a detached dwelling and detached garage (No. 15 Craigs Road), which is also set back from the road. Even though the detached garage at No. 15 Craigs Road is small in scale and set back behind the existing dwelling, for the purposes of CTY 8, we could consider the 2no. dwelling and the detached garage as a line of 3 buildings.

Policy CTY 8 of PPS 21 requires a line of 3 or more buildings along a road frontage. Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. The site is not located within an otherwise substantial and continuously built up frontage within the countryside. The approved domestic curtilage of both No. 13 and No. 15 Craigs Road does not extend to public road. Both dwellings are set back, and an agricultural field separates these dwellings from the public road. Therefore No. 13 and no. 15 cannot be considered as road frontage for this policy test. I am of the opinion, this proposal fails to meet Policy CTY 8 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however, given the landform and landscape, and the proposed concept plan provided by the agent, I believe that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping would be required to aid integration therefore a landscaping scheme would be required in any reserved matters application. From which, I am content that the application is able to comply under CTY 13.

Policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape, and is unlikely to result in an adverse impact to the rural character of the area. On a whole, I am content that the application is able to comply under CTY 14.

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

### Reason 2

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage.

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

**Date:** 29 June 2023



<b>ANNEX</b>	
<b>Date Valid</b>	24 February 2023
<b>Date First Advertised</b>	7 March 2023
<b>Date Last Advertised</b>	7 March 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier RNN -12 Craigs Road Cookstown Tyrone BT80 9LD The Owner / Occupier RNN - 13 Craigs Road Cookstown Tyrone BT80 9LD The Owner / Occupier 15 Craigs Road Cookstown Tyrone BT80 9LD	
<b>Date of Last Neighbour Notification</b>	6 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2007/0016/RM  Proposals: Proposed Dwelling and Domestic Double Garage  Decision: PG  Decision Date: 10-MAY-07</p> <p>Ref: I/2007/0110/RM  Proposals: Proposed dwelling and domestic garage.  Decision: PG  Decision Date: 10-MAY-07</p> <p>Ref: I/2004/0961/O  Proposals: proposed site for dwelling and domestic garage.  Decision: PG  Decision Date: 12-NOV-04</p> <p>Ref: I/2005/0165/O  Proposals: Proposed Site for Dwelling &amp; Domestic Garage  Decision: PG  Decision Date: 19-MAY-05</p>	

Ref: LA09/2023/0206/O  
Proposals: Dwelling and Garage  
Decision:  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docDC Checklist 1.docRoads  
outline.docx

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not 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	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2023/0268/O	<b>Target Date:</b> 23 June 2023
<b>Proposal:</b> Dwelling and Garage Under Cty 10	<b>Location:</b> Lands 40M North Of 182 Brackaville Road Coalisland
<b>Applicant Name and Address:</b> <b>Applicant Name and Address:</b> Mr James Girvin 180 Brackaville Road Coalisland BT71 4EJ	<b>Agent Name and Address:</b> CMI LTD 38 Airfield Road 38B AIRFIELD ROAD toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application is for a dwelling on a farm, planning permission was granted for a dwelling on the farm as a renewal of a previous permission within the last 10 years. No other case has been made and no further information submitted.	
<b>Summary of Consultee Responses:</b> DFI Roads - recommend approval with sight lines of 2.4m x 90.0m DAERA – Category 1 farmer, allocated 10/02/1992, site on land claimed by another farm business in 2022.	
<b>Characteristics of the Site and Area:</b>  The red line of the site includes an irregular shaped portion of roadside lands located approx. 40m North of 182 Brackaville Road, Coalisland. The site is quite flat throughout and it is bounded by post and wire fencing along the roadside boundary with scattered hedging and along the NW boundary there are some mature trees providing the boundary treatment. The remainder of the boundaries are currently undefined, opening to the remainder of the field. The surrounding lands are rural in nature, however the area does appear to have some recent development and the site itself is not far from	

Coalisland/Brackaville.

**Description of Proposal**

Outline planning permission is sought for a proposed dwelling and garage under CTY 10.

**Deferred Consideration:**

This application was at the Planning Committee in September 2023 where it was deferred for a meeting with the Servicer Director for Planning to allow further discussion of the planning history of the farm and the adjacent lands.

At the meeting the agent was informed that any application for the renewal of planning permission is considered in light of the planning policies in place at the time of the decision. There is no automatic right of renewal of planning permission. The agent was unaware of this and requested an opportunity to provide further information in relation to this. To date there has not been any additional information submitted to advise the Councils practice in relation to the consideration of renewals is in any way flawed.

Members are reminded that planning permission has been granted for dwelling under reference numbers M/2010/0696/O, LA09/2015/1189/F and LA09/2018/0492/F (which was a renewal of LA09/2015/1189/F). The permission was renewed as it was re-assessed against CTY10 using Mr James Patrick Gervis business id as the active and established farm.

The proposed site is located on the opposite side of the road from the buildings on the farm. The most appropriate location for integration purposes is the west part of the site which has vegetation to the side and rear and some of the roadside vegetation could be retained. A dwelling in that location would not appear to be visually interlinked with those buildings and it would appear to have a physical separation from them.

I do not consider there is any information that changes the consideration for this application and as such I recommend it is refused.

**Reasons for Refusal:**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that other dwelling(s)/development opportunities have been sold off from the farm holding within 10 years of the date of the application and there is appreciable distance between the proposed new building and the established group of buildings on the farm. Planning permission for a dwelling on a farm under CTY 10 was approved within the last 10 years also.

**Signature(s)**

**Date:**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 September 2023	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2023/0268/O	<b>Target Date:</b> 23 June 2023
<b>Proposal:</b> Dwelling and Garage Under Cty 10	<b>Location:</b> Lands 40M North Of 182 Brackaville Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr James Girvin 180 Brackaville Road Coalisland BT71 4EJ	<b>Agent Name and Address:</b> CMI LTD 38 Airfield Road 38B AIRFIELD ROAD toomebridge BT41 3SQ
<b>Executive Summary:</b>  The proposal is considered to be contrary to CTY 10 of PPS 21.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0268-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc Roads outline.docx FORM RS1 STANDARD.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

No representations received.

### Characteristics of the Site and Area

The red line of the site includes an irregular shaped portion of roadside lands located approx. 40m North of 182 Brackaville Road, Coalisland. The site is quite flat throughout and it is bounded by post and wire fencing along the roadside boundary with scattered hedging and along the NW boundary there are some mature trees providing the boundary treatment. The remainder of the boundaries are currently undefined, opening to the remainder of the field. The surrounding lands are rural in nature, however the area does appear to have some recent development and the site itself is not far from Coalisland/Brackaville.

### **Description of Proposal**

Outline planning permission is sought for a proposed dwelling and garage under CTY 10.

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

#### **Policy Consideration**

#### Planning History

M/2010/0595/O - Proposed Dwelling in association with a Farm - Lands 35M East Of 180 Brackaville Road, Dungannon – PERMISSION GRANTED

LA09/2015/1189/F - Lands 35M East Of 180 Brackaville Road, Dungannon - Proposed domestic dwelling and garage – PERMISSION GRANTED

LA09/2018/0492/F - Renewal of existing planning application previously approved under Ref. LA09/2015/1189/F - Lands 35M East Of 180 Brackaville Road, Dungannon – PERMISSION GRANTED

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 180,182 and 187 Brackaville Road. At the time of writing, no third party representations have been received.

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

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

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being in the rural countryside, located between Newmills and Coalisland Settlement Limits. There are no other zonings or designations within the Plan.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was



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

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

Policy CTY 1 of PPS 21 establishes that planning permission will be granted for a dwelling on a farm where it is in accordance with Policy CTY 10. This establishes the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

(a) the farm business is currently active and has been established for at least 6 years

(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building groups(s)

With respect to (a) the applicant has provided details surrounding their farm business ID and associated mapping. DAERA have confirmed that the business ID has been in existence for more than 6 years and that the applicant has claimed on the land 2017-2019. They note within their response that the proposed site is located on land that is not under the control of the farm business identified on the application form, the land was claimed by another farm business in 2022. No further information was sought from the agent to confirm the status of the farming activity given that the proposal was considered to fail on other criterion within this policy, as outlined later in the report.

With respect to (b) there are records indicating that there is dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of this application. Checks were carried out using the UNiform system and no historical applications have been found. There were a number of

applications which appeared to link with the farm holding, including a recent approval for a replacement dwelling under LA09/2019/1676/F however this does not appear to have been transferred or sold off following a land registry check carried out 21/04/23. There were further approvals on the farm lands under M/2010/0595/O, LA09/2015/1189/F and most recently under LA09/2018/0492/F (which was renewal of LA09/2015/1189/F).

These all relate to the same parcel of land which is adjacent to the application site. A land registry check was carried out and it appears the land was transferred 8<sup>th</sup> June 2020. This was queried with the agent who has noted that this site was gifted by the farmer to his daughter in 2011. The agent adds that the Council accepted the site had changed hands as the land ownership i.e., Cert A was not challenged in either of the full or renewals applications. In response to this, it is my view that applications are taken at face value unless there are reasons to query information provided. Land registry checks are not carried out for all applications.

The agent referenced a case which was dealt with by another Council in which the report details that the completion of Certificate A by a different application along with a building control submission equates to confirmation by way of legal documentation that the ownership was transferred. From my reading of the report, it appears that the land registry check did not provide any ownership details. As this application was in a different Council area and obviously I am not in control of all of the facts or information surrounding the case, I don't feel this provides any justification for this application. I would refer to the PAC decision 2022/A0036 with particular attention to the Commissioners comments about the transfer of lands.

With respect to (c), there is considered to be appreciable distance between the site and buildings on the farm. I would note that there appears to be a number of other alternative sites within the applicant's ownership, which would meet the policy criteria and would visually link with existing farm buildings on the farm. There were no health and safety reasons presented nor are there any verifiable plans that the farm business is to be expanded and as such the proposal fails on this criterion also.

To conclude the consideration of the proposal against CTY 10, it is considered that it fails on criterion (b) and (c) as outlined above. Full permission was granted on 14<sup>th</sup> April 2016 under LA09/2015/1189/F and as such is contrary to the policy also which notes that planning policy granted under this policy will only be forthcoming once every 10 years.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, it is considered that the proposal fails on criterion (g) of CTY 13 where in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. We would also have some concerns that a dwelling in this location would be somewhat prominent as there is only some degree of hedging along the western boundary but this is low lying and wouldn't provide any suitable degree of enclosure or integration for a dwelling at this site.

The applicant has noted that they intend to create a new access onto Brackaville Road. DfI Roads were consulted and have noted no issues with the proposed access arrangement subject to condition.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that other dwelling(s)/development opportunities have been sold off from the farm holding within 10 years of the date of the application and there is appreciable distance between the proposed new building and the established group of buildings on the farm. Planning permission for a dwelling on a farm under CTY 10 was approved within the last 10 years also.

**Signature(s):** Sarah Duggan

**Date:** 19 July 2023

<b>ANNEX</b>	
<b>Date Valid</b>	10 March 2023
<b>Date First Advertised</b>	21 March 2023
<b>Date Last Advertised</b>	21 March 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 187 Brackaville Road Coalisland Tyrone BT71 4EJ The Owner / Occupier 180 Brackaville Road Coalisland Tyrone BT71 4EJ The Owner / Occupier 182 Brackaville Road Coalisland Tyrone BT71 4EJ	
<b>Date of Last Neighbour Notification</b>	13 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2015/1189/F  Proposals: Proposed domestic dwelling and garage  Decision: PG  Decision Date: 21-APR-16</p> <p>Ref: M/2010/0595/O  Proposals: Proposed Dwelling in asociation with a Farm.  Decision: PG  Decision Date: 31-JAN-11</p> <p>Ref: M/1989/0279  Proposals: Farm Dwelling  Decision: PG  Decision Date:</p> <p>Ref: M/1985/0276  Proposals: DWELLING  Decision: PG  Decision Date:</p>	

Ref: LA09/2018/0492/F

Proposals: Renewal of existing planning application previously approved under Ref. LA09/2015/1189/F

Decision: PG

Decision Date: 24-SEP-18

Ref: M/1989/0279B

Proposals: Farm Dwelling

Decision: PG

Decision Date:

Ref: LA09/2019/1676/F

Proposals: Proposed replacement dwelling

Decision: PG

Decision Date: 28-FEB-20

Ref: LA09/2023/0268/O

Proposals: Dwelling and Garage Under Cty 10

Decision:

Decision Date:

Ref: M/1993/0527

Proposals: Change of use from hall to living accommodation and alterations to existing dwelling house

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DAERA - Omagh-LA09-2023-0268-O.docx

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads outline.docxFORM RS1 STANDARD.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

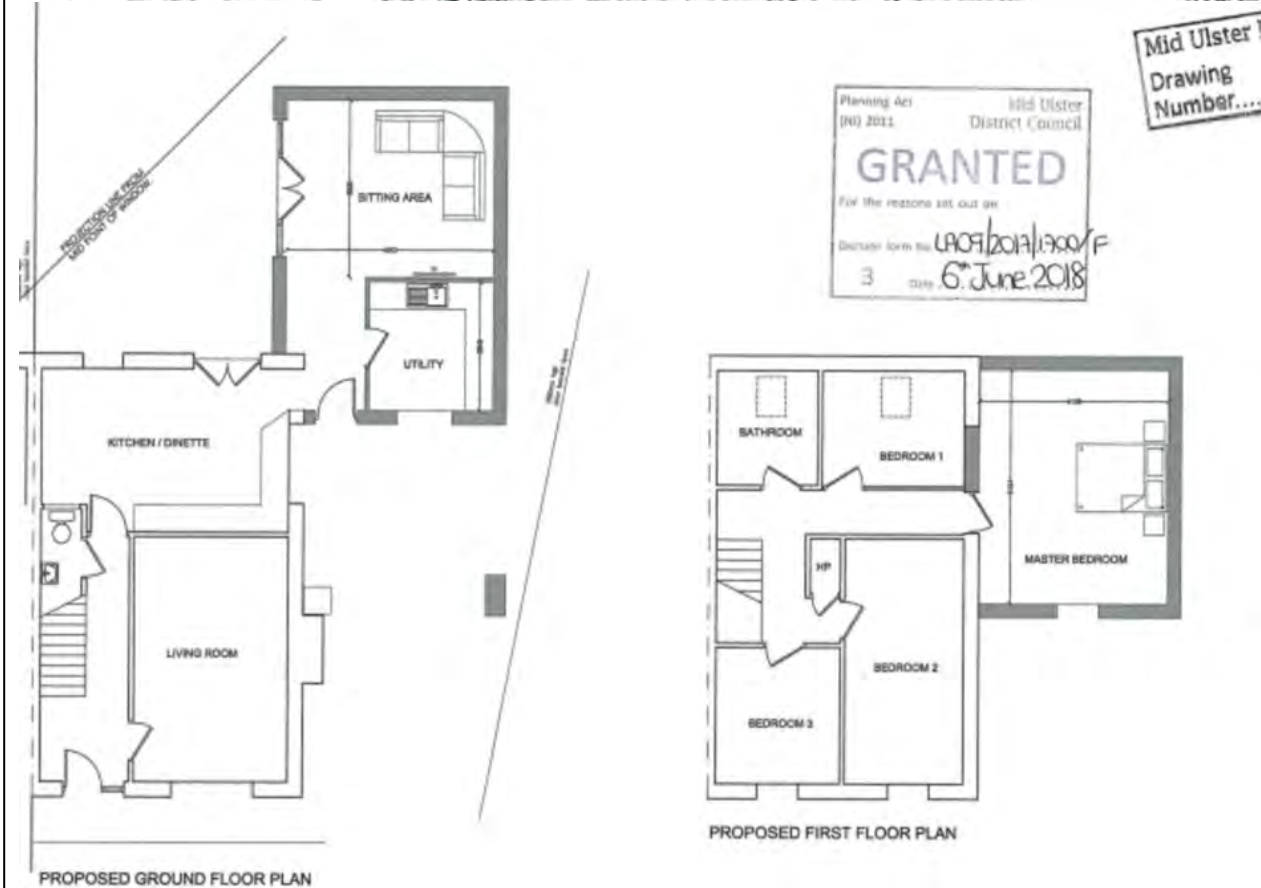
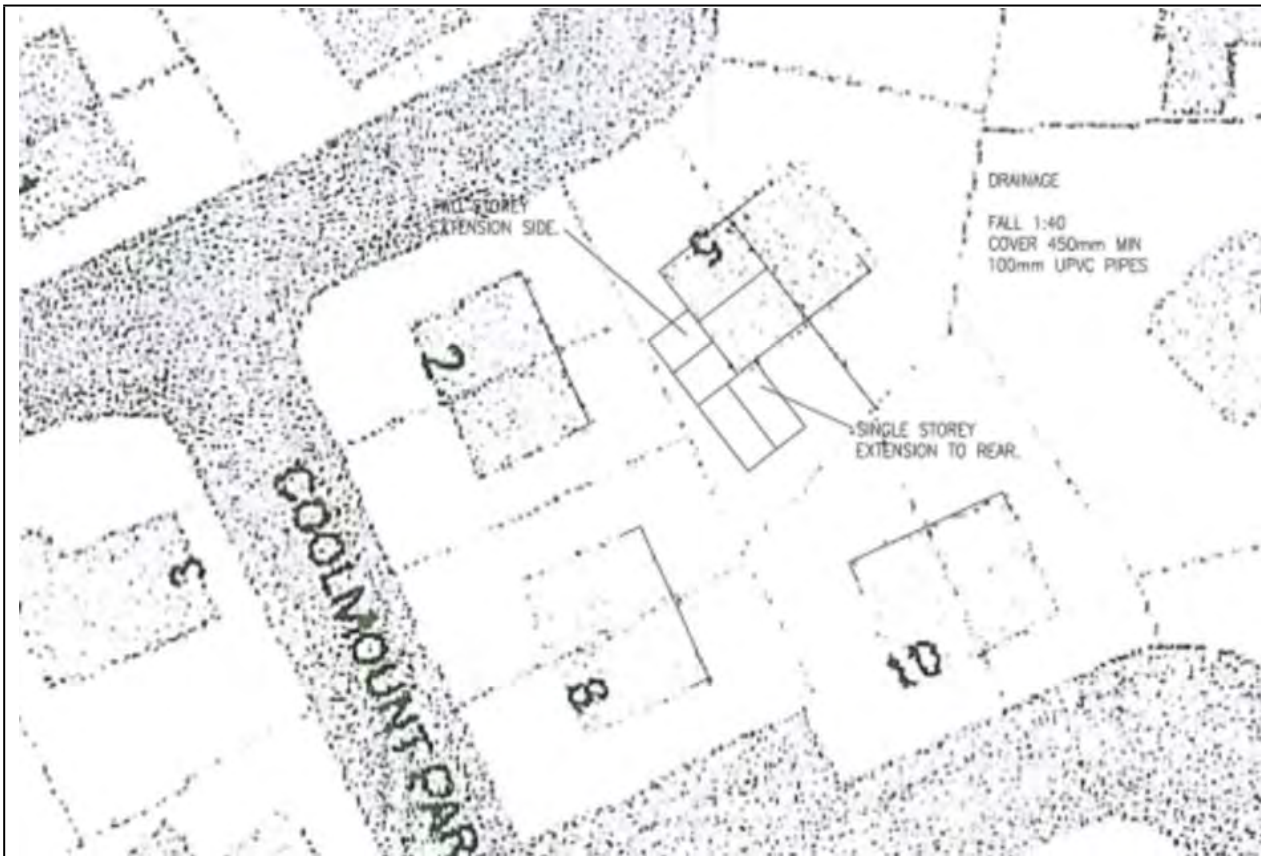
Not ApplicableNot Applicable



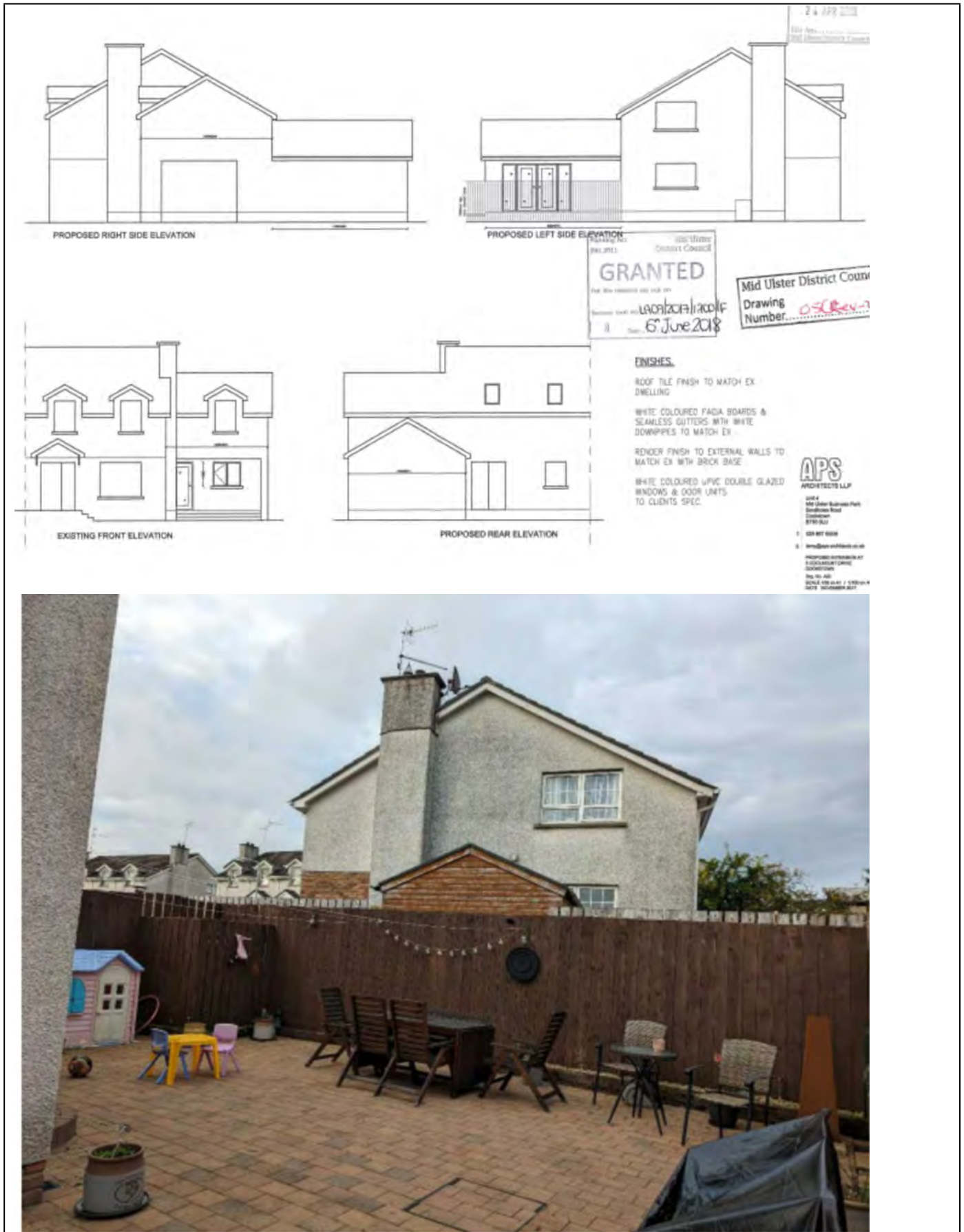


## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0328/F <b>Recommendation:</b> Refuse	<b>Target Date:</b> 7 July 2023
<b>Proposal:</b> Renewal of approved planning application (Extension to rear and side of dwelling to accommodate siting area and bedroom)	<b>Location:</b> 5 Coolmount Drive Cookstown Bt80 8YF
<b>Applicant Name and Address:</b> Emma McAleer	<b>Agent Name and Address:</b> No Agent
<b>Summary of Issues:</b> <p>This application was first before Members at June 2023 Planning Committee with a recommendation to approve. It was however agreed to defer the application for a Members Site Visit so that Members could consider concerns raised by an objector. This site visit took place on the 30<sup>th</sup> June 2023. The application has been fully reconsidered and is now being recommended for refusal. My justification for this is detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b> <p>No consultations were issued to inform this deferred consideration</p>	
<b>Description of Proposal</b> <p>This is a full application for the renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate sitting area and bedroom) at No. 5 Coolmount Drive, Cookstown. LA09/2017/1700/F was granted approval on 06.06.2018.</p>	







APPLICATION NUMBER – LA09/2023/0328/F  
 ACKN

### **Deferred Consideration:**

This application was recommended for approval back in June 2023 on the basis that it was an in-time renewal and there had been no change in planning policy since LA09/2017/1700/F was issued as an approval.

In considering this application Members should note that a material change in circumstance has been brought to the Councils attention. Neighbours that should have been notified under LA09/2017/1700/F were not. Under this current application all relevant neighbours have been notified. Some have raised material planning objections, which following a Members Site Visit on the 30th June 2023, hold some weight in this deferred consideration. It is not unreasonable to assume that if proper neighbour notification was carried out under LA09/2017/1700/F then these same concerns would have been raised at that time and may have resulted in design changes being sought.

Having visited the site and viewing it from the rear garden of 4 Coolmount Park it is my opinion that the proposed extension will have a negative impact on adjacent residential amenity by way of over dominance experienced by the occupants 4 Coolmount Park. This relates to the 2 storey element of the extension. Whilst it does not have any proposed 1st floor gable windows, its height and the limited separation distance would have a very overbearing impact. It will adversely impinge on the immediate outlook from the rear garden, kitchen and dining room of number 4 Coolmount Park and could create a feeling of being hemmed in.

Members should note that I have provided the applicant the opportunity to address these concerns. It was suggested to the applicant to reduce the scheme so that it is a single storey side extension in its entirety. The applicant advised that this was not an option they wanted to avail of and requested that the application be considered on the basis of the approved plans.

I am therefore recommending that Members refuse this application as the development fails to comply with Policy EXT 1 of the Addendum to PPS 7 in that it will unduly affect the amenity of neighbouring residents by way of over dominance. It is also considered contrary to paragraph 4.12 of the Strategic Planning Policy Statement (SPPS) in respect of Safeguarding Residential Environments.

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

#### **Refusal Reasons**

##### **Reason 1**

The proposed development is contrary to paragraph 4.12 of the Strategic Planning Policy Statement (SPPS) in that its design and siting will be over dominant and will have an overbearing impact on the amenity afforded by neighbouring residents at number 4 Coolmount Park, Cookstown

**Reason 2**

The proposed development is contrary to Policy EXT 1 of the Addendum to PPS7, Residential Extensions and Alterations, in that it will unduly affect the amenity of neighbouring residents by way of over dominance.

**Signature(s):**Karla McKinless

**Date:** 15 January 2024

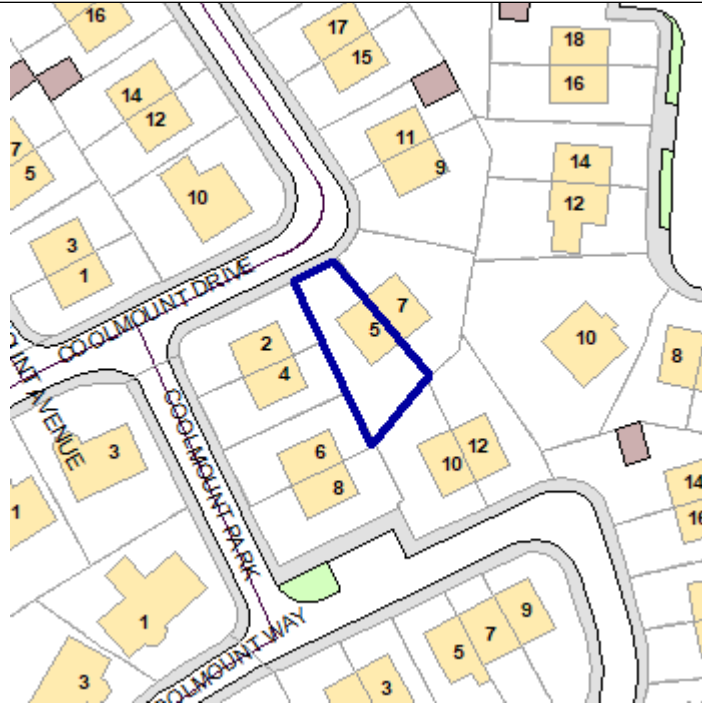


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 12 June 2023	<b>Item Number:</b> 5.56
<b>Application ID:</b> LA09/2023/0328/F	<b>Target Date:</b> 7 July 2023
<b>Proposal:</b> Renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate siting area and bedroom)	<b>Location:</b> 5 Coolmount Drive Cookstown Bt80 8YF
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Emma McAleer	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

This application is recommended for approval, however it is presented to Committee as it has received two objections from neighbouring properties. Issues raised will be addressed within the main body of the report.

### Characteristics of the Site and Area

The application site is located at No. 5 Coolmount Drive, Cookstown and features a semi-detached dwelling finished in natural rustic facing brick and painted dash render,

black roof slates, and white upvc windows, doors, and rainwater goods.

The front of the property is defined by a 1m wooden fence and two brick pillars providing vehicular access. The dwelling is set back approximately 8m from the public road. The rear garden is triangular in shape, with defined boundaries of a 1.8m close board fence which defines the boundaries shared with No. 7 Coolmount Drive to the east, No. 10 Coolmount Park to the south, No's 2, 4 and 6 Coolmount Park to the west.

The surrounding area is entirely residential in nature with a combination of detached and semi-detached bungalows and two-storey dwellings.

The application was received on 24/03/2023 which is within the statutory expiry date of 18/04/2023. Given that the principle of planning had been established under the previous application LA09/2017/1700/F, I am content that this application is acceptable and is within the statutory expiry date.

### **Description of Proposal**

This is a full application for the renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate sitting area and bedroom) at No. 5 Coolmount Drive, Cookstown.

### **Representations**

Nine neighbour notification letters were issued in relation to this application and two objections have been received.

### **Site History**

LA09/2017/1700/F – 5 Coolmount Drive, Cookstown – Extension to rear and side of dwelling to accommodate sitting area and bedroom – Permission Granted 06.06.2018.

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

#### **Policy Consideration**

#### **Cookstown Area Plan 2010**

The site falls within the settlement limits of Cookstown as defined in the Cookstown Area Plan 2010. There are no other zonings or designations on this site.

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

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the

LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Para 6. 137 of the SPPS advises that residential extensions should be well designed.

### **PPS 7 (Addendum): Residential Extensions and Alterations**

This application is for an in-time renewal of planning reference (LA09/2017/1700/F – Extension to rear of dwelling to accommodate a sitting area and bedroom).

There has been no change in planning policy since the original outline approval was granted, as such, the principle of development on this site remains acceptable. There have been two objections to the proposal from neighbouring properties, their concerns are addressed below:

1. Loss of natural sunlight to surrounding properties – The occupant of No. 7 Coolmount Drive has raised concern that they will experience a loss of sunlight due to the proposed extension. Having considered the location of the extension in relation to No. 7 alongside the trajectory of the sun, I am content that there will be little to no loss of sunlight. The original proposal under LA09/2017/1700/F was reduced in scale in response to concerns over loss of sunlight. The current renewal application is therefore still deemed acceptable.
2. Scale of proposed extension – Under the original application (LA09/2017/1700/F), the scale of the proposal was raised as an issue. Amended plans were received wherein the extension was reduced in height and footprint and this was deemed to satisfactorily deal with concerns relating to scale and dominance.
3. Loss of privacy – There are no windows on the proposed extension that would cause the loss of privacy to any of the surrounding properties. The window arrangement is unchanged from the originally approved design.
4. Loss of views – This is not a material consideration.

One of the objectors has raised the point that they were not notified of the original application however I am content that the concerns they have raised under the current application were dealt with satisfactorily at the determination of the original application and would not have affected the outcome.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24<sup>th</sup> September 2020. The period for Counter Representations closed on 18<sup>th</sup> December 2020. On the 28<sup>th</sup> 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.

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

I note that there is no change to the existing access arrangements therefore no consultation with DfI Roads was required.

Approval is recommended subject to the same conditions that were attached to LA09/2017/1700/F.

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

Approve is recommended

#### Approval Conditions

##### Condition 1

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

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

##### Condition 2

The materials to be used in the construction of the proposal hereby permitted, shall be as shown on stamp approved Drawing No. 05 (Rev-2) dated 24/04/2018 of LA09/2017/1700/F.

Reason: In the interest of visual amenity and to ensure the proposal is in keeping with the existing dwelling.

##### Informative 1

This decision relates to drawing No 01, 02 (Rev-2), 04 (Rev-1), 05 (Rev-2) date stamped 06/06/2018 previously approved under application LA09/2017/1700/F. **Signature(s):** Zoe Douglas

**Date:** 12 May 2023



<b>ANNEX</b>	
<b>Date Valid</b>	24 March 2023
<b>Date First Advertised</b>	4 April 2023
<b>Date Last Advertised</b>	4 April 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 10 Coolmount Drive Cookstown Tyrone BT80 8YF The Owner / Occupier 7 Coolmount Drive Cookstown Tyrone BT80 8YF The Owner / Occupier 12 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 10 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 8 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 6 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 4 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 2 Coolmount Park Cookstown Tyrone BT80 8YB	
<b>Date of Last Neighbour Notification</b>	29 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: I/1997/0357 Proposals: Erection of 1 detached dwelling, 1 pair of semi-detached dwellings and estate road Decision: PG Decision Date:  Ref: I/2006/0988/F Proposals: Proposed Retention of Dwellings Built on Plots 2, 4, 6, 8, & 10 Decision: PG	

Decision Date: 15-MAY-07

Ref: I/2002/0618/F

Proposals: Proposed 11 No. Dwellings

Decision: PG

Decision Date: 16-JAN-03

Ref: I/2003/0269/F

Proposals: 2 No detached dwellings and garages

Decision: PG

Decision Date: 17-JUN-03

Ref: I/1999/0189

Proposals: 2 No.semi-detached dwellings and 1 no. detached dwelling and garages

Decision: PG

Decision Date:

Ref: LA09/2017/1700/F

Proposals: Extension to rear and side of dwelling to accommodate siting area and bedroom

Decision: PG

Decision Date: 06-JUN-18

Ref: LA09/2023/0328/F

Proposals: Renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate siting area and bedroom)

Decision:

Decision Date:

Ref: I/2001/0060/F

Proposals: 14 No Semi-detached Dwellings & Garages and 1 No Detached Dwelling & Garage

Decision: PG

Decision Date: 14-MAY-01

Ref: I/1990/0015

Proposals: Residential Development

Decision: PG

Decision Date:

Ref: I/2003/0843/F

Proposals: Proposed alterations to development with 4 No semi-detached dwellings, 3 No Town houses and new road determination

Decision: PG

Decision Date: 19-APR-04

Ref: I/2004/1319/F

Proposals: 2No Semi-Detached dwellings and 1No Detached Dwelling & Garage

Decision: PG

Decision Date: 16-FEB-05

**Summary of Consultee Responses**

-

**Drawing Numbers and Title**

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2023/0580/FF	<b>Target Date:</b> 6 September 2023
<b>Proposal:</b> Removal of Conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O (Condition No. 8 relates to Condition No. 7, i.e. they are one and the same)	<b>Location:</b> 25M North West of 56 Cavey Road - Ballygawley
<b>Applicant Name and Address:</b> Mr NIALL McCARTAN No 56 CAVEY ROAD BALLYGAWLEY ROAD BT70 2JQ	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
<b>Summary of Issues:</b>  Outline planning permission was granted with conditions siting a dwelling at the front of the site to meet infill grounds. Due to difficulties, expense and potential dangers of developing the site at the front this proposal is for the infill dwelling set back on the site.	
<b>Summary of Consultee Responses:</b> none	
<b>Characteristics of the Site and Area:</b>  The application site includes lands located approx 25m NW of 56 Cavey Road, Ballygawley. The red line of the site is an irregular shed and includes a roadside portion of lands with an area attached outlined in blue indicating ownership. The lands rise from	

the roadside towards the site and beyond. The site is predominantly bounded by existing hedging and vegetation and there is wooden fencing between the application site and adjacent properties. The immediate area is surrounded by existing dwellings, including detached and semi detached dwellings and beyond that the lands are rural in nature, scattered with single dwellings. The settlement of Ballygawley is a short distance from the site.

**Description of Proposal**

Planning permission is sought for the removal of Conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O.

**Deferred Consideration:**

This application was before the Planning Committee in September 2023 where it was deferred for a meeting with the Service Director. At a meeting on 14 September 2023 the agent advised there was OPP granted to the front of the site and planning permission reference LA09/2023/0022/O was in substitution for that permission.

The agent had submitted a statement to indicate a dwelling at the front of the site would involve significant excavations and these could undermine the applicants parents house next door. The proposal is for the dwelling to be sited in the gap and to the rear of the adjacent development (fig 1)

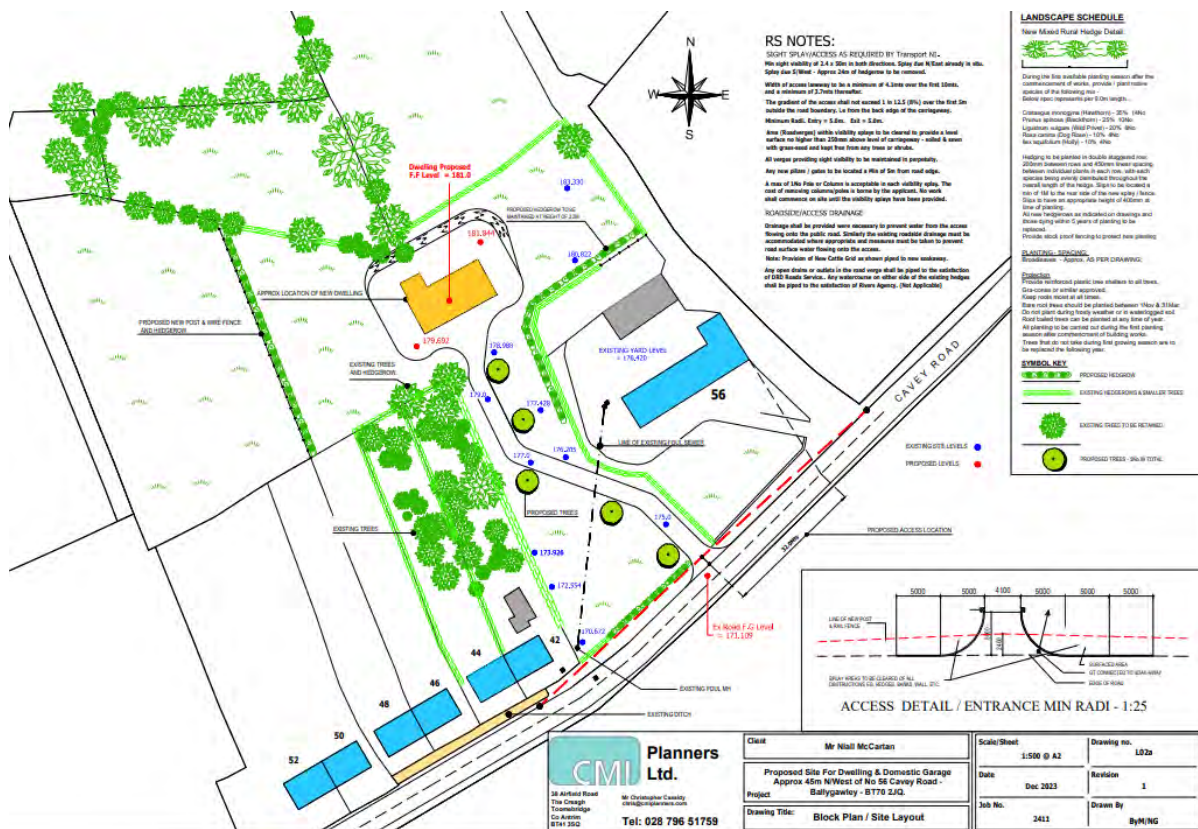


Fig 1 – proposed layout

The issue in this case relates to the principle of the development on infill grounds. Members will be aware CTY8 advocates against ribbon development but does recognise

some instances where infilling a gap is acceptable. In the policy it clearly sets out that ribbon development can be buildings set back, staggered or at angles and with gaps between them, if they have a common frontage. This proposal seeks to remove conditions restricting the curtilage and specifying an area for siting any new dwelling. In support of the proposal the applicants have submitted a layout showing how a dwelling could be accommodated on this site and still comply with CTY8 (Fig 1). A dwelling located as proposed in fig1 would, in my view, still result in ribbon development, by definition in CTY8 and as such I must conclude that it would also meet the criteria for a gap site in a substantially built up frontage.

As the proposal will still meet the principles of ribbon development I consider the conditions in relation to siting and curtilage restriction can be removed. I do however consider it necessary for these conditions to be replaced with conditions that the dwelling should be sited in the general location as proposed in the submission and a substitution condition to ensure that only one dwelling is erected on the site.

I recommend this application is approved.

#### Conditions/Reasons for Refusal:

##### 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 17<sup>th</sup> April 2023; 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

Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 50m in both directions and a 50m forward sight line, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

##### Condition 4

A detailed scheme of structured landscaping for the site including along all site boundaries, especially between the proposed site and No 56 Cavey Road, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details

of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

**Condition 5**

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

Reason: To ensure the dwelling integrates into the landform.

**Condition 6**

The dwelling hereby permitted shall have a ridge height not exceeding 5.5 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

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

**Condition 7**

The proposed dwelling shall be sited in the location as shown on drawing No 02 received 19 December 2023.

Reason: To ensure that the development is integrated into the landscape.

**Condition 8**

One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 bearing the stamp dated 23 MAY 2023.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2021/0119/O and is not for an additional dwelling on this site.

**Signature(s)**

**Date:**







## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 September 2023	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2023/0580/F	<b>Target Date:</b> 6 September 2023
<b>Proposal:</b> Removal of Conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O (Condition No. 8 relates to Condition No. 7, i.e. they are one and the same)	<b>Location:</b> 25M North West of 56 Cavey Road - Ballygawley
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr NIALL McCARTAN No 56 CAVEY ROAD BALLYGAWLEY ROAD BT70 2JQ	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
<b>Executive Summary:</b>  Refusal - conditions were attached to ensure the proposal complied with policies contained within PPS 21.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

No representations received.

### Characteristics of the Site and Area

The application site includes lands located approx 25m NW of 56 Cavey Road, Ballygawley. The red line of the site is an irregular shed and includes a roadside portion of lands with an area attached outlined in blue indicating ownership. The lands rise from the roadside towards the site and beyond. The site is predominantly bounded by existing

hedging and vegetation and there is wooden fencing between the application site and adjacent properties. The immediate area is surrounded by existing dwellings, including detached and semi detached dwellings and beyond that the lands are rural in nature, scattered with single dwellings. The settlement of Ballygawley is a short distance from the site.

### **Description of Proposal**

Planning permission is sought for the removal of Conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O.

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

#### **Policy Consideration**

##### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were a number of neighbours notified under this application including: 42, 44, 46, 47 and 56 Cavey Road. At the time of writing, no third party representations have been received.

##### Planning History

LA09/2023/0022/O - PROPOSED SITE FOR DWELLING & DOMESTIC GARAGE - 25M North West of 56 Cavey Road, Ballygawley – PERMISSION GRANTED

LA09/2021/0119/O - 20M NW Of No.56 Cavey Road, Ballygawley BT70 2JQ - One No. Dwelling House (infill site) – PERMISSION GRANTED

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

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

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being in the rural countryside with no other zonings or designations within the plan.

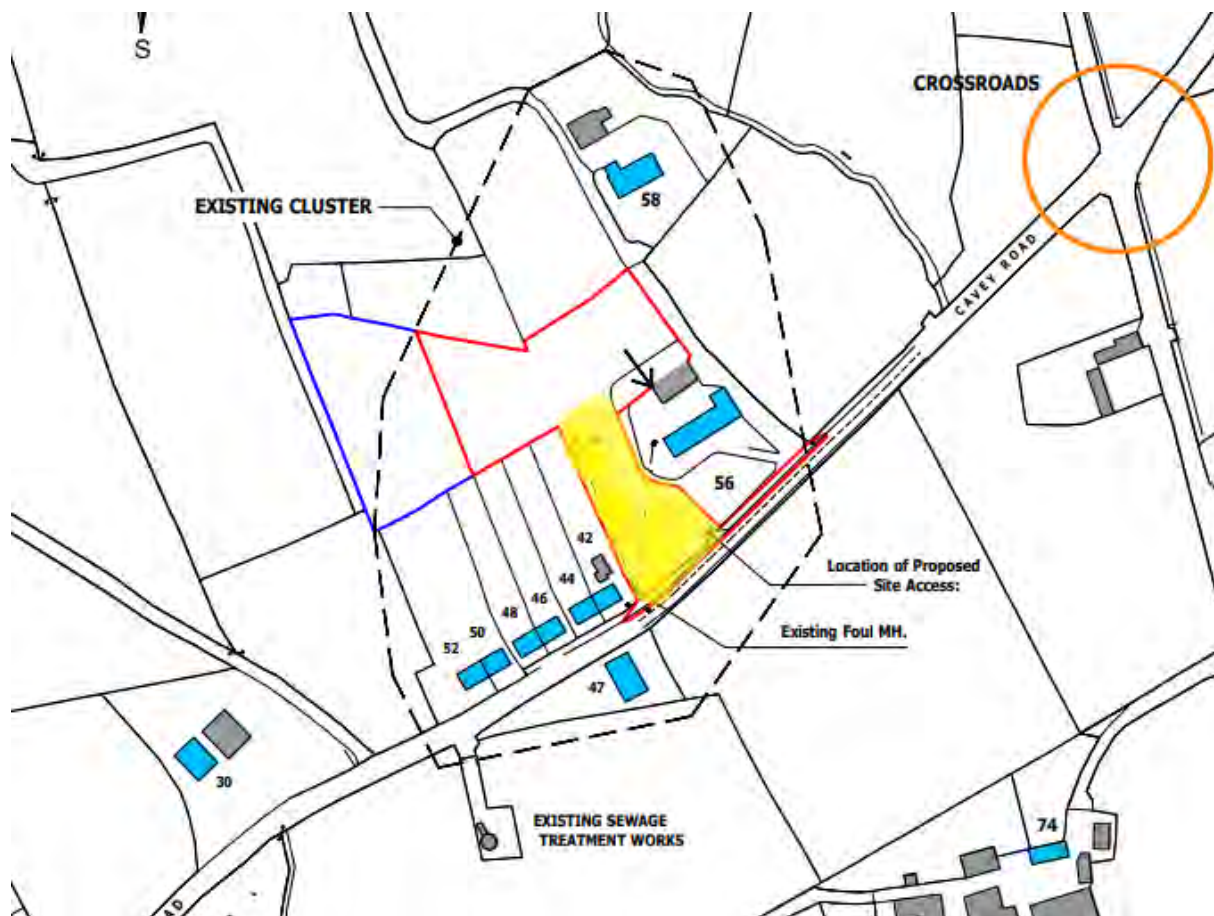
The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and

any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

The agent/applicant originally submitted application LA09/2023/0022/O for a dwelling under the clustering policy CTY 2a, however following group discussion it was felt that CTY 8 was appropriate as the site was not associated with a focal point or at a crossroads. The application was therefore assessed against policy CTY8 – ribbon development and conditions were attached to ensure that the proposal met with this policy. This current application is for the removal of conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O which were:

- *The proposed dwelling shall be sited in the area shaded yellow on the approved plan No. 01 Rev 1 which was received on 9th January 2023.*
- *The curtilage of the proposed dwelling shall be as indicated in the area shaded yellow on the approved plan No. 01 Rev 1 which was received on 9th January 2023.*



**Figure 1 – The site location plan above shows the area shaded yellow referred to in conditions 7 & 8.**

The agent provided justification for the removal of these conditions, noting that the outline application LA09/2023/0022/O was intended to supersede the approval, LA09/2021/0119/O adding that a home in this “small, narrow and fairly steep plot of land

was and is not financially practicable or feasible”. They add that extensive cutting/excavating would be required for a dwelling at this approved site. During the discussions of the previous application, LA09/2023/0022/O the agent was made aware of the proposed siting and curtilage we were proposing restrictions by email and noted they were content. It has since been confirmed that this was an error on their behalf, hence the submission of this application.

The removal of both of these conditions would mean that the dwelling could be sited elsewhere within the red line. It was considered under the previous application and further discussions under this application confirmed that we do not believe the removal of these conditions would allow for a dwelling at this site as the proposal would then be contrary to CTY 8 of PPS 21, which it was approved under and as discussed already in the previous reports there are no other policies which we feel the site would meet. CTY 2a was discussed under LA09/2023/0022/O and it was felt it had no focal point, nor was it located at a crossroads.

Given the reasoning set out above, it is considered that the conditions attached were necessary to ensure the proposal was in line with policy requirements of PPS 21 and as such we would not be content with the removal of them and therefore this application is recommended for refusal.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The planning approval LA09/2023/0022/O was only agreed subject to condition 7 and 8 being attached to ensure it met with the criteria of Policy CTY8 of Planning Policy Statement 21.

**Signature(s):** Sarah Duggan

**Date:** 22 August 2023

<b>ANNEX</b>	
<b>Date Valid</b>	24 May 2023
<b>Date First Advertised</b>	5 June 2023
<b>Date Last Advertised</b>	5 June 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 56 Cavey Road Ballygawley Tyrone BT70 2JQ The Owner / Occupier 46 Cavey Road Ballygawley Tyrone BT70 2JQ The Owner / Occupier 47 Cavey Road Ballygawley Tyrone BT70 2JQ The Owner / Occupier 44 Cavey Road Ballygawley Tyrone BT70 2JQ The Owner / Occupier 42 Cavey Road Ballygawley Tyrone BT70 2JQ	
<b>Date of Last Neighbour Notification</b>	5 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  -	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	

**Notification to Department (if relevant)**

Not Applicable