



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.1
Application ID: LA09/2018/1643/F	Target Date: 7 February 2019
Proposal: Proposed residential development comprising of 42 no units (30 semi-detached and 12 detached), creation of a new access/right turn lane from Coolshinney Road, open space/private amenity space, landscaping and ancillary site works	Location: Lands 100M SW Of 13 Coolshinney Road And 20M North Of 2 Thornhill Magherafelt
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mullaghboy Construction Ltd 11 Desertmartin Road Magherafelt BT45 5HD	Agent Name and Address: Clyde Shanks 5 Oxford Street Belfast BT1 3LA
Executive Summary: <p>The proposed development is a major application for a housing development of 42 dwellings on a site extending to 2.21ha. The site is on land zoned for housing development in the Magherafelt Area Plan 2015. Access to the site is from the Coolshinney Road at a point close to the recent housing development of Foxfield Park. A Right-turn-lane has been provided on the Coolshinney Road as part of Foxfield Park development and that Right-turn-lane will also serve the proposed development. The access into the proposed development extends through this site and will also serve another housing site for 18 dwellings, which is being recommended for approval as a delegated application.</p> <p>The proposal has been assessed against the relevant planning policies, which are mainly PPS 3 and PPS 7 and is considered to meet all the relevant policy tests and the Key Site requirements.</p> <p>One letter of objection was received and has been considered in the case officers report</p>	

below.

Therefore, the application is being recommended for approval.

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Shared Environmental Services	Substantive: TBCResponseType: FR
	NI Water - Strategic Applications	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	Shared Environmental Services	Substantive: TBC
	Rivers Agency	Substantive: TBC
	NI Water - Multiple Units West	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
	NI Water - Multiple Units West	Substantive:

		YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
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	Shared Environmental Services	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
Statutory Consultee	DFI Roads - Enniskillen Office	Mid Ulster Roads Consultation PSD.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Mid Ulster Roads Consultation 5.docx

Representations:

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

Summary of Issues

The proposed application is for a major housing development of 42 dwellings on a site extending to 2.21ha of zoned housing land.

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

- o Detrimental effect on the objectors property and the character of the local area by urbanisation of this countryside setting;

Whilst it is accepted that the site may have a rural appearance as it comprised of two green fields on the edge of the town, the site is located on the edge and completely within the settlement development limit of Magherafelt and the site is zoned for housing development.

- o Health and safety issues relating to traffic speeds and volumes.

Dfi Roads considered the proposed development and the access arrangements and did not raise any objections in respect of either of these issues. It should be noted that a Right-turn-lane has been provided at the access into the proposed development and this will provide additional safety measures, for vehicles entering the site, on the Coolshinney Road.

Characteristics of the Site and Area

The proposed site is set within the settlement development limits of Magherafelt and is within an area zoned for housing under MT15.

The proposed site is comprised of two separate fields totalling 2.209ha of agricultural land on the western edge of Magherafelt. The site is bound to the west by an existing access laneway which serves three dwellings, No's 15, 17 & 19, which are located between 200m and 450m back off the Coolshiney Road. The site is bound by housing developments of Thornhill and Foxfield to the south, with agricultural land to the north, east and west.

The site is made up of a larger field directly opposite the entrance to Thornhill Avenue with a smaller portion of a second adjoining field to the northeast. The larger field is relatively flat but rises gently from the southern corner towards the northern corner. The second field rises gently from the southern boundary of the site to the northern boundary. The larger field sits approximately 1-1.2m below the level of the Coolshinney Road and is bounded along that boundary by a low cut thorn hedge or post and wire fence with an open watercourse on the inside. The western boundary is defined by a low cut thorn hedge while the southwestern boundary is defined by a post and wire fence with a semi-mature hedgerow along the northeastern boundary of the larger field and a post and wire fence on the northeastern boundary of the smaller field.

Description of Proposal

This is a full application for residential development comprising of 42 no. units (30 semi-detached and 12 detached), creation of a new access/right turn lane from Coolshinney Road, open space/private amenity space, landscaping and ancillary site works. The site entrance is to be located at the northeastern end of the site frontage and accesses onto the right-turn lane recently created by the developer of Foxfield, directly opposite. The proposal includes three areas of open space, one along the access road to the north west, a second adjacent to the main access point on the Coolshinney Road and a third are located centrally within this site.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Relevant planning history

LA09/2018/0935/F - Residential development consisting of 6 No. detached and 8 No. semi-detached dwellings and garages with associated roadworks, car parking and landscaping - Current application.

LA09/2015/0843/F - Access to housing lands MT15 utilising the gap site left between 5A and 7A Coolshinney Road - Application withdrawn.

H/2014/0385/F - Residential development consisting of 5No. detached dwellings and 6

No. semi-detached dwellings including associated road works and landscaping -
Application withdrawn.

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP - Draft Plan Strategy has been published for consultation, therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The main policy considerations in the assessment of this application are:-

The main policy consideration in the assessment of this application is
Magherafelt Area Plan 2015
Strategic Planning Policy Statement
Planning Policy Statement 3 - Access, Movement and Parking.
Planning Policy Statement 7 - Quality Residential Environments.
Planning Policy Statement 12 - Housing in Settlements
Planning Policy Statement 13 - Transportation and Land Use
Planning Policy Statement 15 - Planning and Flood Risk
Creating Places

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 SPPS has superseded PPS 1 (General Principles.). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our build and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to any interests of acknowledged importance. The proposed development is not within an area of archaeological importance.

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

Magherafelt Area Plan 2015 - the site lies within the settlement limits of Magherafelt. The Key Site Requirements for zoning MT 15 Housing Lands at Coolshinney Road are that

the development is to have a minimum gross site density of 20 dwellings per hectare and a maximum gross site density of 25 dwellings per hectare. The proposed development has a gross density of 19.0 dwellings per hectare, with the overall density of this application and the adjoining application having a gross density of 18.2 dwellings per hectare. This is broadly in keeping with the Key Site Requirements and although the density is 1.8 dwellings per hectare below the KSR, in my opinion this is not sufficiently below the requirement to warrant a refusal.

The other Key Site requirements are that;

a right turning lane is required on the Coolshinney Road which should not compromise provision of a right turn lane into MT 08 (Foxfield Park);

Access arrangements and dwelling layout to be designed to ensure a built frontage onto Coolshinney Road;

Existing hedgerows and trees along the north and west boundaries to be retained.

The proposed development respects all the key site requirements and is acceptable in that regard.

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

This is an full application and is therefore being assessed against these criteria as follows:-

(a) The proposal meets the first of these criteria in that at 19.0 dwellings per hectare, it respects the surrounding context in terms of layout as the density of the surrounding areas range from 11.6 dwellings per hectare at Coolshinney Road, 15.9 dwellings per hectare at Thornhill, 17.5 dwellings per hectare at Oakvale to 23.8 dwellings per hectare at Foxfield.

(b) A search of the site, conducted using the online Historic Environment Map Viewer, found no listed buildings or scheduled monuments within or in close proximity to the site which would be affected by the proposal. The site is not within an Area of Archaeological Potential and there is no record of any archaeological artefacts being discovered during the development of the surrounding lands. Any landscape features which extends to the existing boundary hedgerows are identified and can be protected to way of condition.

(c) The site plan shows a layout with 42 dwellings on a site measuring 2.21ha, therefore there is a requirement for the provision of public open space. The layout provides for three separate areas of private amenity space, one along the access road to the north west, a second adjacent to the main access point on the Coolshinney Road and a third are located centrally within this site. The three areas provide a total of 2733m² of public open space which equates to 12.36% of this site area. However, one

of the areas, within the northeastern portion of the site also serves the adjoining proposed development. The four areas of public open space within the two developments provides a total of 3100m² which is 9.9% of the total site area between the two developments. This arrangement provides for all dwellings to have adequate private amenity space ranging from 70m² to 174m².

(d) The site is located within the settlement of Magherafelt and within 700m of the local shop and the closest school. The site is around 1000m from the edge of the town centre and Meadowlane shopping centre. Therefore the site is close to and within walking distance of the centre of Magherafelt and therefore the provision of neighbourhood facilities are not deemed necessary within the site;

(e) The site has direct access onto the Coolshinney Road, which in turn provides access onto the Moneymore Road, including through the neighbouring Foxfield development, which will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;

(f) Adequate provision has been made for all sites to have in-curtilage car parking. DfI Roads have advised that the level and positioning of the proposed parking is acceptable.

(g) The design of the development in terms of form, materials and detailing have been considered in detail and are considered acceptable for this location.

(h) Given the existing surrounding land uses, the proposal will not create a conflict with adjacent land uses which are all dwellings.

(i) Generally the layout can be designed to deter crime and to ensure there are no areas which are unsupervised or not overlooked.

PPS 3 - Access, Movement and Parking

The proposal is a full application for 42 dwellings. DfI Roads advised following receipt of several amended site layout plans, and with the right turn lane now having been provided on the Coolshinney Road, that DfI had no objections to the proposed development, subject to the suggested conditions.

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

PPS 15 - Planning and Flood Risk

DfI Rivers has reviewed the Flood Risk Assessment by Flood Risk Consulting, dated December 2019, and advised that the assessment shows a portion of the site is affected by floodplain however, the built development is taking place out of the floodplain. Infilling should not take place below the predicted 1% AEP fluvial flood level, as infilling of the flood plain will only serve to undermine the flood plain's natural function of

accommodating and attenuating flood flows. The area of the site affected by flood plain should be kept free from future unauthorised development.

Under 6.32 of the policy a 5m working strip is required. The FRA/DA states that a working strip is available however, it is encroached upon by the proposed retaining wall along a section close to the southern corner of the site. DfI Rivers recommends a working strip of minimum 5m. It should be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development.

In order to provide the proposed access into the site, it is necessary to culvert a short length of the eastern field drain. This is acceptable to Council as it is considered necessary to gain access to the site.

Consultee responses

Roads - The PSD is acceptable and there are no objections to the proposed development subject to the suggested conditions.

Shared Environmental Services - This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Mid Ulster District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

Having considered the nature, scale, timing, duration and location of the project it is concluded that further assessment is not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European site.

Rivers - the built development is taking place out of the floodplain.

Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns.

Water Management Unit advised that the proposal has the potential to adversely affect the surface water environment and is concerned that the sewage loading associated with the above proposal has the potential to cause an environmental impact if transferred to Magherafelt Waste Water Treatment Works (WWTW). However, NI Water were consulted and advised as follows:-

NI Water - advised that a formal sewer connection application must be made for all developments, including those where it is proposed to reuse existing connections. There is a foul sewer within 20m of the proposed development and the developer should consult with NI Water by means of a PDE to determine if there is capacity to serve this proposal.

Environmental Health -has no objection in principle to the proposal subject to the suggested conditions.

Recommendation - In taking the above issues into consideration it is my opinion that the proposed development is acceptable and should be approved subject to the conditions listed below:-

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

As required by Section 62 of the Planning Act (Northern Ireland) 2011 the development to which this approval relates must be begun by whichever is the later of the following dates:-

- i. The expiration of a period of 5 years from the grant of outline planning permission; or
- ii. The expiration of a period of 2 years from the date hereof.

Reason: Time limit.

Condition 2

All proposed planting as indicated on the stamped approved drawing no. 02/5 uploaded to the planning portal on 18th April 2024 shall be undertaken during the first available planting season following occupation of the first of the dwellings hereby approved.

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

Condition 3

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

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

Condition 4

The existing natural screenings along the northern and north eastern boundaries of this site, shall be permanently retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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

Condition 5

If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

Condition 6

The visibility splays of 4.5 metres by 120 metres at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No 14/2 uploaded to the planning portal on 11th January 2024, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 7

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

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

Condition 8

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

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

Condition 9

None of the residential units hereby approved shall be occupied until a satisfactory method for sewage disposal has been submitted to and agreed with Mid Ulster District Council in consultation with NI Water.

Reason: In the interests of residential amenity and to ensure there is a satisfactory means of sewage disposal.

Condition10

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

The Department for Infrastructure hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 14/2 uploaded to the planning portal on 11th January 2024,

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

Condition11

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

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 14/2 uploaded to the planning portal on 11th January 2024,.

The Department for Infrastructure hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreements under Article 3 (4C) and Article 32.

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

Case Officer: Malachy McCrystal

Date: 23 April 2024

ANNEX	
Date Valid	13 December 2018
Date First Advertised	3 January 2019
Date Last Advertised	2 January 2019
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 12 Coolshinney Road Magherafelt Londonderry BT45 5JF</p> <p>The Owner / Occupier 2 Thornhill Avenue Magherafelt Londonderry BT45 5JA</p> <p>The Owner / Occupier 13 Coolshinney Road Magherafelt Londonderry BT45 5JF</p> <p>The Owner / Occupier 11 Coolshinney Road, Magherafelt, Londonderry, BT45 5JF</p>	
Date of Last Neighbour Notification	19 December 2018
Date of EIA Determination	10 January 2019
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR NIEA-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR Shared Environmental Services-Substantive: TBCResponseType: FR NI Water - Strategic Applications-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR Rivers Agency-Substantive: YResponseType: FR Shared Environmental Services-Substantive: TBC Rivers Agency-Substantive: TBC NI Water - Multiple Units West-Substantive: TBC Environmental Health Mid Ulster Council-Substantive: TBC NI Water - Multiple Units West-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: YResponseType: FR</p>	

NIEA-Substantive: YResponseType: FR

Shared Environmental Services-Substantive: TBCResponseType: FR

Rivers Agency-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Mid Ulster Roads Consultation PSD.docx

DFI Roads - Enniskillen Office-Mid Ulster Roads Consultation 5.docx

Drawing Numbers and Title

Housing Concept Plan Plan Ref: 09
Roof Details Plan Ref: 08
Roads Details Plan Ref: 07
Proposed Plans Plan Ref: 06
Proposed Plans Plan Ref: 05
Proposed Plans Plan Ref: 04
Site Layout or Block Plan Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02
Site Location Plan Plan Ref: 01

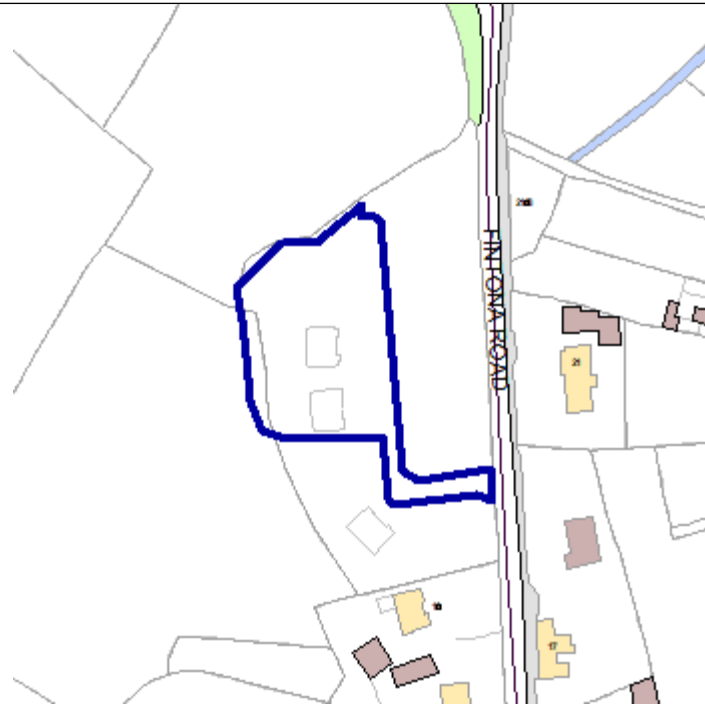
Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.2
Application ID: LA09/2020/1679/F	Target Date: 17 February 2021
Proposal: Proposed change of house type from previously approved 6No. semi detached dwellings under M/2005/0066/F to 1 block of 4 town houses , 1 block of 5 town houses	Location: Lands Immediately West Of 21 Fintona Road Clogher
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Newpark Homes Ltd 72-74 Omagh Road Dromore Omagh	Agent Name and Address: Aca Architecture Ltd Cottage Studios Gortrush Great Northern Road Omagh BT78 5EJ
Executive Summary: There have been 5 objections to this proosal and the applicant has failed to provide sufficient information to show compliance with QD 1 in PPS 7 and PPS 3.	

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Multiple Units West	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR Comment: TYR058:032 is close to this site. Please provide comments
	Rivers Agency	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBC
	Rivers Agency	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR

	Rivers Agency	Substantive: YResponseType: FR
	Rivers Agency	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	Rivers Agency	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	08-08-2022.docx
Statutory Consultee	DFI Roads - Enniskillen Office	19-03-2024.DOCX

Representations:

Letters of Support	0
Letters of Objection	8
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

This application occupies a rectangular portion of land, measuring approximately 0.38 hectares and sits along and to the west of the Fintona Road, opposite No 21 and to the North of No 18. The site is located in the southern section of Clogher village and is whiteland as designated in the Dungannon and South Tyrone Area Plan (DSTAP). This site is flat and sits to the rear of a larger site which has been cleared with the foundations of some development evident close to the back of the site. The rear western boundary of the site is post and wire fence which continues along the northern vegetated boundary, both of which boundaries mark the development limits of Clogher. The eastern roadside boundary is palisade security fencing which secures the site and also continues along the southern boundary which is adjacent to No 18 Fintona Road which is a 2 storey dwelling sitting on a slightly higher level. As the site is bound on 2 sides by the settlement limit, agricultural fields at a higher level than the site give it a rural feel. On the opposite side of the road is a fenced off yard area which was once a Recycling Centre owned by the Council and now lies vacant.

Planning History

LA09/2016/0044/CA - Development not in accordance with approved plans
M/2007/0258/F - Lands NW Of 18 Fintona Road and West Of 21 Fintona Road Clogher Tenements, Clogher - No breach detected.

LA09/2016/0023/CA - Breach of Condition regarding visibility splays - Case closed.

M/2007/0258/F - Proposed private housing development with accesses onto Public road (comprising 10 no dwellings) and associated works including domestic garages - Land

Immediately West Of No's 17 And 19 Fintona Road, Clogher - Approval - 11.06.2007.

M/2005/0066/F - Private housing development - Land Immediately West Of 21 Fintona Road, Clogher - 08.07.2005.

M/2004/0610/Q - Private Housing Development - Enquiry Likely to Refuse

M/1999/6003/Q - Proposed Private Housing Development, Fintona Road, Clogher

Description of Proposal

This application seeks full planning permission for a Change of House Type from previously approved 6 semi-detached dwellings under M/2005/0066/F to 1 block of 4 townhouses and 1 block of 5 townhouses on lands immediately West of No 21 Fintona Road, Clogher

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. There were 3 neighbouring properties which were notified and there were a number of objections submitted which are summarised below.

No 14 Fintona Road claims there is severe subsidence of dwelling (18 Fintona Road) adjacent to site and underground water levels.

No 16 Fintona Road raised concerns concern over water levels, overdevelopment of this site and inability of the site to drain effectively

No 17 Fintona Road claims to have noticed a change in water levels in their spring well.

The occupants of the dwelling at No 18 Fintona Road which is adjacent to the site has referred to surface water flooding as is identified in DfI Rivers Maps. Upon inspection of the Flood Maps the area identified as being at risk of flooding is adjacent to the site and does not include land within this application site. This objector also mentioned bat activity and questioned the history of an adjacent site.

A resident in Omagh also raised concerns about water levels and concerns on future work on this site due to the overflowing well nearby and a resident in Beragh has concerns regarding bats.

In relation to the objections submitted from the adjacent neighbouring dwelling at No 18 Fintona Road, no evidence was provided as to how or why this proposed development

could have resulted in these changes. It has not been made clear to the Officer that the said changes were not as a result of an entirely different matter. Photos were submitted however only 1 of the pictures was clear that it was in front of the site, with regards to the other photos, it was unclear of where or when the pictures were taken as they were not dated and no accompanying information was supplied as to where they were said to have referred to. There was no evidence submitted of bat activity on the site or specifically why concerns were highlighted. As a result of this, it has not been clearly demonstrated to the Officer that this application has specifically caused the damage illustrated on the submitted photographs.

It was brought to the Officer's attention there is a civil dispute ongoing through the Judicial Service with the adjacent neighbour and the applicant of this site, concerning a number of issues with regards to their property which are outside of the realm of the planning process.

Policy

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. 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. As the site lies within the settlement limit of Augher as defined in the DSTAP, SETT 1 is the relevant policy. I am content that if this proposal complies with the provisions of PPS 7, it will also comply with SETT 1.

Policy QD1 - Quality in New Residential Development in PPS7 - Quality Residential Environments is a material consideration for this type of development where all proposals for residential development will be expected to conform to all of the following criteria:

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

As is evident from the planning history above, the principle of residential development on this site has already been accepted. The entire site which includes the land nearest to the existing dwellings and along the roadside, was granted permission under M/1999/6003 for 10 dwellings located along the outer edge of the newly created inner access road. Application M/2005/0066/F got permission for 6 semi-detached dwellings on what was initially 3 detached dwellings and it is this area which is subject of this planning application. M/2007/0258/F was then granted permission for 10 two storey dwellings on the parcel of land to the south of the inner road. These comprised 5 pairs of semi-detached dwellings along and accessing onto the Fintona Road.

This application seeks to change the house type of 3 pairs of semi -detached dwellings to

1 block of 4 townhouses, 1 block of 5 townhouses. The terrace of 4 townhouses is located close to the boundary of the site and is set back from the building line of the other block. The block of 5 townhouses would see 2 arched alleys either side of the central dwelling to allow access to the rear of the other properties either side of this. These dwellings propose a ridge height of 8.4 metres FGL with a small 2 storey projection to the front of each property.

This proposed development would see an increase of 3 dwellings from what was previously granted. Discussion at Group concluded the concept of townhouses is deemed acceptable on this urban site.

Dfl Rivers were consulted and say this site does not lie within a flood plain and is unaffected by any designated watercourse. A Drainage Assessment was conducted by Lisbane Consulting dated July 2021 and revised calculation dated 25th November 2021. The Drainage Assessment demonstrates that a suitable drainage network is feasible and exceedance waters can be safely dealt with within the consented discharge rate. Dfl Rivers reviewed this information and the revised calculations and have no reason to disagree with its conclusions. However, they recommend a Condition be attached to any planning permission in the event of potential flood risk from exceedance of the network in a 1 in 100 year flood.

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

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

There are no features of the archaeological and built heritage within this application site, although St Macartan's Cathedral which is a Grade A Listed Building is in close proximity

so the Historic Environment Division (HED) - Historic buildings were consulted. They responded saying it is not thought this proposal would cause any greater demonstrable harm to that what was previously permitted. Historic Monuments are also satisfied this proposal is in compliance with PPS 6.

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

There is a small grassed area proposed to the front of each property with a private garden to the rear which each measure over the minimum requirement of 70 sq. metres. There is no public open space provided as part of this application. The wider site has over time increased in density through piecemeal submission of change of use applications. Some of this is evident from the planning history above, however it only relates to this application site specifically.

A 1.8 metre high close board timber fence marks out the 3 boundaries of each rear garden area. A d-rail timber fence approximately 1 metre in height defines the side boundary continuing to the front between these 2 proposed terraces and also the adjacent property previously approved.

The agent was requested to submit a landscaping scheme to show planting along the northern and western boundaries of the site to provide some degree of enclosure. They were also asked to provide some planting of native species to create a 5-8 metres buffer to aid integration at the edge of the settlement as is highlighted in PPS 7. Creating Places advises about the importance of quality landscaping to denote the urban/rural fringe which in turn will help assimilate and soften the development's impact on the countryside. The agent failed to submit this information and therefore I am not satisfied this part of the policy has been complied with.

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

There is no requirement to provide local neighbourhood facilities as part of this planning application due to its scale. As this site is within the settlement limit of Clogher, a range of existing facilities are currently catered for in the village and easily accessed from this application site.

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

Development on this site could easily access public transport due to its location along the B186 Road which is just off the A4 thoroughfare with bus services available to the larger towns of Enniskillen and Omagh.

A footpath is included as part of this proposal which will connect to the existing footpath and thereby facilitate a safe route for pedestrians, connecting them to the centre of the village.

f) adequate and appropriate provision is made for parking;

This proposal includes 9 three-bed dwellings which requires 2 parking spaces per unity. I am satisfied there is sufficient parking provided for each dwelling in this development, as set out in Creating Places.

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

The front elevation of the 2 proposed terraces show an almost symmetrical form with a chimney located mid roof. The finishes of grey concrete roof tiles, cream painted render are suitable in this area and respect those proposed along the roadside in front of this proposal.

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

The premise of residential development has been established already on this site and it is the officer's opinion that no residential properties adjacent to this application site could be impacted in terms of overlooking or overshadowing.

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

I am satisfied that the development is considered to be designed to deter crime and promote personal safety.

PPPS 3 - Access, Movement and Parking.

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal aims to utilise an existing unaltered access onto the Fintona Road. DfI Roads were consulted and noted changes to the access arrangements and the inclusion of dropped kerbing from what was initially granted permission in a previous application and therefore requested a new revised PSD drawing.

The applicant in response to this stated there were no amendments to the approved road alignments horizontally or vertically. The roadworks external to the site under M/2007/0258/F - gullies, crossing points etc have already been constructed and adopted by DfI Roads and bond references were provided. DfI Roads responded reiterating that a revised PSD was necessary and set out a list of requirements. DfI Roads were reconsulted on the amended drawings submitted and responded requesting more information and questioned the ownership of the sightlines as mentioned by the adjacent objecting neighbour.

The applicant produced a letter from Mid Ulster Council's Planning Enforcement Department dated June 2016 which accepted that development had commenced onsite

but not in full compliance with the pre-commencement conditions as set out in the PSD and access arrangements associated with M/2005/0066/F. A subsequent letter from the Enforcement Section in May 2017 confirms that investigations have been completed and the visibility splays and footpath have been provided in accordance with the approved drawings and the case was therefore closed.

The applicant also provided Folio Maps showing land ownership of the site and some area surrounding the site which appears to confirm the applicant owns said land.

The objector seems to have erected a hera panel on the highway verge potentially obstructing visibility splays. As stated above, this is a civil matter between the applicant and the neighbour. The final comment from DfI Roads in March 2024 seeking clarity if third party land was required to put the sight lines in place.

NI Water were consulted and have stated there is no available capacity at the nearest Clogher Wastewater Treatment Works (WwTW). They state there is available public water supply within 20 metres of the site. The applicant on the P1 form has stated they propose to dispose of fowl sewage from this proposal by connecting to the mains. As NI Water have stated there is no capacity at the Clogher WwTW, it is necessary for a condition requiring a suitable method of waste disposal is achieved prior to the occupation of any dwellings in the event of any permission being granted.

An Environmental Impact Screening Determination was not necessary for this application as the proposed development although an urban development project, the area does not exceed 0.5 ha and therefore it was not a requirement under Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017.

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.

Summary of Recommendation:

Refuse is recommended

The applicant has not provided sufficient information to show compliance with PPS 7 and to allow DfI Roads to provide a final comment on an acceptable PSD they will adopt in the future. Combined with the number of objections received, this application must go forward to the Planning Committee for Members to decide.

Refusal Reasons

Reason 1

The proposal is contrary to Policy QD1 Part c of Planning Policy Statement 7 in that the development has failed to provide a suitable buffer along the rear site boundary to soften the visual impact of the development and assist in its integration with the surrounding area.

Reason 2

The proposal is contrary to Policy SETT 1 of the Dungannon and South Tyrone Area Plan, in that the development has failed to provide a suitable means of waste disposal for the development as there is no available capacity at the Clogher Wastewater Treatment Works.

Reason 3

Having notified the agent under Article 3 (6) of the Planning (General Development Procedure) Order (NI) 2015, as amended, that further details were required to allow the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

Case Officer: Cathy Hughes

Date: 22 April 2024

ANNEX	
Date Valid	23 December 2020
Date First Advertised	14 January 2021
Date Last Advertised	12 January 2021
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 21 Fintona Road Clogher Tyrone BT76 0TG The Owner / Occupier 18 Fintona Road Clogher Tyrone BT76 0TG</p>	
Date of Last Neighbour Notification	17 February 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR NI Water - Multiple Units West-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR Comment: TYR058:032 is close to this site. Please provide comments Rivers Agency-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBC Rivers Agency-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR</p>	

Rivers Agency-Substantive: YResponseType: FR
Rivers Agency-Substantive: TBC
DFI Roads - Enniskillen Office-Substantive: TBC
Rivers Agency-Substantive: TBC
DFI Roads - Enniskillen Office-Substantive: TBC
DFI Roads - Enniskillen Office-Substantive: TBC
DFI Roads - Enniskillen Office-
DFI Roads - Enniskillen Office-08-08-2022.docx
DFI Roads - Enniskillen Office-19-03-2024.DOCX

Drawing Numbers and Title

Roads Details Plan Ref: 10 Version: Final
Road Access Plan Plan Ref: 09REV2 Version: Final

Block/Site Survey Plans Plan Ref: 08 Version: Final
Proposed Plans Plan Ref: 03 Version: Final
Proposed Plans Plan Ref: 06 Version: Final
Proposed Plans Plan Ref: 05 Version: Final
Proposed Plans Plan Ref: 04 Version: Final
Site Location Plan Plan Ref: 02 Version: Final
Site Layout or Block Plan Plan Ref: 01 Version: Final
Proposed Plans Plan Ref: 07 Version: Final
Road Access Plan Plan Ref: 09 Rev 1
Levels and Cross Sections Plan Ref: 10

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.3
Application ID: LA09/2022/1045/F	Target Date: 18 January 2023
Proposal: Housing development of 52 units comprising of 48 two storey semi detached and 4 two storey detached dwelling	Location: Adjacent To 25A Ballyneill Road Ballyronan
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Bell Contracts 5 Mid Ulster Business Pk Sandholes Road Cookstown BT80 9LU	Agent Name and Address: APS Architects 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Executive Summary: <p>The proposal is being presented to members of the planning committee as it is for 52 dwellings and is over 2 hectares therefore it is considered a Major Planning application. The proposal has also received 2 objections which have been fully considered as part of this report. Consultations were issued to DfI Roads, NI Water, DfI Rivers, Shared Environmental Services, Environmental Health, Historic Environment Department and NIEA, none of which had any objections to the proposal subject to conditions being applied.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-1045-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Riads have requested amended drawings in previous comments dated 14/9/2022. Awaiting amended drawings. Gerry
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1045-F HRA_Stage_1_23112022.pdf
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-1045-F.pdf
Statutory Consultee	Rivers Agency	778502 - Final Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template.docx
Statutory Consultee	NIEA	PRT LA09-2022-1045-F.PDF
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1045-F_Re_Consult_response.pdf

Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-22-1045 F Adjacent To 25A Ballyneill Road Ballyronan.doc
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-1045-F.pdf
Statutory Consultee	Rivers Agency	575330 - Final Response.pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	NIEA	PRT LA09-2022-1045-F.PDF
Statutory Consultee	Rivers Agency	243325 - Final Response.pdf
Statutory Consultee	Rivers Agency	384488 - Final Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	PSD example no shared surface.docx
Statutory Consultee	NIEA	PRT LA09-2022-1045-F.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	DFi response 28 feb 2023.docx

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site is located on the immediate western edge of the settlement limit of Ballyronan – within the settlement limit and along the Ballyneill Road which is the main road from Ballyronan to the Loup / Moneymore. The site consists of two separate fields with the main part of the site being set back from the road and located immediately west of Lindseyville and immediately to the rear of 23-25a Ballyneill Road.

The part of the site where access to the road is proposed consists of part of a large roadside field which has been divided by a post and wire fence so that the smaller portion of it from part of this site. At present, access to the site is achievable via an overgrown laneway which runs immediately adjacent to 25a Ballyneill Road.

The roadside boundary of the site is defined by a relatively low roadside hedge and 2

single deciduous trees. The boundaries of the site adjacent to no 25a Ballyneill are quite considerable and consist of large deciduous trees as does the boundary along the rear of no's 23-25a Ballyneill Road. The boundary on the eastern edge of the site between the site and Lindseyville are undefined and consist mainly of existing fences forming part of the properties in Lindseyville. All other boundaries of the site (with the exception of the aforementioned post and wire fence as part of the roadside portion) are significant mature trees.

The main use in the immediate area is predominantly residential with land to the west being agricultural.

There is a previous planning approval on the site under I/2006/1241/F for Proposed housing development of 57 dwelling units comprising of 2 no. detached 2no . semi detached, 45no. townhouses and 8no. apartment units incorporating its own sewerage package treatment plant

Description of Proposal

The proposal is for 52 dwellings consisting of 48 semi detached (2 storey) and 4 detached (two storey).

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

The proposal comprises of more than 50 dwellings and is over 2 hectares in area. Therefore, the application constitutes major development as per the Schedule to the Planning (Development Management) Regulations (Northern Ireland) 2015. A Proposal of Application Notice was submitted to the council with reference LA09/2022/0315/PAN and a Statement of Consultation and Community Involvement was submitted as part of this planning application.

The relevant policy considerations are as follows;

- Regional Development Strategy
- Strategic Planning Policy Statement – SPPS
- Cookstown Area Plan 2010 (CAP)
- PPS 7 – Quality Residential Environments
- Creating Places
- PPS 15 – Planning and Flood Risk
- PPS 3- Access Movement and Parking
- PPS 6 – Archaeology and the Built Heritage
- PPS 2 – Natural Heritage

Regional Development Strategy (RDS)

Policy RG 7 of the RDS states that small villages (such as Ballyronan) have unique

identities and that the provision of services and facilities in these villages should be grown, in order to build upon and enhance small villages and to create more vibrant places for local shopping, social activity and recreation. This is certainly the case in Ballyronan which has recently experienced a significant increase in in house building and which has had significant improvements made to the local marina which has boosted its tourist appeal to all residents of Mid Ulster and indeed further afield.

SPPS

The SPPS states that the use of greenfield land for housing should be reduced and that where possible, brownfield sites should be used for provision of housing within settlements. It also states that applications for major housing development should be located in areas where there is a concentration of employment, services and public transport and where there is adequate infrastructure.

This would suggest that housing developments of this size are more suited to larger hub settlements as opposed to small settlements like Ballyronan. However, given the history of approval on this site for a larger number of units, it is my view that this argument would be hard to support in this instance. It should also be noted that in terms of infrastructure, the local WWTW has been recently upgraded with the result being that in terms of infrastructure, Ballyronan is now better equipped to deal with this development than it was in the past – indeed, better equipped than some large hub settlements, in that regard.

Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy

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

Cookstown Area Plan (2010)

The site is located within the settlement limit of Ballyronan on “white land”. There is therefore a presumption in favour of development on such sites as opposed to sites located outside of settlement limits.

The CAP however states that within Ballyronan “residential development in excess of 20 units will not be permitted.” This was in recognition of the existing scale of the settlement and an effort to resist what was anticipated as likely high demand for housing within the village.

However, there are two factors which need considered in relation to this. Firstly, since the publication of the CAP in June 2004, there has been a permission granted for a larger development (in terms of volume of units) on this site and secondly, there have since been other developments granted planning permission in Ballyronan which are in

excess of 20 units – most notably Lough Drive at the junction of the Magheraflet Road and the Shore Road.

I am therefore of the view that given the two considerations above, this direction contained within the CAP can be set aside as previous decisions have deviated from it in the past.

PPS 7 – Quality Residential Environments.

QD 1 of PPS 7 states that all proposals for residential housing development will be expected to conform to all the following criteria which have been assessed in turn as laid out below;

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

The application is for a considerably large residential development located within an area where the only other land use, apart from farming / agriculture, is residential. There is a mix of house types and tenures in the immediate vicinity ranging from terraced housing executive housing, to detached properties to newer developments comprising of semi detached and detached dwellings.

The majority of the detached dwellings in this proposal will be located along the frontage of the Ballyneill Road and this will be in keeping with existing detached dwellings which front onto the Ballyneill Road, directly opposite the site Cove Close.

In terms of density, the site is 2.2 hectares in area and the proposal involves 52 dwellings resulting in a density of approx. 24 dwellings per hectare. This is a density which is in keeping with the immediate vicinity. For instance, I have estimated the density of nearby residential developments as follows;

- Cove Close – 22 units per hectare
- Asheligh Park – 24 units per hectare
- Lindseyville – 28 units per hectare

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

This will be considered as part of the assessment below under PPS 6 – Archaeology and the Built Heritage

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

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

Creating places states that where the development for residential purposes on new greenfield sites takes place, then the level of public open space in that development should be provided at around 10% of the total site area. That would mean, that with a site area of just over 2 hectares, the development should include an area of public open space consisting of around 2000 sq. metres in total.

I have measured the open space shown on drawing 04 rev 4 and find that the main portion of open space to the centre of the development and smaller portion adjacent to sites 9 and 10 when added together account for 1,989 sq. metres. This is an acceptable level of open space and is sufficient for a development of this size in my opinion, taking the guidance in Creating Places into account.

In addition, the main portion of public open space is in a central position in relation to the rest of the development, is accessible by all properties, represent a safe and visible environment and is therefore a functional and meaningful area of open space.

In relation to private amenity space, there is an acceptable level of private amenity space as per the guidance contained in Creating Places. The vast majority of houses have a distance of 10m from the rear elevation to the boundary fence to the rear and where, in some limited instances there are properties backing onto each other where there is a separation distance of 20m.

In those cases where the rear distance from wall to boundary is less than 10m, the volume of private amenity space is close to or above the recommended allocation of 70 sq. metres – for instance see sites no 6 and 8. The average sized area of private amenity space appears to be over 70 sq. metres with many units having 90-100 sq. metres of an allocation.

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

This criterion is not relevant to a development of this size and is more fitting for a large scale development whereby facilities can be incorporated to benefit the wider community as well as the inhabitants of any such development

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

The proposed new access road will link to the main public road leading into and out of Ballyronan and this will allow pedestrian or cycle access to all services / recreational facilities and shops located within Ballyronan. There will be an adopted road leading to all properties as well as a pedestrian path traversing the area of public open space. The site layout (04 rev 3) shows tactile pedestrian crossing points as well as traffic calming raised speed control measures.

(f) adequate and appropriate provision is made for parking;

DFI roads have been consulted and after some changes, have no objections to this proposal.

The layout drawing shows all dwellings as having at least 2 parking spaces available to each dwelling which is in accordance with notional parking standards for this type of development.

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

The design, scale and form of the dwellings is in keeping with the typical house design in the immediate vicinity. Typical finishes are black roof tiles with grey PVC doors, some properties have natural stone elements on the front projection with PVC guttering and Fascia boards.

The appearance of the new dwellings will not be out of context in the locality and similar in terms of design and scale to other houses already erected in the village.

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

The existing land use in the immediate vicinity is exclusively residential. There are no industrial land uses, active farmyards, intensive agriculture, intensive sports uses for example, in the immediate locality. It would therefore be very difficult to say that there is a land use close to the site that is incompatible with the proposed land use. Env. Health within the Council have also been consulted and have stated that they have no objection to the proposal.

The proposals will not overshadow or impact negatively upon any of the existing properties nearby. There is a significant existing boundary between the site and no. 23-25a Ballyneill Road and this boundary will not be removed as part of the development. Additionally, there is a separation distance of at least 20m between the proposed properties and these properties. The only issue that could potentially be raised in this regard is the lack of adequate boundaries separating the proposed dwellings with the dwellings existing in Lindseyville. However, I have requested that the agent address this by amending the site layout to show a new close boarded fence all the way around all boundaries on the site. This has been done and the agent has shown a boundary close boarded fence of approx. 1.5m in height adjacent to the boundary of neighbouring properties in Lindseyville as included in drawing 04 REV 4. I have not re-notified the neighbours in question about this because;

- The proposed fence would be permitted development.
- It has not resulted in a change to the overall development description to an extent where neighbours are impacted negatively
- The proposal has been introduced in order to safeguard the residential amenity of

these neighbours.

Given all of the above considerations in paragraphs (a) - (h) I am of the opinion therefore, that the proposal satisfies Policy QD1 of PPS 7.

PPS 15 – Planning and Flood Risk

The site is not located within the Q100 flood plain. The proposal however, does exceed the threshold for requiring a drainage assessment as included in FLD 3 of PPS 15. A drainage assessment has been submitted by the agent and DFI Rivers have agreed to the contents of this assessment and consequently, have no objections to this proposal. However, in order to ensure compliance with PPS 15, Rivers Directorate requests that the potential flood risk from exceedance of the network, is managed by way of a condition.

PPS 3- Access, Movement and Parking.

It has been explained in relation to my assessment of how this proposal meets PPS 7 that an accessible movement pattern has been created that supports pedestrians and cyclists as well as enabling safe movement for all.

The site layout also shows at least two car parking spaces per dwelling which is an adequate level of parking provision. DFI roads have reviewed that entire development including access arrangements to and from the new estate road as well as from private dwellings and have no objections to the proposal subject to the development being completed as per the signed PSD drawing.

PPS 6 – Archaeology and the Built Heritage.

The site is located approximately 100m away from the historic police barracks in Ballyronan which is a listed building and therefore policy BH 11 of PPS 6 directs us to be cognisant of the impact of new development on the building itself as well as the setting the building.

HED have been consulted in relation to this and have responded to say that they have no objection and no comment to make because the proposal is far enough away from the listed building that the settling will remain unaffected.

PPS 2 – Natural Heritage

The site is located within 0.5km of Lough Neagh which is a European site (SPA, ASSI) and a Ramsar site. Policy NH 1 of PPS 2 states that planning permission will only be granted for a development proposal that is not likely to have a significant effect on a European Site or a Ramsar Site.

Due to the proximity of this site to Lough Neagh, a consultation has been carried out with Shared Environment Service. They have responded to state that the proposal will not have any conceivable impact on a European Site because there are “no viable pathways to a European site.”

The proposal has also triggered the need for further ecological information to be submitted as part 3 of the NI Biodiversity Checklist and ecological statement has been provided. NIEA have been consulted in relation to the submitted ecological information

and have identified ditches with standing water as being potential locations for smooth newts. A survey was carried out to assess the potential of this location for smooth newts but found that it was not suitable as a habitat.

Accordingly, NIEA have no objection to this development subject to condition. I am therefore satisfied that this proposal complies with PPS 2 – Natural Heritage.

OTHER MATERIAL CONSIDERATIONS.

There have been two objections received to this application. One from no 8 Ballyneill Road and the other from 18 Cove Close. The following points have been raised by the objectors and are considered as follows;

1. That the development would increase the level of traffic and pose a risk to road safety.

DFI Roads have been consulted and have offered no objections to this development. It is their job to assess the development in terms of impact on road safety and ability of the existing road network to accommodate any new development.

2. Noise pollution

Environmental Health have been consulted and have no objections to this development. They have provided a condition that restricts noise from the construction site to certain levels during specific time periods. This will be attached to any proposal.

3. Adequate infrastructure (water and sewerage services) aren't available to service this development

After initially raising concerns about this proposal, NI Water have stated that due to the recently upgraded WWTW, they have no objections to this development in terms of water and sewerage infrastructure. They state that there is WWTW capacity and also that there is a public foul sewer that can accommodate the proposal.

4. Loss of privacy to the objectors dwelling

I do not consider that there will be a loss of privacy inflicted upon the objector. The development will not be adjacent to her boundary. There will be houses directly across the road from the objectors house but these will not be overlooking or overshadowing. The houses will be approx. 23m from the nearest point away from the objectors house. This is a suitable distance in my opinion to ensure there is no loss of privacy.

Creating Places when discussing loss of privacy amongst dwellings recommends a minimum separation distance of 20m for instance. This is normally a consideration for dwellings which back onto each other but I feel it is a relevant consideration in this instance, where a loss of privacy has been alleged. The development site and the nearby development in Cove Close are within the settlement limit and within settlement limits there is a presumption in favour of development.

5. Natural Heritage – loss of wildlife (birds/insects etc.)

NIEA have been consulted on the application and have agreed to offer no objection subject to conditions. They have stated that they have no concerns subject to conditions.

6. Construction traffic will affect the peaceful character of the settlement and

development is at odds with character of Ballyronan

Construction traffic will not be a permanent feature of this development and therefore is not a valid consideration when considering impact on the character of a settlement. I have already highlighted how the development is in keeping with the character of the settlement in my consideration of PPS 7 as outlined above. The site is located within the settlement limit and not in a rural location.

7. The need to ensure that developments have less houses and more green space with more hedge planting and bigger gardens etc.

I have given consideration to the requirements of Creating Places in ensuring adequate public and private open spaces are included as part of the development. These are detailed in my report above and show how sufficient public and private open space has been provided. It would not be within my gift to insist the developer provides more open space than they are required to do.

8. Potential disruption to electricity and internet.

It is unclear how the development will impact upon internet and electricity provision. This has not been elaborated on by the objector.

RECOMMENDATION

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

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

Reason: Time Limit

Condition 2

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No: 07 Rev 1 uploaded to the portal on 4/4/23.

Reason: To ensure there is a safe and convenient road system within the development

and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

Condition 3

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

No development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 07 Rev 1 uploaded to the portal on 4/4/23. The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreements under Article 3 (4C) and Article 32.

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

Condition 4

The visibility splays of 4.5m metres by 90m metres at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 07 Rev 1 uploaded to the portal on 4/4/23., prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 5

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

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

Condition 6

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

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

Condition 7

No construction works, including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil, shall take place within 5m of any watercourses, surface drains or ditches present on or adjacent to the site

Reason: To protect priority habitat

Condition 8

Prior to the occupation of 50% of the dwellings hereby approved, the developer shall construct, layout and plant all landscaped and open space areas as indicated on the approved plan, Drawing No.05 REV 1 uploaded to the portal on 19th December 2022 . This refers to both the areas marked as "OPEN SPACE" on the drawing as well as the smaller area of open space, un-labelled but coloured in green and located between plots 9 and 10 on drawing 05 REV 1.

Once completed, these open space areas must be retained as public open space in perpetuity thereafter and shall never be sold to a private resident for their own enjoyment.

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

Condition 9

All proposed planting as indicated on the stamped approved drawing no 05 REV 1 uploaded to the portal on 19th December 2022. shall be undertaken during the first available planting season following occupation of the dwelling hereby approved.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests of visual amenity.

Condition 10

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

Reason: To ensure the maintenance of screening to the site and to act as a boundary between the development and existing properties.

Condition 11

The combined noise level from construction activities within the permitted site shall not exceed the noise limits as stipulated within 'Table 1: Construction noise limits' (contained in the consultee response by MUDC Env Health, uploaded to the portal on 17/11/22) at any residential property. Measurements between 07.00 and 23.00 hours shall be undertaken at the boundary of any residential property's curtilage nearest to the construction activity. Measurements between 23.00 and 07.00 hours shall be undertaken 1 metre from the façade of any residential dwelling. If access to any residential property is not forthcoming or measurement is not feasible, a measurement location and concomitant noise level shall be agreed with the Department in consultation

with Mid Ulster District Council's Environmental Health Section.

Reason: To protect residential amenity and to ensure no neighbouring properties are unduly impacted by noise arising from the construction of this development.

Signature(s): Ciaran Devlin

Date: 18 April 2024

ANNEX	
Date Valid	22 June 2022
Date First Advertised	5 July 2022
Date Last Advertised	5 July 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 3 Lovedale Magherafelt Londonderry BT45 6JF The Owner / Occupier 20 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS The Owner / Occupier 10 Lovedale Ballyronan Magherafelt Londonderry BT45 6JF The Owner / Occupier 2 Cove Close Magherafelt Londonderry BT45 6QS The Owner / Occupier 19 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS The Owner / Occupier 10A Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE The Owner / Occupier 4 Cove Close Magherafelt Londonderry BT45 6QS The Owner / Occupier 34 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB The Owner / Occupier 22 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS The Owner / Occupier 44 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB The Owner / Occupier 16 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS The Owner / Occupier 5 Lovedale Ballyronan Magherafelt Londonderry BT45 6JF The Owner / Occupier 8 Lovedale Ballyronan Magherafelt Londonderry BT45 6JF The Owner / Occupier 20 Cove Close Magherafelt Londonderry BT45 6QS The Owner / Occupier 16 Cove Close Magherafelt Londonderry BT45 6QS The Owner / Occupier 28 Cove Close Magherafelt Londonderry BT45 6QS The Owner / Occupier 31 Cove Close Magherafelt Londonderry BT45 6QS The Owner / Occupier 48 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB The Owner / Occupier</p>	

7 Lovedale Ballyronan Magherafelt Londonderry BT45 6JF
The Owner / Occupier

9 Lovedale Ballyronan Magherafelt Londonderry BT45 6JF
The Owner / Occupier

28 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

11 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

15 Ashleigh Park Magherafelt Londonderry BT45 6PS
The Owner / Occupier

22 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

40 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

1 Lovedale Ballyronan Magherafelt Londonderry BT45 6JF
The Owner / Occupier

14 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

6 Lovedale Magherafelt Londonderry BT45 6JF
The Owner / Occupier

21 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

12 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS
The Owner / Occupier

23 Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE
The Owner / Occupier

25A Ballyneill Road Moneymore Londonderry BT45 6JE
The Owner / Occupier

12 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

30 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

3 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

10 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

36 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

13 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS
The Owner / Occupier

30 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

2 Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE
The Owner / Occupier

17 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

32 Lindsay Ville Magherafelt Londonderry BT45 6JB
The Owner / Occupier

15 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

19 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

23 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

27 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

22 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

46 Lindsay Ville Magherafelt Londonderry BT45 6JB
The Owner / Occupier

26 Lindsay Ville Magherafelt Londonderry BT45 6JB
The Owner / Occupier

24 Lindsay Ville Magherafelt Londonderry BT45 6JB
The Owner / Occupier

21 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS
The Owner / Occupier

18 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

42 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

30 Ballyneill Road Moneymore Londonderry BT45 6JE
The Owner / Occupier

16 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

23 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS
The Owner / Occupier

2 Lovedale Ballyronan Magherafelt Londonderry BT45 6JF
The Owner / Occupier

14 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

14 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS
The Owner / Occupier

18 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

4 Lovedale Magherafelt Londonderry BT45 6JF
The Owner / Occupier

50 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

18 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS
The Owner / Occupier

1 Cove Close Ballyronan Magherafelt Londonderry BT45 6QS
The Owner / Occupier

24 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS
The Owner / Occupier

24 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

38 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

12 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

20 Lindsay Ville Ballyronan Magherafelt Londonderry BT45 6JB
The Owner / Occupier

8 Lindsay Ville Magherafelt Londonderry BT45 6JB
The Owner / Occupier

29 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

32 Cove Close Magherafelt Londonderry BT45 6QS
The Owner / Occupier

17 Ashleigh Park Ballyronan Magherafelt Londonderry BT45 6PS
The Owner / Occupier

8 Ballyneill Road Ballyronan BT45 6JE
The Owner / Occupier

17 Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE
The Owner / Occupier

12 Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE
The Owner / Occupier

14 Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE
The Owner / Occupier

16 Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE
The Owner / Occupier

18 Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE
The Owner / Occupier

20 Ballyneill Road Ballyronan Moneymore Londonderry BT45 6JE
The Owner / Occupier

25A Ballyneill Road Moneymore Londonderry BT45 6JE
The Owner / Occupier

25 Ballyneill Road Moneymore Londonderry BT45 6JE
The Owner / Occupier

1 Gausen Villas Ballyneill Road Ballyronan Co Londonderry

Date of Last Neighbour Notification	26 May 2023
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Date of EIA Determination	
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ES Requested	<events screen>
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Planning History

Ref: I/1981/0138
Proposals: SELF BUILD HOUSING SCHEME - RESIDENTIAL
Decision: PG
Decision Date:

Ref: I/1995/0266

Proposals: 11 kv Rural Spur

Decision: PG

Decision Date:

Ref: I/2006/1241/F

Proposals: Proposed housing development of 57 dwelling units comprising of 2 no. detached 2no . semi detached, 45no. townhouses and 8no. apartment units incorporating its own sewerage package treatment plant

Decision: PG

Decision Date: 21-AUG-08

Ref: I/2003/0309/RM

Proposals: New dwelling and garage

Decision: PG

Decision Date: 14-MAY-03

Ref: I/1987/0037

Proposals: EXTENSIONS AND ALTERATIONS TO EXISTING DWELLING

Decision: PG

Decision Date:

Ref: I/2001/0340/O

Proposals: 2 Storey Dwelling & Domesic Garage

Decision: PG

Decision Date: 22-APR-02

Ref: I/2007/0617/F

Proposals: Alterations to existing dwelling and 6 no new housing units (2 no detached and 4 no .semi -detached)

Decision: PG

Decision Date: 24-FEB-09

Ref: I/2006/0096/F

Proposals: Alterations to existing dwelling and 7 no new townhouses

Decision:

Decision Date:

Ref: LA09/2022/0315/PAN

Proposals: Proposed housing development of 55 units comprising of 54 two storey semi detached and 1 storey detached dwelling

Decision: PANACC

Decision Date: 26-APR-22

Ref: I/1994/0398

Proposals: Extension to dwelling and erection of domestic store

Decision: PG
Decision Date:

Ref: I/1995/0438
Proposals: Domestic garage and store
Decision: PG
Decision Date:

Ref: I/1993/4007
Proposals: Improvements to dwelling
Decision: PDNOAP
Decision Date:

Ref: I/2006/1195/F
Proposals: Proposed new 2 storey extension to existing dwelling
Decision: PG
Decision Date: 15-MAR-07

Ref: I/1983/033201
Proposals: PUBLIC AUTHORITY HOUSING
Decision: PG
Decision Date:

Ref: LA09/2020/0946/F
Proposals: Single storey rear extension to existing dwelling & granny flat to side of dwelling
Decision: PG
Decision Date: 20-JAN-21

Ref: I/1998/0421
Proposals: Extension to dwelling:- Disabled Adaptions i.e. to provide bedroom, shower and w.c.
Decision: PG
Decision Date:

Ref: LA09/2022/1045/F
Proposals: Housing development of 55 units comprising of 54 two storey semi detached and 1 two storey detached dwelling
Decision:
Decision Date:

Ref: LA09/2018/1266/PAN
Proposals: Residential development with open space, landscaping, new road infrastructure and associated site works including the demolition of farm outbuildings
Decision: PANRMI
Decision Date: 20-DEC-18

Ref: LA09/2018/1390/PAN

Proposals: Outline planning permission for a residential development with open space, landscaping, new road infrastructure and associated site works including the demolition of farm buildings.

Decision:

Decision Date:

Ref: LA09/2020/0007/O

Proposals: Proposed residential development with open space, landscaping, new road infrastructure and associated site works including the demolition of farm outbuildings

Decision: PG

Decision Date: 07-OCT-21

Ref: LA09/2018/1267/PAD

Proposals: Outline Planning Permission for a residential development with open space, landscaping, new road infrastructure and associated site works including the demolition of farm buildings

Decision: PAD

Decision Date: 06-MAR-19

Ref: LA09/2018/1269/DETEI

Proposals: Request for EIA Determination - Proposed Residential Development

Decision:

Decision Date:

Ref: LA09/2018/1395/PAN

Proposals: Outline planning permission for a residential development with open space, landscaping, new road infrastructure, and associated site works including the demolition of farm outbuildings

Decision: PANACC

Decision Date: 20-DEC-18

Ref: I/2008/0147/F

Proposals: Single storey side extension.

Decision: PG

Decision Date: 14-MAY-08

Ref: I/2007/0328/F

Proposals: Single storey extension to dwelling

Decision: PG

Decision Date: 16-JUL-07

Ref: I/2007/0330/F

Proposals: Single storey extension to dwelling

Decision: PG

Decision Date: 16-JUL-07

Ref: I/1987/0457

Proposals: RESIDENTIAL DEVELOPMENT

Decision: PG

Decision Date:

Ref: I/1995/0033

Proposals: Provision of 2 mobile homes, furniture stores and laundry unit

Decision: PG

Decision Date:

Ref: I/2005/1201/F

Proposals: Proposed extension to existing dwelling

Decision: PG

Decision Date: 24-NOV-05

Ref: I/1996/0538

Proposals: Semi-detached dwellings

Decision: PG

Decision Date:

Ref: I/2004/0212/O

Proposals: Proposed dwelling

Decision: PG

Decision Date: 19-APR-04

Ref: I/2001/0068/O

Proposals: Dwelling

Decision: PG

Decision Date: 18-APR-01

Ref: I/2003/0350/O

Proposals: Outline planning for residential development (and associated garages) (Change of proposal) (Re-advertisement)

Decision: PG

Decision Date: 17-FEB-04

Ref: I/2006/1216/F

Proposals: Proposed ground floor extension to rear of dwelling

Decision: PG

Decision Date: 09-MAY-07

Ref: I/2007/0127/O

Proposals: Renewal of existing Outline Planning approval for residential development

(and associated garages) for 12 no. units.

Decision: PG

Decision Date: 22-APR-08

Ref: I/2007/0349/F

Proposals: Demolish existing dwelling & proposed construction of 3 no.town houses and 8 no.apartments with associated carparking and road facilities.

Decision:

Decision Date:

Ref: I/2011/0109/F

Proposals: Proposed replacement garage

Decision: PG

Decision Date: 24-JUN-11

Ref: I/2011/0280/LBC

Proposals: Proposed replacement garage

Decision: CG

Decision Date: 24-JUN-11

Ref: I/2010/0101/LB

Proposals: Proposed extension and alterations to dwelling

Decision: CG

Decision Date: 20-JUL-10

Ref: I/2010/0099/F

Proposals: Proposed extension and alterations

Decision: PG

Decision Date: 23-JUL-10

Ref: I/2003/0984/A41

Proposals: Rear extension & Multi-element improvements

Decision: 205

Decision Date: 21-NOV-03

Ref: I/1978/0552

Proposals: HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: LA09/2020/0523/O

Proposals: Proposed residential development

Decision: PG

Decision Date: 12-APR-21

Ref: I/2001/0434/F

Proposals: Extension to Dwelling

Decision: PG

Decision Date: 17-JUL-01

Ref: I/1993/0068

Proposals: Domestic Garage

Decision: PG

Decision Date:

Ref: LA09/2021/1435/F

Proposals: Proposed housing development to include 39 dwellings (9 detached & 30 semi-detached) using existing access to main road and with associated landscaping.

Decision:

Decision Date:

Ref: I/2002/0011/F

Proposals: Proposed housing development of 31 Houses

Decision: PG

Decision Date: 24-JUL-03

Ref: I/2001/0069/Q

Proposals: Housing Development

Decision: ELA

Decision Date:

Ref: I/2000/0858/Q

Proposals: Housing

Decision:

Decision Date:

Ref: I/1979/0492

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/1975/0122

Proposals: IMPROVEMENTS AND EXTENSIONS TO DWELLING HOUSE

Decision: PG

Decision Date:

Ref: I/2008/0609/F

Proposals: Proposed change of use/conversion from garage to living room accommodation with bow window

Decision: PG

Decision Date: 21-OCT-08

Ref: I/1979/0149
Proposals: HOUSING DEVELOPMENT
Decision: PG
Decision Date:

Ref: I/1985/0363
Proposals: HOUSING DEVELOPMENT
Decision: PG
Decision Date:

Ref: I/1994/0442
Proposals: 10 No dwellings & garages
Decision: PG
Decision Date:

Ref: I/1982/0225
Proposals: HOUSING DEVELOPMENT
Decision: PG
Decision Date:

Ref: I/2008/0751/F
Proposals: Proposed sun lounge extension to rear of existing dwelling
Decision: PG
Decision Date: 22-JAN-09

Ref: I/2009/0284/F
Proposals: Single storey side extension and conversion of garage to part of dwelling
Decision: PG
Decision Date: 03-JUL-09

Ref: I/2010/0405/LDP
Proposals: Sunroom / dining area extension to semi detached building
Decision: PG
Decision Date: 20-SEP-10

Ref: I/1994/0172
Proposals: 6 No. Dwellings and Garages
Decision: PG
Decision Date:

Ref: I/1991/0274
Proposals: Dwelling
Decision: PG
Decision Date:

Ref: I/2000/0863/F

Proposals: New garden shed

Decision: PG

Decision Date: 22-JUN-01

Ref: I/1983/0332

Proposals: PUBLIC AUTHORITY HOUSING

Decision: PG

Decision Date:

Summary of Consultee Responses

NI Water - Multiple Units West-LA09-2022-1045-F.pdf

DFI Roads - Enniskillen Office-DFI Riads have requested amended drawings in previous comments dated 14/9/2022.

Awaiting amended drawings.

Gerry

Shared Environmental Services-LA09-2022-1045-F HRA_Stage_1_23112022.pdf

NI Water - Multiple Units West-LA09-2022-1045-F.pdf

Rivers Agency-778502 - Final Response.pdf

DFI Roads - Enniskillen Office-Response Template.docx

NIEA-PRT LA09-2022-1045-F.PDF

Shared Environmental Services-LA09-2022-1045-F_Re_Consult_response.pdf

Environmental Health Mid Ulster Council-LA09-22-1045 F Adjacent To 25A Ballyneill Road Ballyronan.doc

NI Water - Multiple Units West-LA09-2022-1045-F.pdf

Rivers Agency-575330 - Final Response.pdf

Historic Environment Division (HED)-

Historic Environment Division (HED)-

NIEA-PRT LA09-2022-1045-F.PDF

Rivers Agency-243325 - Final Response.pdf

Rivers Agency-384488 - Final Response.pdf

DFI Roads - Enniskillen Office-PSD example no shared surface.docx

NIEA-PRT LA09-2022-1045-F.PDF

DFI Roads - Enniskillen Office-DFi response 28 feb 2023.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Housing Concept Plan Plan Ref: 02 REV 1
Existing Site Survey Plan Ref: 03
Site Layout or Block Plan Plan Ref: 04 REV 4
Landscape Proposals Plan Ref: 05 REV 1
Roads Details Plan Ref: 06
Roads Details Plan Ref: 07 REV 1
Miscellaneous Plan Ref: 08
Elevations and Floor Plans Plan Ref: 09
Elevations and Floor Plans Plan Ref: 10
Elevations and Floor Plans Plan Ref: 11
Elevations and Floor Plans Plan Ref: 12
Elevations and Floor Plans Plan Ref: 13
Elevations and Floor Plans Plan Ref: 14
Elevations and Floor Plans Plan Ref: 15
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Elevations and Floor Plans Plan Ref: 20
Elevations and Floor Plans Plan Ref: 21
Elevations and Floor Plans Plan Ref: 22
Elevations and Floor Plans Plan Ref: 23
Elevations and Floor Plans Plan Ref: 24

Notification to Department (if relevant)

Not Applicable

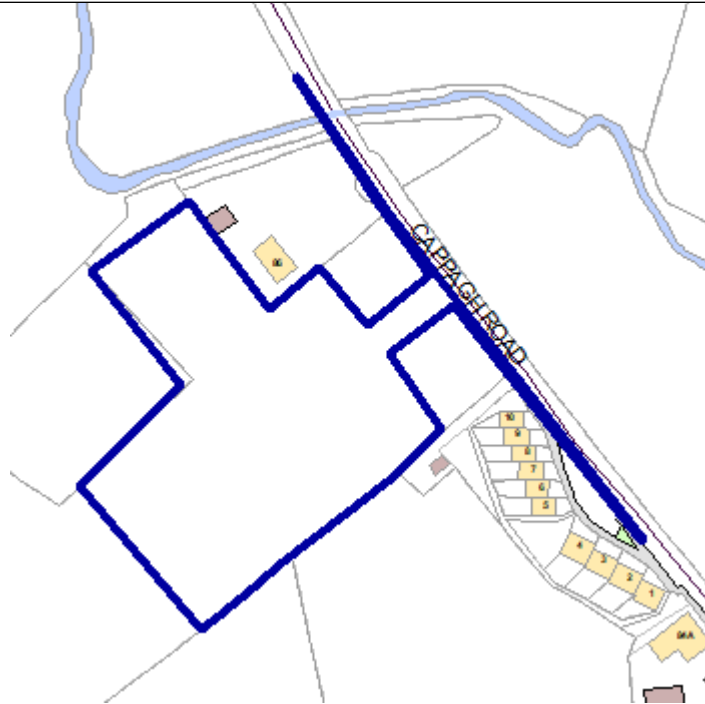


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.4
Application ID: LA09/2022/1238/F	Target Date: 18 November 2022
Proposal: Housing development of 19 two storey dwellings and associated site works (16 semi-detached and 3 detached)	Location: Lands Immediately West And North West Of 10 Altmore View Cappagh
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Damian Donnelly 80 Cappagh Road Cappagh Dungannon BT70 2PD	Agent Name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Executive Summary: NI Water have commented that an Odour Encroachment Assessment (OEA) in compliance with WM5 in PPS 11 - Planning and Waste Management is required for this proposal and have therefore recommended refusal. Following discussion at Group, it was not deemed necessary in this instance and the Members are asked to consider if the submission of an OEA is a necessary requirement to approve this proposal which complies with other relevant policies.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist - Copy.doc Roads Consultation blank.docx
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-1238-F.pdf
Statutory Consultee	Rivers Agency	725272-07 Final Planning Authority reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	26-09-2023.docx
Statutory Consultee	Rivers Agency	838895-06 Final Planning Authority reply.pdf
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-1238-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Conditions 14-02- 2024.docx
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-1238-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	06-06-2023.docx

Representations:

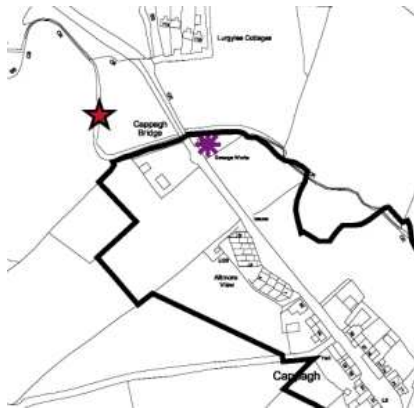
Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and	

signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

This application occupies an irregular shaped site which measures 0.88 ha and sits to the North West and West of No 10 Altmore View, Cappagh. It is sited within the development limits of the village of Cappagh which sits approximately 10 kilometres to the north west of Dungannon. The site is whiteland and is undefined in the Dungannon and South Tyrone Area Plan (DSTAP). Cappagh Reservoir sits just under 300 metres to the North West of this site. The Altmore River flows to the north of the site under Cappagh bridge which is approximately 60 metres to the north of the proposed access to this site. NI Water have a Waste Water treatment Plant on the opposite side of the road just before the bridge. Cappagh village is mostly characterised by terraced dwellings either side the Cappagh Road which dissects the village. To the south east of the site are 2 staggered terraced rows of dwellings in almost v-shaped configuration. One staggered row comprises 4 bungalows and the other 6 two storey dwellings.

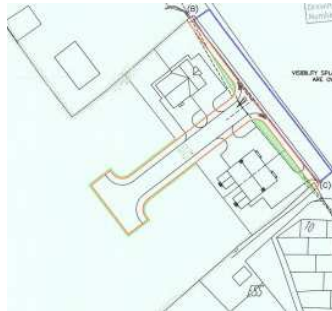


This application site is a flat agricultural field which sits to the West of Cappagh Road. The boundaries of this site are vegetated for most. Hedgerow defines the curtilage of No 86 Cappagh Road which is a two-storey dwelling adjacent to the north eastern part of this site. The eastern boundary is mostly undefined as it goes through the field and along the rear boundary of permission LA09/2015/1284/F which was granted for 2 dwellings either side of where this site proposes to access onto the public road. The south eastern boundary is a treed hedgerow which starts alongside a laneway which runs along the gable of No 10 Altmore Drive to allow access to some single-story structures to the rear.

Planning History

LA09/2015/1284/F - Proposed housing development consisting of 4 two storey 4 bedroom semi-detached dwellings and access road - Lands Immediately North West of

No 10 Altmore View, Cappagh – Permission granted - 24.05.2019



M/2006/2131/Q - Development Sites - Cappagh Road, Cappagh

Description of Proposal

This application seeks full planning permission for Housing development of 19 two storey dwellings and associated site works (14 semi-detached and 5 detached) on Lands Immediately West And North West Of 10 Altmore View, Cappagh.



Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (Dfi) on 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. As the site lies within the settlement limit of Cappagh as defined in the above plan, SETT 1 is the relevant policy. I am content that if this proposal complies with the provisions of PPS 7, it will also comply with SETT 1.

Policy QD1 - Quality in New Residential Development in PPS7 - Quality Residential Environments states all proposals for residential development will be expected to conform to a set of criteria.

a) This proposal was initially submitted for residential development comprising of 14 semi-detached dwellings and 5 detached dwellings located at the rear of the site. There were some concerns regarding the overdevelopment of this part of proposal, in particular the proximity of the gable Site No 15 to the neighbouring boundary. The agent then revised this part of the proposal by changing Sites 11 & 12 from 2 detached dwellings to a set of semis which allowed a revision of the other 3 dwelling plots, providing a greater separation distance which resolved that issue.

There are 3 pairs of semis which have a dual frontage (as below) and these will occupy Site 5 & 6, 16 & 17 and 22 & 23 which are close to the entrance of this proposal.



The remaining 5 pairs of semi-detached dwellings each have a footprint of 62 sq metres and accommodate 3 bedrooms. The front entrance door is sited at each side of the

building and has the column décor surround. They are 8.5 metres in height FGL and a central shared chimney is located below the roof ridge.



The 3 detached dwellings are located to the rear of the development on Sites 13, 14 & 15. These dwellings provide for four bedrooms and have a footprint of 96 sq. metres with openings only on the front and rear elevations. They have a ridge height of 8.6 metres FGL with 2 chimneys either side of the roof below the ridge and column décor around the front entrance of Sites 14. Site No 13 & 15 are the same apart from a small, ridged porch projection to the front which adds a small amount



The overall aim of this residential development, including the 4 dwellings along the roadside granted permission under LA09/2015/1284/F was to provide a scheme comprised of a number of small groupings of dwellings. The officer is content that the layout and variety of house types proposed does achieve this and contributes to a quality residential environment which respects and is appropriate to the surrounding area.

b) There are no archaeological or built heritage features which would be impacted by this proposal. As the site is a cut out of a larger field, there are no landscape features of importance to be incorporated into the overall design and layout of this residential development. The Torrent River Site of Local Nature Conservation Importance (SLINCI) follows along the Torrent watercourse and tributaries and ends less than 300 metres to the north west of this site. This is offered protection in DSTAP under Plan Policy CON 1, however this site is not deemed to have any significant detrimental impact on any nature conservation.

c) There is sufficient space associated with each dwelling in this proposal to provide adequate private amenity space to the rear of each dwelling as per the standards set out in Creating Places. The proposed additional planting along the boundary of the site will soften the visual impact of the development. The planting can be conditioned to be maintained as per the submitted Landscape Management and Maintenance Plan. Another condition can be attached to any permission requiring a signed contract with a

relevant company for the implementation of this plan to upkeep the landscaping on the site.

d) The small scale nature of this proposed residential development means there is no requirement for the applicant to provide local neighbourhood facilities as part of this proposal.

e) As can be seen from the block plan, this proposal does provide a public footpath internally which will connect to the existing public footway and thus supports pedestrians. The location of this site within Cappagh allows residents to avail of public transport, however this quite limited and normally only operational during school days. The size and layout of this residential development did not require any traffic calming measures.

f) adequate and appropriate provision is made for parking;

There is sufficient space for the provision in-curtilage parking for each property within this application site.

g) The design and finishes of the dwellings in this development are considered appropriate in this location. They are cream uPVC windows, black roof tiles, black aluminium rainwater goods and cream coloured painted render.

h) The design and layout of these proposed dwellings will not create conflict with adjacent land uses. DfI Rivers were consulted due to the proximity of the site to Altmore River and confirmed the site does not lie within the 1 in 100-year fluvial flood plain but did require a Drainage Assessment. They noted the site does lie within an area of potential inundation emanating from Altmore and Cappagh Reservoirs, however they are satisfied these facilities both have “Responsible Reservoir Manager Status” and they therefore have no concerns from a reservoir flood risk perspective. A Drainage Assessment and Reservoir Flood Risk Assessment was carried out by Flood Risk Consulting. DfI Rivers were reconsulted with this information and have no objection to this proposal, subject to a condition requiring a Final Drainage Assessment be submitted prior to any development on the site be attached to any permission granted.

The officer is content there will be no unacceptable adverse effects on the existing property at No 86 Cappagh Road or proposed properties along the roadside in terms of overlooking, loss of light, overshadowing, noise or other disturbance. Soft landscaping will reduce the potential of nuisances and the layout successfully achieves a quality residential environment.

i) Parking is provided for within the curtilage of each dwelling and I am satisfied that the

development is considered to be designed to deter crime and promote personal safety.

PPS 3 Access, Movement and Parking sets out the policies for vehicular and pedestrian access, transport assessment, protection of transport routes and parking. DfI Roads were consulted on this proposal and a number of amendments were requested;

- Driveways to Sites 6 and 22 are very close to the junction, a separation distance from junction 12 metres minimum is recommended.

- The location of driveway Site 21 at the direct end of an access road will potentially require a long reversing movement to exit the site, past several other driveways.

- A significant number of the plots (Sites 11-15 & 7-10) are proposed to be served from privately maintained shared accesses and therefore will require joint responsibility from these house owners to maintain and street light these private access roads. DfI Roads will not maintain or provide street lighting on such privately maintained roads. It is recommended all access roads are brought up to an adoptable standard.

- Proposed road levels are not consistent with approved LA09/2015/1284/F application.

- A Private Streets Determination will be required incorporating also the infrastructure improvements to Cappagh Road.

- Show 2.4m x 33m sight lines at internal junctions.

- Insert gradient table onto the drawing, listing relevant house numbers and indicating the following at each driveway, they are two separate gradients;

 - Proposed levels at road edge and back of footway (1:40 gradient).

 - Proposed levels 5m from back of footway (max 1:12.5 gradient).

 - Gradients to be written as a ratio e.g., 1:15

- Insert parking table onto drawing indicating house number, type e.g. detached etc, number of bedrooms, number of parking spaces provided in-curtilage and associated parking requirement in accordance with design guide "Creating Places".

- Site frontage footway to be shown unobstructed at the south -east end of the footway, hedge, and verge to be removed and footway extended across access so that there is no abrupt change of levels.

- Remove sewage lines, cross section lines and colour from drawing, black lines are sufficient.

- Colour drawing appropriately for Private Streets Determination.

- Replace "Roads Notes" with up-to-date Roads Notes

- Provide long sections of the proposed road

Following the submission of amended drawings, DfI Roads are now satisfied this proposal is in compliance with PPS 3 and they have no objection to this proposed development, subject to conditions.

NI Water were consulted and have stated there is available capacity at the Cappagh Wastewater Treatment Works (WwTW). They have confirmed there is a public foul sewer within 20m of the proposed development boundary which can adequately serve this proposal. There is no public surface water sewer within 20m of the proposed development boundary however access is available via extension of the existing public surface water network, or via direct discharge to a designated watercourse, at an agreed discharge rate which does not exceed Greenfield Runoff of 10 litres/second/hectare. This should be a condition attached to any permission which can only be varied by consultation with NI Water and approval in writing by Mid Ulster District Council Planning Department.

NI Water recommend this application be refused as the development may experience nuisance due to its proximity to Cappagh's WwTW. Policy WM5 relates to Development in the Vicinity of Waste Management Facilities and states permission will only be granted where it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility and it would not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment. As this application site is located wholly or partially within 400m odour consultation zone boundary of Cappagh WWTW, an Odour Encroachment Assessment is required to determine the compatibility of this proposal with the existing operation of the WwTW.

The WwTW at Cappagh is located approximately 60 metres to the north east of this site as can be seen from the map and orthophotograph above. The officer in correspondence with Environmental Health can confirm that there have been no complaints received by Mid Ulster District Council regarding odour emitting from this WwTW. This is important to note as there is a dwelling house immediately opposite the treatment works and in closer proximity to the works than the application site itself.

The agent has noted that there were no concerns from Environmental Health regarding odour through the processing of LA09/2015/1284/F which is closer to the WwTW. NI Water did in their consultation mention the proximity to the WwTW but this did not deem this a reason to refuse the development proposal and recommended it be approved. The agent has highlighted they are not aware of any upgrading or works which have been carried out to these specific works as to warrant such a change in policy interpretation. Having discussed this at Group, it was decided to present this application to the Planning Committee to allow the Members make a decision as to whether it is necessary for all planning applications which are within 400 metres of a WwTW to have to submit an Odour Encroachment Assessment for NI Water to agree, in compliance with Policy WM 5 in PPS 11.

An Environmental Impact Screening Determination was carried out for this proposal as it fell within Part 10 b –Urban Development of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017. The proposal is an urban development project with an area in exceedance of 0.5 hectares.

Under Regulation 12 (1) of these regulations, the Council is obliged to make a determination as to whether this application is for EIA development. Mid Ulster Council has determined that the environmental impacts of this application are thought not to be so significant as to warrant the submission of an Environmental Statement under current EIA legislation. The environmental effects of this proposal will be assessed via the Development Management process under the relevant policies, as discussed.

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.

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. There were 11 neighbouring properties which were notified and there were no objections received.

Summary of Recommendation:

Approve is recommended

A recommendation from NI Water to refuse this application requires it to go to the Planning Committee for Members to determine if in this instance, their reason to refuse this development is justified. The officer is content having taken into consideration the policy requirements of the SPPS, the Dungannon and South Tyrone Area Plan and PPS 7, that this proposal is otherwise compliant and therefore approval is recommended, subject to conditions.

Approval Conditions

Condition 1

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

Reason: Time Limit

Condition 2

The visibility splays of metres 4.5 metres x 100 metres at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No 9 REV 1 bearing the date stamp 14th February 2024, prior to the commencement of any works or development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

The visibility splays of metres 2.0 metres x 80 metres at the junction of the access to Site Number 1 with the public road, shall be provided in accordance with Drawing No 9 REV 1 bearing the date stamp 14th February 2024, prior to the commencement of any works or development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 4

No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course. The final wearing course shall be applied on completion of the development.

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

Condition 5

No development shall proceed beyond sub-floor construction until a suitable dedicated surface water solution has been agreed in writing by Mid Ulster District Council in consultation with NI Water, in accordance with Article 154 of the Water and Sewerage Services (NI) Order 2006.

Reason: To ensure a practical solution to the disposal of surface water from this site.

Condition 6

Any discharges into a NIW surface water sewer will be restricted to a rate which does not exceed Greenfield Runoff of 10 litres/second/hectare, unless otherwise agreed to in writing from Mid Ulster District Council.

Reason: To protect watercourses.

Condition 7

The development hereby permitted shall not commence until such time as the developer has gained consent from NI Water to allow connection of the proposed development to the public sewer network and this condition has been formally discharged in writing by the Council.

Reason: In the interests of public health.

Condition 8

Prior to the commencement of any of the approved development on site, a Final Drainage Assessment, compliant with Annex D of PPS 15 and Sewers for Adoption Northern Ireland 1st Edition must be submitted to Mid Ulster District Council Planning Department for its consideration and agreed in writing.

Reason - In order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk from the development to elsewhere.

Condition 9

The open space and landscaping as indicated on Drawing 13 published on the Mid Ulster District Council Planning Portal on 15th April 2024, shall be managed and maintained in accordance with the Landscape Management Plan, published on the Mid Ulster District Council Planning Portal on 15th April 2024. Any changes or alterations to the approved landscape management arrangements shall be submitted to and agreed in writing by Mid Ulster District Council.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space and amenity areas in the interests of visual and residential amenity.

Condition 10

Prior to the occupation of any of the dwellings on this site, the developer shall provide, a signed agreement with a Landscape Management Company for the maintenance of the area of open space. The area of open space as detailed on Drawing 13 published on the Mid Ulster District Council Planning Portal on 15th April 2024 shall be maintained by the nominated management company in accordance with the Landscape Management Plan.

Reason: In order to ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space in the interests of visual and residential amenity.

Condition 11

All hard and soft landscape works as detailed on Drawing 13 published on the Mid Ulster District Council Planning Portal on 15th April 2024, shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised

Codes of Practise. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species, unless Mid Ulster District Council gives written consent to any variation.

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

Condition12

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

PSDo2 - The Department for Infrastructure has determined that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 9 REV 1 bearing the date stamp 14th February 2024.

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

Condition13

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

PSDo2 - No other development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 9 REV 1 bearing the date stamp 14th February 2024. The Department for Infrastructure has attached to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

Signature(s): Cathy Hughes

Date: 24 April 2024

ANNEX	
Date Valid	5 August 2022
Date First Advertised	16 August 2022
Date Last Advertised	16 August 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 86 Cappagh Road Cappagh Co Tyrone The Owner / Occupier 10 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 9 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 8 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 7 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 6 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 5 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 4 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 3 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 2 Altmore View Cappagh Tyrone BT70 2PZ The Owner / Occupier 1 Altmore View Cappagh Tyrone BT70 2PZ</p>	
Date of Last Neighbour Notification	7 October 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/2006/2131/Q Proposals: Development Sites Decision: 211 Decision Date: 07-DEC-06</p>	

Ref: LA09/2022/1238/F

Proposals: Housing development of 19 two storey dwellings and associated site works (14 semi-detached and 5 detached)

Decision:

Decision Date:

Ref: M/1975/0285

Proposals: 11KV O/H LINE

Decision: PG

Decision Date:

Ref: M/2011/0295/F

Proposals: Proposed replacement dwelling

Decision: PG

Decision Date: 16-JUN-11

Ref: M/1974/0457

Proposals: ELECTRICITY SUB-STATION

Decision: PG

Decision Date:

Ref: LA09/2015/1284/F

Proposals: Proposed housing development consisting of 4 two storey 4 bedroom semi detached dwellings and access road.

Decision: PG

Decision Date: 28-MAY-19

Ref: M/2010/0399/F

Proposals: Proposed extension to a dwelling

Decision: PG

Decision Date: 29-JUN-10

Ref: M/1975/0282

Proposals: 11KV O/H LINE

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-DC Checklist - Copy.docRoads Consultation blank.docx

NI Water - Multiple Units West-LA09-2022-1238-F.pdf

Rivers Agency-725272-07 Final Planning Authority reply.pdf

DFI Roads - Enniskillen Office-26-09-2023.docx

Rivers Agency-838895-06 Final Planning Authority reply.pdf

NI Water - Multiple Units West-LA09-2022-1238-F.pdf

DFI Roads - Enniskillen Office-Conditions 14-02-2024.docx

NI Water - Multiple Units West-LA09-2022-1238-F.pdf
DFI Roads - Enniskillen Office-06-06-2023.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01 Version: Final
Site Layout or Block Plan Plan Ref: 02 REV 1 Version: Final
Existing Site Survey Plan Ref: 2721-C-011
Site Layout or Block Plan Plan Ref: 2721-D-012
Levels and Cross Sections Plan Ref: 10 Version: Final
Proposed Plans Plan Ref: 05 Version: Final
Proposed Plans Plan Ref: 06 REV1 Version: Final
Proposed Plans Plan Ref: 07 Version: Final
Proposed Plans Plan Ref: 08 Version: Final
Roads Details Plan Ref: 09 Rev 1 Version: Final
Roads Details Plan Ref: 11 Version: Final
Roads Details Plan Ref: 09
Plan Ref: Landscape Management PLaN Version: Final
Landscape Proposals Plan Ref: 13 Version: Final
Plan Ref: Drainage Assesement Version: Final

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.5
Application ID: LA09/2022/1765/F	Target Date: 20 July 2023
Proposal: A NORTHERLY PHASED LATERAL EXTENSION TO THE EXISTING SAND AND GRAVEL PIT AT MURNELLS WITH RESTORATION TO WOODLAND PLANTING AND GRASSLAND HABITATS	Location: Lands at Murnells Sand and Gravel Pit, North of No. 46 Murnells Road, Pomeroy, Dungannon BT70 2SL and West of No. 56 Cavanoneill Road, Pomeroy, BT70 2SH
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Ms Catherine Keenan Blackpark Road Toome BT41 3SL	Agent Name and Address: Mr Gareth McCallion 10 Saintfield Road Crossgar Downpatrick BT30 9HY
Executive Summary: Application is for an extension of existing quarry at Murnells Road, Kildress. Applicant is Creagh Concrete. Application presented to Committee because it is a major application. Environmental Statement has been submitted therefore no EIA Screening has been carried out. HRA assessment carried out by SES and adopted by MUDC. No third party objections. No objection from consultees. Proposal has been assessed against PSRNI, SPPS, PPS 2, PPS 6, PPS 15, PPS 3 and found to be in accordance with all relevant policies.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	Health And Safety Executive For NI	CN202302-0001 - Lands at Murnells Sand & Gravel Pit, Pomeroy BT70 2SH.pdf
Statutory Consultee	Public Health Agency	
Statutory Consultee	NIEA	PRT LA09-2022-1765-F.PDF
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	Shared Environmental Services	LA09-2022-1765-F AA.pdf
Statutory Consultee	Health And Safety Executive For NI	CN202302-0001 - Lands at Murnells Sand & Gravel Pit, Pomeroy BT70 2SH (22.11.2023).pdf
Statutory Consultee	Public Health Agency	The Public Health Agency has considered the request for a view on the wider public health concerns regarding the above application for a Northerly phased lateral extension to the existing sand and gravel

		<p>pit at Murnells with restoration to woodland planting and grassland habitats at Lands North of No. 46 Murnells Road, Pomeroy, Dungannon BT70 2SL and West of No. 56 Cavanoneill Road, Pomeroy, BT70 2SH.</p> <p>You will be aware that such facilities have a theoretical potential to cause adverse health effects from but not limited to exposure to odour, noise, particulate matter and other air pollutants. The Public Health Agency is not a statutory body in the consideration of the above application and are not in a position to make further comment. Consideration will be made with regards to any subsequent Pollution, Prevention and Control Permit application submitted for the installation.</p> <p>I trust the above comments are helpful in your consideration of this application</p>
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Geological Survey NI (DfE)	E3294 - Extension to Murnells quarry, Pomeroy.pdf
Statutory Consultee	Shared Environmental Services	Holding Response 14-03-23.pdf
Statutory Consultee	NIEA	PRT LA09-2022-1765-F.PDF
Statutory Consultee	Rivers Agency	14384 - Final Response.pdf
Statutory Consultee	Geological Survey NI (DfE)	E3423 - Northerly extension to Murnells Quarry,

		Pomeroy.pdf
Statutory Consultee	Shared Environmental Services	A technical issue has led to a duplicate consultation being issued on the planning portal for this application. SES responded to the original consultation on 15/08/2023. This response has been issued to close the open consultation and remove it from the SES work queue.
Statutory Consultee	Public Health Agency	
Statutory Consultee	Geological Survey NI (DfE)	<p>The GSNI Planning Team has read the letter and updated Appendix 1 uploaded by Quarry Plan to the Planning website.</p> <p>Thank you for making the estimated tonnages more transparent. It is understandable and acceptable that grades may not have been estimated.</p> <p>The initial location of peat at the site is now slightly clearer, but the diagram Location Plan GSNI Data appears to conflict with Figure 4. Please clarify the distribution of peat Figure 4 by adding the application boundary and a reference grid.</p> <p>The Team would like to re-iterate their request that all the accompanying maps should feature a reference grid of sufficient quality to allow the assessor to easily relate the contents of one map to another and to other spatial data. It is not the job of the consultee to spend time correlating</p>

		<p>unreferenced maps in order to gain an understanding of site composition or what the applicant plans to do at the site. The only map supplied in the updated Appendix with a reference grid is very pixelated, has no figure number and clips the northing. In addition, the caption does not make clear what the map is showing.</p> <p>For reference, Drawing 03 provides a registered reference grid of acceptable quality, but fails to provide the outline of the application boundary. The application boundary should feature on all maps. Figure 3 now shows no locational data at all.</p> <p>Best regards,</p> <p>Planning Team Geological Survey of Northern Ireland</p>
Statutory Consultee	NIEA	PRT LA09-2022-1765-F.PDF
Statutory Consultee	Geological Survey NI (DfE)	E3353 - Comments on updated geological assessment for Murnells Quarry, Pomeroy.pdf
Statutory Consultee	Health And Safety Executive For NI	
Statutory Consultee	Health And Safety Executive For NI	CN202302-0001 - Lands at Murnells Sand & Gravel Pit, Pomeroy BT70 2SH (04.07.2023).pdf
Representations:		
Letters of Support		0
Letters Non Committal		0
Letters of Objection		0

Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
Summary of Issues	
Characteristics of the Site and Area	
<p>The application site is located in the countryside as per the Cookstown Area Plan and is approximately 4.5km north of the settlement of Pomeroy.</p> <p>The site consists of around 7/8 fields, three of which front uniformly onto the Cavanoneill Road. The Cavanoneill Road runs immediately north of the site and immediately on the opposite side of the road is an area of woodland which has recently been cleared.</p> <p>The land form in the area is undulating with this site being typical of such landform in that it slopes downwards from south to north. Vegetation cover on the site consists of scrub, rushes and deciduous trees. There is a derelict house on the site. Immediately south of the site is what appears to be a former quarry which shows evidence of current use as a motocross track. The southern boundary of the application site consists of a steep drop into the current quarry site. This motocross use also appears to bound the site on the immediately eastern side. Elsewhere the main land use is agricultural and single dwellings.</p> <p>There is permission for the established quarry business to the south dating back to 1981 (I/81/0189 planning ref refers). A more recent approval was granted under LA09/2017/1801/F for the rationalisation and lateral extension to, the existing quarry operation. This gives permission for sand and gravel extraction to the immediate south west of the this site as well.</p> <p>The character of the area is remote with a minor rural road network and a distinct feeling of removal from any nearby settlement. The small settlement of Gortacladdy is located less than 1km to the NW but this is a rural hamlet characterised by a series of new and older dwellings (approx.. 15 dwellings) and a GAA club (Kildress Wolfe Tones).</p>	
Description of Proposal	
<p>A northerly phased lateral extension to the existing sand and gravel pit with restoration to woodland planting and grassland habitats.</p>	
Planning Assessment of Policy and Other Material Considerations	

Policy Consideration

The following policy considerations are relevant;

- Cookstown Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21 – Sustainable Development in the Countryside
- Planning Strategy for Rural Northern Ireland (PSRNI)
- PPS 2- Natural Heritage
- PPS 6 – Archaeology and the Built Heritage
- PPS 15 – Planning and Flood Risk
- PPS 3 – Access Movement and Parking

COOKSTOWN AREA PLAN 2010 (CAP)

The site is located on “white land” in the countryside according to the CAP and is not subject to any site specific or strategic designations.

The prevailing rural policy for mineral development is therefore relevant to this application. PPS 21 did not supersede the MIN policies of the Planning Strategy for Rural Northern Ireland (PSRNI) and therefore, until the Council published a Plan Strategy, the provisions of the PSRNI are the prevailing policies for mineral development in the rural area.

STRATEGIC PLANNING POLICY STATEMENT (SPPS)

The SPPS acknowledges that mineral development can make a significant contribution to the local economy in various ways; not least by providing materials for construction such as sand, gravel as is the case in this proposal.

Because of this fact, it is important to facilitate mineral development but in a sustainable fashion which balances with the need to protect the environment. Natural mineral resources should still be developed but not at the overriding cost of the environment.

The main challenges facing the planning system in relation to mineral extraction include the need to address amenity issues and visual implications caused by extraction. This can be problematic because mineral development, by its nature, can only happen at specific sites where the actual minerals are located and therefore the identification of alternative sites can be difficult.

Another challenge presented by mineral development is the need to restore sites appropriately after the extraction process has been completed.

Bearing all this in mind, the strategic objectives of the SPPS in relation to mineral development are as follows;

- Facilitate sustainable minerals development through balancing the need for specific minerals development proposals against the need to safeguard the environment.

- Minimise impacts of mineral development on local communities, landscape quality, built and natural heritage, and the water environment, and
- Secure the sustainable and safe restoration, including appropriate re-use of mineral sites, at the earliest opportunity.

PPS 21 – SUSTAINABLE DEVELOPMENT IN THE COUNTRYSIDE

As mentioned above, the application site is located in the countryside. The relevant policy context for development in the countryside is provided by PPS 21: Sustainable Development in the Countryside.

However, PPS 21 does not provide planning policy relating specifically to mineral developments. Instead, the policy document refers the reader to policy contained within the Planning Strategy for Rural Northern Ireland. PPS 21 states that planning permission will be granted for mineral development in accordance with the mineral policies of PSRNI; Policies 1- 8.

PLANNING STRATEGY FOR RURAL NORTHERN IRELAND (PSRNI)

Policy MIN 1 states that where mineral development is proposed it must not take place at the expense of the environment. This means that where a proposal for mineral development is located in or close to an environmental designation it will not normally be granted where it would prejudice the character of that designation. MIN 1 also states that where possible, extensions to existing quarrying operations are preferable to completely new minerals developments on greenfield sites. This proposal is for an extension to an existing quarry.

In relation to this proposal; which consists of an extension to the existing approved quarrying activity, there are no strategic or environmental designations on the application site which earmark the site as being of particular scientific or environmental value. The site is home to two areas of peatland which are considered a priority habitat but this is considered in more detail below, in the assessment of the proposal against PPS 2. Loughdoo ASSI is located approx. 1.8km away but this is far enough removed from this application site for there to be any impact.

Policy MIN 2 of the PSRNI states that all proposals for the extraction of minerals must have regard to the visual implications of the development. Mineral extraction, by its nature, must occur where the mineral deposits are located and oftentimes this means that extraction must take place in rural areas which are of high scenic value and often within designations such as AONBs or AOHSVs. This application is not located within any such designation.

MIN 2 states that in order to minimise visual impact, extraction proposals should where possible be located where they can utilise existing landforms and preserve skylines by sensitive siting of stockpiles, the location of overburdens and location of plant machinery. This proposal will not introduce any plant machinery or buildings which would impact on the skyline. The landform is such that it will limit the impact of the development. The submitted drawings show the location of overburden and when considered against the

backdrop of the landform rising to the south then it is my view that the visual impact of this proposal will be acceptable.

The principal long term views of the site will be from the Camlough Road to the NW. I have considered the impact of the site when viewed from this location and consider it to be acceptable for the reasons outlined in the above paragraphs.

The site is not located within an Area of Constraint on Mineral Development and therefore, policy MIN 3 is not applicable. Neither are policies MIN 4 or MIN 5.

Policy MIN 6 states that development of mineral extraction proposals must have regard to the safety and amenity of occupants of development in close proximity. Permission will not be granted for extraction proposals that would result in a loss of amenity of neighbouring development or a reduction in amenity to below acceptable standards.

In relation to this proposal, assessments have been submitted as part of / appendices to, the Environmental Statement. These appendices include assessments of geological impacts, a noise assessment, and a dust management plan. The noise impact assessment has demonstrated that the noise levels generated from the proposal - both of itself and in conjunction with the washing process (washing process not part of this proposal) - will be within the Planning Practice Guidance noise limits of 45Db.

The Dust Management Plan has detailed a range of measures which will be employed to control or limit the impact of dust during various operational stages. These measures include limiting work in adverse weather conditions as well as minimising the duration of activity, utilising shelter from wind when siting storage mounds, cessation of activity in event of unacceptable dust levels at nearby receptors and restricting access to restored areas of the site.

All of the above has been consulted upon with MUDC Environmental Health Department and Heath and Safety Executive both of whom have no objection subject to the measures proposed being carried out.

MIN 7 states that where an access to a proposed mineral development site would prejudice road safety or create a nuisance for road users then permission will normally be refused. In relation to this development, the access and infrastructure at this site have been established. The proposal will utilise the existing access arrangements. This application relates to an extension to the existing approved mineral operations. No intensification of traffic or the access arrangements forms part of the proposal.

Policy MIN 8 states that applications for mineral development must include satisfactory restoration proposals. A restoration scheme has been submitted as part of this application. It is focussed on habitat creation and reinstatement of the land to agricultural grazing. The restoration scheme is detailed in drawing 08 and the Environmental Statement has stated that it will be implemented following the extraction of “the last shovelful of mineral.” The Environmental Statement states that the reserves in this site are expected to be worked out within 6 years and that restoration will commence immediately following this.

Given all of the above, I am of the view that this proposal is in accordance with policies MIN 1 - MIN 8 of the Planning Strategy for Rural Northern Ireland.

PPS 2 – NATURAL HERITAGE

Two areas of peatland have been identified on the application site and therefore policy NH 5 of PPS 2 is applicable. NH 5 states that planning permission will only be granted for a development proposal which is not likely to have an unacceptable adverse impact on known areas of active peatland and other natural heritage assets including habitats and protected species.

An Ecological Impact Assessment has been submitted as an Appendix to the Environmental Statement and this addresses the issue of the areas of peatland and also the presence of badgers on the application site. The document identifies two peatland habitats which are present on the site and describes them as a dry patch of modified bog in the south west corner and a strip of wet modified bog to the east of the site. The assessment concludes that both portions of peatland constitute Northern Ireland Priority Habitats.

It is proposed that a process of translocation will take place in order to preserve and restore these habitats as part of the development. Prior to the translocation process taking place, a method statement will be written setting out the exact circumstances of how it will be facilitated. An ecological clerk of works will be appointed and a specialist contractor will be appointed for the translocation and restoration of the peatland. Once the process has been completed, a monitoring plan will be put in place to assess how successful the process has been.

Similarly, the ecological appendix to the ES also deals with the presence of badgers on the site. The assessment details significant presence of badgers on the site including one extensive sett which has signs of recent activity, as well as some annex setts which are in occasional / seasonal use.

It is proposed as part of the Ecological Impact Statement that the main sett and an annex sett on the site will be left undisturbed. No setts will be disturbed or closed without licences from NIEA and appropriate precautionary measures and monitoring, as required. Some foraging areas will be preserved as part of the restoration plan.

NIEA have been consulted in relation to all of these concerns and have responded to state that they have no objections subject to conditions which seek to ensure the implementation of measures detailed as mitigation in relation to impacts on species and habitats which have been identified.

Given the above, consideration I am satisfied that the proposal is in accordance with the relevant policy of PPS 2.

PPS 6 – ARCHAEOLOGY AND THE BUILT HERITAGE

There are no historic environment assets or designations on the site. The site is approx. 2km from the Area of Significant Archaeological Interest (ASAI) at Creggandevesky, which is located in the Fermanagh and Omagh District. There are also a range of other assets located to the south of the site such as a portal tomb (known as “Dermot and Grainne’s Bed”) and cairn and a pair of standing stones. Given the proximity of these features and the nature of the work proposed, an assessment of potential impacts on the archaeological potential of the site, has been carried out.

An archaeological assessment has been submitted as an Appendix to the Environmental Statement. This assessment concludes that the site is located in an area of moderate archaeological potential and that accordingly, a range of recommendations are proposed in order to mitigate the potential harm to the archaeological environment. These recommendations include;

- Pre Development Investigations
- Where pre development investigations are not possible, any top soil stripping as part of the development to be carried out under supervision of a qualified archaeologist.
- Post excavation report of findings.

Historic Environment Division (HED) have been consulted as part of the application process and have stated that they agree with the archaeological assessment and its conclusions / recommendations. They have no objection to this proposal, subject to conditions being implemented regarding a developer funded programme of archaeological works.

Therefore, whilst the site is not located within an archaeologically sensitive area, it has been assessed as having moderate archaeological potential. In line with BH 4 of PPS 6, appropriate mitigation (appropriate as per HED consultation response) has been proposed. I am therefore satisfied that the proposal is in accordance with PPS 6.

PPS 15 – PLANNING AND FLOOD RISK

Due to the size and nature of the development FLD3 of PPS15 applies and drainage assessment has been submitted. The drainage assessment indicates that flood risk to and from the development will be managed using a SuDS.

DFI Rivers have been consulted and have not offered any objection to the drainage assessment.

I am therefore satisfied that the proposal is in accordance with PPS 15.

PPS 3 – ACCESS, MOVEMENT AND PARKING

In relation to this development, the access and infrastructure at this site have been established. The proposal will utilise the existing access arrangements. This application relates to an extension to the existing approved mineral operations. No intensification of traffic or the access arrangements forms part of the proposal.

No consultation with DFI Roads has been carried out because there will be no intensification of the existing access arrangements. I am therefore content that there is no conflict with PPS 3.

OTHER MATERIAL CONSIDERATIONS

Third Party Representations

No third party representations have been received. The following notifiable neighbours have been neighbour notified;

- 62 Cavanoneill Road
- 58 Cavanoneill Road
- 56 Cavanoneill Road

No 63 Cavanoneill Road was not considered notifiable because whilst the curtilage of the property abuts the application site, the premises (dwelling) is located approx. 110-115m away from the application site and therefore is not notifiable in accordance with Article 8 of The Planning (General Development Procedure) Order (Northern Ireland) 2015.

The interpretation of “identified occupier” in this legislation is the “occupier of premises within a 90metre radius of the boundary of the application site.” In this case, the premises in question is more than 90m away from the application site and is therefore deemed not to be notifiable.

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017

The proposal has been accompanied by an environmental statement (ES) which has been submitted voluntarily by the applicant. I have reviewed the environmental statement and have made reference to it throughout the main body of the above consideration of planning policy. It has also been available to all statutory consultees. None of the statutory consultees have any objections to the scope or content of the ES.

There is therefore no need for the proposal to be screened in relation to the requirement for an ES to be submitted.

Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995 (as amended).

Mid Ulster District Council in its role at the competent authority under the Conservation (Natural Habitats etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report and conclusions therein, prepared by Shared Environment Service and uploaded on the Mid Ulster Planning Portal on 15/8/23. This report found that the proposal would not have an adverse effect on the integrity of any European designated site.

Economic Benefit

Regional Planning Policy in the SPPS refers to the economic benefit which can be derived from mineral development. Policy MIN 1 of the PSRNI also refers to this economic benefit of minerals development In this report, I have considered the relevant planning polices and how they pertain to this development proposal. I feel it is also appropriate to give weight to the economic benefit which will be derived from the proposed development.

The minerals industry is a key driver of the construction sector in that it provides the primary materials for that sector, without which, house building, road building projects and other key infrastructure developments could not take place. In mid Ulster we are heavily dependent on the minerals sector for employment. Research carried out into the minerals industry as part of the preparatory work for the draft Plan Strategy found that mid Ulster has a higher number of people employed in the minerals industry than any other district.

The applicant has demonstrated that the resource within this site is vitally important to ensuring that Creagh Concrete meet its requirement for adequate sand and gravel reserves to be available - without needing revert to external suppliers which is, they assert, not possible at current costings.

Creagh Concrete employs c. 550 employees and 135 sub contractors with approx. 40% of those working in Mid Ulster so it is clearly a valuable employer in what is demonstrably a valuable industry in terms of employment in mid Ulster. Creagh Concrete put forward the claim that the company would not exist without the availability of sufficient internal aggregate reserves and this site is crucial in them being able to secure such reserves without going to the external market.

Such economic considerations whilst obviously not carrying determining weight in the processing of this application are still material considerations in the decision making process.

Summary of Recommendation:

Approve is recommended

Given all of the above considerations I am of the view that this application should be approved subject to the following conditions.

Approval Conditions

Condition 1

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

Reason: Time Limit.

Condition 2

Following the exhausting of all sand and gravel reserves within the site and / or the permanent cessation of extractive activity, the restoration proposals as detailed in drawing 08 uploaded to the Mid Ulster Planning Portal on 21st December 2022 shall be implemented within 3 months from the date of the last date of extraction activity.

Reason: To ensure satisfactory restoration of the site following the cessation of extraction.

Condition 3

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

- o The identification and evaluation of archaeological remains within the site;
- o Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- o Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and
- o Preparation of the digital, documentary and material archive for deposition.

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

Condition 4

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition no. 2.

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

Condition 5

A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition no 2. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

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

Condition 6

Storm drainage of the site, during construction and operational phases, must be designed to the principles of the Sustainable Drainage Systems (SuDS) in order to prevent the polluting effects of storm water on aquatic environments. Construction of SuDS should comply with the design and construction standards as set out in The SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C753 (2015).

Reason: To prevent adverse impacts on the features of the designated site.

Condition 7

No development activity, including ground preparation or vegetation clearance associated with Phase 1 of the development shall take place until a Habitat Management Plan (HMP) has been submitted to and approved in writing by the Planning Authority. The approved HMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise agreed in writing by the Planning Authority. The HMP must include the following:

- A) Clear aims and objectives of proposed habitat management/translocation;
- B) Description of pre-construction, baseline habitat conditions, i.e., a method statement addressing the specific circumstances at the application site;
- C) Appropriate maps, clearly identifying proposed habitat management areas;
- D) Detailed methodology and prescriptions of habitat management measures, including timescales, and with defined criteria for the success of the measures;
- E) Details of the prohibition of habitat damaging activities, including agricultural activities;
- F) Details of the regular monitoring of the effectiveness of habitat management and restoration measures using appropriate methodology (e.g., visual inspections, vegetation

quadrats, fixed point photography) in years 1, 2, 3 etc post works. Justification for the monitoring timescale must also be provided.

G) Details of the production of regular monitoring reports which shall be submitted to the Planning Authority within 6 months of the end of each monitoring year and which shall include details of contingency measures should monitoring reveal unfavourable results.

Reason: To compensate for the loss of and damage to Northern Ireland Priority Habitat.

Condition 8

No excavation works to the sand cliff forming part of the southern boundary, identified as containing nesting Sand Martins, shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before works and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect Sand Martins

Condition 9

No works shall be carried out on the cottage structure within the application site until a NIEA Wildlife Licence has been obtained and evidence of this has been provided to the Planning Authority in writing. Please note that a mitigation plan will be required to be submitted in support of the licence application, and this may be subject to further conditions.

Reason: To minimise the impact of the proposal on bats and bat roosts.

Condition 10

Within twenty-four hours prior to demolition, the existing cottage structure on the site shall be checked for bat presence by a competent ecologist and all demolition works shall be monitored by a competent ecologist. A report of the demolition shall be submitted to the Planning Authority within 2 weeks.

Reason: To ensure protection to bats and their roosts.

Condition 11

No development activity, including ground preparation or vegetation clearance, shall take place until a protection zone, clearly marked with posts joined with hazard warning tape, has been provided around each badger sett entrance at a radius of 25 metres associated with the main and annex setts proposed for retention (Tunnel entrances as identified on Figure 8: Badger setts and excavations at the Application Site, Page 45, EIA). No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within the protection zones without the consent of the Planning Authority/unless an appropriate Wildlife Licence has been obtained from NIEA. The protection zones shall be retained and maintained until all construction activity has been completed on site.

Reason: To protect badgers and their setts on the site.

Condition12

A Wildlife Licence must be obtained for the proposed closure of any of the outlier/annex setts identified that are to be impacted by the proposal. An appropriate mitigation plan/strategy must also be submitted with the Licence application.

Reason: To protect badgers.

Condition13

Prior to the commencement of each phase of the development, an updated badger survey must be completed and submitted to the Planning Authority for assessment. Any newly excavated setts must be established and an up-date to the current level of usage by badgers on site must be included. Mitigation must be included where necessary.

Reason: To protect badgers.

Condition14

The proposed monitoring plan (section 4.6 of the Hydrological & Hydrogeological Impact Assessment November 2022) should be implemented to the satisfaction of the Planning Authority. Monitoring records should be maintained.

Reason: Protection of groundwater environment.

Condition15

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

Reason: To safeguard residential amenity

Condition16

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

Reason: To protect residential amenity

Condition17

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

Reason: to protect residential amenity

Condition18

The operator shall provide to Mid Ulster District Council the results, assessment and conclusions regarding the noise monitoring required by Condition 8, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of a written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: To protect residential amenity

Condition19

The dust mitigation plan outlined in Section 21, Appendix 6 of the Environmental Statement, uploaded to the Mid Ulster Planning Portal on 21st December 2022 shall be implemented by the applicant throughout the duration of the extraction hereby approved.

Reason: to protect residential amenity.

Condition20

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

Reason: to protect residential amenity

Condition21

The operator shall provide to Mid Ulster District Council the results, assessment and conclusions regarding the noise monitoring required by Condition 11. Such information shall be provided within 3 months of the date of a written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

Reason: to protect residential amenity

Condition22

The proposed area of extraction shall take place in accordance with Drawing Nos 01 and 02 which were uploaded to the MUDC planning portal on 22/12/22, drawing 03 rev 2 which was uploaded to the MUDC planning portal on 1/12/23, drawing 04 rev 1 which was uploaded to the MUDC planning portal on 12/6/23 and drawing 05 which was uploaded to the MUDC planning portal on 21/12/22. No extraction shall take place outside this limit of extraction shown on these drawings.

Reason: In order to control the extent of the development.

Condition23

All phased works as shown on Drawing No 03 rev 2 which was uploaded to the MUDC

planning portal on 1/12/23, drawing 04 rev 1 which was uploaded to the MUDC planning portal on 12/6/23 and drawing 05 which was uploaded to the MUDC planning portal on 21/12/22 shall be completed in accordance with these plans, including the erection of screening bunds where identified along the northern perimeter of the proposed extraction area prior to any commencement of any phased mineral extraction.

Reason: in the interests of visual and neighbouring amenity.

Condition 24

No extraction shall take place below the cross-section and levels as detailed on cross-sectional drawings no. 07 REV 1 and drawing 09 both of which were uploaded to the MUDC planning portal on 12/6/23.

Reason: To limit the extent of the site and facilitate restoration of the site

Signature(s): Colin McKeown

Date: 12 April 2024

ANNEX	
Date Valid	22 December 2022
Date First Advertised	10 January 2023
Date Last Advertised	10 January 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 62 Cavanoneill Road, Pomeroy BT70 2SH The Owner / Occupier 58 Cavanoneill Road, Pomeroy BT70 2SH The Owner / Occupier 56 Cavanoneill Road, Pomeroy BT70 2SH	
Date of Last Neighbour Notification	9 January 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>Health And Safety Executive For NI-CN202302-0001 - Lands at Murnells Sand & Gravel Pit, Pomeroy BT70 2SH.pdf Public Health Agency- NIEA-PRT LA09-2022-1765-F.PDF Historic Environment Division (HED)- Shared Environmental Services-LA09-2022-1765-F AA.pdf Health And Safety Executive For NI-CN202302-0001 - Lands at Murnells Sand & Gravel Pit, Pomeroy BT70 2SH (22.11.2023).pdf Public Health Agency-The Public Health Agency has considered the request for a view on the wider public health concerns regarding the above application for a Northerly phased lateral extension to the existing sand and gravel pit at Murnells with restoration to woodland planting and grassland habitats at Lands North of No. 46 Murnells Road, Pomeroy, Dungannon BT70 2SL and West of No. 56 Cavanoneill Road, Pomeroy, BT70 2SH.</p> <p>You will be aware that such facilities have a theoretical potential to cause adverse health</p>	

effects from but not limited to exposure to odour, noise, particulate matter and other air pollutants. The Public Health Agency is not a statutory body in the consideration of the above application and are not in a position to make further comment. Consideration will be made with regards to any subsequent Pollution, Prevention and Control Permit application submitted for the installation.

I trust the above comments are helpful in your consideration of this application
Environmental Health Mid Ulster Council-
Geological Survey NI (DfE)-E3294 - Extension to Murnells quarry, Pomerory.pdf
Shared Environmental Services-Holding Response 14-03-23.pdf
NIEA-PRT LA09-2022-1765-F.PDF
Rivers Agency-14384 - Final Response.pdf
Geological Survey NI (DfE)-E3423 - Northerly extension to Murnells Quarry, Pomeroy.pdf
Shared Environmental Services-A technical issue has led to a duplicate consultation being issued on the planning portal for this application. SES responded to the original consultation on 15/08/2023. This response has been issued to close the open consultation and remove it from the SES work queue.
Public Health Agency-
Geological Survey NI (DfE)-The GSNI Planning Team has read the letter and updated Appendix 1 uploaded by Quarry Plan to the Planning website.

Thank you for making the estimated tonnages more transparent. It is understandable and acceptable that grades may not have been estimated.

The initial location of peat at the site is now slightly clearer, but the diagram Location Plan GSNI Data appears to conflict with Figure 4. Please clarify the distribution of peat Figure 4 by adding the application boundary and a reference grid.

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For reference, Drawing 03 provides a registered reference grid of acceptable quality, but fails to provide the outline of the application boundary. The application boundary should feature on all maps. Figure 3 now shows no locational data at all.

Best regards,

Planning Team
Geological Survey of Northern Ireland
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Geological Survey NI (DfE)-E3353 - Comments on updated geological assessment for

Murnells Quarry, Pomeroy.pdf
Health And Safety Executive For NI-
Health And Safety Executive For NI-CN202302-0001 - Lands at Murnells Sand & Gravel
Pit, Pomeroy BT70 2SH (04.07.2023).pdf

Drawing Numbers and Title

Proposed Plans Plan Ref: 03 rev 1
Proposed Plans Plan Ref: 04 rev 1
Proposed Plans Plan Ref: 07 rev 1
Proposed Plans Plan Ref: 03 rev 2
Site Location Plan Plan Ref: 01
Site Location Plan Plan Ref: 02
Site Layout or Block Plan Plan Ref: 03
Site Layout or Block Plan Plan Ref: 04
Site Layout or Block Plan Plan Ref: 05
Site Layout or Block Plan Plan Ref: 06
Site Layout or Block Plan Plan Ref: 07
Site Layout or Block Plan Plan Ref: 08

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.6
Application ID: LA09/2023/0355/F	Target Date: 13 July 2023
Proposal: Proposed two storey dwelling and garage.	Location: Lands 75M South of 16 Ballyheifer Road Magherafelt
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr and Mrs Jarlath and Oonagh Conway 58 Moneymore Road Magherafelt BT45 6HG	Agent Name and Address: C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
Executive Summary: <p>Application is for a two storey dwelling and garage.</p> <p>Presented to Committee because there has been an objection from a statutory consultee (Historic Environment Division).</p> <p>Principle of a dwelling on this site under CTY 10 has been established under LA09/2018/1296/O.</p> <p>LA09/2020/0924/F subsequently varied this permission to allow for a 8m ridge height and removal of the restriction on floor area. The principle of a dwelling with an 8m ridge height on this site is therefore established.</p> <p>Farm business ID has been submitted and verified by DAERA. Existing screenings and landform aid integration of the proposed dwelling. This will be further assisted by additional planting to augment that existing screening. Proposal is therefore in accordance with CTY 10, CTY 13 and CTY 14 of PPS 21.</p> <p>HED have advised that the proposal will in their opinion have an adverse impact on the setting of Ballyheiffer House to the north which is a grade B listed building. Whilst this is</p>	

accepted by the Council, interpretation of policy BH 11 states that the requirement to comply with this policy is lessened where the character of the listed building has already been reduced and where the character of the setting of the listed building has also already been reduced. Both of these have happened in this case and it is therefore the case officers opinion that whilst the proposal will have an impact on the listed building, it is not contrary to BH 11 of PPS 6.

No objections recieved from third parties

Recommendation to approve.

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0355-F.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	NI Water - Single Units West	LA09-2023-0355-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	2023.0355-.doc
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Shared Environmental Services	LA0920230355F_Elimination_15062023.pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	NIEA	PRT LA09-2023-0355-F SA.PDF
Statutory Consultee	Historic Environment Division (HED)	

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	
<p>The site is located in the countryside as per the Magherafelt Area Plan, on the northern edge of the settlement limit of Magherafelt. The site consists of a large, roughly rectangular shaped field. The south eastern boundary of the site is road side boundary along Ballyheiffer Road and is defined by a close board fence and a significant deciduous hedgerow. All other boundaries are defined by a d-rail fence with the south western boundary also consisting of a mature hedge and a large beech tree.</p> <p>Access to the site appears to be through a series of large wooden gates in the southern corner of the site but this access appears not to be used regularly.</p> <p>The north eastern boundary of the site is bounded by an existing access road which leads to Ballyheiffer House, located immediately north of the site. Ballyheiffer House is a late Georgian farmhouse which is part of a larger farm complex which appears to be used for the care of horses.</p> <p>There is planning history on the site with approval granted under LA09/2018/1296/O for a proposed dwelling and garage. LA09/2020/0924/F subsequently varied this permission to allow for a 8m ridge height and removal of the restriction on floor area. The principle of a dwelling with an 8m ridge height on this site is therefore established.</p> <p>The area is located in the countryside but does not possess a typically rural character. The Ballyheiffer Road, whilst a rural road is a relatively busy road with traffic going into and out of Magherafelt. This passing traffic dilutes the rural character of the area, as does the presence of newly built housing development in Bracken Bawn. The proposed access to this site is directly opposite the new houses built as part of Bracken Bawn development.</p>	
Description of Proposal	
<p>The application seeks approval for a dwelling and garage. The proposed dwelling has a ridge height of 10.5 metres and therefore represents an increase to the established ridge height on the site which exists by virtue of LA09/2020/0924/F.</p> <p>The original approval on the site was granted as a dwelling on a farm and farm</p>	

information has been submitted with this application to provide justification for the dwelling.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

The following policy documents are appropriate in the consideration of this application;

- Magherafelt Area Plan
- SPPS
- PPS 21 – Sustainable Development in the Countryside
- PPS 6 – Archaeology and the Built Heitage
- PPS 3 – Access, Movement and Parking

MAGHERAFELT AREA PLAN

As mentioned, the site is located in the countryside as per the MAP. It is therefore subject to prevailing rural planning policy for development in the countryside.

The site is also located within a Local Landscape Policy Area (LLPA) designation MT 34. This is an extensive designation which covers a wide area and therefore is home to a range of environmental features / assets which all underpin the rationale for its designation. One of the features behind the designation of the LLPA is Ballyheiffer House which is a historic property set in mature treed grounds.

Policy CON 2 of the MAP states that planning permission will not be granted for proposals that would adversely affect the environmental value and character of the features which are listed as being part of the rationale for the designation. Therefore, the impact of this proposed dwelling on Ballyheiffer House is a relevant consideration when assessing the proposal against policy CON 2.

The impact of this proposal is something which is also considered in the assessment of PPS 6 further in this report so the relevant assessment will be discussed below.

SPPS

Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on a farm. 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.

PPS 21 – Sustainable Development in the Countryside

The principle of a dwelling on this site has been established under LA09/2018/1296/O. This application has expired but the principle of a house on this site has been considered recently under the current policy and found acceptable. This is a material consideration.

Policy CTY 1 of PPS 21 sets out the range of residential development typologies which are acceptable in the countryside. One of these is listed as “a dwelling on a farm in accordance with CTY 10.”

Policy CTY 10 states that planning permission can be granted for a dwelling on a farm where the following criteria are 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
- 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 group(s).

In relation to the first test (criterion a), the applicant has met this by providing a Farm Business ID which DAERA have confirmed has been active and established for the required time period. In relation to b) I do not have knowledge of any other development opportunities which have been sold off from the holding.

The proposed dwelling is sited close to existing farm buildings such as the existing farm house and the large out buildings to the rear of the farmhouse.

I am therefore of the opinion that the proposal meets policy CTY 10 and is therefore acceptable under this policy.

Policy CTY 13 of PPS 21 states that buildings must be integrated into the landscape and then goes on to break this requirement down into a range of criteria. I have visited the site and have assessed it against this policy and the stated criteria therein.

The main public perspective from which this development will be viewed is the Ballyheiffer Road. The most prominent views of the site are from the top of the Ballyheiffer Road, close to the junction of the Hospital Road. When viewed from this

location, direct views of the site are limited to a small part of the road / footway. This is because of the existence of a large 2 storey house at the road junction which screens views of the site as well as other development (Lime Tree Manor) which screens views of the site from the Ballyheiffer Road. In relation to this part of the Ballyheiffer Road, from which views are directly possible, there is a slight backdrop as land on the application site and beyond, rises to the north.

The images below show the existing view of the site from this location as well as the proposed view of the site when the new dwelling is imposed in the subsequent photo montage. These images show that the rising landform to the north as well as considerable tree line to the north will aid integration when viewed from this location.



Above – existing view of site



Above – Architects montage of site with new dwelling erected

From other view points along the Ballyheiffer Road the views of the site are not significant. For instance, at the bottom of the steep hill leading out of Magherafelt, the site sits significantly above road level which means views are not possible. On the way back up the slight hill towards the site, views are screened by the road side boundary and also the south eastern field boundary. This boundary is shown as retained (outside the red line) on drawing 02 rev 1 and lands are within the applicants control. There is also a range of new planting along the site boundary (new driveway) which will augment this planting screening.

Views of the site from further along the Ballyheiffer Road will be limited given the mature trees which characterise the immediate vicinity and are referred to frequently as part of the rationale for designating the LLPA MT 34.

The landform of the site itself also lends itself to aiding the integration of the proposed dwelling in that it rises towards the NW meaning that the proposed house sits in a lower part of the field which lessens the impact of it when viewed from the locations discussed above.

In terms of the design of the proposed building, the proposal is not what could be classed as a traditional rural design. The dwelling has a hipped roof, a 10.5m ridge height, 2 no. 2 storey hipped front projections. The dwelling does not have an elongated pattern with a depth from front to back of approximately 20m as well as a significant single storey rear return. The overall area of the dwelling is approx. 700 sq. metres so it is a considerable size of a dwelling which is not typical of the design in the rural area.

The agent has significantly altered the layout of the proposal to reduce the width of the dwelling when viewed from the front elevation. The original proposal was more elongated with two large rear returns which meant that the house was much wider at the

front. The original proposal had a frontage width of 38m while the current proposal has a frontage width of 26m. The impact of the dwelling is therefore reduced and more acceptable when viewed from the front. The main part of the dwelling has become more of a square shaped concept in terms of layout in order to accommodate the floorspace which has been lost by reducing the overall width of the house.

The result in my opinion is that the dwelling is less obtrusive than its original version in terms of its massing. The overall appearance of the dwelling is that it is less intrusive although it is accepted that the scale and design are still of a nature which are not typical of the rural area. Having said this, I am of the view that the impact of the design will be mitigated by the following factors;

- The limited views of the site which have been discussed in the preceding paragraphs and which aid integration
- The proximity of the site to the footprint of the settlement limit of Magherafelt which mean that while it is in the rural area, it is viewed in conjunction with and indeed, from within, the built fabric of the settlement. This has been accentuated by the development of nearby housing in Bracken Bawn.
- The amended design of the proposal which has reduced the impact as discussed above.

Given all of the above considerations, I am off the view that the design of the proposal whilst not typical of the rural area, is acceptable due to the mitigating circumstances which are set out in the bullet points above. Integration of the proposal will be aided by the views of the site being limited due to screening and limited long term views. Therefore, I am satisfied that the proposal in accordance with CTY 13.

Policy CTY 14 states that planning permission will not be granted for a building in the countryside which would cause a detrimental change to or further erode the rural character of the area. As outlined above, the proposal does integrate into its surroundings and as stated in the opening paragraphs of this report, the site does not possess a typical rural character given its proximity to the footprint of the settlement of Magherafelt and associated nearby urban style development. I am therefore satisfied that this proposal will not have detrimental impact on the rural character of the immediate area.

I am therefore satisfied that this proposal is in accordance with CTY 10, CTY 13 and CTY 14 of PPS 21 – Sustainable Development in the Countryside.

PPS 6 – Archaeology and the Built Heritage

Ballyheiffer House, located immediately north of the application site is a grade B listed building.

Policy BH 11 deals with development affecting the setting of a listed building. The policy states that planning permission will not normally be granted for a development which would adversely affect the setting of a listed building.

Consultation has been carried out with HED in relation to this application and a site meeting took place on 16th May 2023 between, the applicant (a representative, agent and architect) MUDC planning and HED to discuss the proposal.

HED have stated in their consultation response that the proposal as presented will have an adverse impact on the listed building. HED have particular concerns with the massing of the proposed dwelling and the scale and height. They state that the proposed dwelling appears imposing and is too formalised which means it further detracts from the listed building.

I have given consideration to the HED comments and they form a significant part of my assessment of this policy and how it relates to policy BH 11. I am also of the opinion however, that views of Ballyheiffer House, at present are not widespread. The dwelling is not prominent in the landscape when viewed from the southeast, for the reasons alluded to above, in the assessment of CTY 13. I also consider the comments made by both HED and the applicants agent at the site meeting where it was expressed that the building has lost some of its character and historical merit due to works carried out such PVC doors/windows and guttering (see meeting minutes uploaded on 16/5/23).

It is my view that the main views of the listed building are from further along the Ballyheiffer Road to the northwest. Views of the site from this direction will not be interrupted by the proposed dwelling but I accept that the setting will be impacted upon by the siting of a large dwelling to the immediate south.

Another important consideration when assessing this proposal is the existence of established agricultural buildings which are located to the rear of Ballyheiffer house and which presently dominate the setting of the listed building when viewed from a range of vantage points including, Hospital Road (side elevation) Ballyheiffer Road (from east) and Station Road. The image of the site below from the east on Ballyheiffer Road demonstrates this point.



Picture – Ballyheiffer House and outbuildings when viewed from the east on Ballyheiffer Road

Para. 6.28 of PPS 6 states that policy BH11 is particularly relevant “*where a demesne, landscaped parkland, garden or grounds have been laid out to complement the design or function of the building.*” This is not the case in this scenario and has been shown above, the existing immediate surroundings of the building actually detract from its setting.

Policy 6.31 of PPS 6 goes on to state that “*the extent to which proposals will be required to comply with the criteria in Policy BH 11 will be influenced by a variety of factors: the character and quality of the listed building; the proximity of the proposal to it; the character and quality of the setting; and the extent to which the proposed development and the listed building will be seen in juxtaposition.*” This seems to allow for a relaxation of the policy criteria in scenarios where the setting of the building has been altered or where the character and quality of the building itself has been altered. I am of the view that these factors which are included out in para. 6.31 apply to this proposal, for the following reasons;

- The character of the building has been altered by the introduction of PVC products and downpipes.
- The setting has already been altered by the introduction of large obtrusive agricultural buildings to the rear of the property. There has also been approval granted for a dwelling with an 8m ridge height on the site in question and this would have (if it had been built) an impact on the setting as well.

I am therefore of the view that the interpretation of the policy criteria laid out in BH11 can be relaxed and that is something which is supported by the J&A of the policy itself.

It is my view therefore that whilst the proposal will have a negative impact on the setting of the listed building, it is not contrary to policy BH11 of PPS 6. In arriving at this view, I

have considered the following factors;

- The limited views of the listed building from the public perspective
- The negative impact on the character of the listed building which has already occurred by virtue of the works carried out
- The negative impact on the setting of the listed building which has already occurred by virtue of the erection of large agricultural buildings to the rear.
- The lack of any landscaped garden, parklands or demesne which make up the setting of the building
- The fact that approval has been granted for a dwelling with an 8m ridge height on the application site and this would also have a further negative impact on the setting of the listed building.

After considering all of the above factors, I am of the view that this proposal is not contrary to policy BH 11 when the policy is considered in its entirety, including the justification and amplification in paragraphs 6.28 - 6.32.

PPS 3 – Access, Movement and Parking

The proposal involves the utilisation of an existing agricultural access for vehicular access to the dwelling. The access will be taken onto a minor rural road, albeit one which has a relatively high volume of traffic.

DFI Roads have been consulted and have no objections.

Other Material Considerations

A total of 6 Neighbour Notification letters were sent out. There have been no third-party objections to the proposal.

Summary of Recommendation:

Approve is recommended

Given all the above considerations and policy assessment, I recommend the proposal is approved, subject to the following conditions.

Approval Conditions

Condition 1

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

Reason: Time Limit.

Condition 2

The finished floor levels of the dwellings hereby approved shall be as indicated on drawing no. 02 rev 1, uploaded to the MUDC planning portal on 1st December 2023

Reason: In the interest of visual amenity

Condition 3

The existing natural screenings along the south eastern and south western boundaries of this site, shall be permanently retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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

Condition 4

All proposed planting as indicated on the stamped approved drawing no. 02 rev 1, which was uploaded to the MUDC planning portal on 1st December 2023, shall be undertaken during the first available planting season following occupation of the dwelling hereby approved.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests of visual amenity.

Condition 5

The vehicular access including visibility splays 2.4 x 90 metres and a 90 metre forward sight distance, shall be provided in accordance with Drawing Nos. 01 (which was uploaded to the MUDC planning portal on 29/3/23) and drawing 02 REV 1 (which was uploaded to the MUDC planning portal on 1/12/23), prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Signature(s): Colin McKeown

Date: 18 April 2024

ANNEX	
Date Valid	30 March 2023
Date First Advertised	11 April 2023
Date Last Advertised	11 April 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 16 Ballyheifer Road Magherafelt Londonderry BT45 5DX The Owner / Occupier 15 Ballyheifer Road Magherafelt Londonderry BT45 5DX The Owner / Occupier 11A Ballyheifer Road Magherafelt Londonderry BT45 5DX The Owner / Occupier 11 Ballyheifer Road Magherafelt Londonderry BT45 5DX The Owner / Occupier 21 Ballyheifer Road Magherafelt Londonderry BT45 5DX The Owner / Occupier 2 Bracken Bawn Magherafelt Londonderry BT45 5FN	
Date of Last Neighbour Notification	16 April 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/1975/0317 Proposals: BUNGALOW Decision: PG Decision Date:</p> <p>Ref: LA09/2020/0924/F Proposals: Variation of condition 4 (ridge height & floor area) from planning approval LA09/2018/1296/O allowing a 8m ridge height and removal of floor area restriction Decision: PG Decision Date: 26-APR-21</p> <p>Ref: LA09/2023/0002/F Proposals: Erection of 10 semi-detached and 2 detached dwellings (total 12 no) with access, landscaping and associated site works as part of Phase 3 to existing housing</p>	

development

Decision:

Decision Date:

Ref: LA09/2016/0750/F

Proposals: Single storey extensions to rear and right hand gable of dwelling to create new kitchen, living and utility spaces

Decision: PG

Decision Date: 04-AUG-16

Ref: H/1984/0439

Proposals: GARAGE

Decision: PG

Decision Date:

Ref: H/1983/0221

Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2018/1670/F

Proposals: New hedgerow and fencing to field boundary and new gates to existing laneway

Decision: PG

Decision Date: 13-MAY-19

Ref: H/2010/0171/Q

Proposals: Proposed Residential Development

Decision: 211

Decision Date: 16-APR-10

Ref: H/2010/0177/F

Proposals: Construction of new housing development consisting of 38 No. dwellings and alteration to access of milesian manor nursing home

Decision: PG

Decision Date: 24-JAN-14

Ref: LA09/2023/0355/F

Proposals: Proposed two storey dwelling and garage to supersede LA09/2018/1296/O

Decision:

Decision Date:

Ref: LA09/2018/1296/O

Proposals: Site of proposed dwelling and garage.

Decision: PG

Decision Date: 07-JUN-19

Summary of Consultee Responses

Historic Environment Division (HED)-
DAERA - Coleraine-Consultee Response LA09-2023-0355-F.DOCX
DFI Roads - Enniskillen Office-Full Resp.docx
NI Water - Single Units West-LA09-2023-0355-F.pdf
Environmental Health Mid Ulster Council-2023.0355-.doc
Historic Environment Division (HED)-
Shared Environmental Services-LA0920230355F_Elimination_15062023.pdf
Historic Environment Division (HED)-
NIEA-PRT LA09-2023-0355-F SA.PDF
Historic Environment Division (HED)-

Drawing Numbers and Title

Site Layout or Block Plan Plan Ref: 02 Rev 1
Proposed Floor Plans Plan Ref: 03 Rev 1
Proposed Elevations Plan Ref: 04 Rev 1
Site Location Plan Plan Ref: 01
Proposed Floor Plans Plan Ref: 02
Proposed Elevations Plan Ref: 03
Cross Sections Plan Ref: 04
Garage Plans Plan Ref: 05
Landscaping Plan Plan Ref: 06
Cross Sections Plan Ref: 05 Rev 1

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.7
Application ID: LA09/2023/0365/F	Target Date: 13 July 2023
Proposal: Proposed farm storage shed	Location: 200M West of 24 Reenaderry Road Coalisland
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: John Duffy 4 Reenaderry Road Coalisland BT71 5DT	Agent Name and Address: Alan Fox 4 Bracken Court Coalisland BT71 4SE
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DAERA - Omagh	LA09-2023-0365-F.docx
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0365-F.docx
	NIEA	PRT LA09-2023-0365-F.pdf
	DFI Roads - Enniskillen Office	Roads Consultation - Full response.docxDC Checklist.doc

Representations:

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

Summary of Issues

There were 3 objections received in relation to the proposal. The main issues raised in these objections were:

- The inaccuracies in the forms/plans submitted
- Affects local ecology
- Increase of traffic
- Noise Nuisance
- Out of character with area
- General dislike of proposal
- Loss of privacy
- Neighbour notification

Each of these will be discussed in detail later in the report.

Characteristics of the Site and Area

The site is located approx. 200m West of 24 Reenaderry Road, Coalisland. The red line of the site is a portion of a larger agricultural field and is set back slightly from the roadside. The site itself is flat throughout and has mature boundaries to the south and west of the site. There appears to be a forested area to the NW of the site. The surrounding area is rural in general, however appears to be under more development pressure with a number of roadside dwellings and buildings along this stretch of Reenaderry Road. "Tyrone Trailers" is located to the SW of the site and it an open yard which appears to be used for the storage of trailers and a number of existing sheds on site.

Description of Proposal

Full planning permission is sought for a proposed farm storage shed.

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. At the time of writing, there were 3 objections received in relation to the proposal. Some of the objections note that there were inaccuracies on the forms, noting that the P1C form is used to apply for a dwelling on a farm. I am content that this form is also used to provide the farming business ID for an agricultural building and that the applicant has used this to provide their DARD business ID number for DAERAs consideration.

I am content that the description of the proposal is clear that it is for an agricultural building and not a dwelling on a farm. Neighbour notification was carried out and any identified occupiers on neighbouring land were notified as per legislation requirements. The objection notes that they own land directly to the rear of the site, however if it is not

occupied lands, there is no obligation to notify other than through a local newspaper. The applicant/agent also did not fill in the correct neighbours to be notified on the P1 form, however the onus is on the Council and the case officer dealing with the application to ensure that correct neighbour notification was carried out. I am content that the correct neighbours have been notified as per legislation. One of the objections refers to the question of land ownership. They have provided folio maps which shows the land in question, however I am content that the red line of the application site does not include the lands referred to within these folio maps. Land ownership is also a civil matter and therefore is not considered a planning consideration.

A bulk of the objections refers to the priority species which the site is home too. NIEA would be the relevant body to deal with these concerns and as noted later in the report, they requested further information, however as the principle of development was not agreed, this information was subsequently not sought from the agent/applicant. If approval were to be forthcoming, I would advise that further checks are carried out with NIEA to ensure that relevant protection for these protected species is considered appropriately as the site is located just outside the RAMSAR and a number of priority habitats are identified directly to the west of the site on NIEA map. This applies also to a number of other points referred to within the objections. If the principle was agreed, Environmental Health may be worth consulting to comment on potential nuisances arising from the proposed development.

Planning History

M/2004/1539/O – Proposed dwelling - 200M West Of 24 Reenaderry Road, Derrylaughen, Coalisland – PERMISSION GRANTED

M/2008/0526/F - Proposed dwelling and garage - 200M West Of 24 Reenaderry Road, Derrylaughen, Coalisland – PERMISSION GRANTED

M/2010/0695/F - Proposed amendment to house design to that previously approved under M/2008/0528/F - 200M West Of 24 Reenaderry Road, Derrylaughen, Coalisland – PERMISSION GRANTED

Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- PPS 2: Natural Heritage
- Local Development Plan 2030 – Draft Plan Strategy

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being in the rural countryside and has no other zonings or designations within the Plan. The site is located just outside the RAMSAR and Area of Constraint on Mineral Developments.

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

The 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.

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy.

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

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

With regards to criteria A, DAERA were consulted and confirmed that the farm business submitted allocated Sept 2022 and thus it cannot be confirmed that the farm business is active and established for 6 years and thus this criterion is not met. The supporting statement provided details that the applicant currently has no animals but now has a cattle herd and sheep flock number which are both under the business ID provided originally. Both of these numbers were provided in Sept 2022 also and thus do not help with support any claim that the business has been active and established for plus 6 years. In terms of the need for the building, the supporting statement adds that the proposed building will be used for the storage of fodder, machinery and livestock. Additional supporting information was provided by Corr & Corr Chartered Accountants which notes that they “*can confirm that Reenafarm Organics TA The Soil Man Ltd is*

registered company. The Company number is NI 626299. The Company has been active and trading since incorporation on 22nd August 2014”. They add that the companies trading activities and SIC codes are listed as Raising of sheep and goats and mixed farming. Further checks were carried out and it appears that the business changed in 2022 from a previous business “THE-SOILMAN.CO.UK LTD” which had been operating from 2014 to “REENAFARM ORGANICS TA THE SOIL MAN LTD”, see figure 1 below. From my findings, I would agree that the farm business has begun in 2022 and therefore does not have the 6 years required to prove it is an active and established business.

Company type Private limited Company	Incorporated on 22 August 2014
Accounts	Confirmation statement
Next accounts made up to 31 August 2023 due by 31 May 2024	Next statement date 28 September 2024 due by 12 October 2024
Last accounts made up to 31 August 2022	Last statement dated 28 September 2023
Nature of business (SIC)	
01450 - Raising of sheep and goats 01500 - Mixed farming	
Previous company names	
Name	Period
THE-SOILMAN.CO.UK LTD	22 Aug 2014 - 20 May 2022

Image 1 – Information surrounding the business

With regards criteria B I am content the proposal may be appropriate for the site given the rural location and it integrates into the local landscape. The character and scale of the proposal is typical of an agricultural building in a rural setting. It is set back from the roadside and has strong boundaries already in place, with the forested area to the rear providing a suitable backdrop, as shown below in image 2. I am also content that criterion C could be met at this site if the principle was agreed. NIEA have responded on the proposal asking for further information, however it was considered the principle of development has not been met with the proposal and thus further information from the applicant/agent has not been sought in this regard. In relation to the amenity on residential dwellings, I am content that the site is sited far enough away from any 3rd party residents to be affected by the proposal.



Image 1 – shows the site with the forested area to the rear

The agent/applicant has confirmed that this building would be the first building on the farm and as such there are no suitable existing buildings that could be used. The design and materials are sympathetic and typical of those for agricultural buildings. The proposal is not sited beside any existing farm or forestry buildings. As noted previously, this would be the first farm building on the farm. The site is located approx. 0.7miles from the applicant's home address as noted on the P1 form.

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. It is considered the design and materials are traditional to farm buildings and are acceptable in that respect. It is considered the proposal could integrate into the locality if the principle of development was agreed without detrimental impact and would not appear overly prominent given the existing boundary treatments.

This proposal intends to create a new access onto Reenaderry Road. If approval were to be forthcoming, I would recommend that DfI Roads were consulted and comments were taken on board if required.

In conclusion, the proposal is that it has not been demonstrated that the farming

business is established and the proposal is not sited beside existing agricultural buildings and as such is presented to the planning committee as a refusal.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

Contrary to CTY 12 - Agricultural and Forestry Developments in PPS 21 - Sustainable Development in the Countryside in that the development does not meet the following criteria in CTY 12:

1. It has not been demonstrated there is an established agricultural holding for the past 6 years.
2. The shed is not sited beside existing farm buildings on the farm holding.

Signature(s): Sarah Duggan

Date: 23 April 2024

ANNEX	
Date Valid	30 March 2023
Date First Advertised	11 April 2023
Date Last Advertised	11 April 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier No Neighbours</p>	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2018/1233/O Proposals: Substitution of the 2 dwellings and garages approved under reference M/2010/0714 with a dwelling and garage Decision: Decision Date:</p> <p>Ref: M/2005/1962/F Proposals: Proposed shed to service lorries & trailers - and area for storage & parking Decision: PG Decision Date: 29-JUN-06</p> <p>Ref: LA09/2021/1166/F Proposals: Extension to existing manufacturing facility for the storage of materials. Decision: PG Decision Date: 17-NOV-21</p> <p>Ref: M/2000/0984/F Proposals: Alterations to existing dwelling Decision: PG Decision Date: 28-NOV-00</p>	

Ref: LA09/2018/1374/F

Proposals: Proposed erection of a single storey artist's studio

Decision: PG

Decision Date: 11-DEC-18

Ref: M/2000/0813

Proposals: Alteration to Dwelling

Decision: 208

Decision Date: 08-AUG-00

Ref: M/2006/0382/F

Proposals: Proposed dwelling

Decision: PG

Decision Date: 18-DEC-06

Ref: LA09/2019/1317/F

Proposals: Single storey side extension to dwelling to allow bedroom and bathroom

Decision: PG

Decision Date: 19-NOV-19

Ref: M/1979/0230

Proposals: DWELLING HOUSE

Decision: PG

Decision Date:

Ref: M/2006/0391/O

Proposals: Proposed dwelling & garage

Decision: PR

Decision Date: 26-FEB-07

Ref: M/2010/0695/F

Proposals: Proposed amendment to house design to that previously approved under M/2008/0528/F

Decision: PG

Decision Date: 10-NOV-10

Ref: M/2008/0526/F

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 12-SEP-08

Ref: M/2004/1539/O

Proposals: Proposed dwelling

Decision: PG

Decision Date: 05-APR-05

Ref: LA09/2023/0939/F

Proposals: Retention of agricultural building to be used for agricultural storage

Decision:

Decision Date:

Ref: LA09/2023/0365/F

Proposals: Proposed farm storage shed

Decision:

Decision Date:

Ref: M/1987/0049

Proposals: NEW BUNGALOW

Decision: PG

Decision Date:

Summary of Consultee Responses

DAERA - Omagh-LA09-2023-0365-F.docx

DAERA - Omagh-LA09-2023-0365-F.docx

NIEA-PRT LA09-2023-0365-F.pdf

DFI Roads - Enniskillen Office-Roads Consultation - Full response.docxDC

Checklist.doc

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Site Layout or Block Plan

Notification to Department (if relevant)

Not ApplicableNot Applicable

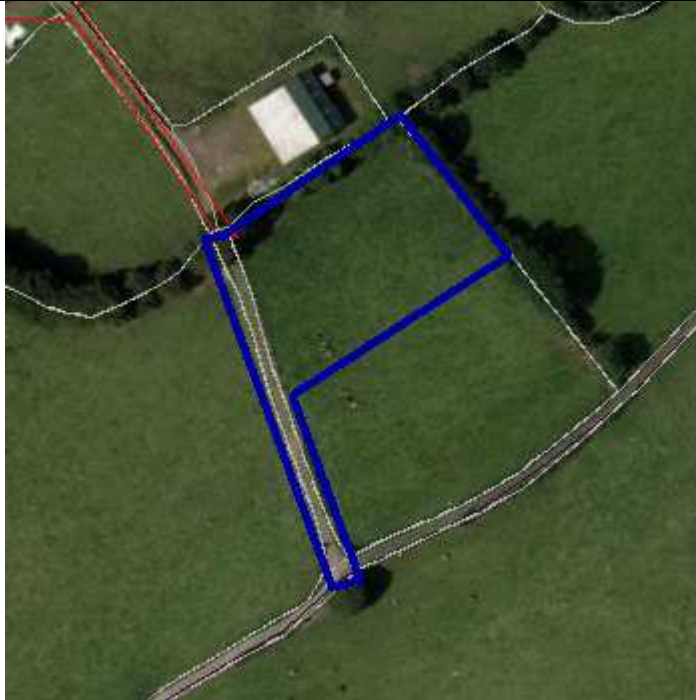


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.8
Application ID: LA09/2023/0390/O	Target Date: 19 July 2023
Proposal: Proposed site for dwelling and garage on a farm	Location: Approx 250M South West of 24 Rarogan Road Garvagh Ballygawley Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Patrick J & E O'Hagan 174 Newtownsaville Rd Eskragh BT78 2RJ	Agent Name and Address: Mr DESMOND O'NEILL 17 MAIN STREET DROMORE BT783AE
Executive Summary: Site is not with an established group of buildings, it is sited with an existing building on the farm as opposed to the main farm grouping for health and safety reasons.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads require site drawings - up load to portal.
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0390-O.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-23-0390.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0390.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	

Representations:

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

Summary of Issues

Dwelling will be sited with one building as opposed to a group of buildings due to health and safety reasons at the main farm grouping.

Characteristics of the Site and Area



The site is located within the rural area approximately 4km north of Augher along the Rarogan Road and is outwith any settlement limits as set down in the Dungannon and South Tyrone Area Plan 2010. The site is a 0.32ha parcel of land, rectangular in shape and accessed via an existing laneway that serves an existing yard with a large shed with a smaller boiler house and a container to the east (rear) of the shed. There is a concrete yard to the front of the shed. The site is located approximately 75m from the public road. The northern and eastern boundaries of the site are defined by mature deciduous trees. The southern boundary of the site is undefined as it is cut out of a larger agricultural field. The eastern boundary is defined by a post and wire fence which runs along both sides of the access laneway. The site is elevated from the public road. There is little recent development pressure in the immediate area, with existing development taking the form of mostly single storey dwellings with associated outhouses. A wind turbine lies 100m to the north-west of the site.

Description of Proposal

Proposed site for dwelling and garage on a farm

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.

Relevant history

Ref: M/2013/0080/F

Proposals: Erection of a wind turbine (250kw max) with a tower height of 40m

Decision: PG

Decision Date: 01-AUG-13

Representations

No neighbouring properties were identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. To date no letters of representation have been received.

Dungannon and South Tyrone Area Plan 2010

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and is not subject to any area plan designations, as such, existing planning policies should be applied in this assessment.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS 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. It does not present any change in policy direction therefore existing policy applies.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves utilising an existing access onto Rarogan Road. DFI Roads have been consulted and have no objections subject to a plan at 1:500 scale to be submitted as part of the reserved matters application, showing sightlines of 2.4m x 45m and a forward sight distance of 45m in both directions as per the RS1 form.

Planning Policy Statement 21 - Sustainable Development in the Countryside

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside if it is a dwelling on a farm in accordance with Policy CTY 10.

CTY 10 of PPS21 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
DAERA have been consulted and have confirmed that the Farm Business ID has been in existence for the required 6 year period. They have also confirmed that payments are currently being claimed by the farm business and that the proposed site is located in a field which is under the control of the farm business identified on the P1C form. From this I am satisfied that the farm business is currently active and 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

I have carried out a planning history search of the applicants holding and I am satisfied there are no planning approvals that could be considered as development opportunities to be sold/transferred off within the past ten years. The agent has also provided information relating to farmlands in the Fermanagh and Omagh District Council area, which confirms there have been no development opportunities sold off here.

(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.

The proposed site is located directly adjacent to and south of an existing farm building. Although there is no planning history for the existing shed, invoices for

the floor and wall panels as well as the 2nd stage payment for an agricultural shed have been provided dated 30th March 2017. Additionally, a google streetview image dated September 2017 has been provided showing the building on site at this time. I am content the building has been on site for more than 5 years and therefore it is immune from enforcement action.

CTY 10 states ‘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 demonstrable health and safety reasons’. There is an existing group of buildings within the Fermanagh and Omagh District Council area and the agent has been asked for justification as to why they cannot site the farm dwelling there. He has indicated that currently there exists a light engineering business located within the existing farm complex and immediately to the south there is a working quarry. Mr. and Mrs. O'Hagan and their young family consider that location to be totally unsuitable due to potential noise, dust, and traffic emanating from the existing businesses. Further clarification was sought as to why siting here was unacceptable, and a further planning statement has been received and provides a more in-depth analysis focusing on these safety concerns, as shown in the below Figure 1 and Figure 2.



Fig 1



FIG 2 Photo 1 (See Fig 1 For Photo Location)

Light Engineering Business Expansion:

The presence of a light engineering business within the existing farm complex, poised for major expansion, poses significant safety risks for young children. These businesses entail heavy machinery, equipment, and industrial processes, introducing hazards such as sharp objects, chemicals, and moving parts. Children, in their natural curiosity, may inadvertently venture into areas where these activities occur, elevating the risk of accidents. Moreover,

the expansion may introduce additional risks such as construction debris and heightened machinery movement, further amplifying the potential for harm.

Proximity to a Public House and Lounge:

The close proximity of a public house and lounge raises concerns regarding increased vehicular traffic, particularly during weekends, peak hours, and late evenings. Heightened traffic activity poses risks to young children playing or walking nearby, as drivers/passengers may be distracted or impaired due to alcohol consumption, leading to accidents or collisions. Additionally, the presence of alcohol-related activities nearby creates an environment that is not conducive to the safety and well-being of young children.

Adjacent Working Quarry:

The immediate vicinity of a large working quarry introduces several safety hazards for young children residing in the area. These hazards include:

- **Noise:** Quarry operations often generate loud noise from machinery and transportation vehicles. Prolonged exposure to such noise levels can have adverse effects on children's hearing health and overall well-being.
- **Dust and Air Quality:** Quarrying activities can produce significant amounts of dust and airborne particulates, posing respiratory health risks, particularly for young children whose respiratory systems are still developing. Dust particles can exacerbate conditions such as asthma and allergies, leading to potential health complications.
- **Traffic:** The transportation of materials to and from the quarry involves large lorries and heavy machinery, constantly crossing the public road from Quarry 2 to the loading bay, increasing traffic congestion and posing dangers to pedestrians, especially children crossing roads or playing near roadways. Moreover, the presence of large tailing ponds within the quarry compounds the safety concerns. These ponds, with their considerable depth and chemical content, pose a serious risk to children, who may be naturally drawn to them but are unaware of the inherent dangers they present.

I accept there are viable health and safety reasons for not siting with the buildings here, in close proximity to a quarry, engineering works and public house. The application site as submitted is positioned sensitively with an existing shed to the rear and I believe that a new dwelling here would visually integrate into the existing landscape, without having an adverse impact on the surrounding rural area, therefore the application meets this policy test.

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

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13

cannot be dealt with under this application but will be considered under any RM or Full application. When travelling in both directions along the dead-end Rarogan Road a dwelling here will read with the existing building to the rear as well as against a strong backdrop of mature trees which should be conditioned to be retained. I do not feel a ridge height condition is necessary provided the northern boundary is retained, nor is a siting condition necessary as the site is located in the northern portion of the existing agricultural field.



Fig 3 – View of site from access laneway

Existing and proposed levels will have to be provided with any approval, along with a comprehensive landscaping plan showing what vegetation is to be retained and what additional planting is proposed. I have no concerns with a dwelling here integrating in the landscape and I am satisfied the proposal meets policy CTY 13.

CTY 14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A proposed dwelling on this site will not be unduly prominent in the landscape as it will read with the existing development in the vicinity when seen from any viewpoints. A dwelling here will not contribute to a localised sense of build-up and respects the tradition pattern of settlement. I have no concerns with the creation of ribboning and am content that the proposed dwelling in this location will not erode the rural character of this area. I consider the proposal complies with CTY 14.

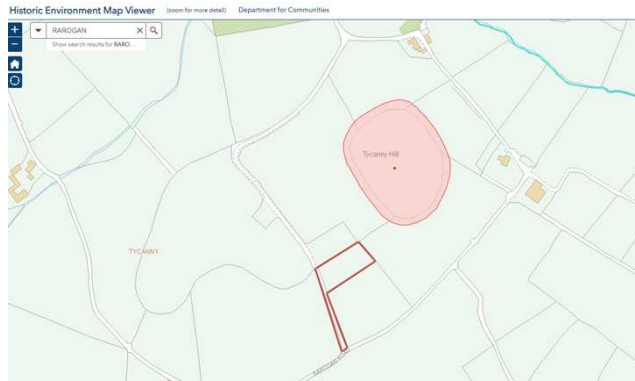
Other Considerations

Environmental Health Department were consulted due to the fact the site is located approximately 100m from a wind turbine. The agent has confirmed that the applicants own this turbine. A Noise Assessment was requested and subsequently provided. The Environmental Health Department is now satisfied that the report demonstrates that

none of the derived daytime or night time limits are exceeded at the proposed dwelling for someone with a financial interest in the existent turbine.

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

Natural Environment Division (NED) map viewer available online has been checked and did not identify any natural heritage interests on site to raise any concerns in relation this proposal. A Scheduled Zone TYR052:029 lies approximately 65m to the north-east of the site as shown below. It is a large oval enclosure set around the summit of a hill with good views all round, especially to the north, south and east. The scheduled area encloses the earthwork and a zone of 10m wide to the exterior. I am content that the distance from this scheduled zone as well as its orientation from it mean that the proposal should not have a negative impact on it.



From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns with the site as submitted. In addition, I have no ecological or residential amenity concerns. As I consider the proposal is acceptable under CTY10 and it meets CTY13 and 14 of PPS21, I recommend approval.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby

permitted, shall be begun by whichever is the later of the following dates:-

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

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

Condition 2

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

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

Condition 3

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 45.0m and a forward sight distance of 45.0m shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter. This plan shall show the access to be constructed and other requirements in accordance with the RS1 form uploaded to the planning portal.

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

Condition 4

No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the existing and proposed contours, the finished floor level(s) of the proposed building(s) and the position, height and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

Condition 5

All existing trees and hedging on the northern and eastern boundaries of the site outlined red on drawing No. 01 date received 04 APR 2023 shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.

Reason: In the interests of visual amenity and to ensure the development integrates into the countryside.

Condition 6

During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage

shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development; details of a native species hedge to be planted to the rear of the visibility splays and along all new boundaries of the site. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying within 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

Signature(s): Deirdre Laverty

Date: 17 April 2024

ANNEX	
Date Valid	5 April 2023
Date First Advertised	17 April 2023
Date Last Advertised	17 April 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/2013/0080/F Proposals: Erection of a wind turbine (250kw max) with a tower height of 40m Decision: PG Decision Date: 01-AUG-13</p> <p>Ref: LA09/2023/0390/O Proposals: Proposed site for dwelling and garage on a farm Decision: Decision Date:</p>	
Summary of Consultee Responses	
<p>Environmental Health Mid Ulster Council- DFI Roads - Enniskillen Office-Dfl Roads require site drawings - up load to portal. DAERA - Omagh-LA09-2023-0390-O.docx Environmental Health Mid Ulster Council-Planning Response LA09-23-0390.pdf Environmental Health Mid Ulster Council-LA09.2023.0390.pdf Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council- DFI Roads - Enniskillen Office-Outline resp.docx Environmental Health Mid Ulster Council-</p>	

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.9
Application ID: LA09/2023/0659/O	Target Date: 27 September 2023
Proposal: Infill site for dwelling and garage under CTY 8	Location: Lands Approx. 50M North of 152 Moneymore Road, Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mrs Dorothy Bradley 152 Moneymore Road Magherafelt BT45 6HL	Agent Name and Address: Mrs Katherine McCann 1a Loves Road Magherafelt BT45 6NP
Executive Summary: <p>This application is brought before the planning committee with a recommendation for refusal. The proposal is contrary to Policies CTY 8 and CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development. The proposal is also contrary to CTY 2a of PPS 21 for a cluster dwelling, in that the cluster does not appear as a visual entity in the local landscape and nor does it have a valid focal point.</p>	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site is located in the rural countryside approximately 1.5 miles south and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015. The red-lined site boundary encompasses a 0.84 hectare area, hilly agricultural field which is adjacent to, though completely screened from the Moneymore Road. Adjacent and north of the site is dwelling no. 148D. Adjacent and south of the site is dwelling no. 152, followed by no. 152a south of this again. The site is enclosed by thick screening in the form of mature trees along all boundaries. The wider surrounding environment consists mostly of agricultural fields with a number of dwellings and farm buildings dotted along this stretch of road, particularly toward the southern end.

Description of Proposal

This is a full application for a proposed infill site for a dwelling and garage under Policy CTY 8.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

considerations indicate otherwise.

Planning Histories

H/2002/0628/O – Site of dwelling and garage – south west of 150 Moneymore Road, Magherafelt – Permission Granted 21/11/2002

H/2003/0447/F – Dwelling and garage with attached granny flat – south west of 150 Moneymore Road, Magherafelt – Permission Granted 05/03/2004

H/2012/0430/F – Retirement dwelling and garage within a farm grouping utilising existing access lane within existing cluster like pattern to Moneymore Road

Representations

To date no third party representations have been received.

Magherafelt Area Plan 2010

The site is located in the rural countryside approximately 1.5 miles south and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. The proposal involves the construction of a new access to a public road. A consultation was made to DfI Roads who provided no objection to the proposed. In light of this, I am content that the proposed complies with PPS 3.

PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 states that planning permission will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. This application is therefore considered under CTY 8 – Ribbon Development.

In terms of the plot size, I am content that the site would be able to accommodate a dwelling. For the purposes of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. I am content that there are 3 substantial buildings; these are no. 148D adjacent and north of the site, no. 152 adjacent and south, and no. 152A south of this again. While it is considered that these buildings are substantial, only the curtilage of no. 148D adjacent and north of the site has a road-fronting boundary. The curtilages of nos. 152 and 152A to the south of the site are set back and separated from the road by a thick forested area of mature trees which are not deemed to be a part of the domestic curtilages of these properties. Ortho satellite imagery supports this finding. It is therefore the case that the application is without a substantial and built up frontage that includes a line of 3 or more buildings along a road frontage. The proposed fails to comply with Policy CTY 8 of PPS 21.

Consideration is also afforded to Policy CTY 2a, which allows for a dwelling at an existing cluster of development subject to criteria as addressed below:

From a satellite perspective it can be argued that there is a cluster of four buildings (of which at least three are dwellings). These can include no. 148D adjacent and north of the site, nos. 152 and 152A to the south of the site and 148a to the north east of the site on the other side of the road. However, I do not believe that the cluster appears as a visual entity in the local landscape. This is notable when driving south along the Moneymore Rd where the mature road-side screening renders nos. 152 and 152a out of sight, meaning there is no apparent cluster of buildings. Contrary to the supporting statement provided by the agent, I do not agree that the Air BnB at no. 148D (Blanket Nook) is a valid focal point for the purposes of a social / community building / facility. The application site is bounded on two sides, north and south, by other development. 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 I believe a well designed dwelling with an appropriate ridge height would not adversely impact on residential amenity.

The proposal fails to meet Policy CTY 2a in that it does not appear as a visual entity in the local landscape and nor does it have a valid focal point.

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. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a design, size and scale that is comparable to the dwellings in the vicinity. The site is complete with strong natural boundaries in the form of mature trees along all its boundaries which renders it completely out of site from the main road. In the event of an approval of a dwelling at this site, it is expected that most of these trees could be retained to provide for excellent screening. The site would not rely heavily on new landscaping for integration. The proposal complies with CTY 13 at this outline stage.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As provided above, a dwelling at this site would not appear prominent in the landscape. However, given the proposal creates a ribbon of development, the proposal does not comply with Policy CTY 14.

Other Considerations

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

There are no issues pertaining to amenity at the site.

Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application is refused on the grounds that it does not meet Policies CTY 2a, CTY 8 and CTY 14 of PPS 21.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY 8 and Policy CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development.

Reason 2

The proposal is contrary to CTY 2a of PPS 21 in that the cluster does not appear as a visual entity in the local landscape and nor does it have a valid focal point.

Signature(s): Benjamin Porter

Date: 17 April 2024

ANNEX	
Date Valid	14 June 2023
Date First Advertised	27 June 2023
Date Last Advertised	27 June 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 152 Moneymore Road Magherafelt Londonderry BT45 6HL</p> <p>The Owner / Occupier 148A Moneymore Road Magherafelt Londonderry BT45 6HL</p> <p>The Owner / Occupier 150 Moneymore Road Magherafelt Londonderry BT45 6HL</p> <p>The Owner / Occupier 152A Moneymore Road Magherafelt Londonderry BT45 6HL</p> <p>The Owner / Occupier 148D Blanket Nook Moneymore Road Magherafelt Londonderry BT45 6HL</p>	
Date of Last Neighbour Notification	6 November 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/2005/0618/O Proposals: Site of Dwelling and Garage Decision: PG Decision Date: 21-OCT-05</p> <p>Ref: H/2002/0423/O Proposals: Site of dwelling Decision: PR Decision Date: 05-JUN-03</p> <p>Ref: H/2003/1109/O Proposals: Site of dwelling and garage. Decision: Decision Date:</p> <p>Ref: H/2009/0136/F</p>	

Proposals: Revised house type to approved dwelling ref: H/2008/0014/RM. - Revisions include natural stone finish and 1.3m increase to ridge height and reduced house footprint.

Decision: PG

Decision Date: 28-MAY-09

Ref: LA09/2023/0659/O

Proposals: Infill site for dwelling and garage under CTY 8

Decision:

Decision Date:

Ref: H/2003/0447/F

Proposals: Dwelling and garage with attached granny flat

Decision: PG

Decision Date: 05-MAR-04

Ref: H/2012/0430/F

Proposals: Retirement dwelling and garage within a farm grouping utilising existing access lane within existing cluster like pattern to Moneymore Road.

Decision: PG

Decision Date: 10-DEC-13

Ref: H/2002/0628/O

Proposals: Site of Dwelling and Garage

Decision: PG

Decision Date: 21-NOV-02

Ref: H/2005/1284/F

Proposals: 11kv Supply

Decision: PG

Decision Date: 03-APR-06

Ref: H/2000/0287/O

Proposals: Site of single storey split-level dwelling

Decision: PG

Decision Date: 17-OCT-00

Ref: H/2008/0014/RM

Proposals: Erection of 1no. dwelling

Decision: PG

Decision Date: 18-AUG-08

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.10
Application ID: LA09/2023/0775/F	Target Date: 14 February 2024
Proposal: Proposed supermarket and petrol forecourt, additional three number retail units with associated car parking, underground fuel tanks and free-standing forecourt canopy. Public realm landscaping fronting Church Street. Servicing to the three retail units via Loran Way. Alteration works to proposed new site access via Fountain Road, previously approved under LA09/2017/1083/F	Location: Lands at 2-10 Church Street/Fountain Road Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: TJ Hamilton 18 Dungannon Road Cookstown	Agent Name and Address: Clarman Ltd Unit 1 33 Dungannon Road Coalisland BT71 4HP
Executive Summary: <p>This application is being presented to members as it is a Major planning application as per The Planning (Development Management) Regulations (NI) 2015. No objections have been received. The proposal is an alteration of an extant planning application LA09/2017/1083/F and significant weight has been applied to this in the assessment of this application. Consultations with relevant consultees listed below has been carried out and no objections have been received with recommended conditions provided for any approval. No third party objections have been received. This report demonstrates that the proposal fully complies with the relevant policy and is recommended for approval.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0775 F Supermarket Fountain Road Cookstown.doc
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	dfi roads response uploaded on 3/10/23 Gerry
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0775 F 1 Supermarket Fountain Road C'town.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Statutory Consultee	Rivers Agency	549122 - Final reply.pdf
Statutory Consultee	Historic Environment Division (HED)	

Statutory Consultee	Historic Environment Division (HED)	
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		
<p>This site was previously used by the applicant for the sale of both cars and static caravans. The previously used showroom is still standing on the site. There is a service and display yard to the rear of the single storey disused car showroom. To the north of the site are semi-detached dwelling units sitting front on to the Fountain Road. There is also a public house and restaurant. There are two detached single storey dwellings to the immediate north of the eastern part of the development. To the east of the site are single residential dwellings. To the west of the site are terraced residential dwellings. To the immediate south of the site is an overgrown strip of land beyond which is a grassed area with detached dwellings beyond that again. The site itself is relatively flat in level.</p> <p>The site fronts on to both Church Street and Fountain Road. Whilst the vast majority of immediate land uses bordering with the site are residential, there are some commercial uses, most notably the public house and other commercial units on the opposite side of Church Street.</p>		
Description of Proposal		
<p>Proposed supermarket and petrol forecourt, additional three number retail units with associated car parking, underground fuel tanks and free-standing forecourt canopy. Public realm landscaping fronting Church Street. Servicing to the three retail units via Loran Way. Alteration works to proposed new site access via Fountain Road, previously approved under LA09/2017/1083/F.</p>		
Planning History		
<p>LA09/2017/1083/F- Proposed retail development to include supermarket and 2.no retail units with associated carparking, site access and landscaping. Permission Granted</p>		
Planning Assessment of Policy and Other Material Considerations		
Policy Consideration		

Regional Development Strategy 2035
Strategic Planning Policy Statement
Cookstown Area Plan 2010
A Planning Strategy for Rural Northern Ireland (DES 2- Townscape)
PPS 3: Access, Movement and Parking
PPS 6: Planning, Archaeology, and the Built Heritage
PPS 15 (Revised) Flooding

The site is located outside the town centre of Cookstown as identified in the Cookstown Area Plan (CAP) 2010 and is on “white land”.

The RDS promotes economic development within the Hubs and for such uses should be considered first in the decision making process. Operational policy as contained in the SPPS adopts a town centre first approach for the location of future retailing and other main town centre uses. It also promotes the adoption of a sequential approach to the identification of retail and main town centre uses in Local Development Plans. Planning authorities will require applications for main town centre uses to be considered in the following order of preference:

- Primary retail core;
- Town centres;
- Edge of centre; and
- Out of centre locations, only where sites are accessible by a choice of good public transport modes.

The site is identified outside of the town centre some 600m away from the town centre boundary, although still in a central location within the urban area. The CAP reached its notional end date in 2010 and most of its retail opportunity sites have been developed i.e. Broadfields Retail Park.

In the absence of a current and up-to-date LDP, councils should require applicants to prepare an assessment of need which is proportionate to support their application. The SPPS states this may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites.

The application site was used for the sale of vehicles and storage of caravans for sale. Car sales is classed as Sui Generis in The Planning (Use Classes) Order (NI) 2015. There are a number of appeal cases determined by the Planning Appeals Commission where the Commissioner has taken the stance that whilst the then prevailing Planning Policy Statement 5: Retailing and Town Centres made no specific reference to vehicle sales the Commissioners in each of the following appeals 2011/A0021, 2008/E022, 2007/A1352, 2006/A1614 accepted the primary use of the site for the sale of commercial vehicles is clearly a form of retail activity. However, I would advise against the notion of assuming that because car sales took place redevelopment of the site for retail sales would accord with Policy. It must therefore accord with the provisions of the SPPS.

Assessment of Alternative Sites

It is important to note that permission exists on the site for retail development to include supermarket and 2.no retail units under planning reference LA09/2017/1083/F and the principle of the development and the suitability of the site for a retail use is acceptable at this location. That application is an extant permission and could be lawfully implemented should the developer wish to do so. As part of this application the applicant referenced a planning appeal (2014/AO191) for a similar proposal which was the reconfiguration of a retail unit, where there was no change of use and no increase in floor space and the commission determined that the sequential test set out in paragraph 6.280 and 6.281 is not applicable, I am off the view that this proposal is of a similar nature and can rely on the commission's decision. The applicant has already demonstrated that there are no suitable sites for a retail development of this size and scale available in the town centre or closer to the town centre as part of the previous application on site. As such, it is my view that an assessment of alternative sites is not required in these circumstances given the proposal does not involve a change of use or an increase in floorspace, the sequential test set out in paragraph 6.280 and 6.281 is not applicable.

Retail Need and Retail Impact

Paragraph 6.282 states that in the absence of a current and up-to-date LDP, councils should require applicants to prepare an assessment of need which is proportionate to support their application. This may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites.

Again, it is important to note that the applicant has the fall back of developing the extant approval on site which is for a slightly larger net retail floorspace development. The difference between the two proposals is approximately 30SqM. This new proposal is a reduction of the supermarket floorspace and the addition of approximately 467SqM net retail unit. That being said, the applicant has provided an assessment of the need for the proposal and addressed the factors which are required to be addressed in a retail impact assessment as set out in paragraph 6.290 of the SPPS.

In identifying the need, the applicant noted that the Council produced its own Retail & Commercial Leisure Capacity Study (RCLCS) by Nexus in 2020. This report identified there was a surplus expenditure in the Council area in convenience spending terms of 16.9 million in 2025 which can support between 1,300 and 2,300SqM net floorspace. The RCLC included the previous approval on site and identifies there is a need for the convenience floorspace at the site.

The applicant also identifies two former shops (Newells Store and Costcutter) on Church street that have closed and resulted in a reduced floorspace in this part of Cookstown by approximately 524SqM net. It is stated that this proposal provides a qualitative improvement by providing a new single, modern supermarket.

It is noted that Cookstown has a good range of shops with ASDA, Tesco, Marks & Spencer's and Lidl all offering quality convenience shopping at a variety of locations. The case officer on the previous application identified this and noted that is more important to considered whether there is headroom to support the additional development without leading to town centre closures, assessing the retail impact of this proposal.

The applicant has provided an updated Retail Impact Assessment which has been reworked to reflect the smaller convenience floorspace proposed, which leads to a reduced turnover to that which was considered acceptable in the previous extant permission. The planning department has reviewed this updated retail impact assessment which was based on the same principles employed on the previous approval, including the catchment area which extends to Donaghmore, Stewartstown and Coalisland, to the edge of Lough Neagh to the east and to Moneymore in the north and Pomeroy in the West.

It is estimated that the turnover of store would expect to be about £3.3 million in 2025 with Retail Unit 1 & 2 expecting to be about 0.9 million. The turnover of Retail Unit 3 would be about £0.9 million in 2025 with the entire development's turnover estimated to be about £5.2 million in 2025. It is anticipated that the majority of customers using the proposal would come from within the catchment area identified within the retail statement. The retail statement identifies that the majority of the proposals trade is diverted from shops in Cookstown Town Centre anticipating that the loss of trade would be between 4% and 8%. 55% of the trade for the proposed shop will come from Cookstown Town Centre with 30% coming from out of town centre shops in Cookstown. The impact of these is to be 4% of each. The proposal will draw 5% of its turnover from 5-10 minute catchment area and another 5% from the 10-15 minute catchment area. The impacts on the small local shops are set out and all are less than 6% and not considered harmful. The impacts of this proposal are not likely to be harmful and lead to any major closures, albeit that small convenience shops outside the town centre, but close to this store, may well suffer from the competition. This could result in single shops closing. However, it is not a duty on the Council to prevent such competition but to ensure that the town centres, and indeed local provision across the District is maintained.

From this, I am content that the proposal has complied with the SPPS and the retail assessment submitted complies with paragraph 6.290. Paragraph 6.291 of the SPPS states, where an impact on one or more of these criteria is considered significantly adverse or where in balancing the overall impacts of each of the criteria the proposed development is judged to be harmful, then it should be refused. I am content that it has been demonstrated that the proposal will not cause any harm in retail terms in either respect.

A Planning Strategy for Rural Northern Ireland

Certain policies contained within A Planning Strategy for Rural Northern Ireland are still relevant considerations and have not been superseded by other policies. One consideration is Policy DES 2 Townscape which requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. As has been previously mentioned there is an extant permission on site for a similar proposal however, it is my opinion that this proposal is an enhancement on the previous scheme in how it will appear in the town and how it contributes to the townscape and surrounding character of the area. With the supermarket now located at the front of the site at the junction of Church Street and Fountain Road, it respects the character of the area more and the frontage along Church Street. HED were consulted on the proposal and the compliance with PPS 6 will be discussed further within this report. I am content

that the design of the proposal is of high quality and will bring benefits to Cookstown and complies with Policy DES 2.

PPS 3: Access, Movement and Parking

The applicant submitted a transport assessment form and DfI Roads were consulted on the proposal and responded with no objections subject to conditions being applied. One being that the access including visibility splays, road layout and any forward sight distance, shall be provided in accordance with previous Planning Approval LA09/2017/1083F.

PPS 6: Planning, Archaeology and the Built Heritage

The proposal is located within NISMR Planning Buffer Zone and within relatively close proximity to listed buildings and were previously consulted as part of the previous application on site. Initially, HED were concerned that the proposal would impact on the listed buildings nearby. Having reviewed HED's comments, the applicant then made amendments to the proposal to address these concerns including removing the "tower" element from the design and using traditional materials and identifying how the design reflects the existing commercial buildings along Church street. They also provided photomontages to demonstrate how the proposal would appear from certain positions along Church Street which I deemed very beneficial to assess the impact. HED were consulted on the amendments and responded to confirm they were content with proposal and in terms of impact on the setting of the listed buildings, it was considered the proposal shall not have an adverse impact. From this, I am content the proposal complies with PPS 6.

PPS 15: (Revised) Planning and Flood Risk

Policy FLD 2- Protection of Flood Defence and Drainage Infrastructure is relevant as the site is affected by a designated culverted watercourse which traverses the site known as the Found Road Storm Drain. There is a presumption against the erection of buildings or other structures over the line of a culverted watercourse in order to facilitate replacement, maintenance and other necessary operations. Drawing No. 14 shows a minimum maintenance strip of 5m is to be provided for the designated watercourse, therefore FLD 2 is satisfied.

Given the size of the development a Drainage Assessment was required in line with Policy FLD 3. The Drainage Assessment has provided a detailed drainage design that demonstrates that the issue of out of sewer flooding will be managed by attenuating the 1 in 100 year event within the proposed drainage network and safely disposed of at limited rate supported by relevant correspondence from DfI Rivers.

If this was achieved it would satisfy the requirement under PPS 15, FLD 3 to provide adequate measures to mitigate the flood risk from the development to elsewhere. The applicant will be responsible for the design, construction and maintenance of the drainage network, and managing the flood risk associated with this network. DfI Rivers advises that compliance with the drainage assessment is included in any planning decision.

I am content that the proposal fully complies with PPS 15 (Revised) Planning and Flood Risk.

Other Material Considerations

Neighbourhood Amenity

No formal objections have been received in relation to this proposal but like any development, it is important to ensure the proposal does not have an adverse impact on neighbouring residential amenity. The site is bounded by residential dwellings and as such environmental health were consulted on the proposal and the applicant provided a noise impact assessment and a odour impact assessment. A consultation was issued to Environmental Health who initially requested clarification on a number of points. This was addressed by the applicant and a consultation was reissued in which Environmental Health responded with no objection to the proposal subject to a number of conditions being applied to any approval.

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

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

The development hereby approved shall be restricted to the following net floorspace areas:

Supermarket: 530 Square Metres
Retail Unit 1: 140 Square Metres
Retail Unit 2: 140 Square Metres
Retail Unit 3: 467.6 Square Metres

Reason: To ensure the proposed development does not have a demonstrable harm on Cookstown Town Centre.

Condition 3

The vehicular access including visibility splays road layout and any forward sight distance, shall be provided in accordance with previous Planning Approval Conditions LA09/2017/1083F.

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

Condition 4

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

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

Condition 5

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

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

Condition 6

In the event that previously unknown contamination is discovered, falling outside the scope of the remediation scheme, development on the Site shall cease pending submission of a written report which appropriately investigates the nature and extent of that contamination and reports the findings and conclusions of the same and provides details of what measures will be taken as a result of the contamination for the prior written approval of Mid Ulster District Council Planning department (in consultation with the Environmental Health Department of Mid Ulster District Council).

Reason: To ensure that the application site is not affected by any previously unidentified contamination

Condition 7

Prior to the proposed development first becoming commercially operational, the system for the suppression and dispersal of cooking odours shall be installed in accordance with the submitted report entitled, 'Odour Impact Assessment Dated July 2023 reference ENV 30-40'. The system shall be permanently retained and maintained in full working order.

Reason: To protect residential amenity

Condition 8

There shall be no deliveries and/or external activity outside the hours of: 07:00 hours and 23:00 hours Monday to Sunday

Reason: To protect residential amenity

Condition 9

The sound power level of proposed plant/equipment (including the application of any tonal penalty) shall not exceed limits as stated in the table shown on condition 2 within Environmental Health consultation response dated 10/10/2023.

Reason: To protect residential amenity

Condition10

An acoustic barrier shall be erected along the site's boundary as presented on stamped proposed site plan Drawing No. 02 RevThe barrier shall be constructed of either masonry, timber panelling (Close lapped with no gaps) or of earth and shall have a minimum self weight of 25 Kg/m²

Reason: To protect residential amenity

Condition11

All hard and soft landscaping comprised in the approved details of landscaping on stamped drawing No. 13 Rev A shall be carried out prior to any retailing or other operation in or from any building hereby permitted.

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

Condition12

No retailing or other operation in or from any building hereby permitted shall not commence until the area of public realm space has been completed in accordance with drawing No 13 Rev A and shall not thereafter be used for any purpose other than as a public realm space.

Reason: To ensure amenity space is delivered concurrently with the development of the site.

Condition13

Should any of the soft or hard landscape works or any of the street furniture provided in accordance with condition 12 above become damaged or destroyed those works shall be replaced within 3 months of becoming damaged.

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

Signature(s): Ciaran Devlin

Date: 24 April 2024

ANNEX	
Date Valid	19 July 2023
Date First Advertised	1 August 2023
Date Last Advertised	1 August 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 12 Church Street Cookstown BT80 8HT The Owner / Occupier 14 Church Street Cookstown BT80 8HT The Owner / Occupier 16 Church Street Cookstown BT80 8HT The Owner / Occupier 18 Church Street Cookstown BT80 8HT The Owner / Occupier 20 Church Street Cookstown BT80 8HT The Owner / Occupier 22 Church Street Cookstown BT80 8HT The Owner / Occupier 24 Church Street Cookstown BT80 8HT The Owner / Occupier RNN - 2 Lorcan Way Cookstown BT80 8XP The Owner / Occupier RNN - 4 Lorcan Way Cookstown BT80 8XP The Owner / Occupier RNN - 6 Lorcan Way Cookstown BT80 8XP The Owner / Occupier RNN - 8 Lorcan Way Cookstown BT80 8XP The Owner / Occupier RNN - 10 Lorcan Way Cookstown BT80 8XP The Owner / Occupier RNN - 8 Fountain Close Cookstown BT80 8QR The Owner / Occupier RNN - 10 Fountain Close Cookstown BT80 8QR The Owner / Occupier RNN - 12 Fountain Close Cookstown BT80 8QR The Owner / Occupier RNN - 14 Fountain Close Cookstown BT80 8QR The Owner / Occupier RNN - 16 Fountain Close Cookstown BT80 8QR The Owner / Occupier RNN - 18 Fountain Close Cookstown BT80 8QR The Owner / Occupier</p>	

1 Cemetary Road Cookstown BT80 8QB
 The Owner / Occupier
 RNN - 2 Cemetary Road Cookstown BT80 8QB
 The Owner / Occupier
 RNN - 3 Cemetary Road Cookstown BT80 8QB
 The Owner / Occupier
 RNN - 4 Cemetary Road Cookstown BT80 8QB
 The Owner / Occupier
 RNN - 40 Cemetary Road Cookstown BT80 8QB
 The Owner / Occupier
 RNN - 42 Cemetary Road Cookstown BT80 8QB
 The Owner / Occupier
 RNN - 41 Cemetary Road Cookstown BT80 8QB
 The Owner / Occupier
 8 Glencree Cookstown Tyrone BT80 8XN
 The Owner / Occupier
 10 Glencree Cookstown Tyrone BT80 8XN
 The Owner / Occupier
 11 Fountain Road Cookstown Tyrone BT80 8QF
 The Owner / Occupier
 9 Fountain Road Cookstown Tyrone BT80 8QF
 The Owner / Occupier
 7 Fountain Road Cookstown Tyrone BT80 8QF
 The Owner / Occupier
 16 Fountain Road Cookstown Tyrone BT80 8QF
 The Owner / Occupier
 14 Fountain Road Cookstown Tyrone BT80 8QF
 The Owner / Occupier
 12 Fountain Road Cookstown Tyrone BT80 8QF
 The Owner / Occupier
 10 Fountain Road Cookstown Tyrone BT80 8QF
 The Owner / Occupier
 8 Fountain Road Cookstown Tyrone BT80 8QF
 The Owner / Occupier
 88 Chapel Street Cookstown Tyrone BT80 8QD
 The Owner / Occupier
 26 Church Street Cookstown Tyrone BT80 8HY

Date of Last Neighbour Notification	10 January 2024
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: I/1999/0159

Proposals: Proposed change of use from vacant gardens to parking compound for mobile homes

Decision: PG

Decision Date: 18-JUN-01

Ref: I/2013/0220/F

Proposals: Alterations and single storey extension to rear of dwelling

Decision: PG

Decision Date: 13-SEP-13

Ref: I/2004/1139/F

Proposals: Housing development

Decision: 112

Decision Date: 25-AUG-06

Ref: I/2000/0131/F

Proposals: Garage forecourt for the parking and display of vehicles.

Decision: PG

Decision Date: 18-OCT-00

Ref: I/1976/0419

Proposals: SITE FOR BUNGALOW

Decision: PR

Decision Date:

Ref: I/1979/0138

Proposals: CAR SHOWROOM AND WORKSHOP

Decision: PG

Decision Date:

Ref: I/1979/013801

Proposals: CAR SHOWROOM, WORKSHOP, OFFICE

Decision: PG

Decision Date:

Ref: I/1988/0226

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: I/1995/0223

Proposals: Extension to existing car-park

Decision: PG

Decision Date:

Ref: I/2014/0319/PREAPP

Proposals: Potential Food Store Development

Decision: PREA

Decision Date: 20-OCT-14

Ref: LA09/2017/0821/PAD

Proposals: Proposed retail development to include supermarket and 2 retail units with associated car parking site access and landscaping works

Decision: PAD

Decision Date: 12-NOV-19

Ref: LA09/2017/0596/PAN

Proposals: Proposed retail development to include supermarket and 2 no. retail units with associated carparking, site access and landscaping works

Decision: PANACC

Decision Date: 16-MAY-17

Ref: LA09/2017/1083/F

Proposals: Proposed retail development to include supermarket and 2.no retail units with associated carparking, site access and landscaping

Decision: PG

Decision Date: 05-FEB-20

Ref: I/1997/6013

Proposals: Housing Development Rear of 40 Church Street Cookstown

Decision: QL

Decision Date:

Ref: LA09/2023/0775/F

Proposals: Proposed supermarket and petrol forecourt, additional three number retail units with associated car parking, underground fuel tanks and free-standing forecourt canopy. Public realm landscaping fronting Church Street. Servicing to the three retail units via Loran Way. Alteration works to proposed new site access via Fountain Road, previously approved under LA09/2017/1083/F

Decision:

Decision Date:

Ref: LA09/2023/0443/PAD

Proposals: Proposed Supermarket and filling station with three additional retail units. Associated car parking, underground storage tanks and free-standing forecourt canopy. Public realm scheme fronting onto Church Street. Alteration to existing access onto Fountain Road, as previously approved LA09/2017/1083

Decision: PAD

Decision Date: 18-OCT-23

Ref: LA09/2023/0442/PAN

Proposals: Proposed supermarket and petrol forecourt, additional three number retail units with associated car parking, underground fuel tanks and free-standing forecourt canopy. Public realm landscaping fronting Church Street. Servicing to the Three retail units via Loran Way. Alteration works to proposed new site access via Fountain Road, previously approved under LA09/2017/1083

Decision: PY

Decision Date: 19-APR-23

Summary of Consultee Responses

Environmental Health Mid Ulster Council-LA09 2023 0775 F Supermarket Fountain Road Cookstown.doc

Historic Environment Division (HED)-

Environmental Health Mid Ulster Council-

DFI Roads - Enniskillen Office-dfi roads response uploaded on 3/10/23

Gerry

Environmental Health Mid Ulster Council-LA09 2023 0775 F 1 Supermarket Fountain Road C'town.doc

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx

Rivers Agency-549122 - Final reply.pdf

Historic Environment Division (HED)-

Historic Environment Division (HED)-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Existing Plans Plan Ref: 02

Site Layout or Block Plan Plan Ref: 03

Proposed Plans Plan Ref: 04

Proposed Plans Plan Ref: 05

Proposed Plans Plan Ref: 06

Proposed Plans Plan Ref: 07

Proposed Elevations Plan Ref: 08

Proposed Plans Plan Ref: 09

Proposed Plans Plan Ref: 10

Proposed Plans Plan Ref: 11

Proposed Plans Plan Ref: 12

Landscape Proposals Plan Ref: 13

Proposed Plans Plan Ref: 14

Proposed Plans Plan Ref: 15

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.11
Application ID: LA09/2023/0975/O	Target Date: 29 December 2023
Proposal: Proposed Farm Dwelling & Garage	Location: Approx 260M Sw of 31 Loves Road, Magherafelt, BT45 6LB
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Seamus Donnelly 14 Farmlodge Lane Magherafelt BT45 5FF	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary: <p>This application for a farm dwelling is brought to the planning committee with a recommendation for refusal. The proposal fails to meet a number of the criteria under Policy CTY 10 of PPS 21, namely the requirement that there is a farm business which is currently active and established, and the requirement that there are existing farm buildings with which the proposed dwelling can visually link / cluster with. It is agreed that there is insufficient evidence of a currently active and established farm business and there are no farm buildings for the proposed dwelling to visually link / cluster with.</p> <p>The proposal however complies with Policies CTY 13 and CTY 14 at this outline stage.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0975-O.DOCX

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately 0.7 miles east and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015. The site is a 0.36 ha overgrown wooded area wedged in

the middle of four small agricultural fields and sited back 80 metres from the Loves Road. The site is accessed via an existing field gate off the Loves Rd. Though largely in ruin, there is evidence of an old building having stood at the site for the proposed dwelling. To the immediate north east of the site is a large concreted yard area filled with HGV lorries and trailers, a large shed and a number of smaller building / structures. This area is outside of the blue line on the site location map. The wider surrounding environment consists mostly of agricultural fields and various agricultural uses. A number of dwellings are spread out and dotted all along the Loves Rd.

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Magherafelt Area Plan 2015

The site of the proposed development is located in the rural countryside approximately 0.7 miles east and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015.

Relevant Planning History

None

Other Constraints

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

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

This site is not located within or adjacent to any listed buildings / structures.

There are no issues pertaining to flooding at the site.

Representations

No third party representation have been received to date.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

Planning Policy Statement 21: Sustainable Development in the Countryside

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling on a farm and therefore 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 does not have a farm business I.D and this has been confirmed through consultation with DAERA. Receipts have been submitted which show a degree of activity, mostly in the form of maintenance works / upkeep. While this is evidence of some agricultural activity, it is not evidence of there being a farm business associated with the site. Moreover the submitted receipts do not prove current activity.

Following a search on the planning portal it does not appear that any development opportunities have been gotten or sold off from the holding within 10 years of the date of the application.

The policy asks that the new building is visually linked or sited to cluster with an established group of buildings on the farm. In this case there are no farm buildings on the farm with which the proposed dwelling at this site is able to visually link / cluster with.

As above, the proposed dwelling fails to visually link / cluster with an established group of farm buildings, and there is insufficient evidence of a currently active and established farm business. The proposal fails to comply with Policy CTY 10.

Policy CTY 13 states planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This is an outline application and therefore such details are only received at the reserved matters stage if approval is granted at outline. It is taken that a dwelling at this site would not be unduly prominent in this landscape if designed appropriately. Given most of the site is a wooded area, there is ample opportunity for the retention of a number of boundary trees to provide a sound degree of integration for the dwelling as well as good screening. Accordingly, the dwelling would not rely primarily on the use of new landscaping measures for its integration. The proposed satisfies Policy CTY 13 at this outline stage.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As provided, a dwelling at this site would not be unduly prominent in the landscape. I am content that the site and its environs are an ideal size to encompass a new dwelling in this location. The proposed satisfies Policy CTY 14 at this outline stage.

There is ample space within this site to provide package treatment plant provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. In my view, the proposal does not offend policy CTY 16 of PPS 21.

Planning Policy Statement 3 – Access, Movement and Parking

The applicant has indicated on the P1 form and site location map that the proposed access arrangements involve the construction of a new access to a public road. DfI Roads were consulted and offered no objection to the application subject to the inclusion of the standard RS1 access condition. The proposal does not offend Policies AMP 2 and AMP 3 of PPS 3.

Recommendation

Having considered all of the above, it is recommended that this application be refused on the basis that it fails to meet a number of the criteria under Policy CTY 10 of PPS 21, namely the requirement that there is a farm business which is currently active and established, and the requirement that there are existing farm buildings with which the proposed dwelling can visually link / cluster with.

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 a dwelling on this site does not visually link or cluster with an established group of farm buildings. There is also insufficient evidence of a currently active and established farm business.

Signature(s): Benjamin Porter

Date: 23 April 2024

ANNEX	
Date Valid	15 September 2023
Date First Advertised	26 September 2023
Date Last Advertised	26 September 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 29D Loves Road Magherafelt Londonderry BT45 6LB	
Date of Last Neighbour Notification	25 September 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/1978/0445 Proposals: SITE OF RETIREMENT FARM DWELLING Decision: PG Decision Date:</p> <p>Ref: H/1987/0516 Proposals: SITE OF RETIREMENT FARM DWELLING Decision: PG Decision Date:</p> <p>Ref: H/2004/1006/F Proposals: Site of Retirement Farm Dwelling Decision: PR Decision Date: 17-AUG-06</p> <p>Ref: H/2011/0315/F Proposals: Part change of use from Agricultural Shed (two thirds of shed to remain in Agricultural use and one third used for Agricultural vehicle repair) Provision of Agricultural slurry tank and vehicle parking Decision: PG Decision Date: 17-MAY-12</p>	

Ref: H/1987/0373

Proposals: SITE OF RETIREMENT FARM DWELLING

Decision: WITHDR

Decision Date:

Ref: H/2006/0671/F

Proposals: Retrospective application for building for domestic equestrian use

Decision:

Decision Date:

Ref: LA09/2023/0975/O

Proposals: Proposed Farm Dwelling & Garage

Decision:

Decision Date:

Ref: H/2010/0039/F

Proposals: Proposed retention of existing building for agricultural use

Decision: PG

Decision Date: 18-AUG-10

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

DAERA - Coleraine-Consultee Response LA09-2023-0975-O.DOCX

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.12
Application ID: LA09/2023/1199/O	Target Date: 21 February 2024
Proposal: Dwelling and garage in accordance with CTY2A of PPS21	Location: Site 45M West of 1 Tullynure Road Lissan Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Henry McCracken 1 Tullynure Road Cookstown BT80 9XH	Agent Name and Address: PDC Building Surveying 16 Gortreagh Road Gortreagh Cookstown BT80 9ET
Executive Summary: <p>The current application for a proposed dwelling and garage is presented as a refusal as it fails to meet Policy CTY 1 and Policy CTY 2a PPS 21: Sustainable Development in the Countryside.</p> <p>CTY 1 - This proposal fails to meet Policy CTY1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>CTY 2a - The proposal is contrary to Policy CTY 2a of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal site is not bounded on at least two sides with other development in the cluster.</p>	

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

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 site is identified as site 45m west of No. 1

Tullynure Road, Lissan. The application site is agricultural land which is part of a much larger agricultural field, and is set to the rear of the public bar, The Farmer's Rest. Wooden and wire fencing define the northern and eastern boundaries, with the remaining boundaries currently undefined given the nature of the site. The site is in close proximity to St. Michael's Lissan GAC, and the Parochial House. The immediate locality is predominantly characterised by residential development with the wider surroundings characterised by predominantly agricultural uses.

Description of Proposal

This is an outline application for a dwelling and garage in accordance with CTY2a of PPS21. The site is identified as site 45m west of No. 1 Tullynure Road, Lissan.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

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

Relevant Planning History

No relevant planning history.

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

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

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

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

the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development area are acceptable in the countryside. In this instance the application is for a new dwelling in an existing cluster therefore this development must be considered under CTY 2a of PPS 21. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

I am content the cluster of development lies outside of a farm, and the cluster consists of four or more buildings of which at least three are dwellings. East of the site is public bar and a semi-detached dwelling (No. 1 Tullynure Road). Further east is a dwelling (No. 10 Claggan Road) with the Parochial House adjacent to this. Directly north of the application site, there is an undeveloped site with a planning approval for proposed 4no. dwellings and garage under planning application I/2012/0182/F on this site, however while carrying out my site visit I can confirm there was no buildings on site. Therefore, this cannot be considered. Northwest of the application site there is a store, and adjacent to this is a dwelling (No. 16B Claggan Road). I am content the cluster appears as a visual entity in the local landscape, and the cluster is associated with a focal point (the public bar and/or the parochial house). I am content 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 at the proposed dwelling would not adversely impact on residential amenity.

The identified site provides a suitable degree of enclosure, however following group

discussion, officers are of the opinion that the site is not bounded on at least two sides with other development in the cluster. The application is bound by development to the east, however all remaining sides remain unbounded. The agent has noted that development has commenced on the site directly north of the application site, however when I carried out my site visit I seen that there were no existing buildings on the site and instead it was an undeveloped plot of land. When this was discussed at group discussion, officers took the view that this cannot be counted as development as there were no buildings constructed on the site and therefore it was considered that the application was not bound to the north. For these reasons, it is considered the proposal fails to meet Policy CTY 2a of PPS 21.

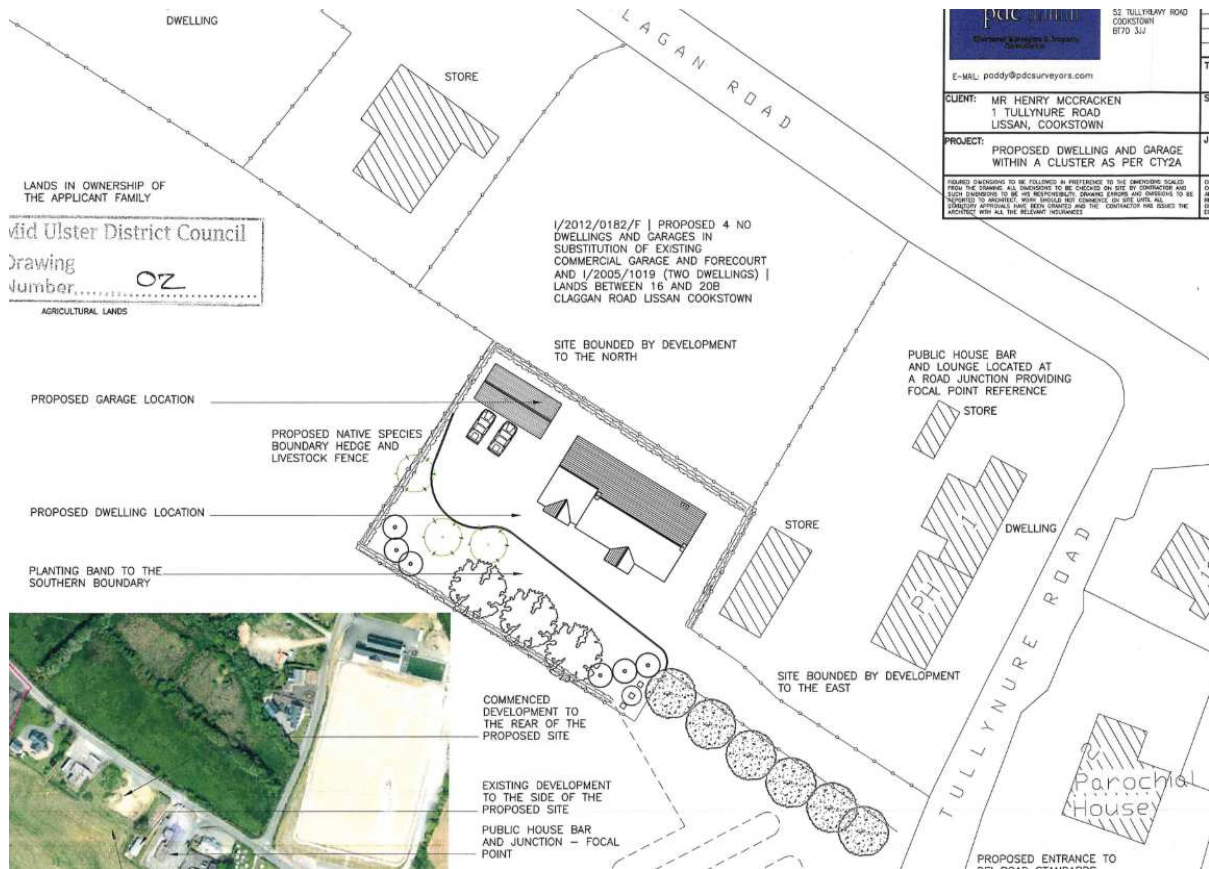


Figure 1 – Site Layout



Figure 2 – Image of undeveloped plot of land to the north of application site

The proposed development must also comply with policies CTY 13 and 14. This application is for outline planning permission, therefore the scale, siting and design of the proposed dwelling will not be assessed under this application, however it is considered the design should be in keeping with Building in Tradition guidance. I am of the opinion that an appropriately designed dwelling will be able to visually integrate into the surrounding landscape and will not cause detrimental harm to the rural character of the area. I am content that the associated tests of integration and character within CTY 13 and CTY 14 are met.

Other policy and material considerations

PPS 3: Access, Movement and Parking

DfI Roads were consulted, and their response confirmed that they had no objection, subject to conditions. I am content that the access is acceptable under PPS 3.

I have no flooding, ecological or residential amenity concerns.

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 CTY 2a of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal site is not bounded on at least two sides with other development in the cluster.

Signature(s): Seáinín Mhic Íomhair

Date: 23 April 2024

ANNEX	
Date Valid	8 November 2023
Date First Advertised	21 November 2023
Date Last Advertised	21 November 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier RNN 12A Claggan Road Cookstown Londonderry BT80 9XE</p> <p>The Owner / Occupier RNN 12 Claggan Road Cookstown Londonderry BT80 9XE</p> <p>The Owner / Occupier 10 Claggan Road Cookstown Londonderry BT80 9XE</p> <p>The Owner / Occupier 2 Tullynure Road Cookstown Londonderry BT80 9XH</p> <p>The Owner / Occupier RNN 1A Tullynure Road Cookstown Londonderry BT80 9XH</p> <p>The Owner / Occupier 1 Tullynure Road Cookstown Londonderry BT80 9XH</p>	
Date of Last Neighbour Notification	15 November 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: I/2001/0684/O Proposals: 2 No dwellings and garages Decision: PG Decision Date: 17-JUN-02</p> <p>Ref: I/2004/0077/Q Proposals: Community facility Decision: 211 Decision Date: 30-MAR-04</p> <p>Ref: I/2005/0330/F Proposals: Amendments to original planning approval (I/2004/1150/F) to include change of design of extension to existing clubhouse/changing facilities, car parking and new landscaping scheme (Amended landscaping plan)</p>	

Decision: PG
Decision Date: 14-OCT-05

Ref: I/1984/0277
Proposals: RECONSTRUCT PLAYING FIELD AND UPGRADE ACCESS TO CAR PARK
Decision: PG
Decision Date:

Ref: I/2004/1065/F
Proposals: Extension to building to provide new sports hall and new porch. Internal alterations to remove handball alley and form first floor to provide toilets, kitchen, storage second committee room and multi purpose room. Additional car parking.
Decision: PG
Decision Date: 20-DEC-04

Ref: LA09/2015/1197/F
Proposals: New community 58m x 83m multi use recreational surface (with associated fence enclosure, floodlights, ballstops and perimeter path) and also 2 no. 22m x 11m fenced enclosures for multi use games area / play area
Decision: PG
Decision Date: 16-JUN-16

Ref: I/1983/0076
Proposals: GRAVEYARD EXTENSION
Decision: PG
Decision Date:

Ref: I/1998/4028
Proposals: Proposed pitched roof to replace flat roof
Decision: PDNOAP
Decision Date:

Ref: I/1974/0278
Proposals: CONVERSION OF SCHOOL TO DWELLING HOUSE
Decision: PG
Decision Date:

Ref: I/2006/0056
Proposals: Proposed provision of new entrance to Parochial House
Decision: 461
Decision Date: 16-MAR-06

Ref: I/2005/1401/F
Proposals: Change of use from stores/outbuildings to 1 no. dwelling (including extensions).
Decision: PG

Decision Date: 02-JUN-06

Ref: I/2006/0825/F

Proposals: New detached stores to serve existing public house

Decision: PG

Decision Date: 19-FEB-07

Ref: I/2005/1019/O

Proposals: Renewal of Previous Outline Planning Permission I/2001/0684 (2 No Dwelling and Domestic Garages).

Decision: PG

Decision Date: 30-NOV-05

Ref: I/1998/0294

Proposals: Site for 2 no. dwellings and garages

Decision: PG

Decision Date:

Ref: I/2006/0375/O

Proposals: 4 No Dwellings in substitution of existing commercial garage and forecourt and I/2005/1019 - two dwellings.

Decision: PG

Decision Date: 10-AUG-07

Ref: I/2012/0182/F

Proposals: Proposed 4 No dwellings and garages in substitution of existing commercial garage and forecourt and I/2005/1019 (two dwellings)

Decision: PG

Decision Date: 09-NOV-12

Ref: I/1999/0080

Proposals: Proposed dwelling and garage

Decision: PR

Decision Date:

Ref: I/1984/0328

Proposals: ERECTION OF DWELLING

Decision: PG

Decision Date:

Ref: I/1994/6132

Proposals: Proposed new dwelling Churchtown Lissan Cookstown

Decision: PRER

Decision Date: 01-MAR-95

Ref: I/1998/0336

Proposals: 2 storey dwelling

Decision: PG

Decision Date:

Ref: I/1998/0155

Proposals: Site for dwelling and garage

Decision: PG

Decision Date:

Ref: I/2005/0578/O

Proposals: Dwelling and Garage

Decision: PR

Decision Date: 22-SEP-05

Ref: LA09/2023/1199/O

Proposals: Dwelling and garage in accordance with CTY2A of PPS21

Decision:

Decision Date:

Ref: I/2002/0838/O

Proposals: New Dwelling and Garage

Decision: PR

Decision Date: 16-MAY-03

Ref: I/2004/0325/O

Proposals: Dwelling and Garage

Decision: PR

Decision Date: 15-JUN-04

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 Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.13
Application ID: LA09/2023/1311/F	Target Date: 19 March 2024
Proposal: Dwelling and domestic garage (change of house type and garage from that previously approved under I/2006/0008/RM including relocation of garage within extended curtilage)	Location: Site opposite 64 Feegarron Road, Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr & Mrs Alan & Claire Boyle 4 Lissan Road Cookstown BT80 8EN	Agent Name and Address: Mr Mark Nelson Garden Studio 2 Craigmount Cookstown Cookstown BT80 9NG
Executive Summary: <p>This application relies on the permission from previously approved I/2006/0008/RM having been commenced before the 15th of March 2009. The design of the proposed dwelling itself was assessed under CTY 13 and 14 of PPS 21, and no issues with this aspect of the proposal were found.</p> <p>However, having investigated the site and case through historical orthos, historical ground level imagery, and evidence provided by the Agent of the Applicant, I do not believe that pre-commencement conditions 2 and 3 of the permission for I/2006/0008/RM had been met prior to the construction of foundations.</p> <p>Saying this, when taking into account the material considerations of this case I believe that this proposal should be approved, as the foundations have been implemented on time and in accordance with the previously approved drawings and an access has been present for over five years, I consider the works to be immune to enforcement action with a clear intention of constructing the approved dwelling</p>	

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Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	This consultation is duplicated. DFI response on 27th February 2024.
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Approval.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc

Representations:

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

Summary of Issues

Characteristics of the Site and Area

Site History (Last 5 years)

I/2003/0953/O – (Outline Permission for I/2006/0008/RM). - Permission Granted

I/2006/0008/RM (Original permission this application seeks to complete, with some amendments) - Permission Granted

Other Histories

N/A

Representations & Consultations

The Department for Infrastructures' Enniskillen Roads Team were consulted for this application, and in their response dated 27 February 2024, they offered no objection to the proposal, on the condition that it is constructed and maintained to that detailed in drawing 02 dated November 2023, with conditions.

5 Neighbours were notified of this proposal, and no objections have been received.

Cookstown Area Plan 2010

This site is opposite of 64 Feegarron Road, Cookstown, and lies 2.48 Miles from the settlement limits of Cookstown, meaning it is located in the open countryside according to the Cookstown Area Plan 2010. The site is not subject to any other Area Plan designations or zonings.

Local Development Plan

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

The SPPS

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. As this development will be in the countryside, PPS 21 will be of particular consideration.

PPS 21 – Sustainable Development in the Countryside

The principal of this development had been established through Reserved Matters Approval I/2006/0008/RM, which was granted on 18th June 2007.

When I conducted my site visit on 26th January 2024, I noted that the hedgerow and trees which had been visible near the roadside of the site in both Orthographic and streetview photography were no longer present, the foundations had been present since at least 2010 (as visible in the orthographic image below) and a new boundary of wire fencing and new gate had been implemented, as well as a new gravel access. Reviews of historical orthophotography and google street view (see below) indicated the access had not been put in place as approved and conditioned prior to the commencement of development regarding the foundations on site.



Historical Orthographic Photo of the site – 2010, note foundations in place



Streetview Image of site entrance and access – September 2009



Streetview Image of site entrance and access – September 2022



Site Photograph of the site entrance as of 26th January 2024 – note the complete removal of vegetation and that this new entrance appears to include the required visibility splays

As the access and visibility splays were not put in place prior to the deadline, the pre-commencement conditions of the initial approval I/2006/0008/RM were not met. Due to the failure to provide this access before the commencement of works, the applicant would be unable to obtain a certificate of lawfulness.

The consideration of whether or not development is lawful is a legal test set down by legislation, if it cannot meet those tests then it should be refused. However, a planning application allows the decision-makers to exercise some discretion, and can consider other factors that are material to the decision-making process.

In this case, the applicants have clearly commenced development on the site within the time frame set out in their planning permission. Section 63 of the Planning Act states “development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out– where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building;” this is the same as was stated in Article 36

of the Planning Order, which was in effect at the time the development was begun. Works have taken place on the site with the foundations put in place in the general location approved and as detailed further above, Building Control's letter confirmed they were in place before the 13th of March 2009 time limit attached to the permission of I/2006/0008/RM.

Whilst it would appear that the access and visibility splays were not implemented as conditioned and approved in I/2006/0008/RM, there has been an access to the site in the position currently proposed which available orthography and streetview imagery can confirm has been present for over 5 years and therefore is immune to enforcement action.

As well as this it is clear there is no legitimate fallback position here as the applicant does not have a certificate of lawful development in place, and the current site would not be considered viable for a new dwelling under current policy if it was a fresh proposal rather than a change of house type. Members should take account of the following factors that I believe are site specific, and would not create a wide-ranging precedent for new dwellings in the countryside if this proposal were approved:

- planning permission was previously granted for this dwelling.
- works on site have been carried out in the course of the erection of the dwelling within the lifetime of the permission lapse.
- an access to the site in the position currently proposed, evidence would indicate, has been in place for more than 5 years (and therefore immune to enforcement action)
- Since the site has been purchased by the applicant, a new access and visibility splays in line with those initially approved and required under the I/2006/0008/RM permission have been implemented, as seen in the site photo shown previously above.

I consider it would be unduly harsh to not allow the dwelling previously approved on site to be completed with the changes proposed in this application, and recommend that in this exceptional case the factors outlined above are sufficient to secure its completion and allow the consideration of the revised proposal currently sought. The revised proposal currently sought, the new site layout including site access to the dwelling now proposed, must still comply with Policy CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character of PPS 21 and PPS 3 Access, Movement and Parking

The proposed changes to the originally approved dwelling include the addition of a 4.1m x 4.5m living space to the Northwestern side of the house, the movement of an outdoor patio area to the Northwest rear of the dwelling (accessed from the kitchen now as opposed to the Southeastern wall in the originally approved design), implementation of an outside amenity space to the North, a gravel yard branching off the main driveway to

the west, and the relocation of a detached garage within the curtilage.

The proposed dwelling is a storey and a half house visually presenting as a bungalow from the roadside, with a 6.100M ridge height, as seen in Drawing No.3, which I believe is appropriate to prevent the dwelling being prominent behind the planted hedgerow, and ensure it blends better into the local landscape. The proposal also superficially resembles the nearby existing dwelling at No.64a Feegarron Road, which is located in a prominent position uphill, just west of the site for this proposed dwelling.

It does not appear that this proposal will result in a suburban style build-up when viewed alongside existing and approved buildings in the area, as the site will be well separated both physically and visually from neighbouring dwellings and sufficiently enclosed by both natural and planted boundaries including hedgerow to blend in with the local landscape, and the proposed design respects traditional patterns of settlement in the area, presenting as a one-storey house from the roadside.

I do not believe this proposal will create a ribbon of development or that its ancillary works will damage rural character, due to the spacing of the dwelling from neighbouring homes and the planting of native hedgerow along the roadside. Below is an image of what the proposed new dwelling design will look like viewed head-on from the roadside:



Considering the factors above, I am content the proposed amendments and resultant scheme will integrate in accordance with Policy CTY13 and with minimal disruption to the rural character of the area in accordance with Policy CTY14. I am also content the proposal will comply with the provisions of PPS 3 as detailed further above, as DfI Roads were consulted in relation to access arrangements and raised no objections subject to standard conditions and informatives, which I consider reasonable to attach to any subsequent decision to comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

Other Considerations

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

Conclusion

Due to the specific circumstances of the case as have been outlined in this report an approval is recommended

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

The vehicular access including visibility splays of 2.4m x 70m both directions and any forward sight distance shall be provided in accordance with drawing 02 dated December 2023 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

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

REASON: To ensure there is a satisfactory means of access in the interests of road

safety and the convenience of road users.

Condition 4

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

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

Condition 5

The scheme of planting hereby approved shall be carried out in accordance with Drawing No. 02 bearing the date December 2023 during the first available planting season after the commencement of development. Trees or shrubs dying, removed, or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Mid Ulster District Council gives written consent to any variation.

Reason: To ensure the provision, establishment, and maintenance of a high standard of landscape in the interests of visual amenity"

Condition 6

Prior to the commencement of this approval, the original foundations built according to I/2006/0008/RM present on-site shall be permanently removed and the ground restored to an agricultural field prior to the commencement of the dwelling hereby approved.

Reason: To ensure that only one dwelling will be constructed upon this site, to the specifications approved in this permission, as this proposal replaces the dwelling approved under I/2006/0008/RM.

Condition 7

There shall only be one dwelling constructed within the site as outlined in red on drawing no. 01, bearing date stamp 1st December 2023

Reason: This permission is in substitution of the dwelling and garage approved under I/2006/0008/RM

Signature(s): Ciaran O'Neill

Date: 23 April 2024

ANNEX	
Date Valid	5 December 2023
Date First Advertised	20 February 2024
Date Last Advertised	19 December 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 64 Feegarran Road Cookstown Tyrone BT80 9QS</p> <p>The Owner / Occupier 1 Feegarran Lane Cookstown Tyrone BT80 9QT</p> <p>The Owner / Occupier 64A Feegarran Road Cookstown Tyrone BT80 9QS</p> <p>The Owner / Occupier 2 2B Feegarran Lane Cookstown Tyrone BT80 9QT</p> <p>The Owner / Occupier RNN - 75 Feegarran Road Cookstown Tyrone</p>	
Date of Last Neighbour Notification	8 February 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: I/2008/0072/F Proposals: Overhead Single Phase Line of Wooden Poles (07/04241) Decision: PG Decision Date: 21-MAY-08</p> <p>Ref: I/1981/0283 Proposals: ERECTION OF BUNGALOW Decision: PG Decision Date:</p> <p>Ref: I/1981/028301 Proposals: ERECTION OF BUNGALOW Decision: PG Decision Date:</p> <p>Ref: I/1991/4048</p>	

Proposals: Erection of Domestic Garage

Decision: PDNOAP

Decision Date:

Ref: I/2006/0008/RM

Proposals: Single storey dwelling & garage

Decision: PG

Decision Date: 21-JUN-07

Ref: I/2003/0953/O

Proposals: Site for Dwelling & Garage

Decision: PG

Decision Date: 10-DEC-03

Ref: LA09/2023/1311/F

Proposals: Dwelling and domestic garage (change of house type and garage from that previously approved under I/2006/0008/RM including relocation of garage within extended curtilage)

Decision:

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-This consultation is duplicated. DFI response on 27th February 2024.

DFI Roads - Enniskillen Office-Roads Consultation - Approval.docx

DFI Roads - Enniskillen Office-DC Checklist 1.doc

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Elevations and Floor Plans Plan Ref: 03

Garage Plans Plan Ref: 04

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.14
Application ID: LA09/2023/1331/F	Target Date: 21 March 2024
Proposal: Retention of timber handrail and perspex roof canopy over rear porch	Location: 24 Parkmore Heights Magherafelt BT45 6PJ
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Rafal Zakonek and m Reniewich 24 Parkmore Heights Magherafelt BT45 6PJ	Agent Name and Address: Peter Quinn 15 Derrytresk Road Coalisland Dungannon BT71 4QL
Executive Summary: This is a Full application for the retention of a timber handrail and perspex roof canopy over a rear porch at No.24 Parkmore Heights, Magherafelt. The proposal has been assessed under EXT 1 of Addendum to PPS7: Residential Extensions and Alterations, and an objection from No.22 Parkmore Heights has been taken into consideration. Having considered both policy and evidence, I am in agreement with the points raised in the objection of No.22, thus refusal is recommended	

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	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

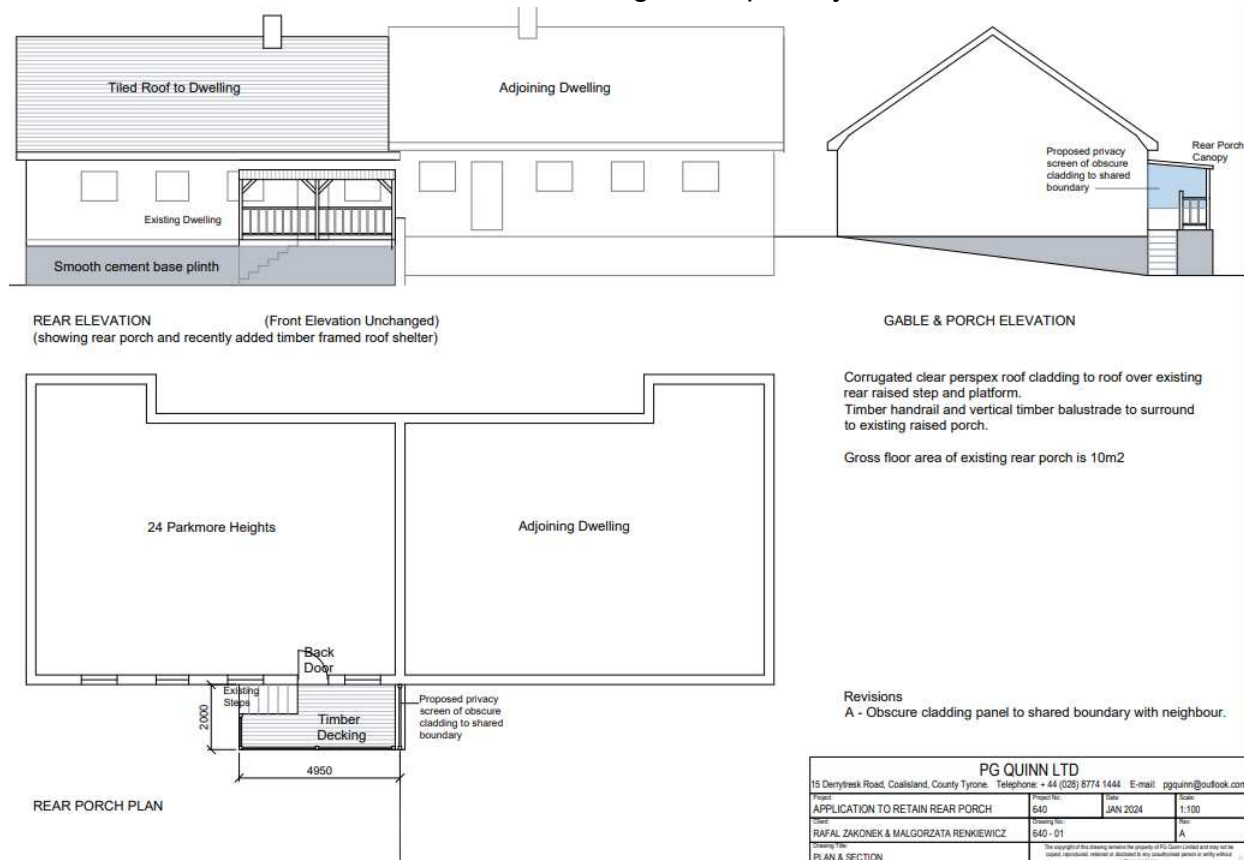
The site is located at the rear of 24 Parkmore Heights, Magherafelt, and lies within the settlement limits of Magherafelt, as determined by the Magherafelt Area Plan 2015.

The surrounding landscape is primarily suburban with most of the landscape consisting of 1 and a half floor, semi-detached dwellings along the road frontage either side.

Description of Proposal

This proposal is a Full application for the retention of a timber handrail and perspex roof canopy at the rear porch of No.24 Parkmore Heights, Magherafelt, located beside the boundary fence with the adjacent dwelling of No.22. The handrail and canopy were erected in October 2022 without planning permission, following which an objection was submitted to the planning department and opened as an Enforcement Case (LA09/2022/1057/CA), this proposal for retention was received on the 7th of December 2023.

The gross floor area of the existing rear porch is 10m², being 4.95 metres long and 2 metres wide, and the timber handrail and Perspex canopy together stand at around 2 metres in height. The handrail itself is roughly a metre tall, sitting 28cm above the top of the boundary fence separating the rear property of No.24 from that of No.22. Below are the elevations of the handrail and canopy for which retention is sought, including the screen that has been amended into the design as a privacy measure.



Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Site History (Last 5 years)

N/A

Other Histories

LA09/2022/1057/CA (Ongoing)

Representations & Consultations

Neighbour Notification and press advertisement have been carried out in line with the Council's statutory duty. 9 neighbours were notified, and 1 objection was received from No.22, claiming that the balcony was erected without necessary planning approval in October 2022, that the materials used were not sympathetic, and were incongruous with the built form and local area's character, and the proposal adversely affected the privacy and amenity of their own rear garden.

No official organisations or departments were consulted regarding this proposal, as it does not fall under any designated sites, zones or areas, and is not relevant to public roads or access.

Area Plan

This site is 24 Parkmore Heights, Magherafelt, and lies within the settlement limits of Magherafelt, as determined by the Magherafelt Area Plan 2015.

The site is not subject to any Area Plan designations or zonings.

The SPPS

The SPPS provides a regional framework of planning policy that will be considered in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. In this case, 'Addendum to PPS7: Residential Extensions and Alterations' applies, and will be used to evaluate the development for which the applicant seeks retention rights.

Local Development Plan

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

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

Addendum to PPS7: Residential Extensions and Alterations

Policy EXT1 of Addendum to PPS7: Residential Extensions and Alterations states that planning permission will be granted for the proposal to extend or alter a residential property where all the following criteria are met:

- (a) the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
- (b) the proposal does not unduly affect the privacy or amenity of neighbouring residents;
- (c) the proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and
- (d) sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and maneuvering of vehicles.

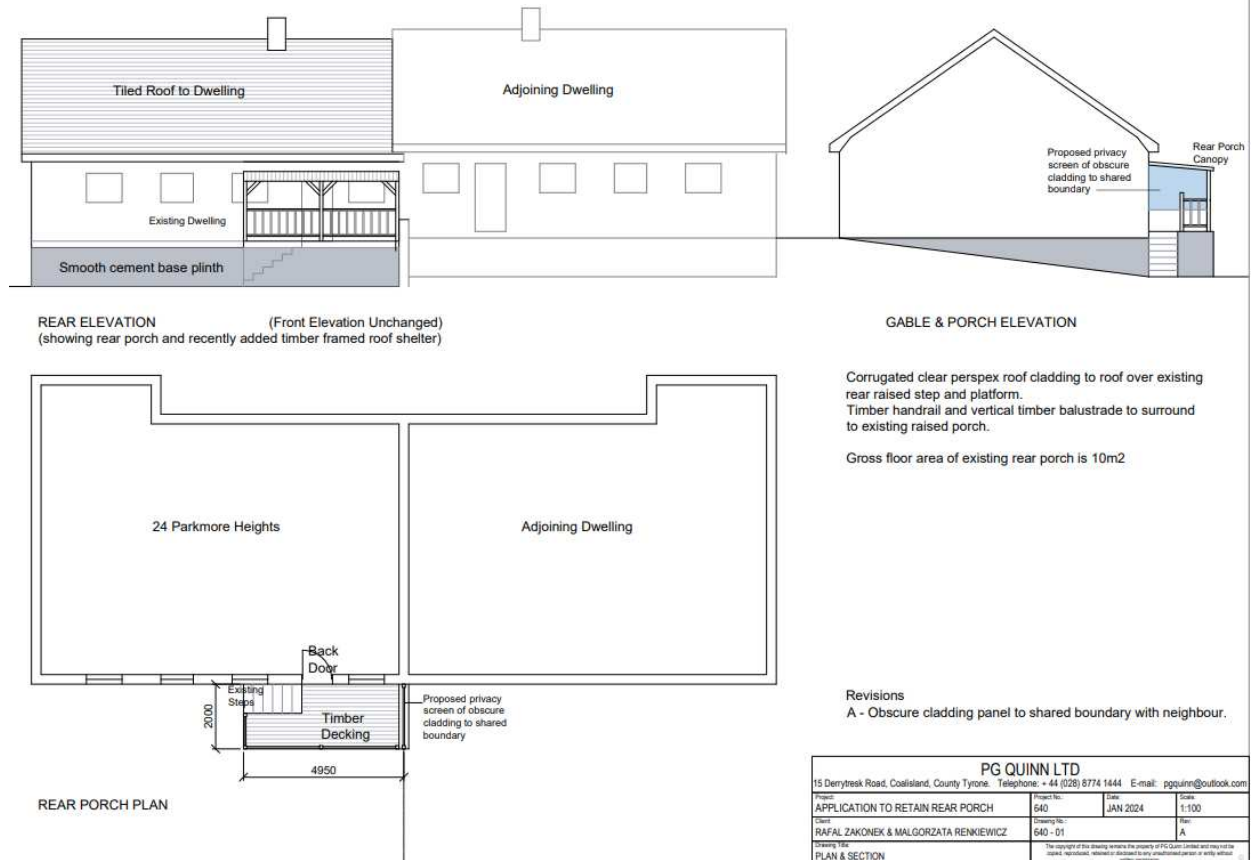
From the plans provided and the evidence collected during my site visit, I believe that while the balustrade and handrail of this proposal are of timber construction which is generally an acceptable choice, the Perspex roof cladding and obscure cladding privacy screen are not sympathetic with the built form and appearance of the existing property. As well as this, the low position of the boundary fence means this canopy, privacy screen, balustrade and handrail will all be heavily visible from the yard of No.22. In this case I believe the proposed materials and design will detract from the appearance and character of the surrounding area.

In Drawing 2 revision 1, the applicant has added a privacy screen made of obscure cladding to the proposal. While this screen does reduce the amount of No.22's rear yard visible from No.24's porch, I still believe there is some concern to be had regarding privacy, as the raised porch will still overlook roughly a third of the neighbouring garden at No.22, including a sector of the yard within 3-4 metres of No.22's rear wall. I also have concerns about dominance, as upon conducting the angles test recommended in EXT1, I found that the canopy and screen proposed would be fairly visible from the closest window at No.22. As such, I believe that this proposal unduly affects the privacy and amenity of neighbouring residents

I do not have any concerns that this proposal will cause the unacceptable loss or damage of trees or other landscape features, and I believe sufficient space will remain within the property curtilage for domestic purposes.

Overall, I do not believe that this proposal sufficiently meets the criteria required to comply with 'Addendum to PPS7: Residential Extensions and Alterations'. Below I provide a copy of the elevations for the proposal, with the privacy screen that was

amended into this proposal:



Consideration of Evidence

From the site photos collected for this case, it can be seen that the porch where the proposed handrail and canopy will be located sits level with the top of the fence on No.24's side of the boundary, meaning anyone standing on said porch will have a fairly open view of the neighbouring properties rear yard. If the canopy and handrail proposed were to be retained, there would be less disincentive for the residents of No.24 and any potential visitors to the property from spending more time on this porch, and so overlooking in to the rear yard of No.22, than if these elements weren't present. I also note that even with the screen amendment in place, it would still be possible to see into much of the neighbouring yard. Below I attach an extract from the site photos displaying just how high the porch and proposed timber handrail and Perspex canopy sit relative to the boundary fence.



Other Considerations

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

This timber handrail and Perspex canopy over the rear porch at this address has also been under scrutiny as part of an Enforcement case (LA09/2022/1057/CA), though there has been no update regarding the status of this case, and no notice served, as it appears to be pending on the verdict of this proposal.

An objection was filed against this proposal by No.22 Parkview Heights on the 19th of December 2023, and they outline their concerns as the materials chosen for this proposal are not sympathetic with the built form and are incongruous with the character of the area, and that the proposal adversely affects the privacy and amenity of neighbouring residents with a complete loss of privacy to the rear garden. These points are similar to those raised during my assessment of the proposal based on policy and evidence.

Summary of Recommendation:

Refuse is recommended

I recommend that this proposal be refused, as it does not meet criteria (a) or (b) of EXT 1 from Addendum to PPS 7: Residential Extensions and alterations.

Refusal Reasons

Reason 1

The proposal is contrary to criteria (a) of the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations as the design and materials of the proposal are not sympathetic with the appearance of the existing property and will detract from the appearance and character of the surrounding area.

Reason 2

The proposal is contrary to criteria (b) of the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations as it will unduly affect the privacy and amenity of neighbouring residents

Signature(s): Ciaran O'Neill

Date: 12 April 2024

ANNEX	
Date Valid	7 December 2023
Date First Advertised	19 December 2023
Date Last Advertised	19 December 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 27 Parkmore Heights Magherafelt Londonderry BT45 6PJ</p> <p>The Owner / Occupier 25 Parkmore Heights Magherafelt Londonderry BT45 6PJ</p> <p>The Owner / Occupier 37 Parkmore Road Magherafelt Londonderry BT45 6PF</p> <p>The Owner / Occupier 41 Parkmore Road Magherafelt Londonderry BT45 6PF</p> <p>The Owner / Occupier 39 Parkmore Road Magherafelt Londonderry BT45 6PF</p> <p>The Owner / Occupier 43 Parkmore Road Magherafelt Londonderry BT45 6PF</p> <p>The Owner / Occupier 22 Parkmore Heights Magherafelt Londonderry BT45 6PJ</p> <p>The Owner / Occupier 45 Parkmore Road Magherafelt Londonderry BT45 6PF</p> <p>The Owner / Occupier 29 Parkmore Heights Magherafelt Londonderry BT45 6PJ</p>	
Date of Last Neighbour Notification	13 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/2009/0009/F Proposals: Detached dwelling. Decision: PR Decision Date: 17-AUG-09</p> <p>Ref: H/1999/0708/O Proposals: Site of Dwelling Decision: PR Decision Date: 07-NOV-00</p>	

Ref: H/1999/6032

Proposals: PROPOSED DWELLING ADJACENT TO 31 PARKMORE HEIGHTS
MAGHERAFELT

Decision: QL

Decision Date:

Ref: H/1996/0086

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: H/2006/0711/F

Proposals: New garage

Decision: PG

Decision Date: 04-DEC-06

Ref: LA09/2023/1331/F

Proposals: Retension of timber handrail and perspex roof canopy over rear porch

Decision:

Decision Date:

Ref: H/1983/0179

Proposals: HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/1995/0120

Proposals: GARAGE

Decision: PG

Decision Date:

Ref: H/1998/0048

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: H/1997/0320

Proposals: EXTENSION TO DWELLING

Decision: WITHDR

Decision Date:

Summary of Consultee Responses

-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Proposed Plans Plan Ref: 02
Proposed Plans Plan Ref: 02 Rev 1

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.15
Application ID: LA09/2024/0067/O	Target Date: 6 May 2024
Proposal: Proposed site for single dwelling and garage	Location: Land approximately 60M South West of 21 Corvanaghan Road Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Ms Joanne McGurk 10 Conway Close Cookstown BT80 9PU	Agent Name and Address: No Agent
Executive Summary: <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Cookstown Area Plan 2010, PPS3, PPS 21 (CTY 1, 2A, 13 AND 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 1, 2a, 8 and 14 therefore it is recommended for refusal.</p> <p>This proposal fails to meet Policy CTY 2a of PPS 21 the site is not located within a cluster of development in the countryside. The cluster does not consist of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings. Additionally, the proposed site is not bounded on at least two sides with other development.</p> <p>The proposal fails to meet Policy CTY8 of PPS21 in that the gap under consideration does not have a common built up frontage of 3 or more buildings along the Corvanaghan Road.</p> <p>A consultation request was sent to DFI Roads which has raised no concerns. Given the close proximity to the quarry a consultation request was sent to Environmental Health to which they have requested submission of a noise report, however this has not been requested from the applicant as I am of the opinion that the proposal is not acceptable in principle.</p>	

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Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx
	Environmental Health Mid Ulster Council	LA09 2024 0067 O Corvanaghan Road.doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2024 0067 O Corvanaghan Road.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 within the open countryside as defined in the Cookstown Area Plan 2010. The site is approximately 6.7 mile west of the development limit of Cookstown. The site is currently identified as lands approximately 60M SW of 21 Corvanaghan Road, Cookstown; the site comprises of a rectangular segment of land, the topography of which rises steeply from the Corvanaghan Road. The site is currently bounded by post and wire fencing with diminutive hedgerow, with mature trees along the NE boundary.

I note that the immediate surrounding area is characterised by a mixture of single detached residential dwellings, sprawling agricultural fields and dispersed farm complexes. It is noted that Keenan Quarries LTD is situated NW of the site, approximately 0.32km.

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Three (3) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date no third party representations have been received.

Relevant Planning History

No Planning history was considered relevant.

Planning Assessment of Policy and Other Material Considerations

- Cookstown Area Plan 2010
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

Cookstown Area Plan 2010

The Cookstown Area Plan 2010 identifies the site as being in the rural countryside, approximately 10.94km west of Cookstown.

It is acknowledged that the proposed site takes in Designation TRAN4/1 - National Cycle Network (Walkways/Cycleways and Routes to Schools). Plan Policy TRAN 4 details development proposals that would prejudice the existing use or future provision of these

routes will not be permitted, however as the site only slightly touches on this designation, I have no concerns that the proposed is contrary to TRAN 4.

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.77 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'.

Mid Ulster District Council Draft Plan Strategy 2030

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

Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Corvanaghan Road. DFI Roads have no concerns subject to visibility splays of 2.4m x 90m as per the RS1 form, if approved this will be conditioned to be complied with at Reserved Matters stage.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1- 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. In this instance the applicant has submitted a supporting document indicating the application be considered under CTY 2a of PPS 21.

It is note that the applicant stated in the supporting document an alternative policy for consideration (Policy CTY8 of PPS21 – Ribbon Development) which will also be

considered.

CTY 2a - New Dwellings in Existing Clusters

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:

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

This proposal does not meet the criteria of Policy CTY 2a, as the site is not located within a cluster of development in the countryside. With the minor exception of the dwelling and associated farm buildings located on the Northeast corner of the site, there are no other buildings bounding the site. Policy CTY 2a requires four or more buildings of which at least three are dwellings. With regards to the dwelling(s) located to the NE of the site (No. 21 Corvanaghan Road) was approved as replacement dwelling for No. 21A Corvanaghan Road under planning application I/2012/0004/O to which condition 3 stated that 21a be demolished. Therefore, dwelling No.21A cannot be considered as one of the three dwelling as per policy test 1.

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

I am of the opinion that all buildings as displayed in 'figure 1' would appear considerably dispersed resulting in a visual break, therefore it cannot be considered as its own visual entity.

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

I am content that the proposed focal point of P.Keenan Quarries Ltd can be considered as acceptable.

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

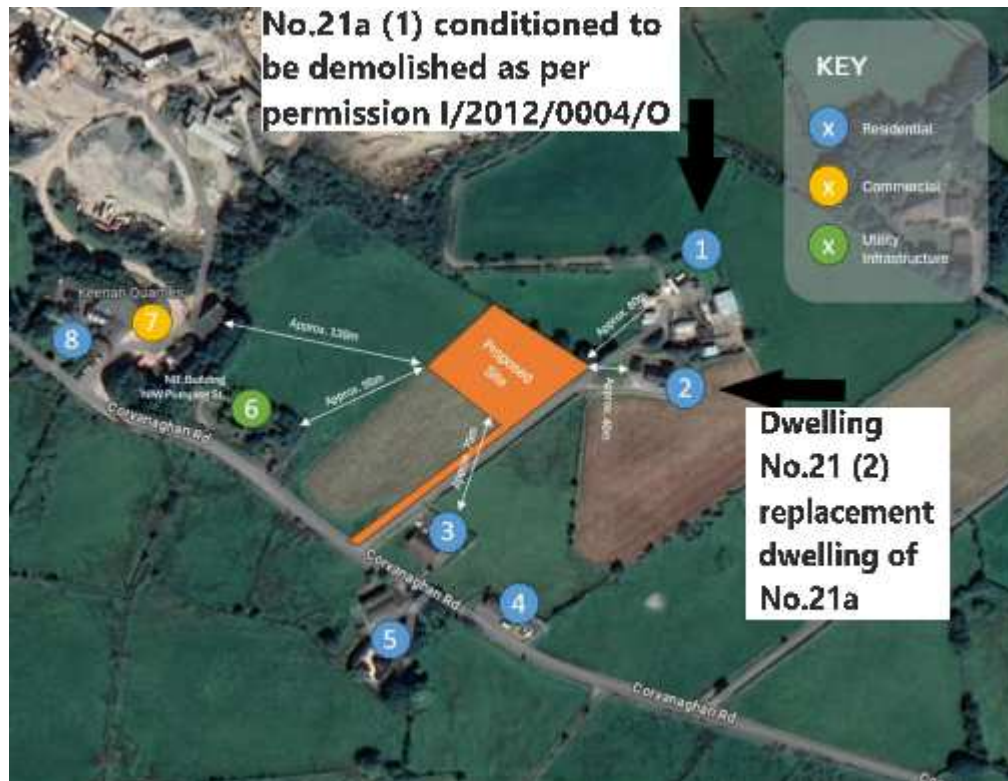
Immediately North, Northeast, Southwest and West of the site lies separate agricultural fields (which can also be seen in figure 1). As previously mentioned, it could be considered there is a degree of bounding to the NE corner. However, overall I do not believe that the proposed complies with this policy test.

5. *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and*
6. *Development would not adversely impact on residential amenity;*

With regards to point 5, the proposal fails to comply as it does not lie within an existing

cluster of development, it is also noted that the site is elevated which could result in any approved development to have a significant impact of the existing character. I have no concerns that if development were approved that it would negatively impact on residential amenity.

Figure 1 (Courtesy of applicant support document)



Overall, I am of the opinion that the proposed does not comply and is contrary to Policy CTY 2a.

Policy CTY 8 – Ribbon Development

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 these respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Policy CTY 8 also states that planning permission will be refused for applications which create or add to ribbon development in the countryside. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. With regard to the built-up frontage, I hold the view that dwelling No.17a and No.19 southeast of the site, alongside the Quarry No.29a west of

the site hold a common roadside built-up frontage. However, the proposed dwelling does not hold a common frontage as it is set back 0.17km from the roadside, whereas the buildings as listed above hold a common roadside frontage no more than 0.5km from the Corvanaghan Road.

Overall, I am of the opinion that the proposed does not comply and is contrary to Policy CTY 8.

CTY 13 - Integration and Design of Buildings in the countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however, as previously mentioned, the site is elevated therefore a condition restricting the ridge height to a maximum of 5.5m above finished floor level will ensure it is not a prominent feature and that the dwelling if approved will not have a significantly greater visual impact than No.21 Corvanaghan Road. A condition requesting the submission of a drawing detailing existing and proposed levels should be applied to any planning permission approval, along with a comprehensive landscaping plan showing what vegetation is to be retained and what additional planting is proposed. From which, I am content that the application is able to comply under CTY 13.

CTY 14 - Rural Character

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. I note that this application has failed under Policy CTY 2a and CTY 8, therefore it will erode rural character and will extend a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.

Other Considerations

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

The site is not subject to any issue issues pertaining to flooding.

I note that if this application were to be approved, the applicant should take into consideration comments made by environmental health as the submission of a Noise Report would be required, alongside comments made regarding dust.

Habitats Regulations Assessment

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements

of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to 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 CTY2A of Planning Policy Statement 21: Sustainable Development in the Countryside in that it does not lie within an existing cluster of development nor does not appear as a visual entity in the local landscape.

Reason 3

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it does not constitute a substantial and continuously built up frontage. If permitted this development would create a ribbon of development along the Corvanaghan Road.

Reason 4

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the dwelling would, if permitted, create a ribbon of development along this section of the Corvanaghan Road.

Signature(s): Ciara Carson

Date: 17 April 2024

ANNEX	
Date Valid	22 January 2024
Date First Advertised	6 February 2024
Date Last Advertised	6 February 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier 21A Corvanaghan Road Cookstown Tyrone BT80 9TN The Owner / Occupier 19 Corvanaghan Road Cookstown Tyrone BT80 9TN The Owner / Occupier 21 Corvanaghan Road, Cookstown Tyrone BT80 9TN	
Date of Last Neighbour Notification	24 January 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: I/2012/0243/RM Proposals: Replacement dwelling and garage Decision: PG Decision Date: 31-AUG-12</p> <p>Ref: I/1983/017701 Proposals: ERECTION OF DWELLING Decision: PG Decision Date:</p> <p>Ref: I/1983/0177 Proposals: ERECTION OF DWELLING Decision: PG Decision Date:</p> <p>Ref: I/1993/6056 Proposals: Site 80m west of 27 Corvanaghan Road Cookstown Decision: PRER Decision Date: 02-DEC-93</p>	

Ref: I/1978/0014
Proposals: 11 KV O/H LINE
Decision: PG
Decision Date:

Ref: LA09/2024/0067/O
Proposals: Proposed site for single dwelling and garage
Decision:
Decision Date:

Ref: I/2012/0004/O
Proposals: Replacement dwelling and garage
Decision: PG
Decision Date: 13-APR-12

Summary of Consultee Responses

DFI Roads - Enniskillen Office-DC Checklist 1.doc
FORM RS1 STANDARD.doc
Roads outline.docx
Environmental Health Mid Ulster Council-LA09 2024 0067 O Corvanaghan Road.doc
Environmental Health Mid Ulster Council-LA09 2024 0067 O Corvanaghan Road.doc

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

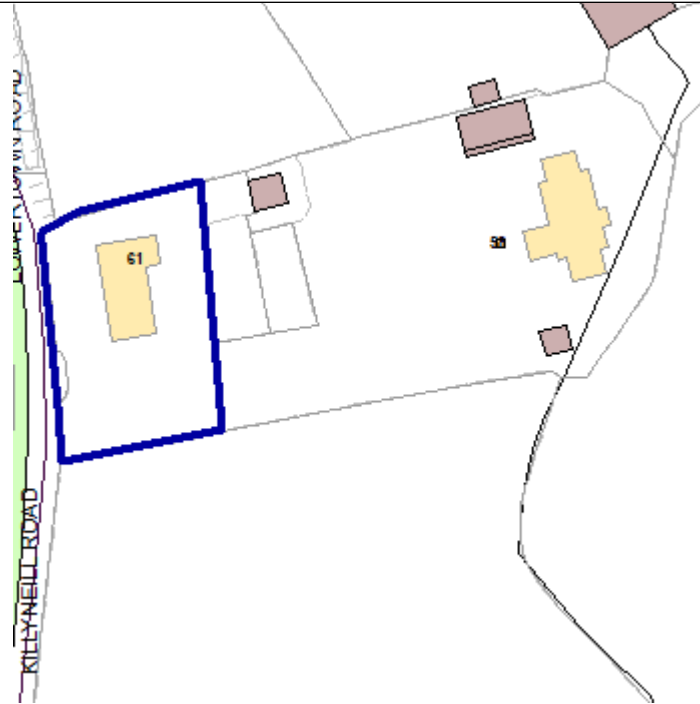


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.16
Application ID: LA09/2024/0154/F	Target Date: 23 May 2024
Proposal: Proposed alterations and ground floor extension to rear of existing dwelling at 61 Killyneil Road, Dungannon, BT71 6QL, to provide kitchen and bathroom with study over	Location: 61 Killyneill Road Dungannon BT71 6QL
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Dr Roy Peake 61 Killyneill Road Dungannon BT71 6QL	Agent Name and Address: Robert T Colvin 58 Springhill Road Moneymore Magherafelt BT45 7NH
Executive Summary: One (1no.) Third party representation has been received and issues of lack of privacy and overlooking were the main issues raised in the objection letter.	

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	1
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 in the countryside and is 1.74km east of the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and detached dwellings on single plots. To the east of the site and abutting the boundary is a one and half story dwelling with garage and lawn to the rear.

The site comprises of a one and half story dwelling with external finishes of cream pebbledash walls, slate roof tiles and wooden windows and doors. There is an integral garage within the front elevation. To the front of the site facing Killyneill Road is a tarmacked area for the parking and turning of vehicles and a small lawn. To the rear is a patio area and hedging and trees are the main boundary treatment at the site.

Description of Proposal

This is a full application for proposed alterations and ground floor extension to rear of existing dwelling at 61 Killyneill Road, Dungannon, BT71 6QL, to provide kitchen and bathroom with study over at 61 Killyneill Road, Dungannon.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, 1no. third-party objection has been received.

An objection was received from the owners/occupiers of No.58 Cavan Road which is the dwelling and its curtilage immediately east and abutting the rear boundary of the site. The objection letter was received on the 4th April 2024 and the main issues raised are as follows.

- Loss of privacy to rear amenity space through overlooking.
- Could an alternative window type not be used such as a skylight?
-

These issues will be considered in the assessment of neighbour amenity in EXT 1 in PPS 7 Addendum.

Planning History

No planning history at the application site.

Dungannon and South Tyrone Area Plan 2010

The site is not within any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations within the Plan. CTY1 allows extensions that accord with PPS7 Addendum.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Addendum to PPS 7 - Residential Extensions and Alterations: sets out planning policy and guidance for achieving quality in relation to proposals for residential extensions and alterations.

No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided by the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (The Addendum). Policy EXT1 of APPS7 indicates that planning permission will be granted for a proposal to extend or alter a residential property where four specific criteria are met.

Scale, Massing, Design and Appearance

The proposal is for a one and half storey extension to the rear of the existing dwelling at 61 Killyneill Road. The ground floor extension will serve a kitchen and bathroom and the first floor will serve a study. There are changes to the internal configuration of the dwelling, but this is not considered development. The extension is 4.3m from the existing rear wall and 8m in width. The extension will use a portion of rear amenity space but there is still sufficient space around the dwelling for recreation. I am content that the scale and massing of the extension is not excessive and will not overdevelop the plot. I consider no guttering will overhang onto neighbouring dwellings, so I have no concerns in this regard. The proposed external materials for the extension will match the existing dwelling with new upvc windows and doors so I have no concerns about the design and use of materials. I am content the extension will not detract from the character of the property as it is to the rear and there are limited critical views in both directions when viewed from the public road.

Neighbour Amenity

Privacy

The applicant has proposed a new window on the ground floor of the extension, and it is 4.6m from the rear wall of the extension to the boundary of No.61. As shown in figure 1 the ground floor window will face onto an existing hedgerow so I am content the ground floor window will not create an unacceptable loss of privacy.

The objector has stated that the rear study window will be on the upper floor and have a view overlooking the entire back garden of their property at No.58 Cavan Road. As

stated previously the curtilage of their property backs onto the application site. The objector states they have three teenagers, one of their children has additional needs which uses the outdoor space to deescalate and particularly requires the privacy of this area. Figure 2 is an orthophotography showing the application site and the neighbouring dwelling. There is a separation distance of 53m from the rear boundary of the site to the edge of the patio area of the objector's dwelling. Paragraph A30 states that overlooking of gardens which would result in a direct view from a main room to the most private area of the garden which is usually the first 3-4m of the garden, would not be acceptable. Paragraph 7.15 in Creating Places Design Guidance states that a separation distance of at least 20m between opposing rear first floor windows is generally acceptable. As the distance between the upper windows of the properties is 53m I am content this guidance has been met.



Figure 1 – Image of the rear amenity space of the application site.



Figure 2 – Orthophotography image of the site in red and the objector's dwelling.

I consider there will be views of the garden area of No.58 Cavan Road as this is an

upper floor window, but this is not a main serving room, and the proposed use is a study. I consider it is appropriate as mitigation this study window will be obscure glazed and conditioned if the proposal is granted approval.

It is stated in the objection letter could the applicant change the design of the study window to a skylight fire escape window which looks out the side elevation. Generally, on upper floor windows there needs to be a window that opens fully for fire escape.

Due to the separation distance of 53m from the boundary of the site to the objector's dwelling I am content there will not be unacceptable loss of light, dominance or overshadowing from the proposed extension.

Impact on Trees and Environmental Quality of this Area

There are no trees being removed as part of this proposal and I am content the proposed extension will not detract from the environmental quality of the area.

Amenity Space, Parking and Manoeuvring

The proposal will use a portion of amenity space to the rear of the dwelling; however, I am content there is still sufficient space around the dwelling for recreation and the storage of bins. There is space to the front of the dwelling for the parking and turning of two cars and the proposal will have no impact on this so I have no concerns.

Other Considerations

I have completed checks on the statutory map viewers, and I am content there is no other flooding, built or natural heritage considerations.

Summary of Recommendation:

Approve is recommended

I recommend approval as the proposal meets all policy requirements of Policy EXT 1 in PPS 7 Addendum and is therefore considered acceptable.

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

Obscured glass shall be installed on the rear elevation first floor study window as annotated on Drawing 03 Rev 1 date received 12 MAR 2024, prior to the occupation of the dwelling following completion of works hereby approved, and retained in perpetuity thereafter.

Reason: In the interests of privacy and amenity.

Signature(s): Gillian Beattie

Date: 15 April 2024

ANNEX	
Date Valid	8 February 2024
Date First Advertised	19 February 2024
Date Last Advertised	19 February 2024
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 61 Killyneill Road Dungannon BT71 6QL The Owner / Occupier 58 Cavan Road Dungannon BT71 6QW</p>	
Date of Last Neighbour Notification	13 March 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/2000/1323/F Proposals: Alterations and extension to dwelling Decision: PG Decision Date: 20-FEB-01</p> <p>Ref: M/1977/0573 Proposals: 11 KV ADDIT. PHASE, 11 KV O/H LINE Decision: PG Decision Date:</p> <p>Ref: M/1998/0342 Proposals: Site for Replacement Dwelling Decision: PG Decision Date:</p> <p>Ref: LA09/2024/0154/F Proposals: Proposed alterations and ground floor extension to rear of existing dwelling at 61 Killyneil Road, Dungannon, BT71 6QL, to provide kitchen and bathroom with study over Decision: Decision Date:</p>	

Ref: M/2001/0978/O

Proposals: Renewal of outline planning permission M/1998/0342

Decision: PG

Decision Date: 25-OCT-01

Ref: M/2002/1270/F

Proposals: Replacement dwelling house and garage (application for a variance on siting condition No. 4 on planning approval ref. M/2001/0978/O).

Decision: PR

Decision Date: 14-MAY-04

Ref: M/2004/1019/O

Proposals: Replacement dwelling house and garage - Variance of siting condition No4 of planning approval M/2001/0978/O

Decision:

Decision Date:

Ref: M/1976/0523

Proposals: REPLACEMENT BUNGALOW

Decision: PG

Decision Date:

Ref: M/1977/053301

Proposals: REPLACEMENT BUNGALOW

Decision: PG

Decision Date:

Ref: M/1977/0533

Proposals: REPLACEMENT BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: M/1975/0512

Proposals: 11 KV AND MV O/H LINES

Decision: PG

Decision Date:

Ref: M/1995/0030

Proposals: Site for replacement dwelling

Decision: PG

Decision Date:

Summary of Consultee Responses

-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Site Layout or Block Plan Plan Ref: 02 Rev 1
Existing and Proposed Elevations Plan Ref: 03
Proposed Floor Plans Plan Ref: 04
Proposed Floor Plans Plan Ref: 05
Roof Details Plan Ref: 06
Existing Floor Plans Plan Ref: 07
Existing and Proposed Elevations Plan Ref: 03 Rev 1
Proposed Floor Plans Plan Ref: 04 Rev 1
Proposed Floor Plans Plan Ref: 05 Rev 1
Existing Elevations Plan Ref: 08
Existing Elevations Plan Ref: 09
Proposed Elevations Plan Ref: 10

Notification to Department (if relevant)

Not Applicable

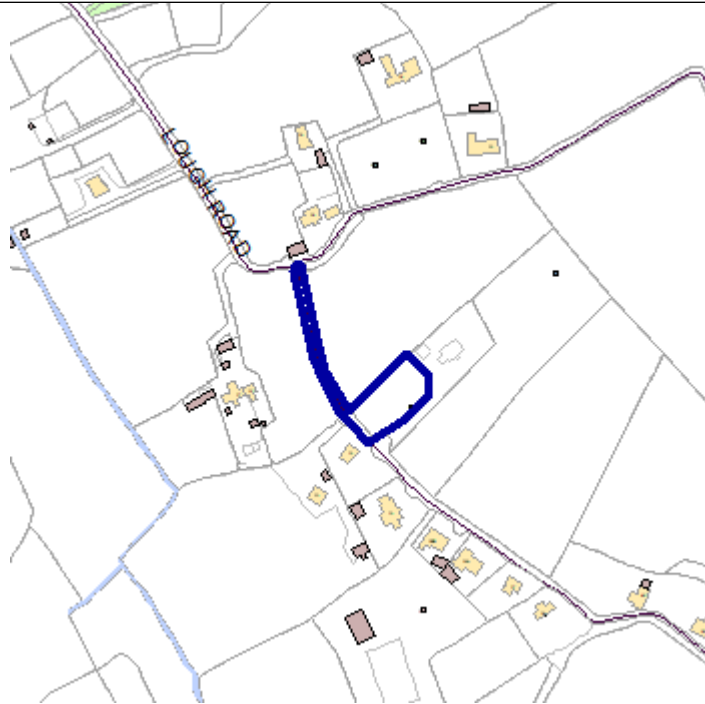


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.17
Application ID: LA09/2024/0176/O	Target Date: 28 May 2024
Proposal: Dwelling and garage under CTY2A	Location: 40M SW of 11 Lough Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Peter Cassidy 17 Barrack Road Magherafelt BT45 6LY	Agent Name and Address: CMI Planners 38A Airfield Road Antrim BT41 3SQ
Executive Summary: <p>This application is brought before the planning committee with a recommendation for refusal. The proposal is contrary to Policy CTY 2a of PPS 21 for a cluster dwelling, in that the proposal is not bounded on two sides by other development in the cluster because the building to the rear of the application site is not taken to be a part of this cluster. The proposed dwelling also fails to consolidate / round off with other development in the cluster.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline.DOCX

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside outside any defined settlement limits as defined in the Magherafelt Area Plan 2015. The site is a 0.15 hectare area agricultural field which slopes gently upwards from the road. The road in question is an unadopted laneway which adjoins the public Lough Shore road to the north west of the site. The site is fairly open. Defined boundaries include post and wire

fencing along the roadside and south eastern edges of the site and field hedgerow along the north western edge of the site. Adjacent and north east of the site is a substantially built two-storey dwelling which is not yet occupied. Adjacent and across the road from the site is dwelling no. 31 Lough Road. Adjacent and to the north west and south east of the site are agricultural fields. There is an identifiable cluster of development to the south east of the site consisting mostly of road-fronting dwellings and a large yard area with a series of agricultural sheds to the rear of nos. 35a and 35b Lough Road. The wider surrounding environment consists mostly of agricultural fields with the shoreline of Lough Neagh only 0.5km to the south east of the site. There are also a high volume of clusters of built up development leading off from the Shore Road.

Description of Proposal

This is an outline application for a proposed dwelling and garage under CTY 2a.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Planning History for Consideration

LA09/2020/0038/O – House and garage – Approx 50m SW of 35 Lough Road Ballyronan – Permission Granted 19/03/2020 – the report concurred that Traad Nurseries could be considered a valid focal point in this cluster.

H/2004/0116/F – Proposed dwelling and garage – Opposite 31 Lough Road, Ballymaguigan, Magherafelt – Permission Granted 21/12/2004 – site to the rear of application site.

Representations

To date no third party representations have been received.

Magherafelt Area Plan 2015

The site of the proposed development is located in the rural countryside outside any defined settlement limits as defined in the Magherafelt Area Plan 2015.

Other Constraints

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

This site is not located within or adjacent to any listed buildings / structures.

There are no issues pertaining to flooding.

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

PPS 21 – Sustainable Development in the Countryside

PPS 21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a provides that planning permission will be granted for a dwelling at an existing cluster of development subject to the following criteria:

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

The identified cluster to the south east of the site lies outside of a farm and consists of more than four buildings and more than three of which are dwellings.

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

The cluster of development is located along an unadopted laneway leading off from main Lough Shore Road. The cluster appears as a visual entity in the landscape when travelling in either direction along this particular stretch.

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

Planning permission granted under LA09/2020/0038/O has established Traad Nurseries as a valid focal point within this cluster.

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

While the site is bounded on two sides by other development, it is agreed that only the dwelling on the south western side constitutes development that is within the identified cluster. The dwelling to the rear of the application site (associated with planning approval H/2004/0116/F) does not read with the cluster and therefore it cannot be taken to be a part of the identified cluster to the south of the site.

- 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;

It is not agreed that a dwelling at this site consolidates / rounds off with other development in the cluster. Since it is the opinion of the officer that the dwelling to the rear of the application site does not constitute part of the cluster of development, a new dwelling at this location cannot be absorbed into the existing cluster through rounding off or consolidation.

- Development would not adversely impact on residential amenity.

There is no reason at this outline stage to suspect that the development of a dwelling at this site would adversely impact on residential amenity. Moreover no objections have been received from notified neighbouring dwellings.

As above, the proposal fails to meet a number of policy criteria under Policy CTY 2a. Firstly the proposal is not bounded on two sides by other development in the cluster because the building to the rear of the application site is not taken to be a part of this cluster. Secondly, the proposed dwelling does not consolidate / round off with other development in the cluster. Therefore the policy fails to meet Policy CTY 2a.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is taken that the proposed development does not round off / consolidate with other development in the cluster. Nevertheless, there is a degree of blending with the dwelling to the rear of the proposed site, even if this dwelling is not read with the cluster to the south. A sympathetically designed dwelling with a lower ridge height, utilising a

mix of proposed and existing landscaping at the site could blend with the landform. On balance the proposal complies with CTY 13 at this outline stage.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As indicated above, a dwelling at this site would not appear prominent in the landscape if designed sympathetically. The site and its environs are capable of absorbing a modest sized dwelling. On balance the proposal complies with CTY 14 at this outline stage.

PPS 3 – Access, Movement and Parking

The proposal involves the creation of a new access onto a private unadopted road. DfI Roads were consulted and provided no objection to the proposal with a recommended implementation of minimum visibility splays of 2.4 x 33 metres where the access meets the private laneway. The proposal does not offend Policies AMP 2 and AMP 3 of PPS 3.

Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application is refused on the grounds that it does meet Policy CTY 2a.

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 2a of PPS 21 in that the cluster is not bounded on two sides by other development in the cluster and the development of the site cannot be absorbed into the existing cluster and so the proposed dwelling fails to consolidate or round off with the existing cluster.

Signature(s): Benjamin Porter

Date: 24 April 2024

ANNEX	
Date Valid	13 February 2024
Date First Advertised	27 February 2024
Date Last Advertised	27 February 2024
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 41 Lough Road Magherafelt Londonderry BT45 6LN The Owner / Occupier 38 Lough Road Magherafelt Londonderry BT45 6LN The Owner / Occupier 20 Lough Road Magherafelt Londonderry BT45 6LN The Owner / Occupier 23 Lough Road Magherafelt Londonderry BT45 6LN The Owner / Occupier 31 Lough Road Magherafelt Londonderry BT45 6LN The Owner / Occupier 11 Lough Grove Magherafelt Londonderry BT45 6LN</p>	
Date of Last Neighbour Notification	20 February 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/2006/0444/F Proposals: Replacement Dwelling Decision: PG Decision Date: 20-JAN-09</p> <p>Ref: H/2000/0211/F Proposals: Replacement Dwelling Decision: PG Decision Date: 13-JUN-00</p> <p>Ref: H/2000/0461/F Proposals: Replacement Dwelling Decision: PG Decision Date: 21-AUG-00</p>	

Ref: H/2001/0272/Q
Proposals: Site of dwelling
Decision: 300
Decision Date: 05-APR-01

Ref: H/2004/0116/F
Proposals: Proposed dwelling and garage.
Decision: PG
Decision Date: 21-DEC-04

Ref: H/1999/0319
Proposals: SITE OF DWELLING
Decision: WITHDR
Decision Date:

Ref: H/2000/0223/O
Proposals: Site of Dwelling
Decision: PG
Decision Date: 21-MAY-00

Ref: H/2006/0147/F
Proposals: Proposed Dwelling & Garage.
Decision: PG
Decision Date: 01-JUN-06

Ref: H/2004/0793/RM
Proposals: Site of Dwelling and Detached Garage.
Decision: PG
Decision Date: 09-DEC-04

Ref: H/2003/0981/O
Proposals: Site of dwelling and detached garage.
Decision: PG
Decision Date: 25-FEB-04

Ref: H/2012/0118/F
Proposals: Realignment and widening of part access laneway to existing dwelling and relocation of field gates
Decision: PG
Decision Date: 12-SEP-12

Ref: H/2014/0011/F
Proposals: Erection of replacement dwelling (change of house type from that previously approved under extant planning ref. H/2006/0444/F) and detached domestic garage
Decision: PG

Decision Date: 04-JUN-14

Ref: LA09/2017/1159/LDE

Proposals: This application relates to the material start made on site as per approved planning Ref. H/2012/0118/F. It is to seek formal recognition from the council that commencement of works began within the date specified on the aforementioned planning approval

Decision: PG

Decision Date: 11-MAR-19

Ref: LA09/2019/1571/F

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 10-NOV-20

Ref: LA09/2019/0065/O

Proposals: Proposed infill dwelling using access as approved under H/2012/0118/F

Decision: PG

Decision Date: 05-MAR-19

Ref: LA09/2019/1641/RM

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 11-FEB-20

Ref: H/2001/0193/RM

Proposals: Dwelling and garage

Decision: PG

Decision Date: 07-AUG-01

Ref: H/1999/0772/O

Proposals: Site of dwelling and garage

Decision: PG

Decision Date: 27-NOV-00

Ref: LA09/2024/0175/O

Proposals: Dwelling and garage under CTY2A

Decision:

Decision Date:

Ref: LA09/2020/0038/O

Proposals: House and garage

Decision: PG

Decision Date: 19-MAR-20

Ref: LA09/2023/0269/F

Proposals: Dwelling & Domestic Garage

Decision: PG

Decision Date: 27-JUN-23

Ref: LA09/2022/0618/O

Proposals: Dwelling & Garage.

Decision:

Decision Date:

Ref: LA09/2019/0064/O

Proposals: Proposed infill dwelling using access as approved under application
H/2012/0118/F

Decision:

Decision Date:

Ref: LA09/2024/0176/O

Proposals: Dwelling and garage under CTY2A

Decision:

Decision Date:

Ref: H/2009/0727/F

Proposals: Re-alignment of part access lane to existing dwelling and re-location of
existing field gate

Decision: PG

Decision Date: 01-FEB-10

Ref: H/2006/0243/O

Proposals: Site of Dwelling & Garage

Decision: PR

Decision Date: 10-NOV-10

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline.DOCX

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

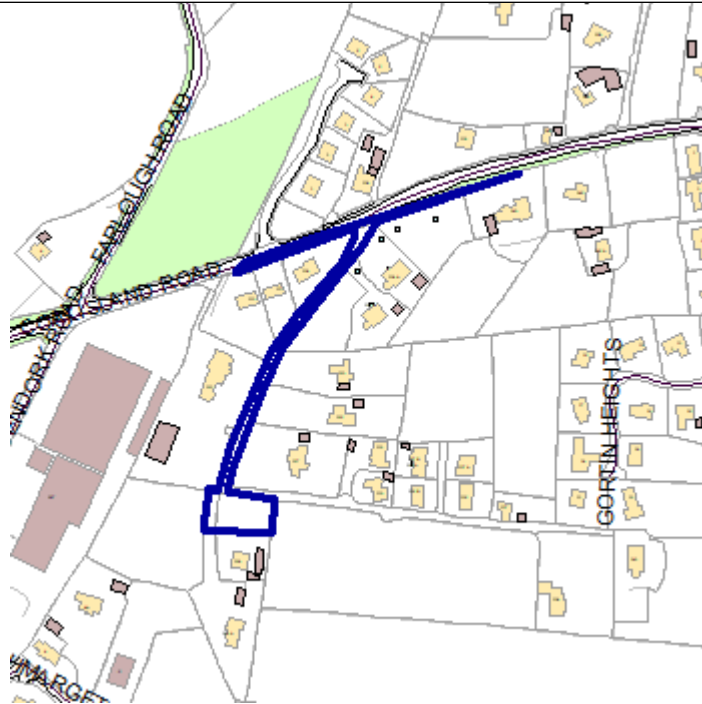


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 May 2024	Item Number: 5.18
Application ID: LA09/2024/0216/O	Target Date: 11 June 2024
Proposal: Proposed site for single storey dwelling and garage	Location: Approx 20M North of 229 Coalisland Road Mullaghmarget Edendork BT71 6EP
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Ms S Casey 229 Coalisland Road Mullaghmarget, Edendork BT71 6EP	Agent Name and Address: Mr D O'Neill 17 Main Street Dromore BT783AE
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Outline & RS1 form.DOCXDC Checklist.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, just outside and at the edge of Edendork Settlement Limits, as defined by the Dungannon and South Tyrone Area Plan (see Fig: 1 below).

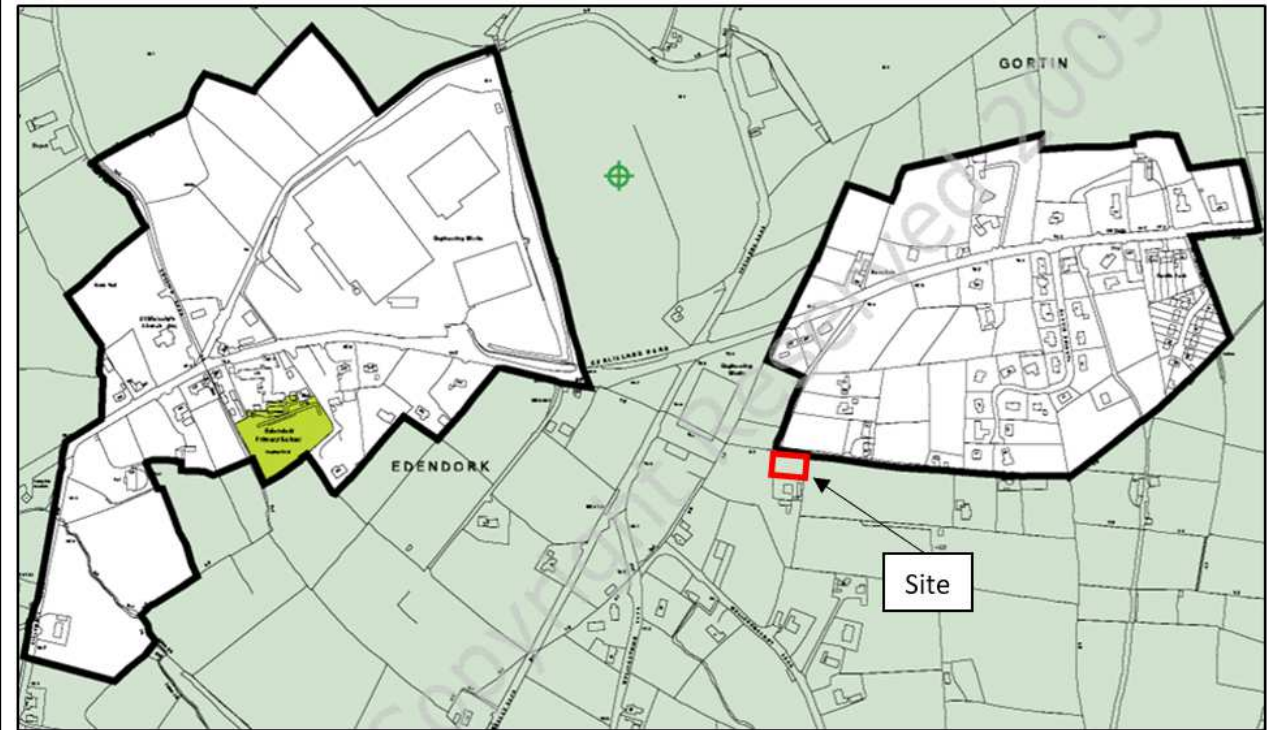


Fig 1: Edendork Settlement Limits – main body of site outlined red.

Edendork is defined in two nodes, the eastern cluster comprising largely housing and western cluster comprising a small number of houses, a primary school, church, hall and number of industrial businesses. The site is located immediately south of the most southwest corner of the aforementioned eastern cluster.



Fig 2: Site outlined red.



Fig 3: Site outlined red.

The site is well set back from and accessed off the Coalisland Road (A45 Dungannon - Coalisland) located to its north via an existing lane serving approx. 17 dwellings in total, 12 inside and 5 outside the settlement limits of Edendork.

The site is a relatively flat rectangular shaped plot comprising most of the north garden of one of the dwellings located outside the settlement limits, no. 229 Coalisland Road, a bungalow bound to the east and south by outbuildings; and a small piece of land immediately west of the garden providing an access lane to another bungalow dwelling to the south of no. 229, no. 229a Coalisland Road.



Fig 4: View of site from gravel lane to the south serving no. 229a Coalisland Road.

The site is bound to the north by a d-rail fence. The east boundary appears to have been bound by a line of trees however only a few now remain as the remainder have been topped down as seen in Fig 4 above. The west boundary is undefined on to the access lane serving the site / no. 229. The south boundary of the site is undefined onto the remainder of no. 229's garden however just beyond to the south again a line of mature trees runs along the north side of no. 229.

Views of the site are limited to the lane serving it on the immediate approach and

passing its lane side frontages. Views of the site are screened from the surrounding public road network due to its set back location from the network; the topography of the area; and the existing vegetation and development bounding the site and in the wider vicinity enclosing and screening it.

The immediate area surrounding the site is largely characterised by its edge of settlement location bound by the residential development within Edendork settlement limits to its north and agricultural lands interspersed with dwellings in the rural countryside to its south / southeast. The rural countryside further west of the site (between and running to the south of the two nodes of development forming Edendork) has come under considerable development pressure in recent years with substantial development having formed largely to the east side of the Edendork Road around its junction with the Mullaghteigh Road primarily in the form of housing but including Chieftain trailers manufacturing business comprising a number of buildings and sheds on a large yard further to the northwest of the site.

Description of Proposal

This is an outline application for a proposed single storey dwelling and garage to be located on lands approx. 20m north of 229 Coalisland Road Mullaghmarket Edendork.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

Regional Development Strategy 2030
Strategic Planning Policy Statement for Northern Ireland
Dungannon and South Tyrone Area Plan 2010
Planning Policy Statement 3: Access, Movement and Parking
Planning Policy Statement 4: Planning and Economic Development
Development Control Advice Note 15: Vehicular Standards
Planning Policy Statement 21: Sustainable Development in the Countryside
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

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

Relevant Planning History

N/A

Consultees

1. Dfi (Roads) – were consulted in relation to the access, movement and parking arrangements and raised no objections to the proposed development subject to standard conditions and informatives. As such, I am content the proposal meets the requirements of Planning Policy Statement 3: Access, Movement and Parking.

2. Environmental Health – were consulted in relation to the proposal’s proximity to Chieftain Trailers. Environmental Health advised a noise impact assessment to determine existing noise levels at the site of the proposal and whether noise mitigation measures need to be incorporated into the proposal to ensure that a suitable noise environment can be achieved for future end users of the site. That given the proximity of the site to Chieftain Trailers there is also the potential for this current land use to contaminate land and impact on end users of the proposed site. In view of this, subject to a noise assessment having been submitted to Environmental Health’s satisfaction, if Planning were minded to grant permission of this proposal the following conditions to protect human health are recommended to be attached to any such decision:
 - Should any unforeseen ground contamination be encountered during the development, and in order to protect human health, all works on the site should immediately cease. The Planning and Environmental Health Department of Mid Ulster District Council shall be informed and a full written risk assessment in line with current government guidance (Land Contamination Risk Management – LCRM) that details the nature of the risks and any necessary mitigation measures shall be prepared and submitted for appraisal and agreed with the Planning and the Environmental Health Department of Mid Ulster District Council.
 - If measures are required as per Condition 1 it shall be necessary for the applicant to demonstrate through a verification report that the site is now fit for end use. It must demonstrate that the identified pollutant linkages are effectively broken. The Verification Report methodology shall be in accordance with current best practice as outlined by the Environment Agency. The Verification Report methodology shall be agreed in advance with the Planning Service, in consultation with the Environmental Health Department and all works carried out to the satisfaction of the Council.

I consider Environmental Health’s request for a noise impact assessment and the conditions regarding potential contamination should the development be granted in the interests of public health reasonable. That said as detailed further below the principle of this proposal under the relevant planning policies has not been established and as such a noise impact assessment has not been requested. Without a noise impact assessment to demonstrate otherwise there is potential that this proposal would be incompatible with Chieftain Trailers an existing

economic development use and / or that it would prejudice its future operation. As such the proposal as it stands is contrary to Policy PED 8 of Planning Policy Statement 4, Planning and Economic Development, 'Development incompatible with Economic Development Uses.'

Dungannon and South Tyrone Area Plan - The site is located in the rural countryside just outside and at the edge of Edendork Settlement Limits, as defined by the Dungannon and South Tyrone Area Plan. See Fig: 1, further above in 'Characteristics of the Site and Area'. It sits within the Greenbelt as defined in the Dungannon and South Tyrone Area Plan 2010. The introduction of PPS21 resulted in Greenbelts being removed and a new suite of policies for development in the countryside.

The Strategic Planning Policy Statement for Northern Ireland - advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside which deals with development such as proposed, are retained.

Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside - PPS 21 is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21.

Whilst I have considered all the instances listed in Policy CTY1 of PPS21, I do not consider this proposal meets any, including a new dwelling in an existing cluster in accordance with Policy CTY2a or a dwelling in an infill site in accordance with Policy CTY8 for the reasons detailed below.

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

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

This proposal for a dwelling to be located on the garden of no. 229 Coalisland Road in my opinion does not meet the criteria of Policy CTY 2a, as the site is not located within a cluster of development in the countryside. Whilst it may be considered a cluster of development exists further to the west of the site around Chieftain Trailers as detailed in the 'Characteristics of the Site and Area' I do not consider this proposal located within it. With the exception of the two dwellings with ancillary buildings bounding the site to the

south as seen further above in Fig 3 all other development bounding it, namely the dwellings to the north are located within Edendork Settlement Limits.

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

I consider this proposal contrary to Policy CTY8. That it does not constitute a small gap site to accommodate a dwelling within an otherwise substantial and continuously built-up frontage in the countryside. Whilst it is located within a line of more than 3 buildings, it is bound only to the south by buildings in the countryside. Development to the north is located within the settlement limits of Edendork and therefore cannot be considered to bookend the line of development to the south of the site.

I have considered other instances listed under Policy CTY1 of PPS21 whereby the development of a dwelling in the countryside is considered acceptable however this proposal fails to meet with these instances.

Additionally, the proposed development by reason of its location immediately adjacent Moortown Settlement Limits would be contrary to Policy CTY 15 'The Setting of Settlements' of Planning Policy Statement 21, in that it would result in urban sprawl by extending the settlement limits of Edendork.

Planning Policy Statement (PPS) 4: Planning and Economic Development

As detailed further above (see Environmental Health's comments under 'Consultees') without a noise impact assessment to demonstrate otherwise there is potential that this proposal would be incompatible with Chieftain Trails an existing economic development use and / or that it would prejudice its future operation. As such the proposal as it stands is contrary to Policy PED 8 of Planning Policy Statement 4, Planning and Economic Development, 'Development incompatible with Economic Development Uses.'

Other Policy and Material Considerations

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

Flood Maps NI indicate no flooding on site.

Recommendation

Refuse

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted result in urban sprawl.

Reason 3

The proposal is contrary to Policy PED 8 of Planning Policy Statement 4, Planning and Economic Development in that the development would be incompatible with Chieftain Trails an existing economic development use and / or that it would prejudice its future operation.

Signature(s): Emma Richardson

Date: 25 April 2024

ANNEX	
Date Valid	27 February 2024
Date First Advertised	12 March 2024
Date Last Advertised	12 March 2024
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 229A Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 232 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 221 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 225 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 1 Farlough Manor Dungannon Tyrone BT71 6WS The Owner / Occupier 219 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 219B Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 219A Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 217 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 230 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 227 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 243 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 223 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 213 Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 230A Coalisland Road Dungannon Tyrone BT71 6EP The Owner / Occupier 229 Coalisland Road Dungannon Tyrone BT71 6EP</p>	
Date of Last Neighbour Notification	5 March 2024

Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/2001/0275/F Proposals: Extension to front of dwelling Decision: PG Decision Date: 11-APR-01</p> <p>Ref: M/2008/0627/F Proposals: Proposed development of 6no. 2 storey detached 5 bedroom dwellings with detached single garages, with associated landscaping and site works. Decision: PG Decision Date: 18-AUG-09</p> <p>Ref: M/2014/0227/F Proposals: Proposed amended Site Layout and House Types to superceed application M/2008/0627/F Decision: Decision Date:</p> <p>Ref: M/2011/0439/F Proposals: Proposed development of 8 no storey detached 4 bedroom dwellings with detached single garages, with associated landscaping and site works Decision: PR Decision Date: 15-NOV-11</p> <p>Ref: M/1999/0178 Proposals: Proposed Alterations and repairs to Listed Dwelling Decision: PG Decision Date:</p> <p>Ref: LA09/2024/0216/O Proposals: Proposed site for single storey dwelling and garage Decision: Decision Date:</p> <p>Ref: M/2001/0265/O Proposals: Site for replacement dwelling. Decision: PG Decision Date: 30-MAY-01</p> <p>Ref: M/2004/1097/F Proposals: Replacement dwelling</p>	

Decision: PG
Decision Date: 16-SEP-04

Ref: M/2005/2102/Q
Proposals: Proposed Dwelling
Decision: ELA
Decision Date: 27-OCT-05

Ref: M/2005/1569
Proposals: Proposed dwelling
Decision:
Decision Date:

Ref: M/2007/1048/F
Proposals: Proposed dwelling and garage with related site works. This application is for an alternative design and layout to that previously approved under file reference M/06/0374/F.
Decision: PG
Decision Date: 22-JAN-08

Ref: M/2004/1900/Q
Proposals: Development site
Decision: 300
Decision Date: 25-NOV-04

Ref: M/2006/0374/F
Proposals: Proposed Dwelling & Garage (Revised Access Point)
Decision: PG
Decision Date: 23-MAR-07

Ref: M/2004/1149/O
Proposals: Proposed dwelling
Decision:
Decision Date:

Ref: M/2012/0097/RM
Proposals: Proposed two storey dwelling
Decision: PG
Decision Date: 23-APR-12

Ref: M/2008/1193/O
Proposals: Proposed dwelling
Decision: PG
Decision Date: 11-OCT-11

Ref: M/2008/1026/F

Proposals: New roof covering to main roof, including new pitched roof above rear return (above kitchen and rear bedroom)

Decision: PG

Decision Date: 23-OCT-08

Ref: LA09/2021/0427/RM

Proposals: Proposed single storey dwelling

Decision: PG

Decision Date: 09-JUN-21

Ref: M/2007/0102/RM

Proposals: Erection of a two storey dwelling.

Decision: PG

Decision Date: 05-JUN-07

Ref: M/2010/0897/F

Proposals: Proposed single storey dwelling.

Decision: PG

Decision Date: 15-MAR-11

Ref: M/1978/0540

Proposals: BUILDERS AND YARD AND JOINERY WORKSHOP

Decision: PR

Decision Date:

Ref: M/2004/1615/O

Proposals: Proposed dwelling

Decision: PG

Decision Date: 14-JUN-05

Ref: M/1975/0061

Proposals: EXTENSION TO DWELLING HOUSE

Decision: PG

Decision Date:

Ref: M/1986/0006

Proposals: RETIREMENT DWELLING

Decision: PR

Decision Date:

Ref: M/2007/0904/F

Proposals: Housing development consisting of 5No. dwellings, private drive and associated works

Decision: PG

Decision Date: 24-JAN-08

Ref: M/2008/1339/F

Proposals: Proposed change to housing development layout from previously approved application no M/2007/0904/F including change of house type & new access locations

Decision: PG

Decision Date: 17-DEC-09

Ref: M/2002/1275/F

Proposals: Dwelling and Garage

Decision: PG

Decision Date: 04-MAR-03

Ref: M/1994/0521

Proposals: Site for Bungalow

Decision: PR

Decision Date:

Ref: M/2007/0866/F

Proposals: Proposed sunroom extension to gable of dwelling. (Amended application form and amended plans)

Decision: PG

Decision Date: 18-DEC-07

Ref: LA09/2021/0739/F

Proposals: Proposed dwelling & Garage/Store.

Decision: PG

Decision Date: 28-JUN-23

Ref: LA09/2019/0767/O

Proposals: Proposed dwelling and garage (Amended Access Position)

Decision: PG

Decision Date: 10-JUL-20

Ref: M/2013/0557/F

Proposals: Conversion of barn to dwelling

Decision: PG

Decision Date: 27-FEB-14

Ref: M/1986/0562

Proposals: RETIREMENT BUNGALOW

Decision: PG

Decision Date:

Ref: M/1988/0835

Proposals: Retirement Bungalow

Decision: PG

Decision Date:

Ref: M/2005/1855/F

Proposals: Change of use from store to spray shed to include 4 No extractor fans.

Decision: PG

Decision Date: 16-APR-07

Ref: LA09/2021/1785/F

Proposals: Proposed engineering works extensions.

Decision: PG

Decision Date: 06-OCT-23

Ref: M/2002/1160/F

Proposals: Proposed extension to workshops and office development

Decision: PG

Decision Date: 28-JUN-04

Ref: M/2003/0188/F

Proposals: Proposed store and boundary wall

Decision: PG

Decision Date: 07-APR-04

Ref: M/1995/0089

Proposals: Extension & Recladding of Factory

Decision: PG

Decision Date:

Ref: M/2013/0556/LBC

Proposals: Conversion of barn to dwelling

Decision: CG

Decision Date: 27-FEB-14

Ref: LA09/2015/0162/F

Proposals: Proposed development of 6 No. 2 storey 4 bedroom detached dwellings with detached single garages ,associated landscaping and site works

Decision: PG

Decision Date: 08-DEC-15

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Outline & RS1 form.DOCXDC Checklist.doc

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable