



04 June 2024

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Dungannon at Mid Ulster District Council, Council Offices, Circular Road, Dungannon, BT71 6DT on Tuesday, 04 June 2024 at 18:00 to transact the business noted below.

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

#### Development Management Decisions

5. Receive Planning Applications 7 - 282

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2018/1643/F	Residential development comprising of 42 units (30 semi-detached and 12 detached), creation of a new access/right	APPROVE

		turn lane from Coolshinney Road, open space/private amenity space, landscaping and ancillary site works at lands 100m SW of 13 Coolshinney Road And 20m N of 2 Thornhill, Magherafelt for Mullaghboy Construction Ltd	
5.2.	LA09/2021/1546/F	Sand & gravel extraction including access from the Camlough Road and Internal Haul Road. Landscaped earth berms and progressive restoration to a mix of agricultural and wetland nature conservation habitats. At lands E of 220 Camlough Road (Westland Horticultural), Camlough Road, Pomeroy for Loughdoo Aggregates & Concrete Ltd	APPROVE
5.3.	LA09/2021/1819/F	Demolition of an existing building and development of 65 dwellings (28 detached, 30 semi-detached, 1 chalet bungalow and 6 apartments) and associated garages, open space, access and site works at land between 1 Spires Manor and 96 Moneymore Road (directly S & E of Spires Manor and S of Spires Integrated PS), Magherafelt. for Waterside Leisure (Ni) Ltd	APPROVE
5.4.	LA09/2023/0340/F	Dwelling and Garage at Lands Approx 40m S of 117 Cavanakeeran Road, Pomeroy for Ms Kate McAleer	REFUSE
5.5.	LA09/2023/0484/RM	Phase One of Business Park development (Outline LA09/2018/1361/O), including 3 units for light industrial use, a security gatehouse building, and roadway at lands immediately W of Kilcronagh Business Park, Cookstown for MACM (NI) Ltd	APPROVE
5.6.	LA09/2023/0771/O	Site for a dwelling and domestic garage at approx 120m E of 65 Moneysharvan Road, Swatragh for Mr Patrick Turner	REFUSE
5.7.	LA09/2023/0852/O	Dwelling and garage at 55m E of 64 Auhrim Road, Magherafelt for Mr Andrew Watterson	REFUSE



5.8.	LA09/2023/1074/F	2 storey dwelling and domestic garage at land immediately E of 103D Ballagh Road, Fivemiletown for Caran Ltd	APPROVE
5.9.	LA09/2023/1195/F	Demolition of existing buildings, erection of discount supermarket, provision of car parking, landscaping, and associated site works. at Nos 22 and 26 Orritor Road and Nos 47 and 49 Burn Road, Cookstown for Lidl Northern Ireland	APPROVE
5.10.	LA09/2023/1263/O	Dwelling and garage at land approx 20m SE of 8 Tullywiggan Road, Cookstown for Mrs Fenella Turkington	REFUSE
5.11.	LA09/2023/1265/O	Site for dwelling and garage at 60m SW of 99 Tullyvar Road, Aughnacloy for Mr Jeffrey Reid	REFUSE
5.12.	LA09/2023/1372/F	Installation of CO2 Liquefaction Recovery Unit, associated concrete plinth, pipework and all other site works. (Noise Report received) at 20A Granville Road, Granville Industrial Estate, Dungannon for Bio Capital Ltd	APPROVE
5.13.	LA09/2023/1410/F	Light industrial unit to include ancillary storage, administration space, and staff facilities, and, associated car parking and landscaping at approx 145m N of 34 Sydney Street, Aughnacloy for Mr Michael Treanor	REFUSE
5.14.	LA09/2024/0086/F	Retrospective garage at 33 Quarry Road, Knockcloghrim, for Mr Michael O Boyle	APPROVE
5.15.	LA09/2024/0174/O	Dwelling and domestic garage (renewal of LA09/2020/0153/O) adjacent and NE of Junction with Mullaghmoyle Road on Colliers Lane, Coalisland for Marianne Sturtridge	APPROVE
5.16.	LA09/2024/0177/O	Dwelling and garage in an existing cluster with access onto Curr Road at land adjacent to 33 Moneymore Road, Desertmartin, for Thomas and Brigid McGuigan	REFUSE
5.17.	LA09/2024/0184/O	Renewal of approval LA09/2020/0795/O (dwelling and domestic garage) at land	APPROVE

		between 37 and 43 Tulnavern Road, Ballygawley for Noel Stinson	
5.18.	LA09/2024/0190/O	Dwelling at site adjacent to and immediately, SSE of 60 Kilnaslee , Road, Kilmore, Galbally for Mr Michael Cummings	REFUSE
5.19.	LA09/2024/0411/RM	Dwelling and garage at approx 20m SE of 41 Moneyhaw Road, Moneymore for Mr and Mrs L Jordan	APPROVE
5.20.	LA09/2024/0454/O	Site for an off-site replacement dwelling and detached domestic garage, with the existing dwelling retained as farm storage at 50m W of 22 Tirgan Road, Moneymore, for Mr Malachy McCrystal	APPROVE

6. Receive Deferred Applications

283 - 362

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2021/0443/O	Dwelling & garage in gap site at 30m W of 154 Battery Road, Cookstown. for Shauna Quinn	REFUSE
6.2.	LA09/2022/0641/F	Retention of boundary wall/fence at 29 Glengomna Road, Draperstown, for Barry O'Kane	APPROVE
6.3.	LA09/2023/0652/O	Dwelling on a Farm at Site at 150m W of 18A Ballynacross Road, Maghera for Mr David Fulton	APPROVE
6.4.	LA09/2023/0693/F	Temporary mobile home at 20 Loughbracken Road, Pomeroy for Mr Aidan Molloy	REFUSE
6.5.	LA09/2023/0916/F	Off site replacement dwelling and garage at 180m W of 16 Carnose Road, Cranny, Moneymore for Mr Gregory McGovern	APPROVE
6.6.	LA09/2023/1071/O	Dwelling and garage at approx 50m NE of 2 Cullenramer Road, Dungannon for Mr Michael Walls	APPROVE

7. Receive Report on Deforestation at Davagh Forest

363 - 374

Matters for Information

8. Minutes of Planning Committee held on 7 May 2024 375 - 388

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

Matters for Decision

9. Receive Report on Tree Preservation Records
10. Receive Enforcement Report

Matters for Information

11. Confidential Minutes of Planning Committee held on 7 May 2024
12. Enforcement Cases Opened
13. Enforcement Cases Closed
14. Enforcement Live Case List





## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.1
<b>Application ID:</b> LA09/2018/1643/F	<b>Target Date:</b> 7 February 2019
<b>Proposal:</b> 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	<b>Location:</b> Lands 100M SW Of 13 Coolshinney Road And 20M North Of 2 Thornhill Magherafelt
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mullaghboy Construction Ltd 11 Desertmartin Road Magherafelt BT45 5HD	<b>Agent Name and Address:</b> Clyde Shanks 5 Oxford Street Belfast BT1 3LA
<b>Executive Summary:</b> <p>This application was previously presented to Committee in May 2024 when Committee accepted the recommendation to Approve. However, the application is being presented to Committee again as it is considered necessary to add two additional conditions in relation to the timing of the provision of and management of the areas of public open space. These conditions are listed as conditions 6 and 7 in the case officers report. No other changes or amendments have been made to the application.</p> <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.</p>	

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.

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.

One letter of objection was received and has been considered in the case officers report below.

Therefore, the application is being recommended for approval.

**Case Officer Report****Site Location Plan**

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	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
	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
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 Coolshinney 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 2733m<sup>2</sup> 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 3100m<sup>2</sup> which is 9.9% of the total site area between the two developments. The proposal includes a landscape plan and an associated landscape management plan. The Landscape Management Plan states that 'The Land Management Company will be appointed/set up by the Client and ownership will be transferred to the Land Management Company. Following handover the Land Management Company will be responsible for the maintenance of all public areas identified within the contract. The maintenance, in perpetuity, of these areas of public open space will be covered by a specific condition. The proposed layout provides for all dwellings to have adequate private amenity space ranging from 70m<sup>2</sup> to 174m<sup>2</sup>.

(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

All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The areas of open space numbered 1, 2 and 3 on the stamped approved drawing no. 02/5 uploaded to the planning portal on 18th April 2024, shall be provided prior to the occupation of any dwellings on sites 1 to 17 and 19 to 28 and the area of open space numbered 4 on the stamped approved drawing no. 02/5 uploaded to the planning portal on 18th April 2024, shall be provided prior to the occupation of any dwellings on sites 18 and 29 to 42.

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

#### Condition 7

The management and maintenance of all trees, shrubs and areas of public open space, shall be carried out in accordance with the stamped approved Landscape Plan and associated Landscape Management Plan, uploaded to the planning portal on 15th December 2020 and shall continue to be maintained in accordance for a period of not less than 20 years or as may subsequently be agreed in writing with Council.

Reason: To ensure the continuity and sustainability of the approved landscape design through its successful establishment and long term maintenance to achieve a quality residential development consistent with Planning Policy Statement 7.

#### Condition 8

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 9

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 10

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 11

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.

#### Condition 12

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.

#### Condition 13

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:** 16 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	13 December 2018
<b>Date First Advertised</b>	3 January 2019
<b>Date Last Advertised</b>	2 January 2019
<b>Details of Neighbour Notification (all addresses)</b>	
<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>	
<b>Date of Last Neighbour Notification</b>	19 December 2018
<b>Date of EIA Determination</b>	10 January 2019
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<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

Site Layout or Block Plan Plan Ref: 05/1  
Proposed Plans Plan Ref: 04/1  
Site Layout or Block Plan Plan Ref: 02/5  
Site Location Plan Plan Ref: 01/1  
Proposed Plans Plan Ref: 10  
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  
Landscaping Plan Plan Ref: 15  
Landscape Proposals Plan Ref: Landscape Management Plan  
  
Road Access Plan Plan Ref: 14/2

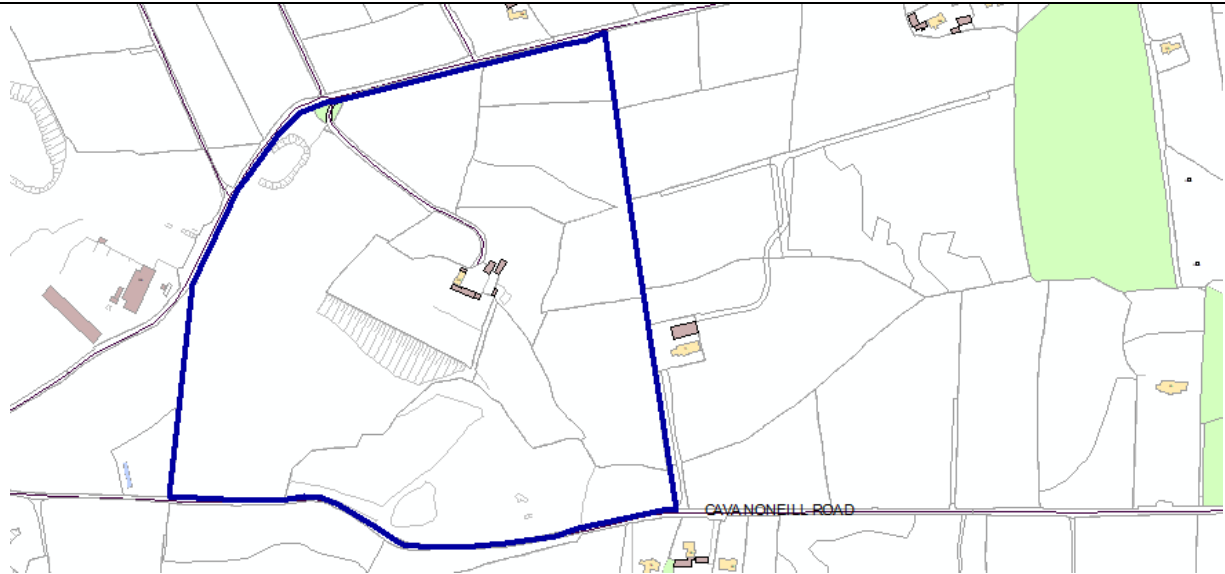
**Notification to Department (if relevant)**

Not ApplicableNot Applicable



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/1546/F	<b>Target Date:</b> 17 December 2021
<b>Proposal:</b> Sand & gravel extraction including access from the Camlough Road and Internal Haul Road. Landscaped earth berms and progressive restoration to a mix of agricultural and wetland nature conservation habitats.	<b>Location:</b> Lands East Of 220 Camlough Road (Westland Horticultural) Camlough Road Pomeroy BT70 2ST.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Loughdoo Aggregates & Concrete Ltd 10 Loughdoo Road Loughdoo Cookstown BT80 9PL	<b>Agent Name and Address:</b> Quarryplan Limited 10 Saintfield Road Crossgar Downpatrick BT30 9HY

**Case Officer Report****Site Location Plan**

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	NIEA	Substantive: TBCResponse Type: PR
	DFI Roads - Enniskillen Office	Substantive: YResponse Type: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	Historic Environment Division (HED)	Substantive: YResponse Type: FR
	Shared Environmental Services	Substantive: YResponse Type: FR
	DFI Roads - Enniskillen Office	Substantive: TBCResponse Type: PR
Statutory Consultee	NIEA	PRT LA09-2021-1546-F.PDF
Statutory Consultee	NIEA	LA09-2021-1546-F.PDF
Statutory Consultee	Health And Safety Executive For NI	CN202210-0014 - Lands east of 22- Camlough Rd, Pomeroy BT70 2ST.pdf
Statutory Consultee	Geological Survey NI (DfE)	E3151 - Sand and gravel extraction at lands East Of 220 Camlough Road (Westland Horticultural), Camlough Road, Pomeroy.pdf

Statutory Consultee	Health And Safety Executive For NI	CN202210-0014 - Lands east of 22- Camlough Rd, Pomeroy BT70 2ST.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Roads June 2023.docx
Statutory Consultee	Shared Environmental Services	
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2021 1546 F Sand and gravel extraction Camlough Road.doc
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Roads response dated 20/06/2023  Gerry
Statutory Consultee	DFI Roads - Enniskillen Office	see DFI Roads reply 17/7/2023  Gerry
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2021.1546.F 12.4.24.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Roads Mar 2024.DOCX
Statutory Consultee	Rivers Agency	20512 - Final reply.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2021 1546 F Sand and gravel extraction Camlough Road.doc
Statutory Consultee	NIEA	PRT LA09-2021-1546-F.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 13 March 2023.docx
Statutory Consultee	Shared Environmental Services	LA09_2021_1546_F -AA 25.04.23.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	LA09-2021-1546-F.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	NIEA	PRT LA09-2021-1546-F CON.PDF
Statutory Consultee	Environmental Health Mid Ulster Council	
<b>Representations:</b>		
Letters of Support		0
Letters of Objection		14
Letters Non Committal		0
Number of Support Petitions and signatures		



Number of Petitions of Objection and signatures

**Characteristics of the Site and Area**

The site is located at Lands East Of 220 Camlough Road (Westland Horticultural) Camlough Road Pomeroy BT70 2ST.

Site is not located within or adjacent to any designation for the protection of natural or cultural heritage. Sperrins AONB designation at its nearest point is approx. 1km to the south. There are no landscape designations at the site and it is not within any existing or proposed areas of constraint of mineral development.

The proposed development site is located off the Camlough Road, approximately 4.9km north of the village of Pomeroy and 7.5km northeast of village of Carrickmore and c. 12km from Cookstown. The proposed project area extends to an area of 17.53 hectares.

No processing on site is proposed as part of the planning application. Material is to be excavated and transported to the Applicant's existing established processing units located off the Loughdoo Road.

**Description of Proposal**

The proposal submitted is for Winning and working of minerals (sand and gravel) across an area of c.12 ha, the construction of a new site access and haul route, erection of processing plant and machinery (washing plant), weighbridge and ancillary office, with restoration of the land to agriculture.

Sand & gravel extraction including access from the Camlough Road and Internal Haul Road. Landscaped earth berms and progressive restoration to a mix of agricultural and wetland nature conservation habitats.

The proposal involves phased development for the mineral extraction area, including construction of an internal access/haul road. There will be 4 phases, with the final being restoration.

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

The application is for Sand & gravel extraction including access from the Camlough Road and Internal Haul Road. Landscaped earth berms and progressive restoration to a mix of agricultural and wetland nature conservation

The application has been accompanied with an Environmental Statement.

## **Phasing Stages**

There are 4 phases proposed and a plan for restoration. Each phase allows for progressive restoration of areas of extraction as mineral extraction progresses

### **Phase 1**

- Implementation of the access arrangements including forward sight lines and sight splays;
- Topsoil Overburden removal (circa. 2/3 of the site);
- Haul road creation;
- Placement of materials for screen bunding;
- Restorative planting of overburden bunds and haul road edges.

### **Phase 2**

- Removal of remaining overburden in the southwest corner temporary placement of materials;
- Placement of additional screening berms;
- Extraction of sand and gravel;
- Placement of temporary overburden materials in excavation;
- Restorative planting to screening berms and slopes;

### **Phase 3**

- Removal of remaining overburden in the north east and easterns section of the site
- Removal of sand and gravel to a depth of c.215mAOD
- Restorative planting along the north and west inner slopes of the proposed site.

### **Phase 4**

- Final restorative profile provides free draining slope and final base of mineral depth of c. 2015 - 214mAOD in the north to 208mAOD in the south.
- Base of mineral restoration to proceed to completion.

The proposal, if permitted, will release approximately 1,480 000m<sup>3</sup> of sand and gravel. The minerals will be worked at a rate of 100, 000 tonnes per annum resulting in the continued supply of aggregate associated with this site for c. 10 - 15 years (subject to market demand/supply).

## **Assessment and Policy consideration**

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

Extraction of sand and gravel within Cookstown area occurs at a number of locations. RDS includes the following guidelines; to maintain a working countryside with a strong missed use rural economy and to make use pf minerals for economic development in a sustainable manner.

The site lies beyond any defined area of constraint of mineral development in MN1 and is not affected by Policy MN2 – Mineral Reserves or MN3 – hydrocarbon exploration. MN4 plan policy - restoration of despoiled land does not apply here.

### **Draft Plan Strategy.**

The Councils Draft Plan Strategy 2030 states that Minerals development represents a key challenge in Mid-Ulster in that we must decide how to facilitate appropriate minerals development whilst also protecting our important landscapes, nature, conservation and heritage interests. At Par 14.2 Minerals are recognised as being important in terms of resources for the District. Par 14.5 acknowledges that minerals deposits are also found in many of our AONB where visual impact has the potential to be greater. However this site does not fall under any designations.

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** **MINERALS**

6.148 Minerals, including valuable minerals, are an important natural resource and their responsible exploitation is supported by Government. The minerals industry makes an essential contribution to the economy and to our quality of life, providing primary minerals for construction, such as sand, gravel and crushed rock, and other uses, and is also a valued provider of jobs and employment, particularly in rural areas.

6.149 The Sustainable Development Strategy recognises that while it is important that we respect the limits of our natural resources and ensure a high level of protection and improvement of the quality of our environment, 'sustainable development' does not prevent us from using and capitalising on such resources. An enduring successful economy will effectively use natural resources and contribute towards the protection of the environment.

6.150 While minerals development delivers significant economic benefits, there are also a number of challenges arising from this form of development which fall to be addressed through the planning system. The effects of specific proposals can have significant adverse impacts on the environment and on the amenity and well-being of people living in proximity to operational sites. This presents a challenge because minerals can only be extracted from sites where they occur, and there may be limited opportunities for consideration of alternative sites. A further challenge is related to the restoration of sites upon completion of work associated with the extraction and processing of materials.

6.151 The planning system has a key role to play in facilitating a sustainable approach to minerals development, and ensuring the appropriate restoration of sites after working has ceased. However, as the impact of mineral working on the environment can never be entirely reversed the broader role and responsibilities of government, the industry, customers and key stakeholders also need to be recognised. For example, the Sustainable Development Strategy advocates the greater use of recycled building rubble in construction so as to reduce the depletion of natural resources and to limit transportation of such materials.

## **A Planning Strategy for Rural Northern Ireland (PSRNI)**

### **MINERALS**

MIN 1- Environmental Protection – to assess the need for mineral resource against the need to protect and conserve the environment.

#### **Need**

The site at Camlough Road was acquired by the applicant to support the company's requirement for internal supply of sand and gravel, concurrently with reserves won at Crocknawarke and Crockadoo.

The company has a requirement for 250 million tonnes during the Local Dev Plan period. They have a shortfall of approx. in terms of predicted growth of 100,000 tpa which the company requires to make up through the acquisition of Camlough Road. Replacing the existing total output from Crocknawarke and Crockadoo with external supplies is not possible at the current cost base and demand would far exceed existing surplus supply to accommodate the applicants demand.

They must secure the quantity and quality of concrete aggregates required to sustain and grow its businesses. The economic importance of sand and gravel deposits cannot be overstated.

#### **Environment.**

In terms of the protecting and conservation of the environment against these needs, an ecological impact assessment has been carried out and submitted and consulted on. It concludes subject to the proposed mitigation and restoration schemes, the development would not result in significant effects upon ecological receptors. Hydrology and Archaeology reports have also been submitted and commented on with no issues. It has been demonstrated that policy MIN1 has been met.

MIN 2 – Visual implications – to have regard to the visual implications of mineral extraction.

Assessment of potential landscape impacts have been considered in the following phases:-

1 Construction Phase (Establishment)

2 Operational Phase (Extractive Operations)

3 Restoration Phase (Post Extractive Operations)

It is recognised throughout the local area there are extensive sand and gravel workings (both active and restored) and the area is heavily characterised by them, making them a large feature of the immediate and surrounding area.

Site inspections of the critical viewpoints of the site have been carried out which has been assisted by a landscape and visual assessment submitted by the agent. The proposal does not introduce any new plant or machinery and there is no encroachment on the existing skyline. All excavated minerals will be contained within the quarry floor.

The subject site is located within NIEA Regional LCA 12 - Carrickmore Plateau & Pomeroy Hills NIEA NIRLCA 2015). This area included broad expanses of peat bog on the open upland plateau, giving way to enclosed upland pasture and rough grazing around Pomeroy and Carrickmore and glacial deposits of sand and gravel in the form of eskers and moraine, which are being extracted at several large quarries.

The subject site is within the NIEA local Landscape Character Area 43 – Carrickmore Hills. This is distinctive upland landscape to the south of the Sperrins. Many of the ridges have been carved by Quarries which have left hollows and scars and this is where the most development pressure comes from in this area.

Also, parts of the site fall within LCA25, Beaghmore & Moors Marsh.

Predicted visual impacts arising from the proposal at various selected visual receptors during operational phases and restoration would range from minor to negligible. All landscape effects associated with this development would fall below that considered to be 'significant'.

Typically impacts will be greater during the initial stages, however this will be a short duration (2-3 months).

The agent in their Env statement recognizes that visual impacts experienced at 2 short Viewpoints along Camlough Road, are predicted to fall within the 'Significant effect' range during the relatively short establishment phase (ideally 2 months) , however visual effects would diminish below the significant threshold once proposed screening measures are fully established.

With establishment phase screening fully implemented, it is predicted that visual effects arising from the proposals at selected key visual receptors during the operational / extraction phases would range from 'Moderate to Negligible'. None of the potential visual effects during this phase are predicted to fall within the Significant range.

Through a combination of significant screening, phased stripping and extraction and progressive restoration, the overall landscape and visual impacts will be kept at a minimum at the proposed site. Once extraction is complete and restoration fully implemented the landscape will remain significantly unchanged and the proposed

development would not result in a significant effect upon sensitive receptors in terms of visual amenity.

The proposal does not introduce any new plant or building and there is no encroachment on the existing skyline. My visual assessment during my site visit and along with the visual assessment carried out by the agent in the ES, allows me to be content that this proposed extraction area will not compromise the integrity of the area.

In line with MIN2, the proposal will not result in a significant detrimental visual impact in the area, during the various phases of development or when fully restored. The restoration scheme offers significant positive opportunities to improve the ecological diversity of the site & for development of rich grasses, native woodlands and marshy wetland.

MIN 3 – Areas of constraint – the site is not located within any existing or proposed so this criterion does not apply.

MIN 4 – does not apply as the proposal doesn't propose extraction of any valuable minerals.

MIN 5 – does not apply as the proposal would not prejudice future exploitation of valuable mineral resources.

MIN 6 – Safety and amenity – to have particular regard to the safety and amenity of the occupants of the development in close proximity to mineral workings.

Due to the mineral type, no blasting is required. There are residential properties located primarily to the south and east of the site. A noise impact assessment has been submitted and Env Health consulted.

An AONA Environmental letter dated 11th September 2023 has been submitted to address comments made by the Environmental Health Service in the previous response to the Planning Department.

The AONA letter presents the results of additional background monitoring undertaken over a 1 week period from the 1st September 2023 to the 7th September 2023. Based on the background noise monitoring undertaken a noise limit of 45dB(A)Leq has been proposed at all nearby residential properties.

Table 1.3 of the Aona Environmental report dated September 2021 identifies the 6 closest residential receptors to the proposed sand and gravel extraction site. Based on noise modelling over phase 2 to 4, predicted noise levels are presented in table 1.6 of the Aona Environmental report. It is noted when predicted noise levels are compared to the 45dB(A) noise limit, there is a slight exceedance (45.3dB) at NSR1 during phase 3 of the extraction and a slight exceedance(46.6dB) during phase 4 of the extraction at NSR5.

No noise measurements at night are needed as the quarry will operate during daytime hours. There is guidance produced for mineral operations that state that planning

authorities should aim to establish a noise limit, through a planning condition that does not exceed the background noise level by more than 10dB(A) during normal working hours. (0700-1900).

It is recommended that relevant conditions should be attached to any permission granted, including a time bound condition so that the quarry only operates during the daytime.

The Environmental Health Service have reviewed 'Chapter 10 'Dust Management' of the Quarryplan Environmental Statement, 'Quarryplan 'Dust Impact (Particle) Assessment PM10 and PM2.5.

The Dust Management Plan of the Environmental Statement provides details of dust mitigation measures that should be adopted at the site of the proposal to control dust emissions during the winning and extraction of sand and gravel at the site of the proposal.

The Quarryplan 'Dust Impact (Particle) Assessment PM10 and PM2.5 has been submitted to address comments made by the Environmental Health Service in the previous response to the Planning Department (3/07/23) and demonstrates that predicted PM10 and PM2.5 concentrations at grid references associated with the proposal will not exceed the annual mean PM10 air quality objective of 40ug/m<sup>3</sup> or the annual mean PM2.5 air quality objective of 25ug/m<sup>3</sup>.

The dust management plan submitted in support of the proposal provides a number of dust mitigation measures that are common practice for S&G quarries to adhere to. There is also no defined dust deposition rate that should be adhered to beyond the boundary of the site but EH tend to use the 200mg which I've recommended in a condition. The applicant has followed the site assessment for dust, where the assessment demonstrates no PM10 exceedance they suggest good practice measures which are presented within the dust management plan. Having considered the information submitted in support of the application the Environmental Health Service would recommend that conditions in relation to dust are attached to any planning permission granted.

No additional processing plant or operations are proposed.

In terms of safety, the development has been designed by suitably qualified engineers and it has been prepared to comply with relevant health & safety legislation. HSENI were consulted and made aware of a number of objections. They considered them and the proposal and replied on 23.02.23 after carrying out a site visit. A review of the proposed excavation and restoration profiles raised them no concerns regarding the stability of the final quarry faces and the return of this land to a mix of agricultural and wetland nature conservation habitats. HSENI have no objection to this proposed sand and gravel extraction or the internal haul road.

Public Health have advised they are not a statutory consultee on new quarry applications.

They have a generic response for new quarries as invariably they do not have the detailed information at a planning stage including environmental assessment that would be needed to inform such a health assessment and they cannot make any further comment. PH views would be provided in respect of the follow-on IPC licence application. Consideration will be made with regards to any subsequent pollution, prevention and control permit application submitted for the installation.

For existing operations to be expanded, for example, if people have current health complaints we would look at these although there may be a similar response as for new quarries if it is concern essentially about future activity.

Public Health have also advised, if a new sand & gravel quarry is of sufficient size/scale etc so as to not require an IPPC licence, this would mean that the activities of that quarry would be less likely to cause adverse health or other environmental issues. As such, any concerns and questions about health would ordinarily be dealt with through the local government planning processes. The course of the planning application process has generic tools at its disposal such as restrictions on noise, dust, vehicles etc to mitigate potential harms or effects.

If further to that, health concerns existed, they would wish to know the reason for the concerns and why specified generic measures were felt to be inadequate. Following that stage, we may input a view as to potential adverse health effects depending on the circumstances. In practice, the vast majority of local government planning applications will proceed without recourse to a PHA health assessment.

MIN 7 – Traffic – to take into account the safety and convenience of roads users and the amenity of people living on the roads close to the site of the proposed operations. The ES considers the transport implications of the proposed development taking into account the historic permitted activities at neighboring quarries, which utilises the same road network, including the Acheson and Glover site along Camlough Road. It finds that based on proposed activities the traffic associated with the quarry would fall significantly under the level previously found to be acceptable.

Initial response from DFI Roads on 09/05/2021 stated they did not offer an objection and provided 2 conditions.

Following a site visit by planning officers in March 2023 it was observed there may be potential for conflict of traffic, based on observations of vehicles while on site, which objectors had also raised.

DFI Roads were asked by Planning to fully consider this info and they replied on 09/03/23 stating they reconsidered the application in relation to the suitability of the existing roads network and commented; 'The section of Camlough Road between the proposed new access and Loughdoo Road is narrow and has limited structural strength. This would prove problematic if used as part of a haul road with any significant increase in HGV vehicles and the applicant should submit proposals to show improvements to mitigate these issues'.



Agent replied on 16th March 2023 highlighting that DFI roads had previously no objections in May 2021. They put forward the argument that there would be no significant increase in HGV traffic above the baseline levels so therefore there would no justifiable concerns regarding the structural integrity of the local road network. This is based on previous approvals I/95/0145 and I/96/0176 for existing Acheson & Glover (A & G), Pomeroy Quarry, which is located approx. .9km to the west of the site and transports majority of its minerals via Camlough Road.

Planning history on A&G Quarry indicated a predicted output of 250,000 tonnes p.a, with 50 HGV arriving per day, there and back, resulting in 100 movements a day. At the time of the submission of this application in Oct 2021 the Quarry was winding down it operations and output levels were approx 50,000 tp, with it output levels decreasing still as reserves at this site are diminishing, soon to be exhausted. This was confirmed in an email by Raymond Acheson, Executive Director of A & G, in Jan 2024.

Based on current figures at the Quarry, it is now approx. 44 vehicles movements a day. This is a much-reduced output level. This reduction in HGV activity more than offsets the increase associated with this application, resulting in a cumulative flow of up to 56-68 GHV movements, which would be 30% below the activity deemed previously acceptable and satisfactorily accommodated on the same road network.

DFI Roads stated they would have no objection unless there is a significant increase in HGV traffic above the baseline which the agent has demonstrated is not the case. DFI Roads replied on 20/06/23 having considered the supporting information and are now content, offering no objections subject to conditions. This information was included within the ES by Hurlstone Partnership under 'Access and Highways.'

DFI Roads were also made aware of the strong objection from local residents and the concerns from the myself following a site visit, however I am content that sufficient information has now been provided for DFI Roads, who have considered it and offer no objection subject to relevant conditions.

MIN 8 – Restoration – to require minerals workings to be restored at the earliest convenience.

A restoration scheme is proposed for the site which will see it restored to agricultural use. Following final extraction, the final and full restoration will be carried out as shown in the restoration Plan.

### **PPS2 – Natural Heritage**

#### **NIEA & Ecology**

A Habitat regulations assessment, HRA and ecological impact assessment were submitted.

The site is at the Upper catchment of Loughagarran Stream, a tributary of Kildress Stream. This is a tributary of Ballinderry River for which otter is a site selection feature. Shared Env Services offer no objection and provide conditions to be attached to any approval.

The Land & Groundwater team (NIEA) have considered all relevant objections and the impacts of the proposal on the groundwater environment, and on the basis of the information provided are content with conditions.

Water Management Unit were also consulted on the objections, stating it was outside their remit and Rivers should make comment. Rivers have been consulted on objections and their response has been detailed under PPS15 section.

Natural Heritage Dept were consulted in relation to protected species and any impact on the natural environment. They have completed a full assessment of potential impacts on designated sites and natural heritage features and are content subject to conditions. This includes concerns raised by objectors in relation to protected species which is detailed further in the report under 'Considerations of objections.'

The proposed landscape restoration scheme offers a significant positive opportunity to improve the ecological diversity of the site through habitat creation on final slopes around the periphery of the site and with a wetland area to the south. The restorations scheme will provide opportunities for the development of species rich grasses, native woodland and marginal wetlands.

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

There are no designated sites either within or adjacent to the site.

HED (Historic Monuments) has considered the impacts of the proposal and the Environmental Impact Assessment submitted with this application. HED (Historic Monuments) is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6.

### **PPS15 - Planning and flood risk.**

DFI Rivers were consulted to consider the proposal from a drainage and flood risk perspective. Objections were also forwarded to them to consider. In terms of FLD1 the development does not lie within the 1 in 100 year fluvial or 1 in 200 coastal flood plain.

FLD2 – multiple undesignated watercourses flow through the site. Under para 6.32 it is essential that a working strip of minimum of 5m is retained. Clear access and egress should be provided at all times.

A drainage assessment was undertaken and DFI Rivers offer no objections, but state Sch 6 is applied for from DFI Rivers accepting discharge from the site at the rate stipulated within the drainage assessment.

In terms of FLD4 the application involves re-alignment of an undesignated watercourse.

FLD5 is not applicable to the site.

DFI Rivers offered no objection to the proposal.

### **Consideration of objections :**

At the time of writing this report, 15 No objections were received on this application from 11 different objectors, and a meeting was accommodated with one objector and planning staff to discuss various issues of concern.

The main issues of concern raised a number of matters which I will address in turn;

#### **\* Env Statement was incomplete and inadequate.**

The EIA Regulations (NI) 2017 sets out when an Env Statement is required and what should be included in one.

Under PART 3 - Preparation of Environmental Statements, section 11 (1) states; An EIA application shall be accompanied by an environmental statement for the purposes of these Regulations.

The above information has been included in the Env Statement submitted to MUDC.

MUDC are content these requirements have been met and the submitted ES is complete and of acceptable quality. Also, several consultees have been consulted to comment on potential impacts of the proposal and where necessary have had the opportunity to seek further environmental information. Further information and evidence relating to environmental statement can still be requested under section 11 of the EIA Regs.

#### **\* Neighbours were not all consulted together. There was poor communication from agent during the planning process.**

The application was received on 22.10.21 and due to an oversight, neighbours had not been notified at the time of validation. However, as soon as this was noticed, neighbours were formally notified on 27.10.22. No decision had been made at this time so no-one had been prejudiced and neighbours still an opportunity to make comments.

#### **\* Issues with the public community event in line with Pre-Application Notification Process?**

The developer for this application was required under Section 28 of the Planning Act (NI) 2011 to undertake a community consultation, which was modified by The Planning (Development Management) (Temporary Modifications) (Coronavirus) (Amendment No.2) Regulations (Northern Ireland) 2021 at that time to take account of the then Covid pandemic. In short this permitted a 'virtual' means by which such a consultation should be carried out.

The public event was in the form of an online presentation and the webpage went live on 19th July 2021 until 6th August 2021.

Those visiting the website were asked to make comments up until 20th August 2021. There was zero feedback. A copy of the community consultation report is included with the application and can be viewed online.

The legislation requirement under 'Planning Regs (NI) 2015' is that the event should be 'published in a newspaper in the locality.'

This event was advertised in Mid Ulster Mail w/c 5th July 2021.

Several elected members were notified by email about it on 4th June 2021 with a copy of the Pre-application notice (PAN).

**\* Impact on ecology and protected species.**

**\* Qir quality from trucks etc will have an impact and will damage wildlife.**

(NIEA) have considered all relevant objections and the impacts of the proposal on the environment, and on the basis of the information provided are content with approval with conditions. In relation to badgers NED advised when works begin on site an updated badger survey should be submitted as the ecologist advised the tunnels on site were due to the presence of other species on site. An up-to-date survey will provide more accurate details of on site activity.

In relation to bats NED recommend a condition that would ensure the building to be demolished was subject to a check for presence of bats by an ecologist. There should also be restricted timing of vegetation removal on site to mitigate for potentially impacting on breeding nesting birds which may be utilizing vegetation on the site.

NIEA have gone through in detail all objector comments on their reply 13 Feb 2023.

SES have also been consulted and offered no objections; they have replied with relevant conditions.

**\* Impact on natural environment and on heritage.**

(NIEA) have considered all relevant objections and the impacts of the proposal on the environment, and on the basis of the information provided are content and have provided relevant conditions.

HED (Historic Monuments) has considered the impacts of the proposal and the Environmental Impact Assessment submitted with this application. HED (Historic Monuments) is content that the proposal satisfies PPS 6 policy requirements.

**\* Additional traffic, road safety, prejudice traffic flow, contrary to PPS3.**

**\* Was there a traffic assessment carried out? The current state of road is bad already and it is impossible for 2 lorries to pass.**

DFI Roads were consulted and as detailed in the report above asked to further comment following a site visit from Planning. Evidence was submitted by agent and considered along with the objector comments and DFI have accepted the argument from agent and offered no objection subject to relevant conditions.

Whilst it has been acknowledged local objection have highlighted 'limitations' with the Camlough Road, DFI Roads have been made aware of these issues.

**\* Impact on human health.**

Public Health (PH) were contacted in relation to these issues and they stated that such facilities as this have a theoretical potential to cause adverse health effects from but not limited to exposure to particular matter and other air pollutants, dust and noise. PH is not a statutory body in the consideration of this matter and 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.

Public Health have also advised, if a new sand & gravel quarry is of sufficient size/scale etc so as to not require an IPPC licence, as has been indicated in an email by the agent in regarding this Quarry, this would mean that the activities of that quarry would be less likely to cause adverse health or other environmental issues.

When PH were asked about this situation, they advised any concerns and questions about health would ordinarily be dealt with through the local government planning processes. The course of the planning application process has generic tools at its disposal such as restrictions on noise, dust, vehicles etc to mitigate potential harms or effects.

Objections have raised various health concerns, which members may wish to discuss further in 'confidential business' given their sensitive nature, to ensure the protection of personal information. That said, my comments earlier relating to the councils engagement with Public Health remain relevant to the consideration of these concerns.

**\* Negative impacts on the landscape.**

A landscape assessment was submitted by the agent which concluded there would be no significant impact on the landscape character areas during any part of the development, though the various phases and restoration. In summary, my visual assessment during my site visit and along with the visual assessment carried out by the agent in the ES, allows me to remain satisfied that this proposed extraction area will not compromise the integrity of the area and therefore that I find that the proposal does not conflict with relevant policy considerations.

**\* Drainage issues and water quality issues now with heavy rain fall.**

**\* Flood risks. Potential for issues for water table. Has agent got relevant discharge consents ?**

A drainage assessment was submitted DFI Rivers were consulted from a drainage and flood risk aspect and offered no objections. They were advised of the objections received also.

The agent will have to apply for any other necessary consent outside of the remit of planning, including Sch 6 of the Drainage Order 1973.

**\* Noise and dust issues**

Env Health have replied in detail with no objection and provided conditions in relation to protecting amenities for neighbors in relation to these issues. They are content the submitted noise and dust management reports are robust and cover all relevant issues raised by objectors. This detail has been included within the main body of the report.

**\* Pollution of river.**

The site is in close proximity to Upper Ballinderry River SAC and Upper Ballinderry River ASSI and Lough Do ASSI. NIEA, DFI Rivers and NI Water were all consulted with the objections and they were fully considered. No consultee offered any objections.

**\* Assumption that Pomeroy quarry is winding down – what is the evidence to support this?**

DFI have assessed the info from agent supporting this, which is also included within the Env Statement and have accepted the findings and replied with relevant conditions. If is considered that, given the evidence supplied, the finite resource granted at Acheson & Glover's Pomeroy and restoration undertakings which have been ongoing at the Pomeroy site for almost a decade now – the winding down statement provided has been substantiated.

Although it is impossible to predict the future, any further decisions made on future applications made would have to take into account all approvals and their impact in this regard.

**In conclusion based on the assessment of the relevant policies, taking local objection into account and the responses of consultees, I recommend an approval subject to the following conditions.**

**Summary of Recommendation:**

Approve is recommended with conditions

**Conditions**

Condition 1

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

Reason: Time limit.

#### Condition 2

The proposed area of extraction shall be limited to phases 1, 2, 3 and 4 only, shown in drawings no. 03, 04 , 05 and 06 date stamp received 22.10.2021, and no extraction shall take place outside these phases.

Reason: In order to control the extent of the development and to safeguard visual amenity and rural character.

#### Condition 3

Restoration works shall take place on a progressive basis in accordance with details indicated on drawings number 03, 04 , 05 and 06 date stamp received 22.10.2021.

Reason: To safeguard visual amenity and rural character.

#### Condition 4

All restoration works indicated on drawings number 08 date received 22.10.2021, shall be completed within 10 years of commencement of mineral extraction hereby approved, and shall be in accordance with details shown on drawings No. 03, 04, 05, 06 , 08 date stamp received 22.10.2021, including all proposed landscaping.

Reason: To safeguard visual amenity and rural character, and in the interest of biodiversity.

#### Condition 5

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 09 bearing the date stamp 28/02/2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 6

The development hereby permitted shall not become operational until effective vehicle wheel washing facilities have been installed and brought into operation for the lifetime of the development approved.

Reason: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience.

#### Condition 7

The development hereby permitted shall not commence until a groundwater monitoring plan has been provided in writing and agreed with the Planning Authority. The monitoring plan should include the monitoring locations on a plan of the site, the monitoring frequency and the parameters to be monitored (including groundwater level).

Reason: Protection of environmental receptors, including groundwater, to ensure the site is suitable for use.

Condition 8

The applicant/appointed contractor must implement in full and adhere to the mitigation for protection of ground and surface water quality as set out in the Hydrogeological and Hydrological Assessment (BCL Consultant Hydrogeologists, September 2021). A finalised site drainage plan must be submitted to the council prior to works commencing.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

Condition 9

The drainage plan must reflect the details contained within the Hydrogeological and Hydrological Assessment (BCL Consultant Hydrogeologists, September 2021) should clearly show all surface water drainage, as well as the siting of any proposed sumps, settlement lagoons/systems, interceptors and silt traps with their associated drainage channels. The destination/discharge point of all drainage should be clearly stated and identified.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

Condition10

Only the process of winning and extraction of sand and gravel shall take place within the red line of the proposal. No processing of material shall take place on site within the red line of the proposal.

Reason: To protect amenity of nearby residential properties

Condition11

Site preparation works, winning/extraction of sand and gravel; and restoration works, shall only be carried out within the red line of the proposal between 07:00 and 18:00 hours Monday to Friday, 07:00 to 15:00 hours on Saturdays, and at no time on Sundays or Public Bank Holidays.

Reason: To protect amenity of nearby residential properties

Condition12

During the process of winning and extraction of sand and gravel the applicant shall ensure that the noise from the approved extraction and haulage during phase 2 to 4 of the proposal shall not exceed the target noise level set out in the table below at any of the identified noise sensitive properties.

Address	Target Noise Level (dB LAeq,1hr)
NSR1 71 Cavanoneill Road	45
NSR2 70 Cavanoneill Road	45
NSR3 214 Camlough Road	45



NSR4 236 Camlough Road	45
NSR5 244 Camlough Road	45
NSR6 249 Camlough Road	45

Reason: To protect amenity of nearby residential properties.

#### Condition13

Within four weeks of the commencement of the winning and extraction of sand and gravel or as a result of a reasonable complaint made to the Council, the applicant shall provide an acoustic verification report that demonstrates that noise from the winning and extraction of sand and gravel does not exceed the noise target levels identified in Condition 3 at the most noise sensitive premises during phase 2 to 4 of the proposal.

Reason: To protect amenity of nearby residential properties.

#### Condition14

If noise levels presented within the verification report in compliance with condition 4 exceed the relevant noise target level for the receptor(s) as per condition 3 then further works to reduce the noise level(s) until they do not exceed the relevant target level within a time frame specified by Mid Ulster District Council must be undertaken. Within one month of the completion of further works, a noise survey shall be completed to demonstrate that the noise target level is no longer being exceeded at the relevant noise sensitive property or properties.

Reason: To protect amenity of nearby residential properties.

#### Condition15

The applicant shall ensure that all vehicles associated with the proposal are fitted with white noise (full spectrum) reversing alarms or variable loudness alarms.

Reason: To protect amenity of nearby residential properties.

#### Condition16

During essential site preparation (Phase 1) and restoration works, noise levels shall not exceed 70dB(A)eq (1hr) for periods of up to but no longer than 8 weeks in a year. The Environmental Health Service and all nearby identified residential receptors shall be notified 2 weeks prior to the commencement of site preparation and restoration works.

Reason: To protect amenity of nearby residential properties.

#### Condition17

The applicant shall ensure that dust mitigation measures as outlined in section 10 'Dust Management Plan' of the Environmental Statement, dated October 2021 are adhered to at all times to minimise dust caused by the permitted operations and to prevent the emission of dust from the site.

Reason: To protect amenity of nearby residential properties.

Condition18

The applicant shall ensure that all haul routes are kept wet during prolonged periods of dry/warm weather.

Reason: To protect amenity of nearby residential properties.

Condition19

Following receipt of a reasonable complaint in relation to dust, the applicant shall within one month (or any other period agreed with the Planning Department) provide evidence to demonstrate that the dust deposition rate of 200mg/m<sup>2</sup>/day is not being exceeded beyond the boundary of the development site.

Reason: To protect amenity of nearby residential properties.

Condition20

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

Condition21

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition L15a.

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

Condition22

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 L15a. 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.

#### Condition23

Prior to construction works commencing, the application site must be subject to an updated badger survey, to include a preconstruction check of the burrows, as identified in Figure 10 Mammal burrows located at the following locations within the Application Site at Camlough Road (Appendix 4, Confidential Badger Report), for use by badger. Should evidence of badger be identified, appropriate mitigation in the form of buffered exclusion zones of 25m must be implemented and maintained throughout the construction and operation of the development. If a sett must be subject to closure or disturbance, the exact location of the associated badger groups' main sett and nearby alternative setts must also be identified and a mitigation plan developed in support of a NIEA Wildlife Licence application.

Reason: To protect badgers and their places of refuge.

#### Condition24

Within twenty four hours prior to the demolition of the farm out building determined to have moderate roosting potential, this structure must be checked for bat presence by a competent ecologist and all demolition works must 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.

#### Condition25

No vegetation clearance/removal of hedgerows, trees or shrubs 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 clearance/demolition 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 breeding birds.

#### Condition26

There shall be no direct discharge of untreated surface water run-off during the construction and operational phases into the watercourse flowing along the SE boundary.

Reason: To protect designated sites and site selection features.

#### Condition27

Prior to discharge to watercourses, any surface water generated during the construction and operation phases of the development must first pass through appropriate treatment, such as sediment traps and hydrocarbon interceptors.

Reason: To protect designated sites and site selection features.

**Condition28**

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 protect designated sites and site selection features

**Condition29**

NED recommends that no development should take place on-site until the method of sewage disposal (if applicable) has been agreed in writing with NIW or a consent to discharge has been granted.

Reason: To protect designated sites and site selection features.

**Condition30**

NED request that the appointed contractor submits a Construction Environmental Management Plan and finalised layout design including a site drainage plan for review prior to works commencing and a Pollution Prevention Plan - including details of a suitable buffer of 10m between the location of refuelling, storage of oil/fuel/substrate/construction materials/machinery, concrete mixing and washing areas and the watercourse present at the SE boundary. This should also reflect and detail all the mitigation, and avoidance measures to be employed as outlined in the Hydrogeological & Hydrological Assessment and all additional submitted information.

Reason: To protect designated sites and site selection features

**Condition31**

No extraction shall take place below the cross-section and levels as detailed on cross-sectional drawing no. 07 date stamped 22.10.2021

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

**Case Officer:** Emma McCullagh

**Date:** 17 May 2024



<b>ANNEX</b>	
<b>Date Valid</b>	22 October 2021
<b>Date First Advertised</b>	15 November 2022
<b>Date Last Advertised</b>	2 November 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 244A Camlough Road Pomeroy Tyrone BT70 2ST The Owner / Occupier 220 Camlough Road Pomeroy Tyrone BT70 2ST The Owner / Occupier 244 Camlough Road Pomeroy Tyrone BT70 2ST The Owner / Occupier 246 Camlough Road Pomeroy Tyrone BT70 2ST The Owner / Occupier 68 Cavanoneill Road Pomeroy Tyrone BT70 2SH The Owner / Occupier 71 Cavanoneill Road Pomeroy Tyrone BT70 2SH The Owner / Occupier 70 Cavanoneill Road Pomeroy Tyrone BT70 2SH	
<b>Date of Last Neighbour Notification</b>	1 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Submitted with application
<b>Summary of Consultee Responses</b>  NIEA-Substantive: TBCResponseType: PR	

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBC  
Historic Environment Division (HED)-Substantive: YResponseType: FR  
Shared Environmental Services-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR  
NIEA-PRT LA09-2021-1546-F.PDF  
NIEA-LA09-2021-1546-F.PDF  
Health And Safety Executive For NI-CN202210-0014 - Lands east of 22- Camlough Rd, Pomeroy BT70 2ST.pdf  
Geological Survey NI (DfE)-E3151 - Sand and gravel extraction at lands East Of 220 Camlough Road (Westland Horticultural), Camlough Road, Pomeroy.pdf  
Health And Safety Executive For NI-CN202210-0014 - Lands east of 22- Camlough Rd, Pomeroy BT70 2ST.pdf  
DFI Roads - Enniskillen Office-DFI Roads June 2023.docx  
Shared Environmental Services-  
Environmental Health Mid Ulster Council-LA09 2021 1546 F Sand and gravel extraction Camlough Road.doc  
DFI Roads - Enniskillen Office-DFI Roads response dated 20/06/2023

Gerry

DFI Roads - Enniskillen Office-see DFI Roads reply 17/7/2023

Gerry

Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-LA09.2021.1546.F 12.4.24.pdf  
DFI Roads - Enniskillen Office-DFI Roads Mar 2024.DOCX  
Rivers Agency-20512 - Final reply.pdf  
Environmental Health Mid Ulster Council-LA09 2021 1546 F Sand and gravel extraction Camlough Road.doc  
NIEA-PRT LA09-2021-1546-F.PDF  
DFI Roads - Enniskillen Office-Roads Consultation 13 March 2023.docx  
Shared Environmental Services-LA09\_2021\_1546\_F -AA 25.04.23.pdf  
Environmental Health Mid Ulster Council-LA09-2021-1546-F.pdf  
Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-  
NIEA-PRT LA09-2021-1546-F CON.PDF  
Environmental Health Mid Ulster Council-

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.3
<b>Application ID:</b> LA09/2021/1819/F	<b>Target Date:</b> 17 February 2022
<b>Proposal:</b> Demolition of an existing building and development of 65 No. dwellings (28No detached , 30No semi-detached, 1No chalet bungalow and 6No apartments) and associated garages, open space, access and site works.	<b>Location:</b> Land Between 1 Spires Manor And 96 Moneymore Road (Directly South & East Of Spires Manor And South Of Spires Integrated PS) Magherafelt.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Waterside Leisure (Ni) Ltd 6 The Willows Magherafelt BT45 7JR	<b>Agent Name and Address:</b> Turley Hamilton House 3 Joy Street Belfast BT2 8LE
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	NI Water - Multiple Units West	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Shared Environmental Services	Substantive: TBC
	NI Water - Strategic Applications	Substantive: YResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	NIE - Ballymena	Substantive: TBC
	NIEA	Substantive: TBCResponseType: PR
	Environmental Health Mid Ulster Council	Substantive: TBC
Statutory Consultee	NIEA	PRT LA09-2021-1819-F.PDF
Statutory Consultee	NIEA	PRT LA09-2021-1819-F.PDF
	DFI Roads - Enniskillen Office	Roads Consultation 3 PSD.docx

Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 2.docx
Statutory Consultee	NIEA	PRT - LA09-2021-1819-F.PDF
Statutory Consultee	NIEA	
Statutory Consultee	Rivers Agency	11235 - Final reply.pdf
Statutory Consultee	NIEA	PRT LA09-221-1819-F.pdf
<b>Representations:</b>		
Letters of Support		0
Letters of Objection		0
Letters Non Committal		0
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<p>The proposal is being presented to members of the planning committee as it is for 65 dwellings and is over 2 hectares therefore, it is considered a Major Planning application. A Proposal of Application Notice was submitted to the Council on 12th January 2021, with this application submitted and validated in December 2021. No third party representations have been received. All relevant consultees have been consulted as per the list below and no objections have been received. It should be noted that NI Water recommended refusal due to network capacity issue. It has been agreed that a condition be attached to any approval to ensure that no development take place until a method of sewage disposal is agreed with NI Water and Mid Ulster District Council.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The red line of the application site extends 3.4 hectares and is located on lands south of Spires Manor and Spires Integrated Primary School. Access to the site is taken from Moneymore Road between 96 Moneymore Road and Spires Manor. The site slopes steadily in a west to east direction. There are a number of hedgerows that run along within the boundary of the site with the north eastern boundary defined by mature trees. Along the southern boundary is the Magherafelt Bypass with the site siting at a level above the adjacent road and a hedgerow runs along the boundary. The surrounding area comprises of low to medium density residential development to the north and west and agricultural land to the east.</p>		
<b>Description of Proposal</b>		
<p>This is a full planning application for the demolition of an existing building and development of 65 No. dwellings (28No detached , 30No semi-detached, 1No chalet bungalow and 6No apartments) and associated garages, open space, access and site works.</p> <p>Planning History LA09/2021/0416/PAD LA09/2021/0042/PAN</p>		

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

### **Policy Consideration**

The relevant policy considerations are as follows:

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan 2015
- PPS 7: Quality Residential Environments
- Creating Places
- PPS 8: Open Space, Sport and Recreation
- PPS 15 (Revised): Planning and Flood Risk
- PPS 3: Access, Movement and Parking
- PPS 2: Natural Heritage

#### **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. I am content that a development of this size is suitable for this location, within the settlement limits of Magherafelt.

#### **Magherafelt Area Plan 2010**

The site is zoned for residential use and is located on lands identified as Zoning MT14 within the Magherafelt Area Plan 2015. There are a number of key site requirements that apply to this zoning.

No development shall commence until a Concept Master Plan to facilitate the comprehensive development of the site has been submitted to and agreed with the Department. The Concept Master Plan shall incorporate details of any phasing proposed by the developer.

The agent has stated the applicant doesn't control of the remaining land within Zoning MT14, so it is unreasonable to expect a master plan to be produced for lands outside the applicant's control. However, I am content that the development has been designed to allow access to the remainder of the lands within zoning MT14.

Housing development to be a minimum gross site density of 20 dwellings per hectare and a maximum gross density of 25 dwellings per hectare.

The proposed development has a density of 19 units per hectare. It is noted this is lower than what is set out in the area plan, however, due to other key site requirements that require woodland and landscaping to be retained it is reasonable to accept this density. Any increase in density would result in a loss of residential amenity on site.

Direct Access from the site will not be permitted to the proposed bypass.

The Magherafelt Bypass has since been constructed and built and the access is taken from Moneymore Road.

The existing mound and associated scrub vegetation, located along the north-east boundary in proximity to Manor Downs and Manor Avenue, shall be retained and incorporated into the overall design and layout of the scheme, as an area of public open space and wildlife habitat.

This area is located outside the red line of this application.

The existing mature vegetation and trees at the south-western end of the site, located to the rear of the primary school and further to the south-west, shall be retained and incorporated into the overall design and layout of the scheme, as an area of public open space and wildlife habitat

The proposal involves an area of public open space to the rear of the primary school. It is designed to be incorporated into the site and to be activity utilised with link paths through the site.

Contemporaneous with the new development an 8 to 10 metre planted landscape buffer consisting of indigenous trees and hedgerow species to be provided along the south-east boundary.

The proposal includes a landscaping buffer along the south eastern boundary of the site.

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 on lands zoned for housing within the settlement limits of Magherafelt. As previously mentioned, the key site requirement was for a minimum of 20 dwellings per hectare. However, this proposal has a density of 19 dwellings per hectare, as already discussed I am content with this slight reduction from the key site requirement as this application is only for part of the overall zoned area and contains a sizeable portion of woodland which is to be retained as open space and additional buffer along the south eastern boundary. I am content the density is suitable for the site and any higher density in this application site may result in negative impacts for future residents in the development due to a lack of private amenity space and/or public open space. The landscaping along the north boundaries ensures the site is adequately screened from the adjoining housing development at Spires Manor and from Spires Integrated Primary School.

(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.

There are no features of archaeological or built heritage in or around the site to be concerned with. In terms of landscape features, the area of woodland that exists on the site and has habitat benefits is to be retained and utilised as public open space.

(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 3.4 hectares, the development should include an area of public open space consisting of approximately 3400 sq. metres in total.

I have measured the public open space on drawing No. 05 Rev 2 totally approximately 5,000 sq. metres. From this I am content that there is adequate open space provided within the development which is accessible by all properties throughout the site.

In relation to private amenity space, there is an acceptable level of private amenity space as per the guidance contained within Creating Places. The average garden size including garages will be 105 square metres across the development however, a number of plots will have more. I am content there is adequate separation distances where dwellings are backing onto each other.

(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 Magherafelt with easy access to the Magherafelt Bypass. Pedestrian access is available in and around the site and with direct access to footpaths leading into Magherafelt town centre.

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

DFI roads have been consulted and 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. 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 town.

(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 uses are mainly residential, with a primary school located to the northern boundary. As mentioned previously with the use of maintaining the woodland and trees along the northern boundary it will ensure adequate screening of the site and that residents will not be affected by overlooking, overshadowing, noise or any other disturbance.

The proposed development is located in close proximity to the Moneymore Road and the A31 Magherafelt By-Pass and as a result Environmental Health require that the residential amenity of future occupants is protected. Environmental Health were consulted as a Noise Impact Assessment was submitted and reviewed by Environmental Health. They had no objection to the proposal subject to conditions being applied to ensure that glazing installed are capable of providing sound reduction. A condition will be added to ensure an acoustic barrier is erected and permanently retained on site to provide noise protection.

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 2 - Natural Heritage

The site is used by Bats which are a European Protected Species under the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) (known as the Habitats Regulations). The site was also identified as being used by

Badgers. Badgers and their setts, whether active or inactive are protected under the Wildlife (Northern Ireland) Order 1985. The applicant provided both a badger and bat survey and a lighting plan to ensure that there was no negative impact on potential bat roosts. Further information was requested by NIEA throughout the consultation process but in their final response confirmed that sufficient information has been provided and they are content that with the inclusion of conditions, the proposal will not impact the protected species and therefore fully complies with policy NH 2 of PPS 2 Natural Heritage.

#### Other Material Considerations

Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 27/05/2022. This found that the project would not have an adverse effect on the integrity of any European site.

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

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

Approve is recommended

#### Approval Conditions

##### Condition 1

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

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

##### Condition 2

No development shall take place until a satisfactory method for sewage disposal has been submitted to and agreed with Mid Ulster District Council in consultation with NI Water.

Reason: To ensure there is a satisfactory means of sewage disposal.

##### Condition 3

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council



which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event.

Reason: In order to safeguard against surface water flood risk.

#### Condition 4

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 80 REV 2 bearing the date stamp 27 January 2023

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 5

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 including the Right turn lane Works have been completed in accordance with the details outlined blue on Drawing Number 80 REV 2 bearing the date stamp 27 January 2023. 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 6

Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 1993, no buildings, walls or fences shall be erected, nor hedges, nor formal rows of trees grown in (verges/service strips) determined for adoption.

Reason: To ensure adequate visibility in the interests of road safety and the convenience of road users and to prevent damage or obstruction to services.

#### Condition 7

Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 1993 no planting other than grass, flowers or shrubs with a shallow root system and a mature height of less than 500 mm shall be carried out in (verges/service strips) determined for adoption.

Reason: In order to avoid damage to and allow access to the services within the service strip.

#### Condition 8

The visibility splays at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No 80 REV 2 bearing the date stamp 27 January 2023, 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 9

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 10

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 11

Prior to works commencing on site, all existing trees shown on Drawing 05 Rev 2 as being retained shall be protected by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of Mid Ulster District Council Planning Department.

Reason: To protect the biodiversity value of the site, including protected species.

#### Condition 12

All glazing installed shall be capable of providing a sound reduction as detailed within Table 1 of Environmental Health's consultation response dated 28/06/22 shall be provided to all habitable rooms within the dwellings identified on drawing No. 05 Rev 2.

Reason: To protect the amenity of future occupants.

#### Condition 13

Prior to the occupation of any dwellings the Acoustic Barriers shall be erected within the site as identified on drawing No. 5 Rev 2. The barrier shall be constructed of either masonry or timber panelling (close lapped with no gaps). The barrier shall be permanently retained and maintained.

Reason: To protect the amenity of future occupants.

**Condition14**

All proposed landscaping, including the 8-10m planted landscape buffer identified on stamped drawing No.05 Rev 2 shall be carried out prior to the occupation of any dwellings on site.

Reason: In the interests of visual amenity.

**Condition15**

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 2.

Once completed, this open space area 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 timely manner and to assist in the provision of a quality residential environment in accordance with PPS7 and PPS 8.

**Case Officer:** Ciaran Devlin

**Date:** 22 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	23 December 2021
<b>Date First Advertised</b>	11 January 2022
<b>Date Last Advertised</b>	11 January 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 3 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 21 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 98 Moneymore Road Magherafelt Londonderry BT45 6HH</p> <p>The Owner / Occupier 100 Moneymore Road Magherafelt Londonderry BT45 6HH</p> <p>The Owner / Occupier 11 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 91 Moneymore Road Magherafelt Londonderry BT45 6HH</p> <p>The Owner / Occupier 58 Coolshinney Heights, Magherafelt BT45 5JG.</p> <p>The Owner / Occupier 93 Moneymore Road Magherafelt Londonderry BT45 6HH</p> <p>The Owner / Occupier 19 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier Spires Integrated Primary School 84 Moneymore Road Magherafelt Londonderry BT45 6HH</p> <p>The Owner / Occupier 2 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 15 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 17 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 5 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 7 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 9 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 1 Spires Manor Magherafelt Londonderry BT45 6GX</p> <p>The Owner / Occupier 98 Moneymore Road Magherafelt Londonderry BT45 6HH</p> <p>The Owner / Occupier 90 Moneymore Road Magherafelt Londonderry BT45 6HH</p>	

<b>Date of Last Neighbour Notification</b>	20 September 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p> NI Water - Multiple Units West-Substantive: YResponseType: FR  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  Shared Environmental Services-Substantive: TBC  NI Water - Strategic Applications-Substantive: YResponseType: FR  Rivers Agency-Substantive: YResponseType: FR  NIE - Ballymena-Substantive: TBC  NIEA-Substantive: TBCResponseType: PR  Environmental Health Mid Ulster Council-Substantive: TBC  NIEA-PRT LA09-2021-1819-F.PDF  NIEA-PRT LA09-2021-1819-F.PDF  DFI Roads - Enniskillen Office-Roads Consultation 3 PSD.docx  DFI Roads - Enniskillen Office-Roads Consultation 2.docx  NIEA-PRT - LA09-2021-1819-F.PDF  NIEA-  Rivers Agency-11235 - Final reply.pdf  NIEA-PRT LA09-221-1819-F.pdf </p>	

## Drawing Numbers and Title

Proposed Plans	Plan Ref: 78
Proposed Plans	Plan Ref: 77
Garage Plans	Plan Ref: 76
Proposed Elevations	Plan Ref: 75
Proposed Floor Plans	Plan Ref: 74
Proposed Elevations	Plan Ref: 73
Proposed Floor Plans	Plan Ref: 72
Proposed Elevations	Plan Ref: 71
Proposed Elevations	Plan Ref: 70
Proposed Floor Plans	Plan Ref: 69
Proposed Elevations	Plan Ref: 68
Proposed Elevations	Plan Ref: 67
Proposed Floor Plans	Plan Ref: 66
Proposed Elevations	Plan Ref: 65
Proposed Elevations	Plan Ref: 64
Proposed Floor Plans	Plan Ref: 63
Proposed Elevations	Plan Ref: 62
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Proposed Elevations	Plan Ref: 38
Proposed Floor Plans	Plan Ref: 37
Proposed Elevations	Plan Ref: 36
Proposed Elevations	Plan Ref: 35
Proposed Floor Plans	Plan Ref: 34
Proposed Elevations	Plan Ref: 33
Proposed Elevations	Plan Ref: 32
Proposed Floor Plans	Plan Ref: 31
Proposed Elevations	Plan Ref: 30
Proposed Elevations	Plan Ref: 29
Proposed Floor Plans	Plan Ref: 28
Proposed Elevations	Plan Ref: 27

**Notification to Department (if relevant)**

Not Applicable



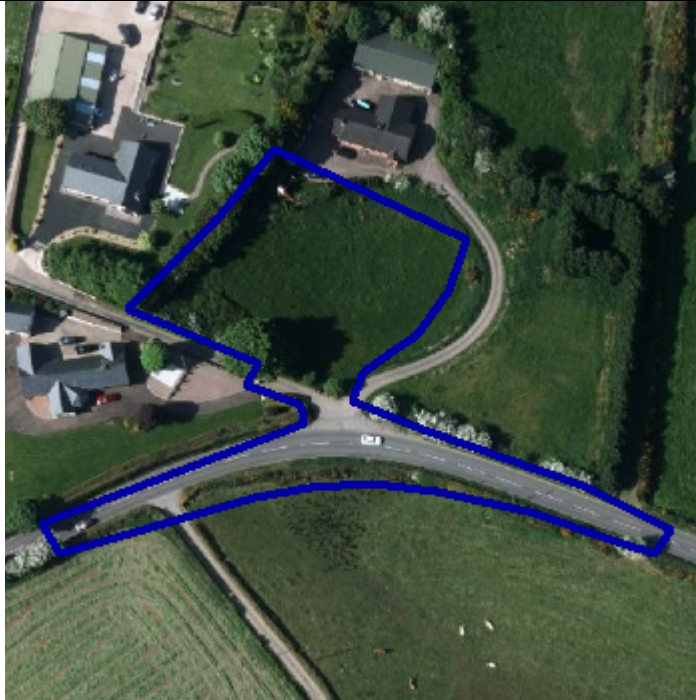
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2023/0340/F	<b>Target Date:</b> 11 July 2023
<b>Proposal:</b> Proposed Dwelling and Garage	<b>Location:</b> Lands Approx 40M South of 117 Cavanakeeran Road Pomeroy
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ms Kate McAleer 117 CAVANAKEERAN ROAD POMEROY BT70 2TB	<b>Agent Name and Address:</b> Mr Aidan Begley 76 MAIN STREET POMEROY DUNGANNON BT70 2QP
<b>Executive Summary:</b> <p>The current application for a dwelling and domestic garage is presented as a refusal as it fails to meet Policy CTY 13 and Policy CTY 14 of PPS 21: Sustainable Development in the Countryside:</p> <ul style="list-style-type: none"><li>- This proposal fails to meet Policy CTY 13 of PPS 21 as the proposed dwelling would appear as a prominent feature in the landscape, it cannot be visually integrated into the surrounding landscape, and it is not of an appropriate design for the site and its locality.</li><li>- This proposal fails to meet Policy CTY 14 of PPS 21 as the proposed dwelling would be unduly prominent in the landscape.</li></ul>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template.docx
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation.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 application site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site comprises a small paddock to the south of No. 117. The site gently slopes downwards in southerly direction

towards the Cavanakeeran Road. There is an existing shared access onto Cavanakeeran Road which it is proposed be modified to serve the new dwelling. The frontage along Cavanakeeran Road on the western side comprises a grassed bank with a line of mature trees and hedgerow. The eastern boundary is defined by a concrete lane bordered and a post and wire fence. A post and wire fence provides the northern boundary; the western boundary is comprised of mature trees and thick hedge; whilst the southern is undefined. No. 222 Cavanakeeran Road located to the south bisected by Cavanakeeran Road consists of a modern single storey dwelling, and Nos. 170 and 180 Cavanakeeran Road are detached dwellings, lie adjacent and west of the application site. To the north lies No. 117 Cavanakeeran Road, a chalet bungalow.

It is important to note there is a recent outline planning approval on this site under planning reference LA09/2019/1081/O.

### **Description of Proposal**

This is a full application for a proposed dwelling and garage at lands approximately 40m South of No. 117 Cavanakeeran Road, Pomeroy.

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

#### **Policy Consideration**

##### Representations

Four neighbour notification letters were issued in relation to this application; however no representations were received.

##### Relevant Planning History

LA09/2019/1081/O – Site for dwelling under PPS21 CTY2A. Site 40M South Of 117 Cavanakeeran Road, Pomeroy. Permission granted – 19.02.2020.

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

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 2a – New Dwellings in Existing Clusters

CTY 13 – Integration and Design of Buildings in the Countryside

## CTY 14 – Rural Character

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

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

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

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development area are acceptable in the countryside. In this instance the application is for a new dwelling in an existing cluster therefore this development must be considered under CTY 2a of PPS 21. Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

Planning application LA09/2019/1081/O was approved on this site for a dwelling at an existing cluster, and no planning policy has changed since this time, therefore we must hold material weight to that approval, and as I am content this application complies with

CTY 2a of PPS 21.



*Image 1 – Photo of application site*

This application must also comply with CTY 13 and CTY 14 of PPS 21. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. Policy CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

It is important to note, that the outline approval on this site had a condition attached that the proposed dwelling shall have a ridge height of less than 6 metres above finish floor levels to ensure that the development is satisfactorily integrated into the landscape.



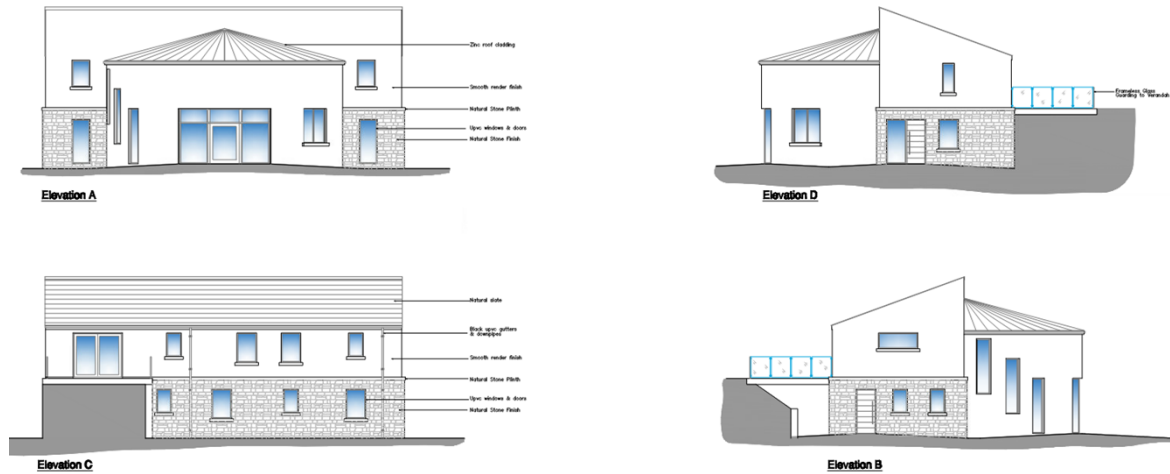


Figure 1 – Original design, Drawing No. 03 (received 27<sup>th</sup> March 2023)

In terms of the design of the building, the original design of the building was received 27<sup>th</sup> March 2023. The proposed dwelling had a ridge height of approximately 8m above finish floor levels, and the dwelling was not traditional or rural in form. When discussed at group discussion, it was considered by officers that this design was unacceptable. There was a 6m ridge height condition attached to the outline approval on site to ensure that the development is satisfactorily integrated into the landscape, and officers agreed with the original decision to attach this condition. The site cannot take a dwelling with an 8m ridge height, and the scale is too excessive for the site. The design of the dwelling should represent a dwelling that is traditional and rural in form in line with Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside. The previous case officer recommended a redesign to the agent.

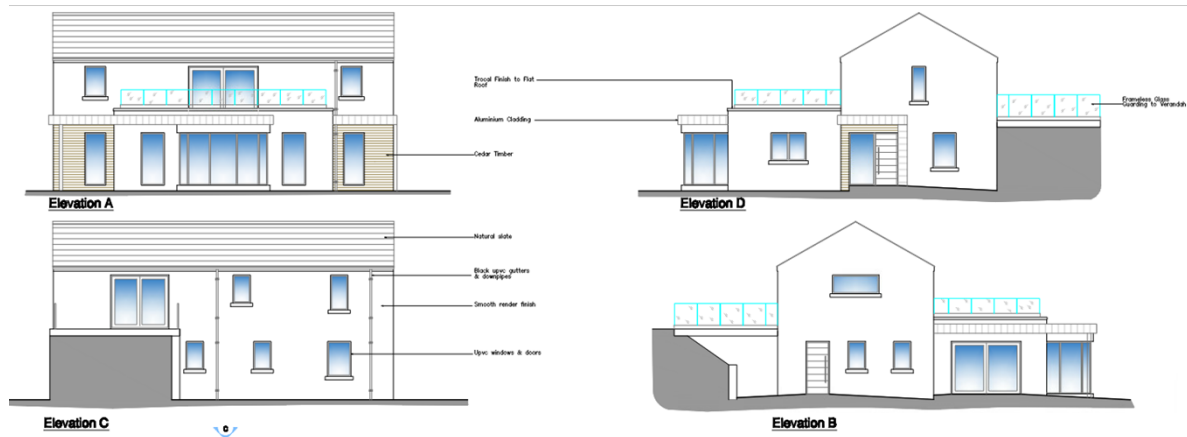


Figure 2 – Revised Drawing No. 03 Rev 01 (received 1<sup>st</sup> September 2023)

The agent submitted a revised design on 1<sup>st</sup> September 2023. This redesign was

discussed by officers at group discussion, and the officers were still of the opinion that the design was unacceptable, and that the redesign did not address any concerns that had previously been noted. The ridge height had only been reduced slightly to approximately 7.6m, the scale of the dwelling was still excessive, and the design was not traditional and rural in form. The original opinion from the previous group discussion still remained. Officers believed that the design of the dwelling was inappropriate for the site and its locality. A further redesign was recommended to properly address these concerns, specifically reducing the ridge height (noting to the agent to bear in mind that a 6m ridge height was conditioned under the outline permission).

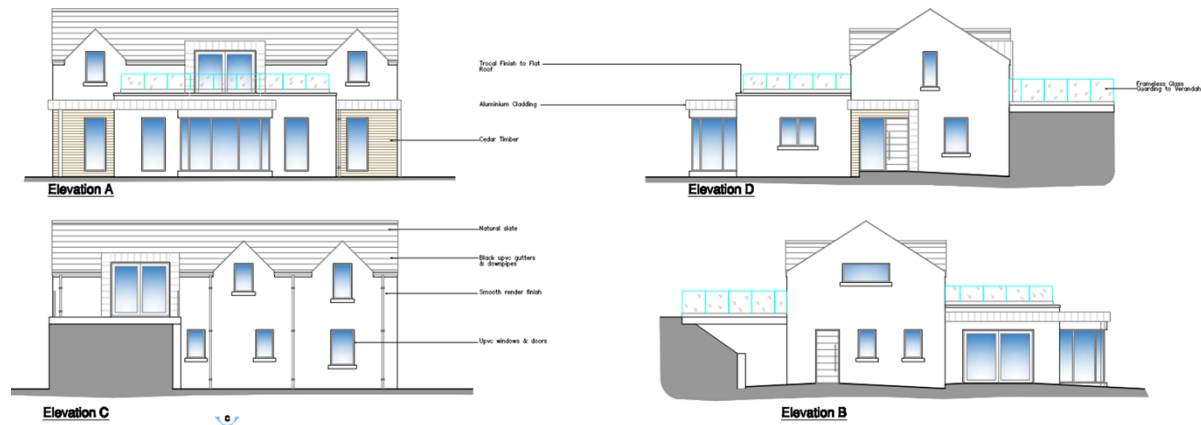


Figure 2 – Revised Drawing No. 03 Rev 02 (received 15<sup>th</sup> February 2024)

Revised drawings were received from the agent on 15<sup>th</sup> February 2024. The ridge height had been reduced slightly to approximately 7m, and the scale and form of the dwelling had not changed significantly. This amended design was discussed at group discussion and the officers were of the opinion that this design did not adequately address the original concerns that were relayed to the agent numerous times at this point. The scale of this proposed dwelling is too excessive for this site, and it would make it dominant in the local landscape. The design of the dwelling is not traditional, and is inappropriate for its rural location. It would not integrate harmoniously with the surrounding area.

Officers are of the opinion the design of the proposed dwelling is not in line with Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside. Officers are of the opinion that the proposal would appear as a prominent feature in the landscape, it cannot be visually integrated into the surrounding landscape, and it is not of an appropriate design for the site and its locality, and for these reasons fails to comply with Policy CTY 13 of PPS 21. Officers are of the opinion that the proposed dwelling would be unduly prominent in the landscape and for this reason it fails to comply with CTY 14 of PPS 21. For these reasons, it is recommended that this application is refused.

**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.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons****Reason 1**

This proposal is contrary to Policy CTY 13 of Planning Policy Statement 21: Sustainable Development in the Countryside as the proposed dwelling would appear as a prominent feature in the landscape, it cannot be visually integrated into the surrounding landscape, and it is not of an appropriate design for the site and its locality.

**Reason 2**

This proposal is contrary to Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside as the proposed dwelling would be unduly prominent in the landscape.

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

**Date:** 17 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	28 March 2023
<b>Date First Advertised</b>	11 April 2023
<b>Date Last Advertised</b>	11 April 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 222 Termon Road Pomeroy Tyrone BT70 2TA The Owner / Occupier 170 Loughmallon Road Pomeroy Tyrone BT70 2SY The Owner / Occupier 180 Loughmallon Road Pomeroy Tyrone BT70 2SY The Owner / Occupier 117 Loughmallon Road, Pomeroy, Tyrone, BT70 2SY	
<b>Date of Last Neighbour Notification</b>	14 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
Ref: I/1990/0359 Proposals: Bungalow Decision: PR Decision Date:	
Ref: I/2006/0364/O Proposals: Site for dwelling Decision: PR Decision Date: 15-JAN-07	
Ref: I/1994/0249 Proposals: Dwelling Decision: PG Decision Date:	
Ref: LA09/2023/0340/F Proposals: Proposed Dwelling and Garage Decision:	



Decision Date:

Ref: I/1998/0316

Proposals: Proposed Extension and Repairs to Dwelling

Decision: PG

Decision Date:

Ref: I/2005/1389/F

Proposals: Proposed sun-lounge extension

Decision: PG

Decision Date: 08-MAR-06

Ref: I/2002/0172/F

Proposals: Extension to Dwelling

Decision: PG

Decision Date: 17-JUN-02

Ref: I/1979/0031

Proposals: EXTENSION TO DWELLING HOUSE

Decision: PG

Decision Date:

Ref: I/1999/0413/O

Proposals: Dwelling House (Replacement) Store and Garage to House Classic Cars/Tractors - Garage and Store 80' x 25' approx - Domestic Use Only.

Decision: PG

Decision Date: 29-OCT-99

Ref: I/2000/0718/RM

Proposals: Single Storey replacement dwelling

Decision: PG

Decision Date: 13-DEC-00

Ref: LA09/2019/1081/O

Proposals: Site for dwelling under PPS21 CTY2A

Decision: PG

Decision Date: 19-FEB-20

Ref: I/1985/0338

Proposals: DWELLING

Decision: PR

Decision Date:

Ref: I/1986/0338

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/2003/0651/O

Proposals: Proposed replacement two-storey dwelling and domestic garage

Decision: PG

Decision Date: 11-SEP-03

Ref: I/1991/0135

Proposals: Change of use from agricultural land to golf course

Decision: WITHDR

Decision Date:

Ref: I/1995/0301

Proposals: Site for dwelling

Decision: PR

Decision Date:

Ref: I/1990/0217

Proposals: Erection of Bungalow

Decision: WITHDR

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Response Template.docx

DFI Roads - Enniskillen Office-

DFI Roads - Enniskillen Office-Roads Consultation.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Elevations Plan Ref: 03

Garage Plans Plan Ref: 04

Proposed Elevations Plan Ref: 03 Rev 01

Site Layout or Block Plan Plan Ref: 02 Rev 01

Proposed Elevations Plan Ref: 03 Rev 02

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.5
<b>Application ID:</b> LA09/2023/0484/RM	<b>Target Date:</b> 22 November 2023
<b>Proposal:</b> Phase One of Business Park development (Outline Approval LA09/2018/1361/O). Including 3 no. units for light industrial use, a security gatehouse building, and roadway.	<b>Location:</b> Lands immediately West of Kilcronagh Business Park Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> MACM (NI) Ltd 2-4 Loy Street Cookstown BT80 8PE	<b>Agent Name and Address:</b> Les Ross 14 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b> <p>The application is being presented to members due to two objections being received and these have been considered within the body of this report. It is presented to members with the recommendation to approve. This application is a Reserved Matters application for part of a larger overall major application that was previously approved under LA09/2018/1361/O. There have been two objections received to this application The principle of development was accepted at the site for an industrial business park, the site was approved for B1 (business use), B2 (light industrial use) and B4 (storage and distribution) as defined by the Planning (Use Classes) Order (NI) 2015. This application is for 3 light industrial units and a security gatehouse and is acceptable in principle. This application will assess the design and siting of the proposed units and any impacts on residential amenity.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	703208 - Final reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Roads response issued 13 Nov 2023  Gerry
Statutory Consultee	Rivers Agency	703208 - Final reply 1.pdf
Statutory Consultee	Rivers Agency	118309 - Final reply.pdf
Statutory Consultee	Rivers Agency	118309 - Final reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	PSD example no shared surface.docx
Statutory Consultee	NIEA	PRT LA09-2023-0484-RM.PDF
Statutory Consultee	Rivers Agency	422148 - Final reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Siobhan  I was considering this application in association with application LA09/2023/0485

		<p>I emailed Malachy McCrystal on 26/06/2023 in relation to the PSD drawings for both applications.</p> <p>The issue is that the PSD,s for LA09/2023/0485 and LA09/2023/0484 are overlapping and extend into the areas outlined blue.</p> <p>I need the applications to show the PSD,s to be the same as the red outline for each of the applications.</p> <p>happy to discuss Gerry</p> <p>Gerry</p>
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0484.RM.pdf
<b>Representations:</b>		
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		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>		
<p>The site is located to the south west of Cookstown, within the open countryside as per the Cookstown Area Plan 2010. The red line of the application site extends from the eastern boundary of the field, across a number of existing fields to the western boundary. It is an irregular shape, and the red line of this application is smaller than that of the overall development site that was approved at outline stage. The majority of the site is located within the most western field which has a mature hedgerow defining the south western boundary. The access is to be taken from the existing Kilcronagh</p>		

Business Park to the east. The site is flat lands made up of agricultural fields with the surrounding area being a mix of single rural dwellings, agricultural lands and Kilcronagh Business Park.

### **Description of Proposal**

This is a Reserved Matters application for Phase One of Business Park development including 3 no. units for light industrial use, a security gatehouse building, and roadway.

### **Relevant Site History**

LA09/2018/1361/O- Proposed extension to existing industrial business park. Permission Granted

LA09/2023/0485/F- Proposed link road within established business park. Pending Consideration

### **Representations**

Two written objections were received in relation to this application. These have been considered and concerns addressed within the body of the report.

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

#### **Policy Consideration**

Cookstown Area Plan 2010

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

PPS 15: (Revised) Planning and Flood Risk

PPS 21: Sustainable Development in the Countryside

Strategic Planning Policy Statement for Northern Ireland (SPPS)

As the site lies outside the settlement limits of Cookstown, the relevant planning policy is PPS 21 Sustainable development in the Countryside. The principle of development has been accepted at the site for an industrial business park, the site was approved for B1 (business use), B2 (light industrial use) and B4 (storage and distribution) as defined by the Planning (Use Classes) Order (NI) 2015.

Policy CTY 1 - Development in the Countryside identifies a range of types of development which in principle are considered acceptable in the countryside and that will contribute to the aims of sustainable development. The policy advises that Planning permission will be granted for non-residential development in the countryside in the following cases:

- Industry and business uses in accordance with PPS 4 Planning and Economic Development.

Policy PED 5 Major Industrial Development in the Countryside advises that a major industrial proposal which makes a significant contribution to the regional economy will be permitted in the countryside where it is demonstrated that the proposal due to its size or site-specific requirements needs a countryside location. Such proposals will be assessed taking account of:

- (a) the long-term sustainable economic benefits;
- (b) the availability of alternative sites; and
- (c) the environmental or transport impacts.

Where an industrial development proposal is judged acceptable in principle in the countryside under the above, an edge of town location will be favoured over allocation elsewhere in the countryside.

Planning application LA09/2018/1361/O accepted the principle of development under Policy PED 5 of PPS 4 and does not need to be re-evaluated as part of this application. With regard to criteria C, this Reserved Matters application has the potential to cause an impact on these. As part of the application a Construction Environmental Management Plan (CEMP) and full details of the proposed buildings have been provided and NIEA were consulted who confirmed they had no concerns with the proposal. Similarly, the site as a whole was assessed for its potential transport impact at the time of the outline application and was deemed acceptable. As part of this application, DfI Roads were consulted and are content with the proposal and advised the layout is subject to a Private Street Determination. From this, I am content the proposal complies with Policy PED 5.

Policy PED 9 is the general criteria for Economic Development which the application must be assessed against.

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:

- (a) it is compatible with surrounding land uses;*

The proposed development was deemed to be compatible with the surrounding landuses, that being the Kilcronagh Business Park and agricultural lands.

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

I am satisfied that the proposal will not harm the amenities of nearby residents. Environmental Health were consulted at outline stage and provided conditions relating to noise emissions from site, ensuring the noise levels do not exceed levels provided within the noise impact assessment.

Environmental Health were consulted on this current proposal and had no objections subject to conditions being applied stating that noise levels should not exceed those within the Noise Assessment submitted at outline stage. Similarly, given the use class of the buildings is to be restricted to B2 Light Industrial which states its use is for any industrial process which can be carried out without detriment to amenity by reason of

noise, vibration, smell, fumes etc. From this I have no concern regarding any impact on residential amenity.

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

I am content the proposal does not affect features of the natural or built heritage.

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

A Drainage and Flood Risk Assessment was submitted by the applicant and DfI Rivers were consulted on the proposal. Following numerous consultations, and amendments made to the FRA, DfI Rivers provided final comments and is content with the proposal subject to a condition being applied to any approval.

*(e) it does not create a noise nuisance;*

As mentioned above, Environmental Health were consulted and no concerns were raised regarding noise impact.

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

Those bodies consulted in relation to these matters have commented favourably and consent will be required from other agencies.

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

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

DfI Roads were consulted and offered no objections. The layout is subject to a Private Street Determination. There has been adequate parking provided on site. The access to the site is to be determined under planning application LA09/2023/0485/F which connects the proposed extension to the existing access from Kilcronagh Business Park.

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

The proposal lies adjacent to the existing business park which provides a suitable movement pattern and will connect to same, with associated roadway and footway provision.

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

I am content with the layout of the site and the design of the buildings in that they represent traditional style industrial units with metal cladding making up the majority of the building. There is also a small security hut proposed at the eastern part of the site close to the site entrance. I am content with the design of this building. I am content that



as only a small portion of the larger overall site is being developed as part of this application that sufficient landscaping has been provided along the south western boundary. Any land outside the red line of this application will be undeveloped until further planning approvals have been granted for it, the agent has provided a masterplan for the site but this application does not permit any development outside the current redline. The proposed planting of the trees can be conditioned as part of any approval and it will aid the promotion of biodiversity on the site.

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

As mentioned above, I am content with the proposed planting which will aid screening of the site from public view.

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

There is a small security building proposed at the entrance of the site and I am content this will deter crime and promote personal safety.

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

I am content given the size of the proposed buildings and the use of new planting; it will integrate into the landscape satisfactorily.

From this above, I am content that the proposal complies fully with Policy PED 5 and PED 9 of PPS 4.

#### PPS 2: Natural Heritage

NIEA, Natural Environment Division (NED) were consulted as part application process and having reviewed the plans and the information provided including the Construction Environmental Management Plan (CEMP) and the lighting plan have no concerns. With regard to the lighting plan, NED note that the mature ash trees have bat roosting potential and are being retained and will not be subjected to excessive lighting. From this I am content that the proposal does not offend any policies contained within PPS 2.

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

Dfl Roads were consulted on the proposal and stated the layout is subject to a Private Streets Determination and provided signed PSD's and conditions to be attached to any approval.

#### PPS 15: (Revised) Planning and Flood Risk

Dfl Rivers were consulted and confirmed that the development is not within but lies in close proximity to the 1 in 100 year fluvial flood plain which bounds the site to the north. A designated watercourse runs along the eastern boundary of the site, with the only development along this boundary being the access road, no development is to take place within 5m of the watercourse. A drainage assessment was submitted as part of the planning application and having reviewed the DA, Dfl Rivers has provided a condition to be attached to any approval to ensure a final Drainage Assessment is submitted and

agreed prior to any construction taking place.

### **Other Material Considerations**

There have been two objections received in relation to this application. One from 19 Kilcronagh Road and the other from 26 Kilcronagh Road. The following points have been raised by the objectors and are considered as follows;

1: The proposal is for industrial use as opposed to the original designation of the aligned Business park and it will have impacts on the rural area.

The outline planning application granted under LA09/2018/1361/O the site was approved for B1 (business use), B2 (light industrial use) and B4 (storage and distribution) as defined by the Planning (Use Classes) Order (NI) 2015. This proposal complies with this condition and is within the use class accepted.

2: The road infrastructure is not capable of coping with the existing traffic at peak times- this proposal will cause increased traffic congestion in the rural area.

DfI Roads as the competent authority were consulted on the proposal and raised no concerns with the development. The principle of development was accepted at this location for a large business park. The proposed internal roads are subject to Private Streets Determination. DfI Roads provided no reason for objections and no concerns regarding the increase of traffic.

3: Concerns regarding noise and operating hours.

I have no concerns regarding noise or operating hours as the proposal is for light industrial use and by its use will not result in any noise or other nuisance. Environmental Health were consulted and viewed the letter objections and no concerns were raised regarding operating hours. The conditions provided will ensure that no nuisance will arise from the proposal at either day or night-time.

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

#### Condition 2

The proposed development shall meet background noise levels (LA90 stated within the KRM Noise Assessment date stamped 15th October 2018 submitted in support of planning reference LA09/2018/1361/O) minus 5dB (inclusive of character correction) for both daytime and night-time house at the façade of the nearest noise sensitive receptor. All measurements and assessment shall be accordance with British Standard 4142:2014+A1:2019 - Methods for rating and assessing industrial and commercial noise.

Reason: To protect amenity of nearby residential properties.

#### Condition 3

Within 8 weeks of a written request by the Planning Department, following a reasonable noise complaint, the site operator(s) shall, at their expense, employ a suitably qualified and competent person to assess and report the level of noise immissions from the site at the complainant's property following the procedures described in British Standard 4142: 2014+A1:2019 - Methods for rating and assessing industrial and commercial noise. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To protect amenity of nearby residential properties.

#### Condition 4

If the report(s) submitted, as per condition 3, indicates that noise levels exceed noise levels stated within condition 2, a scheme outlining corrective action with proposed timescales for their implementation shall be agreed in writing with Mid Ulster District Council Planning Department.

Reason: To protect amenity of nearby residential properties.

#### Condition 5

The use class of the 3 light industrial units as determined by the 'Planning (Use Classes) Order (Northern Ireland) 2015,' shall be restricted to Class B2: Light Industrial and the security gatehouse building shall be restricted to Class B1:Business.

Reason: To protect amenity of nearby residential properties.

#### Condition 6

All door to the proposal shall be kept closed at all times except for access and egress.

Reason: To control noise and protect residential amenity.

#### Condition 7

Construction works associated with this proposal, which are audible at any noise sensitive property outside the site, shall only take place between the hours of 07:00 - 19:00 hours on Monday to Friday, 07:00 -14:00 hours on Saturday with no works being undertaken on Public/Bank Holidays. Outside of these hours, work at the site shall be limited to emergency works, or construction work that is not audible at any noise sensitive property.

Reason: To control the construction noise levels from the development at noise sensitive locations.

#### Condition 8

Prior to any works commencing on site, all existing trees shown on Drawing 02 Site Layout, as being retained shall be protected by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority.

Reason: To protect the biodiversity value of the site, including protected species.

#### Condition 9

All landscaping comprised in the approved details of landscaping on stamped drawing No.02 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development is adequately screened

#### Condition10

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, in a 1 in 100 year event with an additional allowance for climate change (10%) and urban creep (10%).

Reason: To safeguard against flood risk to the development and from the development to elsewhere.

#### Condition11

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,s 08 & 09.

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.

**Signature(s):** Ciaran Devlin

**Date:** 16 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	26 April 2023
<b>Date First Advertised</b>	16 May 2023
<b>Date Last Advertised</b>	16 May 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  26 Kilcronagh Road Cookstown Tyrone BT80 9HG  The Owner / Occupier  19 Kilcronagh Road Cookstown Tyrone BT80 9HG  The Owner / Occupier  21 Kilcronagh Road Cookstown Tyrone BT80 9HG  The Owner / Occupier  23 Kilcronagh Road Cookstown Tyrone BT80 9HG  The Owner / Occupier  R m Greenkeepers Unit 14 Kilcronagh Business Park Cookstown BT80 9HJ  The Owner / Occupier  D1 Kilcronagh Business Park Cookstown Tyrone BT80 9HJ  The Owner / Occupier  C2 Kilcronagh Business Park Cookstown Tyrone BT80 9HJ</p>	
<b>Date of Last Neighbour Notification</b>	7 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2009/0207/F  Proposals: Proposed amendments to road layout from turning circle, as approved under previous application ref no I/2004/1190/F, to round-a-bout with junctions off  Decision: PG  Decision Date: 22-SEP-09</p> <p>Ref: I/2008/0686/F  Proposals: Proposed 2 no light industrial units to be sub-divided (units C3-C14) with ancillary offices and ancillary works including landscaping and carparking.  Decision: PG  Decision Date: 22-JAN-09</p>	

Ref: LA09/2017/0912/PAD

Proposals: Extension to Industrial Lands

Decision: PAD

Decision Date: 01-JAN-18

Ref: I/2004/1190/F

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

Decision: PG

Decision Date: 29-JUN-05

Ref: LA09/2023/0484/RM

Proposals: Phase One of Business Park development (Outline Approval LA09/2018/1361/O). Including 3 no. units for light industrial use, a security gatehouse building, and roadway.

Decision:

Decision Date:

Ref: LA09/2022/1547/F

Proposals: Alteration of 33kv distribution network entailing recovery of 607m of existing overhead line and 7 existing wood poles, erection of 728m of proposed overhead line and 6 proposed wood pole. The proposal is to facilitate network improvements and reinforcement

Decision: PG

Decision Date: 26-JAN-23

Ref: LA09/2018/0059/PAN

Proposals: Proposed extension to existing Industrial Business Park

Decision: PANACC

Decision Date: 11-JUN-18

Ref: LA09/2018/1361/O

Proposals: Proposed extension to existing industrial business park

Decision: PG

Decision Date: 09-JUL-20

Ref: LA09/2023/0485/F

Proposals: Proposed link road within established business park

Decision:

Decision Date:

Ref: I/2003/1169/Q

Proposals: Development for Industrial Complex

Decision: 211

Decision Date: 22-OCT-04

Ref: I/2004/1101/O

Proposals: Development of land for industrial use.

Decision: PG

Decision Date: 29-JUN-05

### **Summary of Consultee Responses**

Rivers Agency-703208 - Final reply.pdf

DFI Roads - Enniskillen Office-DFI Roads response issued 13 Nov 2023

Gerry

Rivers Agency-703208 - Final reply 1.pdf

Rivers Agency-118309 - Final reply.pdf

Rivers Agency-118309 - Final reply.pdf

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

NIEA-PRT LA09-2023-0484-RM.PDF

Rivers Agency-422148 - Final reply.pdf

DFI Roads - Enniskillen Office-Siobhan

I was considering this application in association with application LA09/2023/0485

I emailed Malachy McCrystal on 26/06/2023 in relation to the PSD drawings for both applications.

The issue is that the PSD,s for LA09/2023/0485 and LA09/2023/0484 are overlapping and extend into the areas outlined blue.

I need the applications to show the PSD,s to be the same as the red outline for each of the applications.

happy to discuss

Gerry

Gerry

Environmental Health Mid Ulster Council-LA09.2023.0484.RM.pdf



**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Existing Site Survey Plan Ref: 03  
Proposed Plans Plan Ref: 04  
Proposed Plans Plan Ref: 05  
Proposed Elevations Plan Ref: 06  
Proposed Elevations Plan Ref: 07  
Roads Details Plan Ref: 08  
Roads Details Plan Ref: 09  
Proposed Plans Plan Ref: 10

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.6
<b>Application ID:</b> LA09/2023/0771/O	<b>Target Date:</b> 1 November 2023
<b>Proposal:</b> Proposed site for a dwelling and domestic garage	<b>Location:</b> Approx 120M East of 65 Moneysharvan Road Swatragh
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Patrick Turner 65 Moneysharvan Road Swatragh BT46 5PT	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b> <p>The current application for a proposed site for a proposed site for a dwelling and domestic garage is presented as a refusal as it fails to meet policies contained within 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 10 – This proposal fails to meet Policy CTY 10 of PPS 21 as a new dwelling would not be visually linked or sited to cluster with an established group of buildings on the farm.</p> <p>CTY 13 – This proposal fails to meet Policy CTY 13 of PPS 21 as a new dwelling would be unable to visually integrate into the surrounding landscape.</p> <p>CTY 14 – This proposal fails to meet Policy CTY 14 of PPS 21 as a new dwelling would cause detrimental impact to the character of the area and erode the rural character of an area.</p>	

## 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 LA09-2023-0771-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DAERA - Coleraine	Planning Consultee Response LA09-2023-0771-O - Business id 657605.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 Magherafelt Area Plan 2015. The site is agricultural land which is part of a much larger agricultural field, and is set back from the Moneysharvan Road. The site has a significant dip towards the east, to the Moneysharvan Road. The northern and southern boundaries are defined by mature hedging and trees, the western boundary is defined by wooden and wire fencing, while the eastern boundary remains undefined. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings.

### Description of Proposal

This is an outline planning application for a proposed site for a dwelling and domestic garage. The site is identified as approximately 120m East of No. 65 Moneysharvan Road, Swatragh.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

##### Representations

Two neighbour notification letters were issued, however no representations were received in connection with this application.

##### Relevant Planning History

No relevant planning history.

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

Strategic Planning Policy Statement (SPPS)

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Strategy

PPS 21 – Sustainable Development in the Countryside

PPS 3 – Access, Movement and Parking

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). 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.

PPS 21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21. In this instance the application is for a farm dwelling and as a result the development must be considered under CTY 10 of PPS 21. Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

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

Upon review of the guidance, and after consultation with DAERA, I am content that the farm business is active and established as per required by planning policy. Upon a reasonable review of the farm holding, I am content that no farm approvals have been attained nor any development opportunities sold off the farm in the previous 10 years. With regards to the siting, following my site visit and group discussion with officers, we are not content that the proposed dwelling will be sited to visually link or cluster with an established group of buildings on the farm. Within the agent's statement of case, the proposed dwelling is to visually link/cluster with existing farm buildings to the west of the application site (No. 65 Moneysharvan and associated outbuildings). This group of buildings are set back approximately 95m southwest of the application site with a large agricultural field separating them from the site. From my site visit I was of the opinion the application site was too far removed from the existing farm building to consider to cluster, and during group discussion officers were also of the opinion that the proposed dwelling would not be considered to cluster with the existing group of farm buildings given the separation distance. Furthermore, this group of farm buildings cannot be seen from the Moneysharvan Road, therefore the proposed dwelling cannot be considered to visual link with this group of buildings on the farm holding, therefore it would be seen as a standalone building from the Moneysharvan Road. For these reasons, I am not satisfied that this application complies with Policy CTY 10. During group discussion, officers did acknowledge that there was a valid opportunity for a dwelling on a farm, however the application site was not considered acceptable, and it would appear that there are alternative sites within the applicant's blue land that would be considered more appropriate.



*Image 1 – Ortho image showing separation distance from application site to existing farm holding*

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. Following group discussion, it was considered that a proposed dwelling on this site would appear significantly prominent due to the elevated nature of the site and would appear visually prominent. Given the position and surrounding landscaping it would be unable to visually integrate. As such this application fails to comply with CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Following group discussion, it was considered that a new dwelling on this site would appear significantly prominent and as such would cause detrimental impact to the character of the area and erode the rural character of an area. Therefore, this application fails to comply with CTY 14.





Image 2 – Image showing view of site from Moneysharvan Road

**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.

**PPS 6: Planning, Archaeology and The Built Heritage**

Historic Environment Division were consulted as the application site is within a NISMR Planning Buffer Zone. The application site is located beside the recorded site of a rath. HED responded that they would require additional information to permit an informed and reasonable planning decision to be taken. An archaeological evaluation was requested as per Policy BH 3 of PPS 6. As it was already considered, following group discussion, that this application failed to comply with PPS 21 and would therefore be recommended as a refusal it was not considered necessary to request an archaeological evaluation to be undertaken, as it would be an unnecessary expense on the applicant.

**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 10 of Planning Policy Statement 21: Sustainable Development in the Countryside in that a new dwelling would not be visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21: Sustainable Development in the Countryside in that a new dwelling would be unable to visually integrate into the surrounding landscape.

**Reason 4**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that a new dwelling would cause a detrimental change to the character of the area as a new dwelling will be unduly prominent in the landscape thereby eroding the rural character of the area.

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

**Date:** 15 May 2024



<b>ANNEX</b>	
<b>Date Valid</b>	19 July 2023
<b>Date First Advertised</b>	1 August 2023
<b>Date Last Advertised</b>	1 August 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 63 Moneysharvan Road Maghera Londonderry BT46 5PT The Owner / Occupier 65 Moneysharvan Road Maghera Londonderry BT46 5PT	
<b>Date of Last Neighbour Notification</b>	2 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/1999/0633/PA  Proposals: Telecommunications installation  Decision: 55  Decision Date: 12-NOV-99</p> <p>Ref: H/1982/0160  Proposals: HV O/H LINE (BM 5326)  Decision: PG  Decision Date:</p> <p>Ref: H/2006/0226/F  Proposals: Proposed replacement dwelling and garage  Decision: PG  Decision Date: 22-FEB-07</p> <p>Ref: LA09/2022/1010/F  Proposals: Replacement dwelling and garage  Decision: PG  Decision Date: 12-DEC-22</p> <p>Ref: H/1976/0127  Proposals: SITE OF DWELLING</p>	

Decision: PR  
Decision Date:

Ref: H/2007/0719/F  
Proposals: 11Kv supply overhead power line.  
Decision: PG  
Decision Date: 19-NOV-07

Ref: LA09/2021/0539/O  
Proposals: Proposed site for dwelling & garage.  
Decision: WDN  
Decision Date: 20-SEP-21

Ref: H/2000/0408/O  
Proposals: Site Of Replacement Dwelling  
Decision: PG  
Decision Date: 17-OCT-00

Ref: LA09/2023/0771/O  
Proposals: Proposed site for a dwelling and domestic garage approx 120m East of No 6  
Moneysharvan Road, Swatragh  
Decision:  
Decision Date:

Ref: H/2000/0235/O  
Proposals: Site of Farm Dwelling  
Decision:  
Decision Date:

Ref: LA09/2016/0515/F  
Proposals: Extension to existing dwelling  
Decision: PG  
Decision Date: 20-JUL-16

Ref: H/1979/0603  
Proposals: SITE OF BUNGALOW  
Decision: WITHDR  
Decision Date:

### **Summary of Consultee Responses**

Historic Environment Division (HED)-  
DAERA - Coleraine-Consultee Response LA09-2023-0771-O.DOCX  
DFI Roads - Enniskillen Office-Outline resp.docx  
Historic Environment Division (HED)-  
DAERA - Coleraine-Planning Consultee Response LA09-2023-0771-O - Business id

657605.DOCX

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Location Plan Plan Ref: 01 Rev 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2023/0852/O	<b>Target Date:</b> 27 November 2023
<b>Proposal:</b> Dwelling and garage to be considered under CTY 8 & CTY2a	<b>Location:</b> 55 Metres East of 64 Aughrim Road, Magherafelt
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Andrew Watterson 15 Ballynagarve Road Ballyronan BT45 6HY	<b>Agent Name and Address:</b> Mr CMI PLANNERS 38 AIRFIELD ROAD TOOMEBRIDGE BT41 3SQ
<b>Executive Summary:</b> <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.</p> <p>The proposal is also contrary to CTY 2a of PPS 21 for a cluster dwelling, in that the cluster is without 3 dwellings, there is no valid focal point and the proposal does not round-off / consolidate with other development surrounding the site.</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

Please note: the ortho site location map (above) does not show the dwelling under construction (at time of site visit) to the immediate south west of the site (no. 66). The site of the proposed is located in the rural countryside, approximately 0.8 miles east and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015. The site consists of part of an agricultural field which sits adjacent and north west of

Russell Shiels Tyres depot. To the east of Russell Shiels is Nugent Coachworks engineering. A dwelling identified as no. 66 was under construction at the time of the site visit and is in the same field as the proposed dwelling which is to be sited to the rear further away from the road. Another dwelling occupies the field to the west and is identified as no. 64 Aughrim Rd. The site for the dwelling sits back 75 metres from the edge of the road on a gently inclining slope. Site boundaries include the hedge-lined edges of the field along the north western boundary and palisade fencing along the south eastern boundary. The north eastern boundary is undefined. The south western boundary is the curtilage edge of the new build dwelling and is currently marked with post and wire fencing. The existing access to the site is via a small laneway which adjoins the yard of Russell Shiels.

### **Description of Proposal**

The proposed is a full application for a 'dwelling and garage to be considered under CTY 8 and 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.

#### **Relevant Histories**

LA09/2022/0277/F – Change of house & garage type from that previously approved under planning application ref: LA09/2020/1562/RM – Approx 55m Se of 64 Aughrim Road Magherafelt

LA09/2020/1562/RM – Proposed replacement dwelling and garage – Lands approx. 75m NW of no. 76 Aughrim Road Magherafelt BT45 6JY.

#### **Representations**

To date no third party representations have been received.

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

The site of the proposed is located in the rural countryside, approximately 0.8 miles east and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

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

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 proposed site lies outside of a farm. While it can be argued that there are four or more existing buildings within the grouping of buildings (nos. 64 and 66 Aughrim Rd, Russell Shiels and Nugent Coachworks), only two of the required three of these

buildings are dwellings.

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

The existing grouping of buildings appears as a visual entity in the local landscape and this is visually apparent along both approaches of the Aughrim Road.

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

For the purposes of the policy examples of focal points have been suggested and whilst a business is not a social or community building/facility and the application is not at a cross roads, it is the opinion of the officer that the businesses in the immediate vicinity of the site can be considered in this instance as a focal point. However this does not overcome the issue there is not a cluster of development at this location, with a cluster being clearly defined in Policy CTY 2a.

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

The site is bounded on both the south western and south eastern boundaries with other development in this grouping of buildings. An adequate degree of enclosure for the dwelling is provided.

- 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 would round off and consolidate with other development within the grouping of buildings.

- 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 the policy criteria pertaining to dwelling numbers, and rounding off / consolidation. Therefore the policy fails to meet Policy CTY 2a.

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 also 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 at least 3 substantial buildings; these are nos. 64 and 66 to the south west of the site and nos. 76 and 80 (Russell Shiels and Nugent Coachworks) to the south east of the site. While it is considered that these buildings are substantial, only the curtilages of nos. 76 and 80 have Aughrim road-fronting boundaries. The two dwellings to the south west of the site do not front this road, but instead front a private laneway off the main road. There is no shared common road frontage in this instance. The site itself cannot be considered to be road fronting, given it is set back substantially from the main road. Furthermore, the proposed laneway leading to the site cannot be considered to amount to a road frontage. The proposed fails to comply with Policy CTY 8 of PPS 21.

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 considered that a dwelling could blend in with its immediate and wider surroundings if it were of a size and scale appropriate for the site and its locality. The dwellings to the south west consist of a single storey dwelling and a near-completion two-storey dwelling. It is considered that the site for the proposed dwelling is sited on land that is slightly higher than the two-storey dwelling to the front of it. In consideration of the site and its current levels of screening it is recommended that a ridge height condition of 6.5 metres from finished floor levels be applied in the event of approval being granted. The site is complete with a degree of long-established natural boundaries, which includes the north western hedge-lined field boundary. New native species hedgerow is proposed to the north eastern boundary of the dwelling under construction identified as no. 66, and this will be the shared boundary to the south west of the dwelling proposed in this application. It is therefore considered that the site does not rely on the use of new landscaping for integration. A full landscaping scheme shall be submitted at reserved matters stage should approval in this case be granted. The proposed 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.

### PPS 3 –Access, Movement and Parking

The applicant / agent has indicated that the proposed will involve the use of an existing unaltered access to the main road which is a short private laneway which serves Russell Shiels and will also be utilised by the new-build dwelling identified as no. 66 Aughrim Rd. A consultation with DfI Roads provided a response with no objection to the proposed, subject to the standard RS1 condition. The proposed complies with Policy AMP 2 of PPS 3 at this outline stage.

### 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 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 is without 3 dwellings and the proposal does not round-off / consolidate with other development surrounding the site.

**Signature(s):** Benjamin Porter

**Date:** 22 April 2024

<b>ANNEX</b>	
<b>Date Valid</b>	14 August 2023
<b>Date First Advertised</b>	29 August 2023
<b>Date Last Advertised</b>	29 August 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 62 Aughrim Road Magherafelt Londonderry BT45 6JY The Owner / Occupier 51 Aughrim Road Magherafelt Londonderry BT45 6JY The Owner / Occupier 76 Aughrim Road Magherafelt Londonderry BT45 6JY The Owner / Occupier 64 Aughrim Road Magherafelt Londonderry BT45 6JY	
<b>Date of Last Neighbour Notification</b>	15 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2020/1562/RM  Proposals: Proposed replacement dwelling and garage.  Decision: PG  Decision Date: 05-FEB-21</p> <p>Ref: H/2013/0379/F  Proposals: Proposed change of housetype from previously application H/2007/0642/F and creation of new access to site.  Decision: PG  Decision Date: 05-FEB-14</p> <p>Ref: H/1995/6127  Proposals: DWELLING FOR BED AND BREAKFAST ACCOMMODATION AUGHRIM ROAD MAGHERAFELT  Decision: QL  Decision Date:</p> <p>Ref: H/1993/6114</p>	

Proposals: SITE OF DWELLING AUGHRIM ROAD MAGHERAFELT

Decision: QL

Decision Date:

Ref: H/1979/0541

Proposals: ELECTRICITY SUBSTATION (MC/T 6284)

Decision: PG

Decision Date:

Ref: H/1977/0422

Proposals: SITE OF ENGINEERING FACTORY

Decision: PG

Decision Date:

Ref: H/2000/0040/F

Proposals: Extension to Existing Factory to provide additional storage.

Decision: PG

Decision Date: 19-JUN-00

Ref: H/1996/0405

Proposals: RESEARCH AND DEVELOPMENT UNIT

Decision: PG

Decision Date:

Ref: LA09/2022/0277/F

Proposals: Change of house & garage type from that previously approved under planning application ref: LA09/2020/1562/RM

Decision: PG

Decision Date: 12-MAY-22

Ref: LA09/2016/1610/LDE

Proposals: Lawful commencement and implementation of permission H/96/0405 associated with a research and development unit prior to its expiration

Decision: PG

Decision Date: 15-DEC-16

Ref: H/2007/0642/F

Proposals: 1 No. Replacement Dwelling and 1 No. Garage

Decision: PG

Decision Date: 20-FEB-08

Ref: H/2000/0324/Q

Proposals: Site for dwelling

Decision: 300

Decision Date: 19-MAY-00

Ref: H/2014/0240/F

Proposals: Erection of dwelling (change of house type from that previously approved under H/2013/0379/F) and extension of curtilage

Decision: PG

Decision Date: 14-OCT-14

Ref: LA09/2016/0030/F

Proposals: Retention of dwelling and garage as per constructed

Decision: PG

Decision Date: 10-AUG-16

Ref: LA09/2017/1020/F

Proposals: Industrial unit (vehicle testing facility, tyre depot and fitting), landscaping, fence, parking and access

Decision: PG

Decision Date: 06-DEC-17

Ref: H/2005/0481/F

Proposals: Development of existing agricultural building & yard area to facilitate an agricultural supplies business

Decision: PG

Decision Date: 29-NOV-05

Ref: LA09/2023/0852/O

Proposals: Dwelling and garage to be considered under CTY 8 & CTY2a

Decision:

Decision Date:

Ref: LA09/2023/0651/PAN

Proposals: Proposed green technology innovation hub with high tech production & distribution facility plus research & development office space with associated site works SUDs pond, treatment plant with reed beds & general landscaping and a new vehicular access.

Decision: PY

Decision Date: 05-JUL-23

Ref: LA09/2020/0697/PAN

Proposals: Creation of new manufacturing, production and distribution hub to enable the production of blinds plus PPE equipment and supplies with associated car-parking and landscaped areas, to also include new access onto the Aughrim Road

Decision: PANACC

Decision Date: 02-NOV-20

Ref: LA09/2020/1091/PAD

Proposals: Creation of a new manufacturing, production & distribution hub to enable the production of blinds plus PPE equipment & supplies with associated car parking &

landscaped area, to also include new access onto the Aughrim Road

Decision: PAD

Decision Date: 24-JUN-21

Ref: LA09/2022/0269/O

Proposals: Proposed PPE manufacturing , production, distribution and controlled storage facility with research and development, innovation and sustainability centre with associated site works , landscaping and new vehicular access.

Decision: WDN

Decision Date: 01-AUG-23

Ref: LA09/2018/1387/NMC

Proposals: Non-material change for LA09/2017/1020/F - Bay omitted, change of cladding profile to side and rear elevations, typical eaves detail in lieu of parapet

Decision: CG

Decision Date: 22-JAN-19

Ref: H/1988/0237

Proposals: CONVERSION OF HOUSE INTO 2 NO FLATS

Decision: PG

Decision Date:

Ref: H/1976/0334

Proposals: COMPOUND FOR AGRICULTURAL MACHINERY

Decision: PG

Decision Date:

Ref: H/1979/0318

Proposals: PETROLEUM AND FUEL OIL UG STORAGE FACILITIES

Decision: PG

Decision Date:

Ref: H/1979/0439

Proposals: CAR PARK

Decision: PR

Decision Date:

Ref: H/1993/6115

Proposals: SITE OF DWELLING AUGHRIM ROAD MAGHERAFELT

Decision: QL

Decision Date:

Ref: LA09/2015/0652/O

Proposals: Proposed new dwelling on the farm.

Decision: PG

Decision Date: 03-DEC-15

Ref: H/2005/0372/O

Proposals: Site of replacement dwelling and garage

Decision:

Decision Date:

Ref: H/2005/0975/F

Proposals: Proposed extension to existing industrial unit.

Decision: PG

Decision Date: 23-MAR-06

Ref: LA09/2017/1013/O

Proposals: Proposed off site replacement dwelling , garage and new access

Decision: PG

Decision Date: 05-JAN-18

### **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	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2023/1074/F	<b>Target Date:</b> 24 January 2024
<b>Proposal:</b> Proposed erection of 2 storey dwelling and domestic garage in an existing cluster under CTY 2a of PPS 21	<b>Location:</b> Land immediately East of 103D Ballagh Road Fivemiletown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Caran Ltd 222 Scallen Road Trillick	<b>Agent Name and Address:</b> Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b>  Application is being presented to Committee for decision as a number of objections have been received to the proposal	



## 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 Roads Consultation - Approval.docx

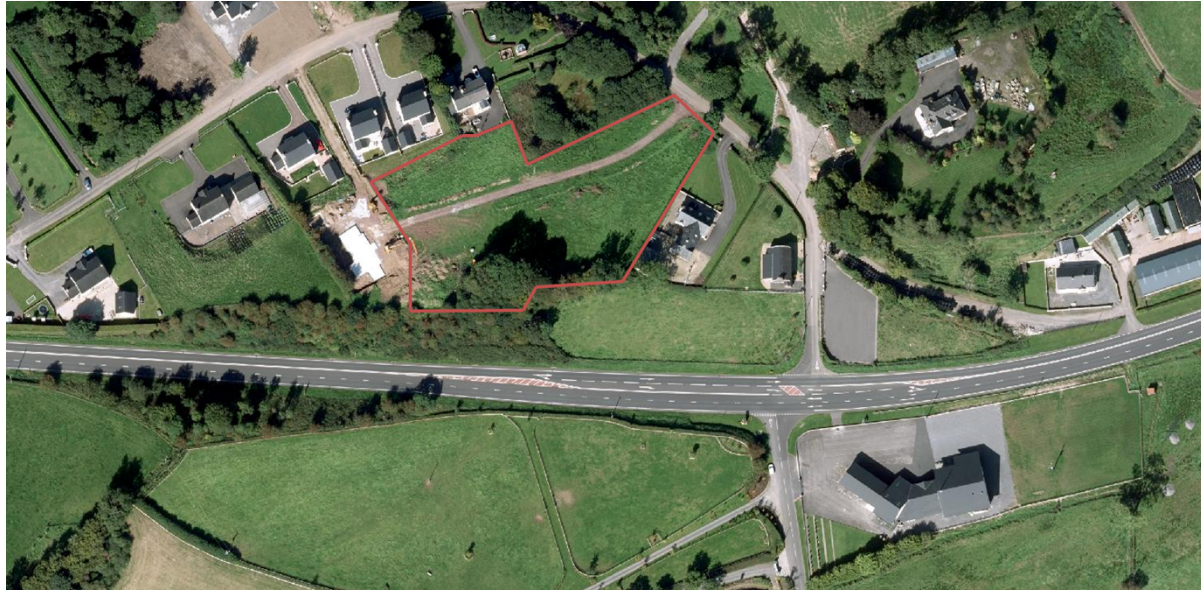
### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	9
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

25 no. letters of objection have been received with concerns about impact on amenity of existing properties, overdevelopment, visually intrusive and overbearing, danger to road users, out of keeping with existing character, increase of pollution, increased danger of flooding, strain on community facilities, no existing cluster or focal point, general dislike of the proposal, risk of further such applications on this site, inadequate sewerage system to support development.

## Characteristics of the Site and Area



The site is a 0.75ha parcel of ground located on the Ballagh Road approximately on Killary Lane off the Mountjoy Road and lies approximately 2.5km east of Fivemiletown. The site is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is an irregularly shaped parcel of land to the north of the existing A4 road between Clogher and Fivemiletown. The southern boundary is defined by mature trees and vegetation. A dwelling and garage are located along the eastern boundary, with existing dwellings along the northern boundary. There is a dwelling currently under construction to the west of the site, accessed through this site outlined in red.

There is considerable recent development pressure in the area, with a row of 6 no. 2 storey dwellings and garages to the north and north-west of the site as well as an extant permission yet to be implemented. There is a dwelling and garage to the east with St. Johns Kiltermon Church directly adjacent and to the east of it. There is a dwelling currently under construction (almost at roof level at the time of site inspection) to the immediate west of the site.

## Description of Proposal

Proposed erection of 2 storey dwelling and domestic garage in an existing cluster under CTY 2a of PPS 21

## 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 Histories**

There are no recent relevant histories associated with this site outlined in red; there are a large number of histories in the surrounding area.

## **Representations**

Five (5) neighbouring properties were identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. The N/N Letter to 103A Ballagh Road was returned as "no such address". From checking this address when carrying out my site inspection this dwelling has not yet been constructed but has been commenced on the ground. To date twenty-five (25) letters of representation have been received and are fully considered below within this report.

The points raised by the objectors include:-

- Close to adjoining properties
- Conflict with local plan
- Increase danger of flooding
- Increase in traffic
- Out of keeping with character of area
- Over development
- Traffic or Highways, increased danger
- Development too high
- Residential amenity (loss of light and privacy)
- General dislike of proposal
- Inadequate access
- Inadequate public transport provisions
- Increase of pollution
- Strain on existing community facilities
- No community focal point
- No existing cluster

- Impact on residential amenity and intrusion on privacy
- Visually intrusive and overbearing to the surrounding landscape and adjacent properties.
- Risk of further such applications on this site
- current sewerage system is inadequate to support further development in the area
- Clogher Valley Free Presbyterian church is situated on the Alderwood Road and is not considered a focal point for the local community
- Kiltermon Church is not used frequently and doesn't operate any community events or organisations for youth.
- Overlooking
- Concerns that the estate agent selling the bungalow 103D is advising prospective buyers that there will be 2 further houses built in the field. Concerns that the planning officer dealing with this case has already agreed to pass this current application and another which hasn't even been applied for yet
- Access gradients to existing houses exceed what was approved
- More open space needed on development
- Another septic tank in close proximity to existing housing is unacceptable, due to potential pollution to the nearest water course, which would also present a health hazard.

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

### **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 from PPS 21, 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 a new access onto the Ballagh Road, as indicated on the submitted plan. DFI Roads have no objection subject to sightlines of 2.0m x 55m to the north-west and 2.0m x 50m to the south-east being provided. This will involve tree and hedge setback and as this is shown to be within the applicant's boundary it is achievable. DFI Roads have identified drawing nr C/1005/02 (our reference Drawing No. 02) as the drawing to be approved. Details about landscaping and provision of a septic tank have been added to 02 and has been subsequently named 02 rev. 03. I have cross referenced all details on both plans and all other notes remain the same. I am content that 02 rev. 03 can be approved in lieu of 02 and that it still fully satisfies DFI Roads conditions. DFI Roads have not raised any issues of concerns with an increase of traffic, inadequate access or increased danger of traffic involved with this proposal. The allegation that the existing access gradients are excessive shall be passed to the Enforcement team to investigate.

### **CTY1 of PPS 21 - Development in the Countryside**

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS21 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 in the case of a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

### **CTY 2a – New Dwellings in Existing Clusters**

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 existing development in the area lies outside of a farm. To the immediate east of the site is a single storey dwelling currently under construction and almost to roof level at the time of site inspection. Directly to the north and abutting the site are 3 no. 2 storey dwellings & associated garages, No's. 103E, 103F and 109 Ballagh Road. There are a further two no. two storey dwellings with associated garages to the north-west of the site (103C and 105A). To the north-east is the subfloor of a dwelling approved under M/2004/1993/O and M/2007/1265/RM. To clarify, although this is an extant permission it cannot be considered an existing building under this criterion as there is no building currently on site. Immediately adjacent to, and east of the site is another two storey dwelling and associated garage (No. 103) with St. John's (Kiltermon) Church further to



the east of this. I am satisfied the first criterion of CTY 2a has been met.

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

When travelling west along the A4 the Free Presbyterian Church on the left as well as Kiltermon Church and the dwelling and garage at No. 103 on the left read together and appear as a visual entity in the local landscape. When travelling east along the A4 there are no long-term critical views of the site due to the vegetated roadside bank and boundary. When travelling north along the Ballagh Road, Kiltermon Church and its car-park reads with No. 103 and its garage as well as a small building further to the north. The row of existing dwellings along the Ballagh Road all read together, with limited critical views of the site itself given its location to the rear of the row of dwellings. I am satisfied the cluster appears as a visual entity in the local landscape.



**Figure 1 – view when travelling west along the A4. New dwelling to be sited to the rear of the buildings on the RHS of the picture**

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

The site is located in close proximity to Kiltermon Church which has an associated carpark on the opposite side of the public road. The Clogher Valley Free Presbyterian Church lies a short distance to the south-east of the site. These two churches sit on either side of a crossroads which is the junction of Alderwood Road and Ballagh Road, with the residential development to the north-west. Objections have been raised relating to the fact the Free Presbyterian Church is attended by people from outside the area, and Kiltermon Church is not used on a regular basis as it is only opened part time and that few of the local residents are members or attend events in the church as it does not operate any community events. CTY2a specifies that the cluster is associated with a focal point, however there is no requirement within policy that the community building/facility has to be used for any particular length of time.



**Figure 2 – view of Kiltermon Church focal point when looking south from Ballagh Road**



**Figure 3 – view of Kiltermon Church focal point when looking north from the A4**

I am satisfied the Church is well known locally in the area and is an acceptable focal point which a dwelling on this site can be associated with. I am therefore content the proposal meets this criterion of the policy.

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

The site is a considerable size, bounded to the west by a dwelling currently under construction (103D). A two storey dwelling and garage lies to the north of 103D (103C). To the north-west are 3 no. dwellings and garages (103E, 103F and 109), with the foundations of a dwelling and garage (103A) to the north-east. As stated previously No. 103A cannot be considered as development within the cluster as they are not yet built. To the east is a dwelling and garage (103), with Kiltermon Church further to the east of No. 103. The southern boundary is defined by mature trees and hedging. I am of the opinion there is a suitable degree of enclosure and there is development on at least two sides as there are dwellings to the west, north and east of the site, with vegetation cover to the south.

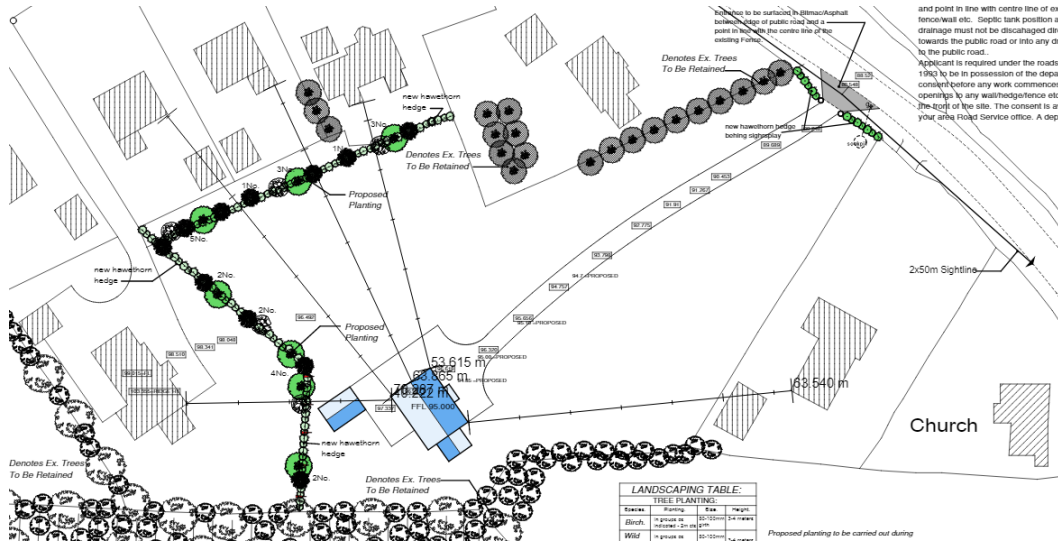
- *development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;*

I am of the opinion that a new dwelling here can be absorbed into the existing cluster and will not significantly alter the existing character here. A dwelling on this site will consolidate the existing development and will not visually intrude into the open countryside, as it is located to the rear of a number of dwellings. Accordingly, the fifth

criterion can be met.

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

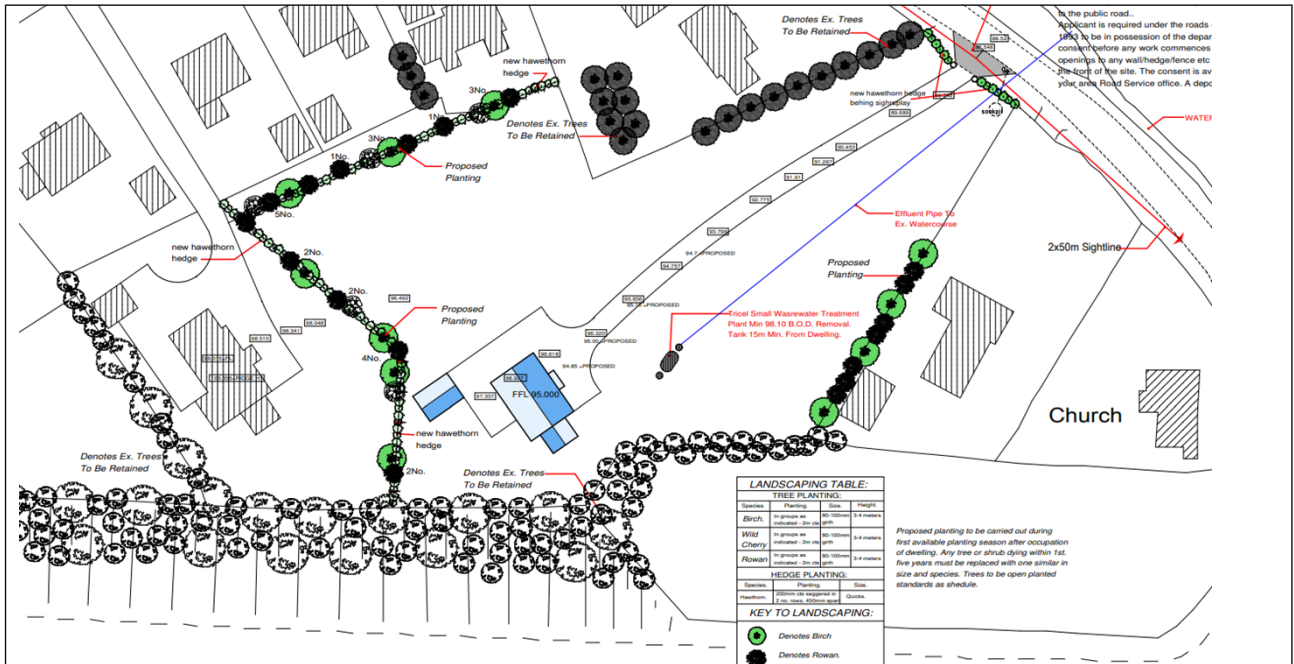
As stated, a number of objections have been received to the proposal, including a number of concerns relating to impact on residential amenity. The proposed dwelling is shown to be located in the south-western corner of the site. A dwelling located here will be 63m from No. 103, 53m from No. 109, 63m from No. 103F, and 70m from 103E. The closest dwelling to the proposed dwelling will be No. 103D to the west, at a distance of 40m from dwelling to dwelling, see Figure 4 below.



**Figure 4 - distances from existing dwellings**

Given these distances I do not consider there will be an adverse intrusion on privacy including from overlooking or loss of light. Additionally, there are only 3 small windows in the gable elevation, one of which is obscured glazing. The proposal should not cause detriment to health due to the fact it is a considerable distance from the existing neighbouring properties. A number of the dwellings also have their own garages between their dwellings and the proposed dwellings which will further mitigate against loss of privacy. I am content that the separation distances will ensure the development will not adversely impact on residential amenity, and the proposal will not be visually intrusive and overbearing to the surrounding landscape and adjacent properties. Additionally, planting to the eastern boundary of the site has been requested and received to mitigate against concerns raised with regard to privacy and overlooking (see Figure 5 below).





**Figure 5 – Landscaping plan showing landscaping to all boundaries of the site.**

### CTY 13 Design and Integration of PPS 21

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.



**Figure 6 – Proposed dwelling**

The proposed dwelling is 8.15m in height, 12.9m in width (17.1m including the single storey side projection) and has a gable depth of 9.4m. The dwelling will be finished in K-rend white render with wood float finish. The windows have a vertical emphasis with a strong relationship of solid to void, save for on the rear elevation. I am content there are

no long term critical views of this elevation and therefore this is acceptable. There are very limited critical views of the site given its location to the rear of existing development when travelling along the Ballagh Road, and the existing mature roadside vegetation when travelling along the A4 in either direction. This vegetated boundary will provide a strong backdrop for a dwelling here to read against as can be seen in Figure 7 below.



**Figure 7 – view of the site from the access point at the public road**

Additionally, new hedge planting with interspersed Birch, Rowan and Wild Cherry trees is shown to the western, eastern and northern boundaries of the site which will when mature, aid integration of the dwelling on the site. I am satisfied that the existing buildings surrounding the site combined with the existing vegetation and new landscaping will ensure the development is absorbed into the existing landscape.

Levels have also been provided and I consider the FFL of 95.000 acceptable against the existing ground level of 96.927.

**Policy CTY 13 – Design and Integration and Policy 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. I am satisfied the proposed dwelling is of an appropriate design and can be visually integrated and therefore the proposal meets the requirements of CTY 13.

CTY 14 of PPS21 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling will not be unduly prominent

in the landscape nor does it result in build up. It respects the settlement pattern of the area and it does not create or add to a ribbon of development. The ancillary works will not damage rural character. A dwelling on this site is in accordance with this policy and the proposal therefore complies with CTY 14.

### **Policy CTY 16 – Development Relying on Non-Mains Sewerage**

CTY 16 of PPS21 states that where the proposal involves an on-site sewage treatment plant, such as a septic tank or a package treatment plant, the application will also need to be accompanied by drawings that accurately show the proposed location of the installation and soakaways, and of drainage ditches and watercourses in the immediate vicinity. This information has been requested from and provided by the applicant. The amended plans have been received which shows the location of a trical small wastewater treatment plant on the site. Concerns have been raised relating to another septic tank in close proximity to existing housing due to potential pollution to the nearest water course, which would also present a health hazard. The septic tank is located approximately 44m from the nearest third party dwelling and is not therefore in close proximity to any other dwelling. I have consulted with Shared Environmental Services (SES) who have advised there is no viable pollution pathway to any European site for them to comment on. The applicant/agent should satisfy themselves that the proposed dwelling can be provided with an effective means of foul effluent treatment, and disposal of final effluent to a watercourse or underground stratum. A consent to discharge sewage effluent must be obtained from NIEA, Water Management Unit, as required by the Water (Northern Ireland) Order 1999. I am content that an informative to this effect can be added to any approval, and provided the consent to discharge is acquired then there should be no potential pollution or health hazard associated with it.

### **Other Material 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.

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns, and I do not consider a dwelling and garage on this site will increase danger of flooding. In addition, I have no ecological or residential amenity concerns.

With regard to the concerns that the estate agent selling the bungalow 103D is advising prospective buyers that there will be 2 further houses built in the field, this application has assessed a dwelling and garage on the site under CTY2a and a recommendation on this application, based on policy and other material considerations, will be made by the case officer to the Planning Committee. The Planning Committee shall make a decision on the application. To date no decision has been made. A risk of further planning applications as a result of a planning decision is not a material planning consideration,

and all applications submitted to Council will be assessed on their own merits.

I recommend approval of this application as the proposal meets Policy CTY2a of PPS 21 and I consider development of the site can be absorbed into the existing cluster and will not significantly alter its existing character or visually intrude into the open countryside.

**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 2.0m x 55m to the north-west and 2.0m x 50m to the south-east and any forward sight distance shall be provided in accordance with drawing No. 02 rev. 03 date received 03 May 2024 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 development hereby permitted shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

**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 existing natural screenings of this site, as identified in yellow and annotated 'existing trees to be retained' on drawing No. 02 rev .03 date received 03 May 2024 shall be permanently retained.

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

#### Condition 6

All hard and soft landscape works as detailed on drawing No. 02 rev. 03 date received 03 MAY 2024 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

#### Informative 1

The applicant/agent should satisfy themselves that the proposed dwelling can be provided with an effective means of foul effluent treatment, and disposal of final effluent to a watercourse or underground stratum. A consent to discharge sewage effluent must be obtained from NIEA, Water Management Unit, as required by the Water (Northern Ireland) Order 1999. Attention should be paid to British Standard BS 6297:2007 Code of practice for design and installation of drainage fields for use in wastewater treatment (+A1:2008) (incorporating Corrigendum No.1) which states that sewage treatment works should be situated as far from habitable buildings as is practicable. The Environmental Health Department would recommend a separation distance of 15m between the location of the septic tank and the dwelling where possible. BS 6297:2007 stipulates an absolute minimum separation distance of 7 metres for septic tanks serving single domestic dwellings.

A legal agreement will be required in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed dwelling will have access to these lands for maintenance/improvement works as required.

**Signature(s):** Deirdre Laverty

**Date:** 22 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	11 October 2023
<b>Date First Advertised</b>	30 October 2023
<b>Date Last Advertised</b>	23 October 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 103 Ballagh Road, Kiltermon, Fivemiletown, TYRONE, BT75 0LD</p> <p>The Owner / Occupier RNN - 103A Ballagh Road, Kiltermon, Fivemiletown, TYRONE, BT75 0LD</p> <p>The Owner / Occupier 109 Ballagh Road, Kiltermon, Fivemiletown, TYRONE, BT75 0LD</p> <p>The Owner / Occupier 103F Ballagh Road, Kiltermon, Fivemiletown, TYRONE, BT75 0LD</p> <p>The Owner / Occupier 103E Ballagh Road, Kiltermon, Fivemiletown, TYRONE, BT75 0LD</p>	
<b>Date of Last Neighbour Notification</b>	8 May 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2019/1179/F Proposals: Proposed rear extension to existing church building and additional car parking. Decision: PG Decision Date: 05-MAY-20</p> <p>Ref: M/2009/0967/RM Proposals: New Dwelling</p>	

Decision: PG  
Decision Date: 29-DEC-09

Ref: M/2006/1033/O  
Proposals: Site for dwelling  
Decision: PG  
Decision Date: 14-NOV-06

Ref: M/1979/0622  
Proposals: EXTENSION TO DWELLING  
Decision: PG  
Decision Date:

Ref: M/1979/0531  
Proposals: 11KV O/H LINE  
Decision: PG  
Decision Date:

Ref: M/2004/1993/O  
Proposals: Dwelling  
Decision: PG  
Decision Date: 08-MAR-05

Ref: M/1996/0712  
Proposals: Site for Dwelling  
Decision: PG  
Decision Date:

Ref: M/2007/1265/RM  
Proposals: proposed 2 storey dwelling with porch projection, sunroom & detached domestic garage  
Decision: PG  
Decision Date: 29-NOV-07

Ref: M/1991/0569  
Proposals: Erection of dwelling  
Decision: PG  
Decision Date:

Ref: M/2004/1525/O  
Proposals: Site for dwelling  
Decision: PR  
Decision Date: 13-APR-05

Ref: M/1999/0056  
Proposals: Site for dwelling and Domestic Garage

Decision: PG  
Decision Date:

Ref: M/1987/0328  
Proposals: DWELLING  
Decision: PG  
Decision Date:

Ref: M/2003/0591/F  
Proposals: Proposed domestic double garage  
Decision: PG  
Decision Date: 18-JUN-03

Ref: M/1991/0285  
Proposals: LV Overhead Line  
Decision: PG  
Decision Date:

Ref: LA09/2023/0175/F  
Proposals: Change of House Type to Previous Approval ref. M/2009/0967/RM, Extension of Dwelling Curtilage and erection of Domestic Garage.  
Decision: PG  
Decision Date: 26-JUN-23

Ref: LA09/2023/1074/F  
Proposals: Proposed erection of 2 storey dwelling and domestic garage in an existing cluster under CTY 2a of PPS 21  
Decision:  
Decision Date:

Ref: LA09/2020/1540/F  
Proposals: Proposed change of house type to previously approved application M/2009/0380/RM and domestic garage.  
Decision: PG  
Decision Date: 24-DEC-21

Ref: M/2006/0332/O  
Proposals: Site for dwelling and domestic garage  
Decision: PG  
Decision Date: 03-MAY-06

Ref: LA09/2021/0123/F  
Proposals: Proposed erection of 2 NO. Dwellings & Domestic garages in a Gap Site under CTY 8 of PPS 21.  
Decision: PG  
Decision Date: 15-JUN-21



Ref: M/1987/0134

Proposals: BALLAGH ROAD, KILTERMON, FIVEMILETOWN

Decision: PG

Decision Date:

Ref: M/1998/0711

Proposals: Two storey extension to dwelling

Decision: PG

Decision Date:

Ref: M/2008/0021/F

Proposals: Two storey dwelling with front porch, gable end two storey extension and adjoining single storey L shaped courtyard

Decision:

Decision Date:

Ref: M/2000/0729/RM

Proposals: Erection of one and a half storey split level dwelling

Decision: PG

Decision Date: 20-OCT-00

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads Consultation - Approval.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Garage Plans Plan Ref: 03

Proposed Plans Plan Ref: 04

Site Layout or Block Plan Plan Ref: 02 Rev 1

Cross Sections Plan Ref: 05

Site Layout or Block Plan Plan Ref: 02 Rev 03

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

Not Applicable



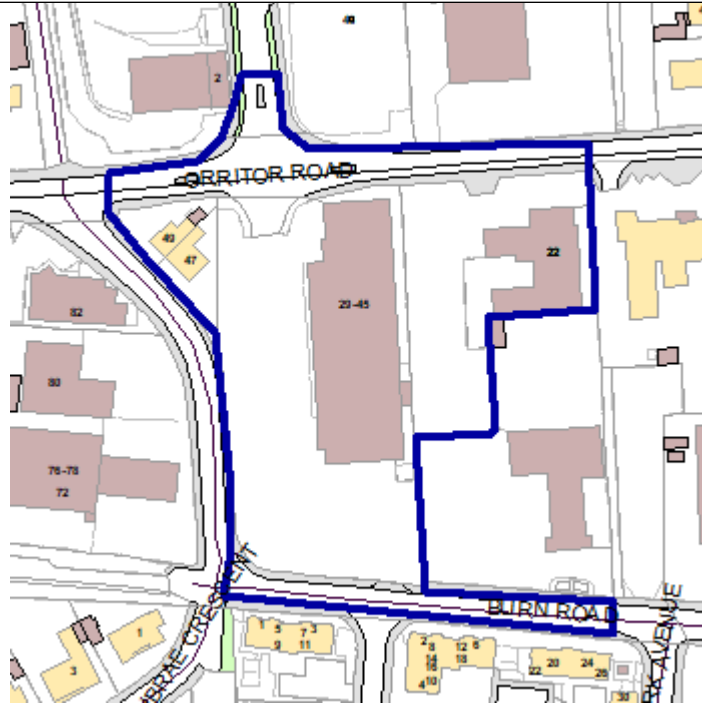
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2023/1195/F	<b>Target Date:</b> 6 June 2024
<b>Proposal:</b> Demolition of existing buildings, erection of discount supermarket, provision of car parking, landscaping, and associated site works.	<b>Location:</b> Nos 22 and 26 Orritor Road and Nos 47 and 49 Burn Road Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Lidl Northern Ireland Dundrod Road Nutts Corner Crumlin BT29 4SR	<b>Agent Name and Address:</b> MBA Planning 4 College House Citylink Business Park Belfast BT12 4HQ
<b>Executive Summary:</b> <p>Application is for a new Lidl Store in Cookstown. The proposed site consists of the former Tesco retail unit and also the existing Cookstown Tyre Depot on Burn Road and Orritor Road. Site is located within the town centre as defined by the Cookstown Area Plan.</p> <p>Application is presented to Committee as it is a Major application.</p> <p>The proposal is in keeping with the regional policy direction of the SPPS which promotes a town centre first approach to retail development. There will be no issues of noise, nuisance or negative impacts on residential amenity or indeed, conflicts with nearby land uses.</p> <p>Consultation has been carried out with NI Water, DFI Roads, DFI Rivers Agency and MUDC Environmental Health dept.</p> <p>No third party objections have been recieved.</p> <p>Recommendation is to approve.</p>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	864541 - Final Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template.docx
Non Statutory Consultee	NI Water - Strategic Applications	LA09-2023-1195-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1195.F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Statutory Consultee	NI Water - Strategic Applications	LA09-2023-1195-F.pdf

### Representations:

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

## Summary of Issues

### Characteristics of the Site and Area

The site is located within the town centre of Cookstown as delineated on map no. 36b of The Cookstown Area Plan 2010 (CAP).

The site consists of a disused supermarket building and associated disused carpark, as well as an operational tyre repair centre. The main part of the site was formerly used as a Tesco supermarket while the land in the north east portion of the site is used by Cookstown Tyre Depot. There are also a pair of semi detached dwellings in the north west of the site – no. 49 and 47 Burn Road.

The surrounding land use is predominantly retail orientated with a large retail park immediately to the north which includes a Tesco superstore, Next, M&S, New Look, Homebase, B&M Bargains and other retail outlets. Immediately to the west of the site is a fuel forecourt shop with hotfood counter and a Boots chemist. To the east there is a housing fold and a church. A social housing development is located immediately to the south.

The character of the area is very much a town centre location with a high volume of traffic using the Orritor Road to access the retail park and the main part of the town centre (William Street) being located close by and indeed visible from the site, along the Burn Road to the east.

### Description of Proposal

Demolition of existing buildings, erection of discount supermarket, provision of car parking, landscaping, and associated site works.

The proposal will involve the demolition of the existing disused former building (last in use as Tesco), the demolition of the tyre repair depot and the pair of semi detached dwellings to provide for a new LIDL supermarket, car parking and access road which will access off the existing mini roundabout on Orritor Road.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

#### Relevant Planning History

There is a PAN application which has been accepted prior to this application and there is

also a range of other planning history on the site, not directly linked to this application;

- I/2009/0258/F - Demolition of former supermarket unit and 2 no. residential units, and replacement with a mixed use development to include 9 no. retail units 38 no. residential apartment units – PERMISSION GRANTED
- I/2006/0450/0 - Change of use from store, office and lobby to car showroom and associated office block extension to side - WITHDRAWN
- I/2007/0716/F - Change of use from store, office and lobby to car showroom with associated office block extension to side, valet area extension to rear and new fence around site – PERMISSION GRANTED
- I/2005/1511/F - Demolition of existing supermarket & replacement with 4 No retail units – PERMISSION GRANTED
- I/2013/0369/F - Partial demolition of existing vacant retail unit, construction of new extensions and sub-division into 4no retail units and coffee shop – PERMISSION GRANTED

The following planning policies are relevant;

- Cookstown Area Plan (CAP)
- Mid Ulster Local Development Plan 2030 Draft Plan Strategy
- Strategic Planning Policy Statement (SPPS)
- PPS 3 – Access, Movement and Parking
- Planning Strategy for Rural Northern Ireland.

#### Cookstown Area Plan

The site is located within the town centre as defined by maps no. 36a and 36b of the Cookstown Area Plan. The site does not sit within any designations within the town centre and therefore there are no plan policies which are relevant. The designation of town centre is obviously relevant when considering prevailing policy. Having said, this, a small part of the site sits within opportunity site OS 1. This opportunity site has been developed with the development of the aforementioned retail park and therefore the plan policies which relate to opportunity sites are not considered to be relevant.

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

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

The draft Plan Strategy does not propose any changes to the town centre boundary in Cookstown.

#### Strategic Planning Policy Statement

The publication of the SPPS marked the cancellation of PPS 5 - Retailing and Town Centres as the prevailing planning policy for retail development and / or development within town centres.

Para. 6.270 of the SPPS states that town centres are the appropriate first choice as a location for new retail development. It goes on to state that a regional objective of the planning system is to encourage a “town centre first” approach to retail. Para. 6.281 elaborates on this strategic policy approach when it states that applications for main town centres uses should be assessed in the following sequential order of preference;

1. Primary Retail Core
2. Town centres
3. Edge of centre
4. Out of centre locations

In relation to this proposal, a retail development of this size, is not capable of being housed within the existing primary retail core and therefore, it is clear that it cannot be located within that designation. The primary retail core consists predominantly of the main street area (William St. leading to James St.) where a development of this size and associated parking could not be housed. This location on the site of an existing retail premises within the town centre is therefore the most desirable location in terms of planning policy.

The proposal is therefore in accordance with the regional policy direction contained within SPPS.

#### PPS 3 – Access Movement and Parking

Policies AMP 1, 2 9, 10 of PPS 3 are relevant to this proposal as it involves the intensification of an existing access to cater for a large supermarket and associated car parking. DFI Roads have been consulted and after engaging directly with the agent to secure amendments to the proposal which address concerns they had, have offered no objection to the access point nor to the proposed level of car parking.

#### Planning Strategy for Rural Northern Ireland

Policy DES 2 of the Planning Strategy for Rural Northern Ireland (PSRNI) states that proposals in towns will be required to make a positive contribution to the townscape and be sensitive to the character of the area in terms of design scale and material used. The proposed building is labelled on the site plan as “Type 17 Lidl Store” which suggests a fairly typical design for such a building and this is the case. The design of the building is typical of large LIDL retail units with significant glass frontage onto Orritor Road, silver cladding and rendered walls. The building is approximately 7m high at the highest point. These design features (materials and scale) mean it will be in keeping with the existing buildings, notably the nearby Tesco and M&S stores which are of a similar design.

The agent has submitted a “street elevation” drawing (drawing no. 05) which shows the proposal in relation to other buildings and it is clear that in terms of scale and massing it will not be dominant or cause overdominance in relation to existing buildings.

DES 2 of the PSRNI also refers to the impact of the development on neighbouring amenity as well as the compatibility of the proposal with adjacent land uses. In considering these things, it is my view that the proposed development is bounded to the north and west by retail development. A new retail unit which replaces a disused retail unit will not be incompatible with these land uses.

There is also a range of residential development in the immediate vicinity with a housing fold immediately to the east (Giboney Court). Social housing immediately to the south (Burnvale Crescent) and private housing to the immediate south east and north west (Burnbrae Crescent and Burnbank).

Environmental Health have been consulted, primarily in relation to potential noise, smell and general nuisance to these properties and have responded to say that they have considered the proposal in relation noise and impact on air quality as being the main potential impacts on nearby sensitive receptors. The EH department have no objections to this proposal subject to imposition of conditions and therefore I am of the view that the proposal will not be incompatible with any adjacent landuses in terms of noise or impact on residential amenity of any of the nearby residential properties. Env Health have requested the imposition of noise limiting conditions which will ensure noise levels at nearby sensitive receptors will be maintained at an acceptable level.

Env Health have also considered the proposal in terms of land contamination and have requested the imposition of conditions to allow the monitoring of land contamination which may be encountered during the development.

### **OTHER MATERIAL CONSIDERATIONS**

No third party representations have been received.

### **Summary of Recommendation:**

Approve is recommended

Given all of the above, I am of the view that the proposal is in accordance with all relevant policy considerations, both in terms of the general principle and site-specific considerations.

I therefore recommend that this application 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 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. 10 with DFI Roads PSD Stamp dated 23/04/2024 and which was uploaded to the MUDC planning portal on 29th April 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.

### Condition 3

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

No other development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 10 with DFI Roads PSD Stamp dated 23/04/2024 and which was uploaded to the MUDC planning portal on 29th April 2024. . 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

No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No: 02 Rev 1 which was uploaded to the MUDC planning portal on 14/3/24 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

The applicant shall ensure that noise mitigation measures as referred to in the Irwin Carr Consulting report titled "Noise Impact Assessment, Lidl Cookstown," dated 4th October 2023 and referenced RP001N 2023122 (Lidl Cookstown) and as depicted in drawing 04 which was uploaded to the MUDC planning portal on, are incorporated into the proposed development. These measures should include a 2.4m high acoustic barrier (close boarded timber fence with no gaps with a mass of at least 15kg/m<sup>2</sup>) which must be erected prior to the commencement of retailing from the proposed building.

Reason: To protect amenity of nearby residential properties.

#### Condition 6

All deliveries to and collections from the proposal shall only take place between the hours of 07:00 and 23:00.

Reason: To protect amenity of nearby residential properties

#### Condition 7

The cumulative noise level from the proposed development with all plant and equipment fully operational shall not exceed the limits outlined in table 1 (found on page 3 of Environmental Health consultation response which was uploaded to the MUDC portal on 7th March 2024) when measured at a distance of 3m from the appropriate residential property as predicted in table 4, page 13 of the Irwin Carr Consulting report titled "Noise Impact Assessment, Lidl Cookstown," which was uploaded to the MUDC planning portal on 8th November 2023

#### Condition 8

Within 4 weeks of a written request by the Planning Department, following receipt of a complaint, a noise survey shall be undertaken, submitted to and agreed in writing with the Council. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with all plant and equipment operating under normal operating conditions and demonstrate whether or not the noise limits stipulated in condition 7 are being achieved. All monitoring shall be carried out at the operator's expense. The Council shall be notified not less than 2 weeks in advance of the commencement of the noise survey.

Reason: To protect amenity of nearby residential properties.

#### Condition 9

Following completion of the noise survey and where noise monitoring demonstrates exceedances of noise limits stipulated in condition 7 the applicant shall provide details of additional noise mitigation measures that will be incorporated into the proposal to ensure compliance with condition 7.

Reason: To protect amenity of nearby residential properties.

#### Condition 10

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.

Reason: To protect human health.

#### Condition11

If measures are required as per Condition 10 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 Department, in consultation with the Environmental Health Department and all works carried out to the satisfaction of the Council.

Reason: to protect human health

#### Condition12

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, in a 1 in 100 year event including a 20% allowance for climate change.

Reason - In order to safeguard against surface water flood risk

#### Condition13

NIW public sewer/s traverse the proposed development site. No construction to be made, trees planted or other obstruction permitted over this sewer, or within the permitted wayleave width. Details of which can be found within NIW guidance notes, available at the link below. A diversion may be necessary. No development shall commence until the applicant has demonstrated to the satisfaction of the council, that NIW are content that the proposed development will not affect this sewer, and sufficient drawings have been submitted, which clearly indicate the required wayleaves . The applicant is advised to obtain a records map from NIW and establish the exact location of the infrastructure within the site, and how it may affect the proposal. Further Consultation with NIW Developer Services [developerservices@niwater.com](mailto:developerservices@niwater.com) is required at an early design stage. Further information, guidance notes and applications can be downloaded from NIW website at <https://www.niwater.com/services-for-developers/homeowners/closeproximity/sewer/>.

Reason: To prevent disturbance / damage to existing sewers and in the interest of public safety.

**Signature(s):** Colin McKeown

**Date:** 16 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	9 November 2023
<b>Date First Advertised</b>	21 November 2023
<b>Date Last Advertised</b>	21 November 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  Burn Road Service Station 76-78 Burn Road Cookstown Tyrone BT80 8DR</p> <p>The Owner / Occupier  JM Autoparts 80 Burn Road Cookstown Tyrone BT80 8DR</p> <p>The Owner / Occupier  Boots Pharmacy 82 Burn Road Cookstown Tyrone BT80 8DR</p> <p>The Owner / Occupier  Cookstown Baptist Church 56-60 Burn Road Cookstown Tyrone BT80 8DR</p> <p>The Owner / Occupier  Braemar Tiles 23 Orritor Road Cookstown Tyrone BT80 8BH</p> <p>The Owner / Occupier  Tesco Filling Station, Orritor Road Retail Park, Cookstown BT80 8BH</p> <p>The Owner / Occupier  Royal British Legion 19 Burn Road Cookstown Tyrone BT80 8DN</p> <p>The Owner / Occupier  1 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  2 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  3 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  4 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  5 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  6 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  7 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  8 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  9 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  10 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier  11 Giboney Court Cookstown Tyrone BT80 8DY</p> <p>The Owner / Occupier</p>	

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30 Giboney Court Cookstown Tyrone BT80 8DY  
The Owner / Occupier  
M&S Foodhall Unit A, Retail Park, Orritor St, Cookstown BT80 8BH  
The Owner / Occupier  
1 Burnbrae Crescent Cookstown Tyrone BT80 8DU  
The Owner / Occupier  
20 Burnvale Crescent Cookstown Tyrone BT80 8FA  
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22 Burnvale Crescent Cookstown Tyrone BT80 8FA  
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The Owner / Occupier

11 Burnvale Crescent Cookstown Tyrone BT80 8FA

<b>Date of Last Neighbour Notification</b>	28 November 2023
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	<events screen>
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**Planning History**

Ref: I/2010/0078/F

Proposals: Proposed restaurant, associated parking and landscaping

Decision: PR

Decision Date: 06-JUL-10

Ref: I/2011/0180/F

Proposals: Proposed drive-through restaurant with associated parking and access

Decision: PG  
Decision Date: 18-JAN-12

Ref: I/2005/0476/F  
Proposals: Development of land for residential accommodation including apartments & town houses  
Decision: PG  
Decision Date: 08-JUN-06

Ref: I/2003/1007/F  
Proposals: Erection of 49 dwellings; 14 No Semi detached dwellings, 1 No detached dwelling, 26 No Townhouses and 8 No Apartments  
Decision:  
Decision Date:

Ref: I/2006/1219/F  
Proposals: Proposed development of Unit A (3 no. retails), Unit B (4no. retail units) and unit C (3 no. retail units) and associated car parking and formation of new access road linking to Oldtown Street.  
Decision: PG  
Decision Date: 27-JUL-07

Ref: I/2007/0226/F  
Proposals: 1 No. non food retail unit with garden centre associated carparking and landscaping. Amendment to approved scheme, ref I/2006/0509/F. Amendments including increased building height, changes to boundary fencing, sprinkler tank, external canopy to service yard, additional fire exit doors, increased height of brickwork on external walls amendments to glazing at entrance, addition of pump house.  
Decision: PG  
Decision Date: 06-AUG-07

Ref: I/2005/0194/F  
Proposals: 1 No. non food retail unit with garden centre associated car parking and landscaping (access road and roundabout approved under previous application).  
Decision: PG  
Decision Date: 02-JAN-07

Ref: I/2006/0509/F  
Proposals: 1No non food retail unit with garden centre associated carparking and landscaping. (Access road and roundabout approved under previous application).  
Decision: PG  
Decision Date: 02-JAN-07

Ref: I/2009/0258/F  
Proposals: Demolition of former supermarket unit and 2 no. residential units, and replacement with a mixed use development to include 9 no. retail units comprising a



gross floorspace of 2562 sq.m. and 38 no. residential apartment units to include underground and service level car parking, general landscaping and general site works

Decision: PG

Decision Date: 20-SEP-10

Ref: I/2000/0542/F

Proposals: Alterations and improvements to Orritor Road and formation of new access to proposed retail development (Alternative 1 - Ghost Island detail & Alternative 2 - Mini-Roundabout detail)

Decision: APPUH

Decision Date: 12-OCT-01

Ref: LA09/2023/1195/F

Proposals: Demolition of existing buildings, erection of discount supermarket, provision of car parking, landscaping, and associated site works.

Decision:

Decision Date:

Ref: I/2009/0178/Q

Proposals: Mixed use scheme

Decision: ESA

Decision Date: 27-MAY-09

Ref: LA09/2023/0755/PAN

Proposals: Demolition of existing buildings, erection of discount supermarket, provision of car parking, landscaping, and associated site works.

Decision: PY

Decision Date: 07-AUG-23

Ref: I/1994/4054

Proposals: Improvements to semi-detached dwelling

Decision: PDNOAP

Decision Date:

Ref: I/1983/004401

Proposals: WAREHOUSE EXTENSION, STAIRWELL AND OFFICE EXTENSION TO STEWARTS SUPERMAR

Decision: PG

Decision Date:

Ref: I/1986/0438

Proposals: ALTERATIONS TO ENTRANCE AND SUPERMARKET EXTENSION

Decision: PG

Decision Date:

Ref: I/1974/006801

Proposals: ERECTION OF RETAIL SUPERMARKET

Decision: PG

Decision Date:

Ref: I/1974/0068

Proposals: ERECTION OF RETAIL SUPERMARKET

Decision: PG

Decision Date:

Ref: I/1983/0044

Proposals: WAREHOUSE EXTENSION, STAIRWELL AND OFFICE EXTENSION TO STEWARTS SUPERMAR

Decision: PG

Decision Date:

Ref: I/2005/1511/F

Proposals: Demolition of existing supermarket & replacement with 4 No retail units

Decision: PG

Decision Date: 19-OCT-07

Ref: I/2013/0369/F

Proposals: Parital demolition of existing vacant retail unit, construction of new extension and sub-division into 4no retail units and coffee shop.

Decision: PG

Decision Date: 03-APR-14

Ref: I/2005/1122/Q

Proposals: 4 Units

Decision: 211

Decision Date: 16-SEP-09

Ref: LA09/2019/0448/LDE

Proposals: Implementation of the proposed partial demolition of existing vacant retail unit construction of new extensions and subdivision into 4 retail units and coffee shop under planning Ref I/2013/0369/F

Decision: PG

Decision Date: 08-JUL-19

Ref: I/2008/0567/A

Proposals: Freestanding illuminated totem

Decision: CG

Decision Date: 22-OCT-08

Ref: I/2000/0670/F

Proposals: Installation of automated teller machine

Decision: PG

Decision Date: 13-DEC-00

Ref: I/1982/0166

Proposals: CAR PARK

Decision: PG

Decision Date:

Ref: I/1989/0222

Proposals: Generator Room and Oil Store

Decision: PG

Decision Date:

Ref: I/2006/0450/O

Proposals: Change of use from store, office and lobby to car showroom and associated office block extension to side.

Decision:

Decision Date:

Ref: I/2007/0716/F

Proposals: Change of use from store, office and lobby to car showroom with associated office block extension to side, valet area extension to rear and new fence around site.

Decision: PG

Decision Date: 14-SEP-09

Ref: I/1996/0109

Proposals: Change of use from carpark to car sales compound (to include portacabin)

Decision: PG

Decision Date:

Ref: I/1996/0108

Proposals: Free Standing Sign

Decision: PG

Decision Date:

Ref: I/2005/1418

Proposals: Proposed change of use from offices to car showroom with the erection of office extension to rear.

Decision: 461

Decision Date: 02-FEB-06

Ref: I/1975/0354

Proposals: NEW TWO STOREY MANSE ADJACENT TO EXISTING CHURCH

Decision: PG

Decision Date:

Ref: I/2007/0448/A  
Proposals: Freestanding by 2  
Decision:  
Decision Date:

Ref: I/2000/0221/F  
Proposals: Temporary hall for youth activities  
Decision: PG  
Decision Date: 16-MAY-00

Ref: I/2005/1262/F  
Proposals: Extension to existing superstore and reconfiguration and construction of previously approved petrol filling station and associated works.  
Decision: PG  
Decision Date: 22-DEC-06

Ref: I/1999/0667/O  
Proposals: Commercial retail development with car parking.  
Decision: PG  
Decision Date: 23-MAY-00

Ref: I/2008/0603/F  
Proposals: Modification of previous planning approval I/2005/1262/F to include a front store entrance lobby, elevational changes with addition and omission of windows, PFS extension, pump reconfiguration and addition of recycling facilities. Application to include minor revised site details, reducing parking numbers and associated site works  
Decision: PG  
Decision Date: 16-DEC-08

Ref: I/1995/0235  
Proposals: Commercial Retail Development and Car Parking  
Decision: PG  
Decision Date:

Ref: I/2004/0357/F  
Proposals: Change condition 3 of planning approval I/2002/0556/F to 'the vehicular access, including visibility splays and any forward sight line, shall be provided in accordance with the approved plans, prior to the commencement of retailing or other operation in or from any building hereby permitted'.  
Decision: PG  
Decision Date: 14-JUL-04

Ref: LA09/2016/0890/A  
Proposals: 15non illuminated fascia signs 2x internally illuminated totem signs, 1x externally illuminated totem sign, 5x promotional banners ,8x non illuminated pole signs  
Decision: CG

Decision Date: 10-OCT-16

Ref: I/2002/0556/F

Proposals: Construction of Food Store with Associated Surface Level Car Parking and Service Access

Decision: PG

Decision Date: 15-MAY-03

Ref: I/2008/0760/A

Proposals: 38 x site signage, 14 x building signage and signage to filling station kiosk and canopy

Decision: CG

Decision Date: 28-JAN-09

Ref: I/1978/0264

Proposals: CAR SHOWROOM, WORKSHOP AND WAREHOUSING

Decision: WITHDR

Decision Date:

Ref: I/2004/0323/F

Proposals: 4 pump petrol filling station with kiosk, car wash & jet wash (amended plans)

Decision: PG

Decision Date: 02-AUG-05

Ref: I/1988/0043

Proposals: PROPOSED STORE FOR BUILDERS MATERIALS

Decision: PG

Decision Date:

Ref: I/2008/0254/F

Proposals: Proposed amendment of application I/2007/0657/F from 1 no non-food retail unit to 1 no food retail unit. Amendments include - increased building height, mezzanine floor added, external plant area, additional fire exit doors, additional glazing to front & flank elevation and amended parking layout. Amendment under article 28 of the planning (NI) order 1991 without compliance with condition no 2 change of delivery times to the premises from 8.00am to 6.00pm to servicing between the hours of 6.00am to 8.00pm

Decision: PG

Decision Date: 04-JUL-08

Ref: I/2007/0657/F

Proposals: Proposed amendment of I/2006/1219 from 1 no. non-food retail unit to 1 no. food retail unit. Amendments include - increased building height, mezzanine floor added, external plant area, additional fire exit doors, additional glazing to front & flank elevation & amended parking layout

Decision: PG

Decision Date: 26-FEB-08

Ref: I/2004/0907/F

Proposals: Proposed retail development & associated car parking (access road and roundabout approved under previous application)

Decision:

Decision Date:

Ref: I/2001/0824/F

Proposals: Proposed Service Road to Development Approved Under I/1999/0667.

Decision: PG

Decision Date: 11-SEP-02

Ref: I/2004/0524/F

Proposals: Proposed retail development & associated car parking (access road and roundabout approved under previous submissions)

Decision:

Decision Date:

Ref: I/2008/0352/F

Proposals: 2 No trolley bays adjacent to recently constructed retail store

Decision: PG

Decision Date: 16-SEP-08

Ref: I/2010/0177/A

Proposals: External box shop sign & external totem signage

Decision: CG

Decision Date: 16-JUN-10

Ref: I/2008/0324/A

Proposals: 3 No box fascia

Decision: CG

Decision Date: 29-AUG-08

Ref: I/2008/0723/F

Proposals: Improvements to footpath paving and road surface, feature lighting columns, replacement brackets/lanterns to existing

Decision: PG

Decision Date: 13-FEB-09

Ref: I/2003/0799/F

Proposals: Extension to dwelling (Amended Proposal)

Decision: PG

Decision Date: 21-MAY-04

Ref: I/1988/0022

Proposals: PORCH

Decision: PG  
Decision Date:

Ref: I/2002/0108/F  
Proposals: Erection of proposed dwelling  
Decision:  
Decision Date:

Ref: I/2008/0141/F  
Proposals: Replacement of existing sales buildings with a three storey mixed use development incorporating retail, offices, 2 no apartments and storage at ground floor level, 14 No. apartments and open plan office at first floor level, 14 No apartments and residents fitness suite and health club at second floor level and 12 No. penthouses at third floor level, and associated basement and forecourt car parking facilities and regulated service areas Also including a foul sewage treatment plant with discharge to storm culvert as detailed on drawings.  
Decision: PG  
Decision Date: 10-NOV-10

Ref: I/2004/0952/F  
Proposals: Proposed local foodstore and associated parking with on site storm water retention tank.  
Decision:  
Decision Date:

Ref: I/1984/0261  
Proposals: EXTENSION TO SHOWROOM  
Decision: PG  
Decision Date:

Ref: I/1975/0478  
Proposals: ERECTION OF CAR SHOWROOM FOR CAR SALES  
Decision: PG  
Decision Date:

Ref: I/1977/0101  
Proposals: PROPOSED CANOPY OVER PETROL PUMPS  
Decision: PG  
Decision Date:

Ref: I/1994/0429  
Proposals: Freestanding Totem Sign  
Decision: PG  
Decision Date:

Ref: LA09/2016/0398/DC

Proposals: Discharge of condition no 12 and 13 of Planning permission I/2014/0181/f

Decision: AL

Decision Date: 01-JUL-16

Ref: I/2004/0649/Q

Proposals: Proposed housing development

Decision: ELA

Decision Date: 28-OCT-04

Ref: I/2014/0181/F

Proposals: Demolition of existing buildings and proposed erection of Social Housing development of 58 units (comprising 31 dwellings and 27 apartments) with associated car parking, landscaping, site and access works.

Decision: PG

Decision Date: 08-DEC-14

Ref: LA09/2015/0443/NMC

Proposals: Revision to apartment block4 (2No. apartments) comprising a reduction in the roof height over the stairwell of the upper apartment to reduce ridge height from 8m to 6.5m

Decision: CG

Decision Date: 01-JUL-15

Ref: I/2014/0012/PREAPP

Proposals: 58 unit social housing scheme

Decision: PREA

Decision Date: 01-APR-14

Ref: I/1994/6140

Proposals: Park Avenue Burn Road Cookstown

Decision: QL

Decision Date:

Ref: I/2008/0556/F

Proposals: Demolition of existing residential dwelling for proposed new medical centre.(Amended Description and Drawing)

Decision:

Decision Date:

Ref: I/1997/0285

Proposals: Proposed demolition of existing units and rebuilding of two No. units plus main retail space with cafeteria, offices, ancillary stores and car parking.

Decision: PG

Decision Date:



Ref: I/1990/6071

Proposals: Change of use to Motor Car Showroom Burn Road Cookstown

Decision: QL

Decision Date:

Ref: I/1977/0484

Proposals: TEMPORARY WOODEN SECTIONAL BUILDING FOR STORAGE PURPOSES

Decision: PG

Decision Date:

Ref: I/1996/0180

Proposals: Retail Unit/ Stores and Offices/ Toilet

Decision: PG

Decision Date:

Ref: I/1991/0336

Proposals: Erection of new link building and alterations to existing elevations to form car showroom and service reception

Decision: PG

Decision Date:

Ref: I/2001/0487/F

Proposals: Change of use for part of Old Factory to a Distribution Warehouse, Alteration to Existing Factory Elevations and the Erection of New 6 No. Retail Units (Reduced Scheme)

- Re-Advertisement

Decision: PG

Decision Date: 05-JUL-02

Ref: I/1996/0179

Proposals: Change of use of building from car showroom and office to retail unit and store and office

Decision: PG

Decision Date:

Ref: I/1990/0504

Proposals: Change of use from clothing factory to motor car showroom, workshop, stores, associated offices and associated site works.

Decision: PG

Decision Date:

Ref: I/2004/1291/F

Proposals: 1No non food retail unit with garden centre associated carparking and

landscaping  
(access road and roundabout approved under previous application)  
Decision: AD  
Decision Date: 21-FEB-06

Ref: I/1990/0544  
Proposals: 7 illuminated signs  
Decision: PG  
Decision Date:

Ref: I/2003/0513/F  
Proposals: Extension to church hall (kitchen and toilet facilities)  
Decision: PG  
Decision Date: 14-AUG-03

Ref: I/1976/0398  
Proposals: EXTENSION TO CLUBROOM  
Decision: PG  
Decision Date:

Ref: I/1974/0193  
Proposals: ERECTION OF RECREATION HALL  
Decision: PG  
Decision Date:

Ref: I/1986/0238  
Proposals: SHELTERED HOUSING ACCOMMODATION  
Decision: PG  
Decision Date:

Ref: I/1988/0380  
Proposals: CAR PARKING FACILITIES AND VEHICULAR ACCESS  
Decision: PG  
Decision Date:

Ref: I/1975/0172  
Proposals: VEHICLE INSPECTION AND DRIVING TEST CENTRE COMPRISING  
INSPECTION HALL,  
Decision: WITHDR  
Decision Date:

Ref: LA09/2015/0866/A  
Proposals: 4 replacement Flex signs (3 of which are halo lit) and 1 replacement panel  
sign on existing totem  
Decision: CG  
Decision Date: 03-NOV-15

Ref: I/1987/0387

Proposals: SHELTERED HOUSING ACCOMMODATION

Decision: PG

Decision Date:

Ref: I/2008/0613/F

Proposals: Extension to common room and new detached boiler house

Decision: PG

Decision Date: 20-OCT-08

Ref: I/1992/0042

Proposals: New pitched roof to replace existing flat roof

Decision: PG

Decision Date:

Ref: I/1989/0139

Proposals: Extension to British Legion Clubrooms

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

Rivers Agency-864541 - Final Response.pdf

DFI Roads - Enniskillen Office-Response Template.docx

NI Water - Strategic Applications-LA09-2023-1195-F.pdf

Environmental Health Mid Ulster Council-LA09.2023.1195.F.pdf

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx

NI Water - Strategic Applications-LA09-2023-1195-F.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Floor Plans Plan Ref: 03  
Proposed Elevations Plan Ref: 04  
Proposed Elevations Plan Ref: 05  
Proposed Plans Plan Ref: 06  
Proposed Plans Plan Ref: 07  
Existing Elevations Plan Ref: 08  
Existing Elevations Plan Ref: 09  
Site Layout or Block Plan  
Site Location Plan Plan Ref: 01 Rev 1  
Site Layout or Block Plan Plan Ref: 02 Rev 1  
Roads Details Plan Ref: 10

**Notification to Department (if relevant)**

Not Applicable

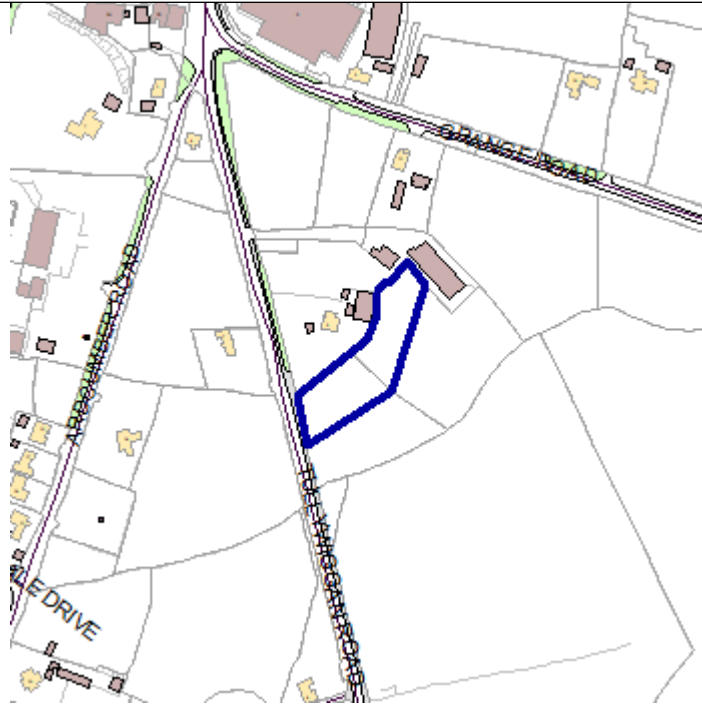


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.10
<b>Application ID:</b> LA09/2023/1263/O	<b>Target Date:</b> 5 March 2024
<b>Proposal:</b> Site for dwelling and garage under pps21 policy CTY 2A (clustering)	<b>Location:</b> Land approximately 20M South East of 8 Tullywiggan Road, Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mrs Fenella Turkington 8 Tullywiggan Road COOKSTOWN BT80 8SD	<b>Agent Name and Address:</b> Mr MALCOLM KEE 9a Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b> <p>The following outline planning application for a dwelling and garage is brought to the planning committee with a recommendation for refusal. The proposal fails to meet Policy CTY 2a of PPS 21 in that the cluster of development with which the site is associated is located on a farm and there is no identifiable focal point. It is for these reasons that the application is recommended for refusal.</p> <p>The proposal nevertheless complies with Policies CTY 13 and CTY 14 of PPS 21 at this outline stage. It is considered that a well sited and well designed dwelling at this location could blend unobtrusively with the surrounding environment.</p>	

## 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 Roads outline.docx FORM RS1 STANDARD.doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1263.O.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately 0.3 miles south of the southern end of the Cookstown settlement limit as defined in the Cookstown Area Plan 2010. The 0.4 hectare area site comprises an irregular-shaped and relatively flat agricultural field (divided in two) sited next to no. 8 Tullywiggan Rd and adjacent farm sheds. Access to the site is via a roadside field gate. With the exception of the roadside boundary, the application site is surrounded by land within the applicant's ownership. The north eastern end of the site is enclosed by farm sheds while the south western end adjoins the main road. To the south and south east of the site are two more agricultural fields with a boundary of mature trees along the southern edge, which render the application site completely out of sight when approaching along the road from the south. The farm buildings and a number of roadside trees also render the site largely out of view on approach from the northern end of the road. The wider surrounding environment consists mostly of agricultural fields, though there is also a strong built up presence in this area, particularly along the Ardcumber Rd to the west of the site and to the north of the site towards the settlement limit, where land uses are primarily industrial, with dwellings dotted throughout.

### **Description of Proposal**

This is an outline application for a proposed site for dwelling and garage under PPS 21 Policy CTY 2a (clustering).

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

#### **Policy Consideration**

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

#### **Relevant Planning History**

The below nearby planning applications, while not the same site as the current proposal, are considered to be relevant in the assessment of this case.

LA09/2022/1310/O – Renewal of outline approval LA09/2018/1604/O for dwelling and garage – 20m north of no. 8 Tullywiggan Road Cookstown – Mrs Fenella Turkington – Permission Granted for farm dwelling 11/11/2022

LA09/2021/0480/F – Proposed new dwelling and domestic garage within existing cluster – 75m west of 11 Grange Road Cookstown – Mr Paddy Donnelly – Initially deferred - Pending Decision

LA09/2019/0891/O – Proposed new dwelling and garage within existing cluster – Junction of Tullywiggan Road and Grange Road Cookstown – Mr Paul Donnelly –

Permission Granted for cluster dwelling (using filling station as focal point) 21/10/2019

### Representations

To date no third party representations have been received.

### Cookstown Area Plan 2010

The site of the proposed development is located in the rural countryside approximately 0.3 miles south of the southern end of the Cookstown settlement limit as defined in the Cookstown Area Plan 2010.

### 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 site clusters with a number of buildings of which at least three are dwellings. These are nos. 7 and 8 Tullywiggan Rd and no. 11 Grange Rd. The other buildings are farm sheds associated with no. 8. It is considered that much of this cluster lies within a farm. The agent has provided a supporting statement which states that the small farm holding is 'no longer viable as a farm business', is in the process of 'winding down', and the 'poultry house at the rear of the site is no longer used'. It is considered that the farm buildings are still standing and during the site visit on 18/12/2023 the egg vending machine house was active and operating. This would indicate that there is some degree of farming activity and therefore it is difficult to argue the case that the cluster of buildings is not located on a farm for the purposes of the policy. Moreover outline planning permission was granted at the end of 2022 for a farm dwelling for the same applicant (ref. LA09/2022/1310/O). Consideration is given to the alternative cluster of development located approximately 150m north of the site (next to Ardculmer Rd / Grange Rd junction), though this is too far removed from the application site to be considered as clustering with the site. The proposal fails to meet this criteria of the policy.

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

The cluster of development, to include the farm cluster, and the cluster approximately 150m north west of the site appear as visual entities 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;

Planning permission granted under LA09/2019/0891/O established the petrol filling approximately 200 metres north west of the site as a valid focal point. As mentioned above, the proposed site is too far removed from this cluster and is also too far removed from this focal point. The proposal fails to meet this criteria of the policy.

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

The site is bounded on two sides by other development in the cluster. A dwelling sited towards the north eastern end of the application site would be bounded and enclosed by farm buildings adjacent and west and a large poultry house adjacent and north east.

- Development of the site can be absorbed into the existing cluster through

rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;

It is considered that a dwelling sited towards the north eastern end of the application site would round off with the existing cluster of farm buildings.

- Development would not adversely impact on residential amenity.

There are no concerns at this outline stage regarding potential impacts 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, both the site and the cluster with which the proposed site is linked with is located on a farm. Secondly, the application site is too far removed from the alternative cluster approximately 150m north west of the site and is also too far removed from the petrol filling station focal point approximately 200m north west of the site. 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. A sympathetically designed dwelling with a roof ridge no higher than no. 8 Tullywiggan Rd could blend unobtrusively in this environment. Most of the site is bounded by post and wire fencing, with a small number of trees along the outside edges of the site. The roadside boundary is made up of low cut hedging. I am content that a dwelling sited at this location would not rely entirely on the use of new landscaping for its integration. The site also benefits from a great degree of enclosure, though this is only if the dwelling is sited towards the north eastern end of the site where it is able to blend with the existing buildings. A line of mature trees to the south of the site provide excellent screening when approaching from the southern end of the Tullywiggan Rd, while the farm buildings and a number of roadside trees also render the site largely out of sight when approaching from the northern end of the road. 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. 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 public road. DfI Roads were consulted and provided no objection to the proposal subject to the standard RS1 condition to accompany any approval. The proposal does not offend Policies AMP 2 and AMP 3 of PPS 3 at this outline stage.

Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, it can only be recommended that the application is refused for the reason that it is contrary to Policy CTY 2a, in that the cluster of development with which the site is associated is located on a farm and there is no identifiable focal point.

I am however satisfied that the proposal complies with Policies CTY 13 and CTY 14. It is considered that a well sited and well designed dwelling would blend unobtrusively with the locality.

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to CTY 2a of PPS 21 in that the the cluster of development with which the site is associated is located on a farm and there is no identifiable focal point.

**Signature(s):** Benjamin Porter

**Date:** 17 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	21 November 2023
<b>Date First Advertised</b>	19 December 2023
<b>Date Last Advertised</b>	19 December 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier Ardcumber Lodge, 7 Tullywiggan Road Cookstown Tyrone BT80 8SD The Owner / Occupier 8 Tullywiggan Road Cookstown Tyrone BT80 8SD	
<b>Date of Last Neighbour Notification</b>	12 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/1263/O  Proposals: Site for dwelling and garage under pps21 policy CTY 2A (clustering)  Decision:  Decision Date:</p> <p>Ref: LA09/2018/1604/O  Proposals: Renewal of outline planning approval LA09/2015/0798/O for a dwelling and garage  Decision: PG  Decision Date: 11-SEP-19</p> <p>Ref: I/1989/0240  Proposals: 11KV Rural Spur  Decision: PG  Decision Date:</p> <p>Ref: LA09/2015/0798/O  Proposals: Proposed dwelling and garage  Decision: PG  Decision Date: 09-DEC-15</p> <p>Ref: LA09/2022/1310/O</p>	

Proposals: Renewal of outline planning approval LA09/2018/1604/O for a dwelling and garage  
Decision: PG  
Decision Date: 11-NOV-22

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads outline.docxFORM RS1 STANDARD.doc  
Environmental Health Mid Ulster Council-LA09.2023.1263.O.pdf  
Environmental Health Mid Ulster Council-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2023/1265/O	<b>Target Date:</b> 7 March 2024
<b>Proposal:</b> Proposed site for dwelling and garage under PPS21 Policy CTY 2A (Clustering)	<b>Location:</b> 60M South West of 99 Tullyvar Road Aughnacloy
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Jeffrey Reid 99 Tullyvar Road Aughnacloy BT69 6BL	<b>Agent Name and Address:</b> Kee Architecture Ltd 9a Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	

### Representations:

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

### Summary of Issues

No representations received.

### Characteristics of the Site and Area

The site is located approx 60m SW of 99 Tullyvar Road, Aughnacloy. The red line of the site includes a portion of an agricultural field, set back from the roadside. The site sits on slightly elevated grounds when viewing from the roadside, with the existing access to the golf club running to the side of the application site. Aughnacloy Golf club is behind the site, however is screened from public viewing with the existing trees and vegetation on site. The site itself is bounded by post and wire fencing. The surrounding area is largely rural, however it is evident that some of lands surrounding the site have been developed quite heavily in the last number of years, particularly those to the East of the site.

### Description of Proposal

Outline planning permission is sought for proposed site for dwelling and garage under PPS21 Policy CTY 2A (Clustering).

### 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. Neighbours notified include: 96 Tullyvar Road and 47 Old

Chapel Road. At the time of writing, no representations were received.

### Planning History

There is extensive history relating to the surrounding area, with a number of recent approvals in the last number of years. Some of these have been included below as they have been referred to in the supporting information provided by the agent:

LA09/2018/0029/F - Proposed conversion of and extension to existing outbuildings to provide 2 self catering holiday units - 99 Tullyvar Road, Aughnacloy – PERMISSION GRANTED

LA09/2023/0795/F - Renewal of Planning Application LA09/2018/0029/F (Conversion of and extension to existing outbuildings to provide 2 self catering holiday units) - 99 Tullyvar Road, Aughnacloy – PERMISSION GRANTED

LA09/2023/0059/O - South and adjacent to 99 Tullyvar Road, Aughnacloy – Proposed dwelling – PERMISSION GRANTED

LA09/2021/1771/O - Proposed dwelling and garage - East Of 2 Lissenderry And South Of 6 Lissenderry, Aughnacloy – PERMISSION GRANTED

LA09/2019/1561/F - Change of design for house under construction including provision of a detached garage (previously approved under M/2013/0228/F) – PERMISSION GRANTED

LA09/2015/0845/F - Change of house type under construction approved M/2013/0225/F - 100M East Of 99 Tullyvar Road, Aughnacloy – PERMISSION GRANTED

LA09/2017/0206/F - Change of house type approved in M/2013/0222/F - 80M East Of 99 Tullyvar Road Aughnacloy (10 Lissenderry Aughnacloy) – 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
- Local Development Plan 2030 - Draft Plan Strategy

The Dungannon and South Tyrone Area Plan 2010 identify the site as being outside any defined settlement limits, located North of Aughnacloy Settlement Limits. There are no other zonings or designations within the Plan.

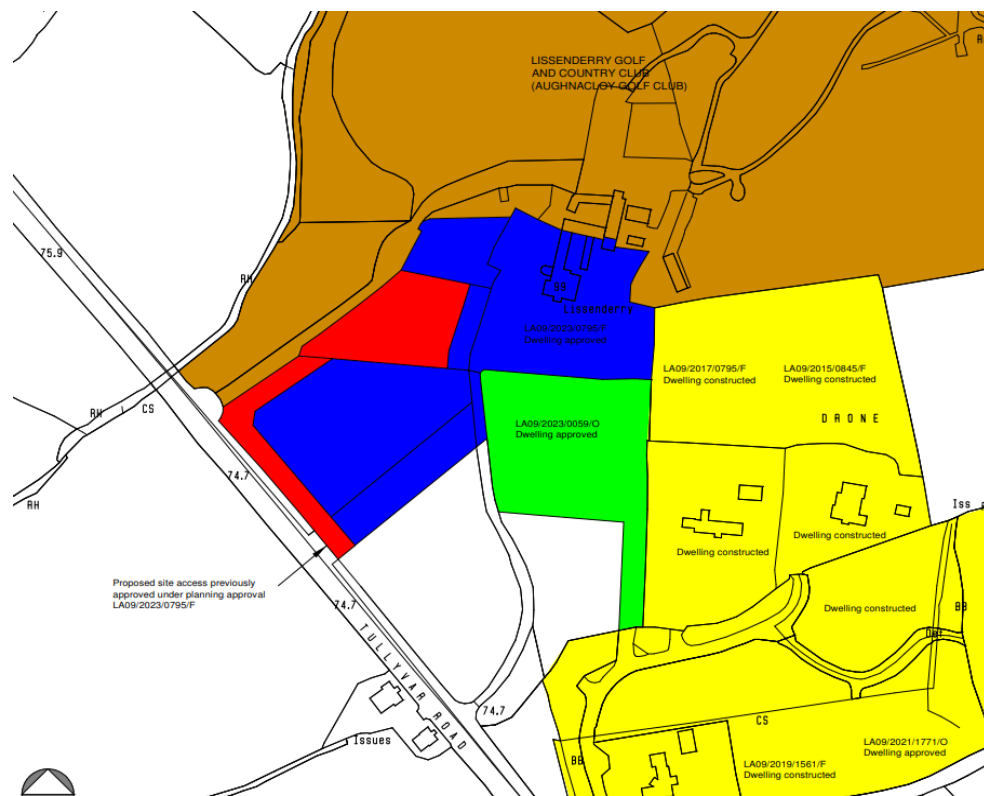
The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The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

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being new dwellings in existing clusters in accordance with CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided that a number of criteria are met. The cluster of development must lie outside of a farm and consists of four or more buildings. The surrounding area has existing clusters of development, highlighted in figure 1, where existing development and approved developments have been indicated. Taking into account what is on the ground at present, it is considered there is a cluster of development shown in yellow in figure 1, with at least 8 dwellings located within this cluster, however the application site is considered to be too far removed from these dwellings. Figure 2 is an image taken from Spatial NI which shows the existing development on site, with the application site outlined in red. This image highlights how far removed the application site is from the existing cluster of development and although there is a group of four or more buildings, it is not considered that it relates to the application site.



**Figure 1 – Contextual map provided by agent to support application**



**Figure 2 – Image from Spatial NI with application site outlined in red**

The third criterion of CTY 2a requires the cluster to be associated with a focal point such as a social/community building/facility or is located at a crossroads. The agent's justification refers to Aughnacloy Golf Course as the focal point and refers to the existing and proposed development as a visual entity in the local landscape. The proposed site is located South West of the existing dwelling on site (99 Tullyvar Road, shown in blue in figure 1) and is set back some distance from the public road on a slightly elevated site. It is considered that the site is not bounded on at least two sides with development in the cluster and therefore the proposal fails to meet the fourth criterion of Policy CTY2a. The agent refers to the access bounding it on one side (to the north west on figure one, shown in brown) and the golf club. It is considered that the proposed site would extend beyond the existing cluster and therefore may visually intrude into the open countryside if approval was to be forthcoming. There are no concerns that the proposed site would have significant adverse impact on neighbouring amenity, this would be further considered at RM stage if approval was to be forthcoming.

In conclusion, the proposal is considered contrary to a number of criteria held within Policy CTY 2a. Policy CTY 2a states that all criteria must be met, therefore the proposal is considered to be contrary to policy and as such refusal is recommended.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate

design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the application site is not considered to be located within a cluster of development and is not bounded on at least two sides with other development in the cluster. It is considered that the site would visually intrude into the open countryside.

**Signature(s):** Sarah Duggan

**Date:** 21 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	23 November 2023
<b>Date First Advertised</b>	4 December 2023
<b>Date Last Advertised</b>	4 December 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 96 Tullyvar Road Aughnacloy Tyrone BT69 6BL The Owner / Occupier 47 Old Chapel Road Aughnacloy Tyrone BT69 6BP	
<b>Date of Last Neighbour Notification</b>	29 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	
<b>Notification to Department (if relevant)</b>  Not ApplicableNot Applicable	

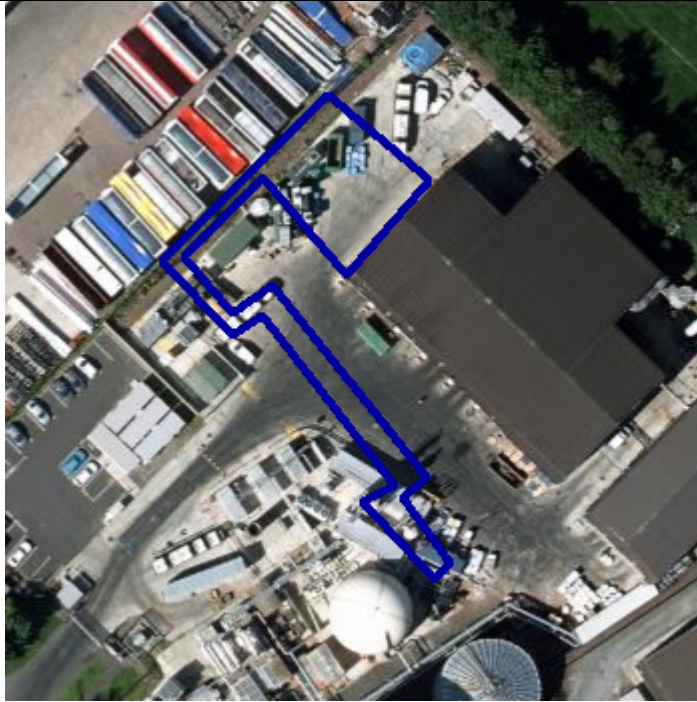


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2023/1372/F	<b>Target Date:</b> 29 March 2024
<b>Proposal:</b> Installation of CO2 Liquefaction Recovery Unit, associated concrete plinth, pipework and all other site works. (Noise Report received)	<b>Location:</b> 20A Granville Road Granville Industrial Estate Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Bio Capital Ltd The Corn Store Hyde Hall Farm Buntingford SG9 0RU	<b>Agent Name and Address:</b> Mrs Jennifer Mawhinney 4 College House Citylink Business Park Belfast BT12 4HQ
<b>Executive Summary:</b>  Approval is recommended, however it is presented at Planning Committee following receipt of 6 No. objections.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Health And Safety Executive For NI	CN202403-00012 - 20A Granville Rd, Granville Industrial Estate, Dungannon BT70 1NJ.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	6
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The objector's concerns are addressed below:



- ***The objector claims three different client names (application form, drawing, and supporting statement) have been provided with the proposal and would like to know which is it?*** - I am content the name on the application form is correct. Furthermore, planning permission is associated with the land, rather than the applicant.
- ***The blue line on Site Location Plan drg No 01 encompasses the premises of Linergy and is a separate entity from the B9 plant and the drawing is misleading.*** - No information has been submitted by the objector to dispute ownership of the land outlined in blue, therefore I am content, based on the information submitted with the application, the site location plan is accurate and no one is prejudice.
- ***The application red line should extend to the public road and encompass the system from the gas is being recovered.*** - I am content the red line satisfactory encompasses the proposed development and complies with the legislative requirements as defined in Planning Act 2011 and Article 3 (3) of The Planning (General Development Procedure) Order (Northern Ireland) 2015.
- ***No noise report submitted with the application.*** - The noise report was received and uploaded on to the portal on 27th February 2024.
- ***Objector should be notified on receipt of noise report.*** - The Council has no responsible to notify objectors on receipt of additional information who do not meet the legislative requirements to be neighbour notified, however the application has been re-advertised with **Noise Report received** highlighted within the description of the proposed development. Furthermore, the objector is clearly aware of the application and can track its progress on the planning portal.
- ***Concerns regarding noise and odour levels.*** - The competent authority responsible for dealing with noise and odour is Environmental Health. Under this application, proposed noise levels will be addressed within this report and it is important to note CO2 is an odourless gas.
- ***The statutory neighbour notification list compiled by the applicant omits adjoining premises and surrounding residential properties.*** - I am content the Council's statutory obligations as defined in the Planning Act 2011 and Article 8 (1) of The Planning (General Development Procedure) Order (Northern Ireland) 2015 has been met and the relevant occupier of neighbouring land has been notified of the proposal.
- ***The objectives of Policy WM 1 are already breached.*** - No evidence has been submitted to indicate which objectives are breached. If the objector has concerns with how the waste management facility is operated, it should be brought to the

attention of the appropriate regulatory authority.

- ***Environmental Health, NIEA and DERFA have not been consulted.*** - I am content all relevant consultees have been consulted for the proposed development.
- ***The objector claim that CO2 is a 'substance hazardous to health' under the Control of Substances Hazardous to Health Regulations 2002 (COSHH) and the application should be amended to reflect this.*** - The proposed development is for the installation of CO2 Liquefaction Recovery Unit. It is not anticipated the public or employees will be exposed to high concentrations of CO2. Furthermore, HESNI were consulted and have raised no concerns, therefore I am content the application does not need to be amended.
- ***The objector claims the application form has not been completely incorrectly and contains inaccurate information.*** - I am content the application form has been completed correctly and the information contained within it is accurate.
- ***The objector claims the proposal should be considered under Policy WM 1 of PPS 11: Planning and Waste Management.*** - I am content all relevant planning policies have been considered within this report.
- ***The hours of operations do not comply with Policy WM1 of PPS 11 Planning and Waste Management.*** - The hours of operation for the facility are not for consideration under this application.
- ***The applicant/operator of the facility have refused to meet or engaged with local community.*** - The decision to meet or engaged with the local community is for the applicant/operator to address and is not legitimate planning concerns.
- ***No further development should take place until noise and odour concerns have been addressed.*** - The proposed noise levels have been addressed in the Noise Assessment from Irwin Carr Consulting and were forwarded to Environmental Health. Existing noise and odour concerns should be brought to the attention of the appropriate regulatory authority.
- ***There is insufficient road infrastructure to deal with the expansion of traffic.***  
- The proposal is located on land zoned for industry and business as defined by the Dungannon and South Tyrone Area Plan 2010. Before zoning the land for industry and business, careful consideration would have been given to the existing road infrastructure. Furthermore, there will only be one additional traffic movement because of the application.



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

The proposal site is located within the settlement limits of Granville and within land zoned for industry and business in accordance with the Dungannon and South Tyrone Area Plan 2010. The site as outlined in red comprises of a small plot of land that relates solely to the proposed development. The site is within an existing industrial complex which is occupied by Bio Capital LTD. To the south, the site is open to the existing Granville Eco Park site and the Linergy buildings, to the North is the BMI trailers industrial site. To the East there is open fields and to the west across the access road there is McCloskey international site.

## **Description of Proposal**

The proposal is a full application for the installation of CO2 Liquefaction Recovery Unit, associated concrete plinth, pipework and other site works.

## **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. The following property was notified: 20 Granville Industrial Estate, Dungannon. At the time of writing, six objections were received.

### **Planning History**

M/2001/1076/O - Proposed by-product rendering plant, car parking and up grading of Eskragh Road between Linden Foods and proposed site. Permission Granted on 17/01/2001.

M/2004/1584/RM - Proposed by-products rendering plant. Permission Granted on 19/02/2005.

M2006/1813/F - Proposed repositioning and alterations to building approved under planning application M/2004/1584/RM. Permission Granted on 28/03/2007.

M/2008/0063/F - Extension to by-products rendering plant to include an anaerobic digestion facility and thermal processing facility for the production of electricity. Permission Granted on 09/05/2011.

M/2012/0429/F - Proposed changes to the design of anaerobic building approved as

M/2008/0063/F as amended. Permission Granted on 15/04/2013.

LA09/2016/0520/F - Installation of biogas purification and bottling plant. Permission Granted on 04/08/2016.

LA09/2016/1544/F - Retrospective application for a car park with 3no additional portacabins and extension of hard standing for a yard, 2 no. substation kiosks and siting of containers. Permission Granted on 13/02/2017.

LA09/2019/1161/LDP - Extension of existing building to provide area for boiler house and employee facilities ancillary to main facility. Permission Granted on 13/11/2019.

LA09/2021/0982/LDE - Combined Heat and Power Engine. Permission Granted on 24/09/2021.

LA09/2021/0983/LDE - - Combined Heat and Power Engine. Application withdrawn on 31/08/2023 following PAC Decision 2021/E0075 development approved on ground (a).

LA09/2022/1347/HSC - Consent to store a Liquid Petroleum Gas (LPG), including commercial propane and commercial butane, and any mixture thereof. Consent Granted on 02/02/2023.

LA09/2023/0282/F - Removal of redundant kiosk and erection of gas to grid system comprising Biomethane Network Entry Facility (BNEF), air compressor kiosk, 3no. propane storage tanks and associated blast wall, pipelines, Armco barrier and associated site works. Permission Granted on 19/09/2023.

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

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

### **Dungannon and South Tyrone Area Plan 2010. (DSTAP)**

The site is located within the development limits of Granville and within designation DI 01: Land at Granville Industrial Estate as defined by the DSTAP.

Policy SETT 1 is applicable. The proposed development is of a scale, form and design that is sensitive to the site and surrounding area. It respects the opportunities and constraints of the site and will not have a significant detrimental effect on amenities. It will not conflict with conservation interests and will not have a detrimental impact on access, parking (PPS3 Access, Movement and Parking) or sewage disposal. No additional infrastructure is required, and the development will not impact on key site requirements contained within Part 3 of the Plan.

Policy IND 1 is also applicable. The proposed development is within and is ancillary to a waste management facility which is situated on land zoned for Industrial and Business as defined by the DSTAP. Therefore, the proposed development would not prejudice the efficient operation of the surrounding industrial and business uses.

### **The Planning (Use Classes) Order (Northern Ireland) 2015**

The Planning (Use Classes) Order (Northern Ireland) 2015 specifies under Article 3 (4)

uses where no class is specified in the Schedule. The use of the site is a waste management one. Article 3 (4) (o) specifies a sui-generis use if a site is used as a “*as a waste management facility for the collection, transport, treatment, recovery, recycling, transfer and disposal of waste (as defined in Council Directive 2008/98/EC)(9)*”.

### **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. At present, no Plan Strategy has been adopted. Accordingly, during the transitional period, the SPPS retains certain Planning Policy Statements (PPSs), and it sets out the arrangements to be followed in the event of a conflict between the SPPS and retained policy. As a consequence, the policy provisions of PPS 11 ‘Planning and Waste Management’ take precedence over the policy provisions contained in the published draft development plans. There is no conflict or change in policy direction between the provisions of the SPPS and retained PPS 11, therefore PPS 11 remains the relevant policy context for consideration.

### **PPS 11 – Planning and Waste Management (Policies WM 1 & WM 2)**

The proposed development is within and is ancillary to a waste management facility, therefore Planning Policy Statement 11 is relevant. Planning Policy Statement 11 sets out planning policies for the development of Waste Management Facilities and seeks to ensure the highest standards so that waste can be dealt with in a way, which minimises impacts on the environment.

Policy WM 1: Environmental Impact of a Waste Management Facility - Proposals for the development of a waste management facility will be subject to a thorough examination of environmental effects and will only be permitted where it can be demonstrated that all of the following criteria are met:

• ***the proposal will not cause demonstrable harm to human health or result in an unacceptable adverse impact on the environment;*** - In relation to human health, a noise assessment was submitted with the application, and it has considered noise from the CO2 Liquefaction Recovery Unit and noise from the following plant associated with the CO2 Liquefaction Recovery Unit:

- CO2 Compressor
- Liquefaction Unit
- LCO2 Product Pump
- LC02 Truck Filling Pump
- Table Cooler

In their response, Environmental Health (EHD) did not raise any concern in relation to noise subject to two planning conditions and have also considered the content of the six objections submitted in relation to the proposed development.

In relation to adverse impact on the environment, it is not anticipated that the proposed development will cause any unacceptable adverse impacts on the environment, on the contrary the proposed development may have wider environmental benefits.

The proposed development will not cause demonstrable harm to human health or result

in an unacceptable adverse impact on the environment.

• ***the proposal is designed to be compatible with the character of the surrounding area and adjacent land uses;*** - The proposed development is within an existing waste management facility which is situated on land zoned for Industrial and Business as defined by the DSTAP. Therefore, the proposed development is compatible with the character of the surrounding industrialised area and adjacent land uses.

• ***the visual impact of the waste management facility, including the final landform of landfilling or land raising operations, is acceptable in the landscape and the development will not have an unacceptable visual impact on any area designated for its landscape quality;*** - Although the proposed CO2 Capture Tanks (11.314m) will be highly visible, these are located beside existing development (AD building 13.8m & upgrader 16.15m) of a similar height and therefore will blend in with the immediate industrial nature of the site. The remainder of the proposed development is made up of ancillary plant which will not be out of character at this waste management facility.

• ***the access to the site and the nature and frequency of associated traffic movements will not prejudice the safety and convenience of road users or constitute a nuisance to neighbouring residents by virtue of noise, dirt and dust;*** - It is anticipated there will only be one additional traffic movement each day because of the proposed development. This will not prejudice the safety and convenience of road users or constitute a nuisance to neighbouring residents by virtue of noise, dirt and dust. It's important to note the closest residential property is located approximately 290m from the proposed development. Furthermore, the proposed development is located on land zoned for Industrial and Business uses as defined in the DSTAP.

• ***the public road network can satisfactorily accommodate, or can be upgraded to accommodate, the traffic generated;*** - As before, it is anticipated there will only be one additional traffic movement each day, therefore the public road network can satisfactorily accommodate this small increase.

• ***adequate arrangements shall be provided within the site for the parking, servicing and circulation of vehicles;*** - This is an established waste management facility with existing arrangements for parking, servicing and circulation of vehicles and the proposed development will not have an impact on existing arrangements.

• ***wherever practicable the use of alternative transport modes, in particular, rail and water, has been considered;*** - Transportation by roads appears to be the only practical option available.

• ***the development will not have an unacceptable adverse impact on nature conservation or archaeological/built heritage interests.*** - There are no nature conservation areas or archaeological/built heritage interests in the immediate vicinity.

• ***the types of waste to be deposited or treated and the proposed method of disposal or treatment will not pose a serious environmental risk to air, water or soil resources that cannot be prevented or appropriately controlled by mitigating***

**measures;** - The proposed development seeks to recover CO2 produced from the existing AD plant and stored it on site prior to collection, as a result there will be minimal impact on air, water or soil resources.

• **the proposed site is not at risk from flooding and the proposal will not cause or exacerbate flooding elsewhere;** - The proposed development is not located in an area at flood risk, nor will it result in exacerbate flooding elsewhere.

• **the proposal avoids (as far as is practicable) the permanent loss of the best and most versatile agricultural land;** - The proposed development is located within an existing waste management facility, therefore there will be no permanent loss of the best and most versatile agricultural land.

• **In the case of landfilling the proposal includes suitable, detailed and practical restoration and aftercare proposals for the site.** – Not applicable.

Policy WM 2: Waste Collection and Treatment Facilities - The need for a waste management facility on the site has already been established and is controlled by a separate Waste Permit. Therefore, the proposed development which is ancillary to the waste management facility is deemed acceptable under Policy WM 2.

All in all, the proposal complies with Polices SETT 1 & IND 1 of DSTAP and Policies WM 1 & WM 2 of PPS 11.

#### **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

Noise from plant and equipment associated with the proposed development shall not exceed the noise levels contained within table 1 below:

NB Table 1 can be found in Environmental Health Consultation response date received 11 APR 2024.

Reason: To protect residential amenity from noise

**Condition 3**

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

Reason: To protect nearby residential amenity from noise.

**Signature(s):** Sean Diamond

**Date:** 22 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	15 December 2023
<b>Date First Advertised</b>	8 April 2024
<b>Date Last Advertised</b>	8 January 2024
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 20 Granville Industrial Estate Dungannon Tyrone BT70 1NJ	
<b>Date of Last Neighbour Notification</b>	4 January 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/1372/F  Proposals: Installation of CO2 Liquefaction Recovery Unit, associated concrete plinth, pipework and all other site works. (Noise Report received)  Decision:  Decision Date:</p> <p>Ref: M/2007/0146/F  Proposals: Development of a road to service an industrial site.  Decision: PG  Decision Date: 12-APR-07</p> <p>Ref: M/2007/1354/F  Proposals: Proposed new office and workshop to be used for the production of trailers.  Decision: PG  Decision Date: 22-APR-08</p> <p>Ref: LA09/2018/1469/F  Proposals: Erection of factory and office building, staff and visitor parking and associate</p>	

site works

Decision: PG

Decision Date: 23-JUL-19

Ref: M/2008/0829/F

Proposals: Proposed temporary offices and proposed rust and dirt removal building

Decision: PG

Decision Date: 22-OCT-08

Ref: LA09/2021/0983/LDE

Proposals: Combined Heat and Power Engine

Decision: WDN

Decision Date: 31-AUG-23

Ref: M/2014/0150/F

Proposals: The proposed development will include an extension to the existing factory in order to shelter the delivery and loading onto and from a lorry in addition to surrounding associated site works

Decision: PG

Decision Date: 14-MAY-14

Ref: LA09/2019/1161/LDP

Proposals: Extension of existing building to provide area for boiler house and employee facilities ancillary to main facility

Decision: PG

Decision Date: 13-NOV-19

Ref: LA09/2023/0282/F

Proposals: Removal of redundant kiosk and erection of gas to grid system comprising Biomethane Network Entry Facility (BNEF), air compressor kiosk, 3no. propane storage tanks and associated blast wall, pipelines, Armco barrier and associated site works

Decision: PG

Decision Date: 20-SEP-23

Ref: LA09/2016/1544/F

Proposals: Retrospective application for a car park with 3no additional portacabins and extension of hard standing for a yard, 2 no. substation kiosks and siting of containers

Decision: PG

Decision Date: 13-FEB-17

Ref: LA09/2016/0520/F

Proposals: Installation of biogas purification and bottling plant

Decision: PG

Decision Date: 05-AUG-16

Ref: M/2001/1076/O



Proposals: Proposed By Product Rendering Plant, car parking and up-gradng of Eskrag Road between Linden Foods and proposed site

Decision: PG

Decision Date: 17-JAN-02

Ref: M/2004/1584/RM

Proposals: Proposed by-products rendering plant

Decision: PG

Decision Date: 19-FEB-05

Ref: M/2008/0063/F

Proposals: Extension to by-products rendering plant to include an anaerobic digestion facility and thermal processing facility for the production of electricity.

Decision: PG

Decision Date: 02-FEB-10

Ref: M/2006/1813/F

Proposals: Proposed repositioning & alterations to building approved under planning application M/2004/1584/RM

Decision: PG

Decision Date: 13-DEC-06

Ref: LA09/2017/0298/PAD

Proposals: Extension to mill meat and bone meal

Decision: PAD

Decision Date: 05-JUN-17

Ref: LA09/2021/0982/LDE

Proposals: Combined Heat and Power Engine

Decision: PG

Decision Date: 24-SEP-21

Ref: M/2011/0755/F

Proposals: Proposed changes to the design of anaerobic digestion building approved under M/2008/0063/F as amended (amended drawings received and amended planning application certificate of ownership)

Decision:

Decision Date:

Ref: M/2012/0429/F

Proposals: Proposed changes to the design of anaerobic building approved as M/2008/0063/F as amended

Decision: PG

Decision Date: 19-APR-13

Ref: M/1996/0142

Proposals: Extension to existing Industrial Estate, involving new access road & earthworks to overall site.

Decision: PG

Decision Date: 21-NOV-96

Ref: M/1995/0068

Proposals: Extension to Granville Industrial Estate

Decision: PG

Decision Date: 25-MAR-96

Ref: M/1996/6069

Proposals: Claim for compensation Lands at Granville Dungannon, vested from Mr J Symington IDB

Decision: 211

Decision Date:

### **Summary of Consultee Responses**

Health And Safety Executive For NI-CN202403-00012 - 20A Granville Rd, Granville Industrial Estate, Dungannon BT70 1NJ.pdf  
Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-Planning response.pdf

### **Drawing Numbers and Title**

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

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

Not Applicable

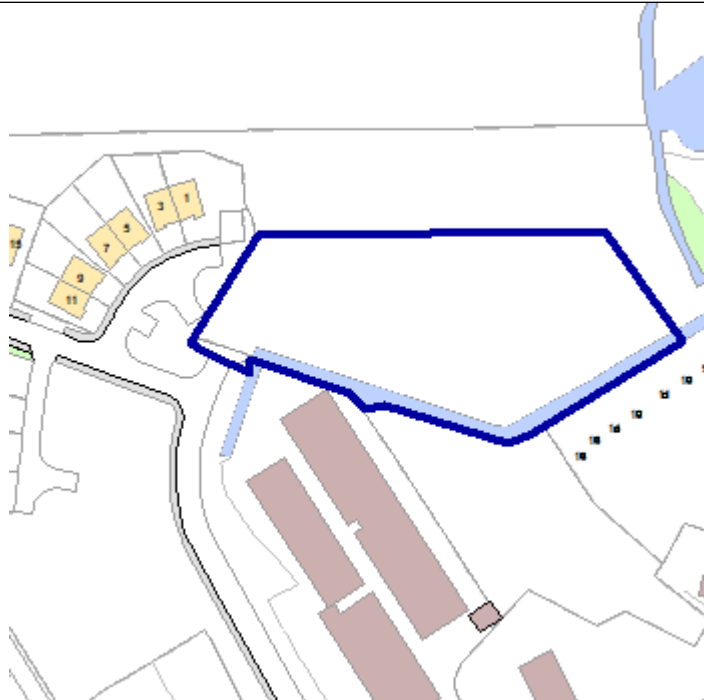


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2023/1410/F	<b>Target Date:</b> 5 April 2024
<b>Proposal:</b> Erection of light industrial unit to include ancillary storage, administration space, and staff facilities, and, associated car parking and landscaping	<b>Location:</b> Approximately 145M North of 34 Sydney Street Aughnacloy
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Michael Treanor 34/36 Sydney Street Aughnacloy BT69 6AE	<b>Agent Name and Address:</b> Ms Oonagh Given 10 Carnan Park Omagh BT79 7XA
<b>Executive Summary:</b>  No third party representations have been received.  The main issues are as follows: The proposal is for Mullan Lighting and Electrical Control Systems NI Ltd (ECSNI) to both have a business within a new building at the site. ECNI manufacture electrical control panels and Mullan Lighting make bespoke lighting for a range of uses. The site is wholly within a flood plain and it is the case officer's opinion that the proposal is not of overriding subregional importance within Policy FLD 1 in PPS 15 to allow the business to be located within a flood plain and justify the potential flooding of adjacent properties.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	26-02-2024.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	Rivers Agency	6615 -Final Response.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	

### Representations:

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

### Summary of Issues

Site is wholly located within a flood plain and does not meet the criteria within FLD 1 in

PPS 15 as the proposal is not of overriding sub regional importance to the economy.

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

The site is within the settlement limit of Aughnacloy as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character and there are a mix of land uses such as commercial and residential. To the northwest of the site is a housing development of semi-detached dwellings at Aughnaree Manor. To the south of the site and facing Sydney Street is a two-storey dwelling at No.41a a scout hall. The application site is a portion of land which is currently covered in vegetation and trees and there is a watercourse through the middle of the site.

### **Description of Proposal**

This is a full application for erection of light industrial unit to include ancillary storage, administration space, and staff facilities, and associated car parking and landscaping at Approximately 145M North of 34 Sydney Street, Aughnacloy.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

M/2002/1442/F - Erection of Industrial Units - Adjacent To & North Of 34,36 Sydney Street, Aughnacloy – permission granted 05.02.2004.

This history is relevant to this application as industrial units were approved in 2004 in the same location as this current application under consideration.

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

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

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

The site is within the settlement limit of Aughnacloy as defined in the Dungannon and South Tyrone Area Plan 2010, so SETT 1 is the relevant policy which applies in this case.

### **SETT 1 – Settlement Limits**

The proposal is for a new building to cater for a light industrial use for Mullan Lighting and Electrical Control Systems NI Ltd. The building is 704sqm floorspace and is 7m in height. The proposed external materials are dark grey aluminium cladding on the upper section of the building and white render on the lower section with steel roller shutter doors. There is a new access lane off an existing public road to a housing development and associated car parking spaces. I am content the scale, form, design, and use of materials is acceptable as the site is within the settlement limits and there are other industrial buildings in the surrounding area.

I consider the building and associated car parking spaces will not overdevelop the plot and be prominent in the landscape. However, I am of the opinion the proposal does not respect the constraints as the proposal is wholly located within a flood plain and there is increased potential for flooding to neighbouring properties.

In terms of amenity Environmental Health were consulted and stated the nearest 3<sup>rd</sup> party receptor is located approximately 30m from the site so they have proposed several conditions as mitigation. These conditions relate to opening hours, use class, deliveries, and opening times for roller shutter doors. As the proposal is for the manufacture of lighting components and fittings, I am content there will not be unacceptable noise, smells and odours at the site. In terms of overshadowing and overlooking of residential development, the proposal is of sufficient distance from the nearest dwelling for there not to have detrimental impacts.

The site is not within any designated conservation areas and there are no archaeological sites and monuments within the vicinity.

DFI Roads responded on the 26<sup>th</sup> February 2024 seeking further information. They have concerns that the existing nature of the access road is to serve a residential development and this application will further mix commercial type traffic with residential traffic. Also, Roads have asked for further information to demonstrate how HGV lorries can turn within the site and parking for 1no. lorries at the site. As the proposal does not meet the principle of development, I have not requested this information at the time of

writing.

In terms of parking 21no. car parking spaces have been shown on the block plan. According to Parking Standards Guidance a light industrial unit should have 1 space per 50sqm floor space. As the floorspace of the building is 704sqm there should be at least 14 car parking spaces and I am content the proposal meets this requirement.

Having accessed all the evidence, I consider the proposal does not meet all the criteria within SETT 1 in the Plan due to the flood risk at the site.

## **PPS 4 – Planning and Economic Development**

### **PED 1 - Economic Development in Settlements**

#### Villages and Smaller Rural Settlements

##### Class B2 Light Industrial Use

Aughnacloy is classed as a village with the Dungannon and South Tyrone Area Plan 2010.

The Planning (Use Classes) Order (NI) 2015 states that a use is classed as a light industrial use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smoke, soot, ash, dust or grit.

It is stated in the supporting statement that the proposal is for a light industrial unit with administration spaces and staff facilities. Mullan Lighting and Electrical Control Systems NI Ltd (ECSNI Ltd) are the two businesses who will use the building for manufacturing. Mullan Lighting produces bespoke lighting and ECS NI Ltd manufacture electrical control panels.

PED 1 states that a development proposal for B2 or B3 in a village will be permitted where it can be demonstrated that the scale, nature, and design of the proposal is appropriate to the character of the settlement, and it is not incompatible with any nearby residential use.

The site is currently unzoned land within the settlement limit of Aughnacloy and is not within any zonings or designations. I have no concerns about the scale and design of the proposal. I don't consider the scale and massing of the building excessive, and the finishes are characteristic of an industrial building. Environmental Health were consulted and had no objections to the proposal in terms of neighbouring amenity. Overall, I am content the proposal meets all the criteria in Class B2 of PED 1 in PPS 4.

### **PED 9 – General Criteria for Economic Development**

I am content that the proposal is compatible with surrounding land uses as the existing ECSNI building is at the entrance to the access road and other commercial uses within the immediate area including Derek Loane Nissan Motors. Therefore, industrial and commercial use is established within the immediate area.

I consider the proposal has the potential to have an unacceptable impact on the amenity

of nearby residents at Aughnaree Manor due to increased flood risk.

The site is not within any natural or built heritage designations, so I have no concerns in this regard.

The entirety of the application site is within the 1 in 100-year flood plain and there is the potential for flooding to be moved to neighbouring locations, especially the adjacent housing development at Aughnaree Manor.

Environmental Health have included conditions to mitigate against increased noise from the application site.

I am content there will not be unacceptable issues with emissions or effluent at the site.

DFI roads have raised concerns about the principle of commercial and residential type traffic both using the access road. As stated earlier in the assessment I am content here are adequate access and parking arrangements at the site. As the proposal does not meet the principle of development for a site within a flood plain I did not request further information for DFI Roads.

The site is within the settlement limit and there is a footpath along Sydney Street to the main street of Aughnacloy.

A site layout has been submitted which shows the landscaping at the site and I am content this will assist with promoting biodiversity.

I am content appropriate boundary treatment has been shown at the site.

The site is within the settlement limit of Aughnacloy and there are secure gates have been shown on the block plan which will promote security and deter crime.

Overall, I believe that the proposal does not meet all the criteria in PED 9 due to the increased flood risk at the site.

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

### **Policy FLD 1 – Development in Fluvial (River) and Coastal Flood Plains**

The application site is wholly located within the 1 in 100-year flood plain and this was confirmed by Rivers Agency in their consultation response on the 24<sup>th</sup> January 2024. Rivers Agency stated they consider the proposal is contrary to FLD 1 in PPS 15 and would need to be further consulted if the principle of development is accepted and the Flood Risk Assessment can be fully appraised.

As the site is fully within the flood plain the development would only be accepted if it was considered an exception. The proposal does not meet any criteria in FLD 1 to be considered an exception in FLD 1. If a proposal is not an exception it may be acceptable within a flood plain where it is deemed of overriding regional or subregional economic importance and meets both criteria.

Development proposals of overriding regional or subregional economic importance



1. Demonstration of exceptional benefit to the regional or subregional economy.

A supporting statement was submitted with the application to demonstrate why the applicant considers the proposal to be of exceptional benefit to the subregional economy. The proposal is for a light industrial building which will accommodate Mullan Lighting and a sister company Electrical Control Systems NI Ltd (ECSNI Ltd).

Mullan Lighting currently operates in the village of Mullan, County Monaghan since 2009 and produces bespoke decorative lighting for hospitality, commercial and retail sectors. The proposal is to establish a manufacturing operation at Aughnacloy to promote to UK clients that the products will be manufactured in the UK and therefore be exempt from import complications, delays, and tariffs. It is stated in the supporting statement that Mullan Lighting sales were up 50% in the year 2021 compared to the previous year. They also had sales to the UK and USA. Mullan Lighting will create 25 new jobs in the proposed building, expanding to 40 jobs by 2025. The agent has stated the importance of the new building in Aughnacloy to mitigate Brexit because of tariffs, increased transport costs and transport times due to customs delays. The agent has stated Mullan Lighting currently has 20 key clients within the Tyrone region and across Northern Ireland they have over 100 key clients. This includes designers, architects, lighting shops, electrical wholesalers.

ECSNI Ltd manufactures electrical panels and is presently located at 34-36 Sydney Street Aughnacloy, which is 150m from the application site. It is stated the current site for ECS NI Ltd is at capacity and the business would extend into the new building with Mullan Lighting. It is stated on ECS NI Ltd's website that the company manufacture switchgear, motor control centres etc. and they currently have 8 employees at present. The proposed building would allow the business to grow and are at risk of turning down or losing work.



Figure 1 – Image of the location of ECS Ltd.

Having assessed the evidence within the supporting statement I do not consider the proposal to be of exceptional benefit to the regional or sub-regional economy. I believe the businesses are not of a large scale to benefit the sub regional economy to justify sitting within a flood plain which would allow nearby residential properties to flood.

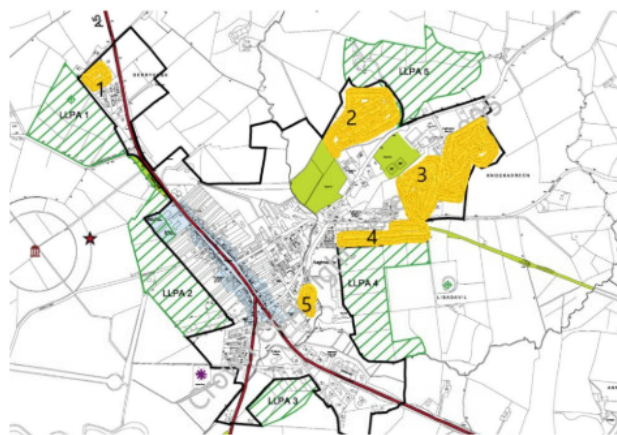
2. Demonstration that the proposal requires a location within the flood plain and justification of why possible alternative sites outside the flood plain are unsuitable.

In terms of demonstrating why the proposal requires a location within the flood plain, it is stated in the supporting statement that ECSNI Ltd is located at the end of the access road and being near the extant site will assist in operations. In terms of Mullan Lighting, the existing site in Mullan is only 4 miles from Aughnacloy and a production site as close as possible to the existing business would be the most sustainable choice and efficient in terms of managing the business. The applicant has stated he owns the application site and the proposal would be less of an investment risk than attempting to acquire land which is not within their ownership.

In terms of justification of why possible alternative sites outside the flood plain are unsuitable, the applicant has discussed alternative sites in the supporting statement.

Figure 2 is an image from the to show a discussion of alternative sites within Aughnacloy.

1. Figure 1 shows undeveloped areas of land outside of the floodplain in Aughnacloy numbered 1 – 5 which are accounted for in turn.



a. Figure 1 undeveloped lands inside settlement limit and not affected by flooding

Site 1 – LA09/2021/0265/DC discharged a condition at this site for a housing development. It is stated in the supporting statement that the work on the development has begun and the site is therefore no-longer available. I am content that site 1 is not feasible.

Site 2 - It is detailed in the supporting statement that the site is well in excess of what is required for the development and is adjacent to Old Rectory Hill Local Landscape Policy Area. I consider this is a large site and it may be feasible to divide the site for different purposes.

Site 3 - It is stated in the supporting statement that the site is well in excess of what is required for the development and there is limited access to the public road. Again site 3 is a similar argument to site 2 in that I consider this is a large site and it may be feasible to divide the site for different purposes. I am of the opinion that access points from Carnteel Road and Rehaghy Road may be possible which would not prejudice future development at the site.

Site 4 - It is detailed in the supporting statement that the site is adjacent to a Local Landscape Policy Area and the site is narrow and steep. I am of the opinion that narrow and steep is not a justifiable reason for being and unsuitable siting for the proposal.

Site 5 - It is stated in the supporting statement that this site is too small for their needs and that the access could be a problem for commercial use. I consider is it acceptable to state the site is too small to utilize.

Having assessed the evidence provided in the supporting statement I consider a full justification of why the alternative are unsuitable has not be provided. It has just been stated the sites are either too big or too small. I am of the opinion there has also not been a full justification of why the proposal requires a location within the flood plain other than the applicant owns the application site.

In conclusion proposal has to meet both criteria and as the proposal is not of overriding

sub regional importance and it has not been demonstrated that the proposal requires a location within the flood plain and sufficient justification of why possible alternative sites outside the floodplain are unsuitable.

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

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

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

The proposal is to create a new access off a public road to the site, so DFI Roads were consulted as the statutory authority. The current access road serves a housing development and Roads have stated in their consultation response dated 26<sup>th</sup> February 2024 that the existing nature of the access road is to serve a residential development and this application will further mix commercial type traffic with residential traffic. A traffic assessment was submitted with the proposal, and it is stated that there will be an additional 36 vehicle movements per day.

#### **Other Considerations**

I have completed checks on the statutory map viewers, and I am content there are no ecological or built heritage issues at the application site.

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

Refuse is recommended

The proposal is recommended for refusal as it does not meet SETT 1 in the Dungannon and South Tyrone Area Plan 2010; PED 9 in PPS 4 and FLD 1 in PPS 15.

#### **Refusal Reasons**

##### **Reason 1**

Contrary to SETT 1 - Settlement Limits in the Dungannon and South Tyrone Area Plan 2010 in that the development if permitted does not respect the constraints of the site as the proposal is wholly located within a flood plain.

##### **Reason 2**

Contrary to PED 9 - General Criteria for Economic Development in PPS 4 Planning and Economic Development in that the development is located within a flood plain.

##### **Reason 3**

Contrary to FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 Planning and Flood Risk in that the development if permitted is not of overriding sub

regional economic importance.

**Reason 4**

Contrary to FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 Planning and Flood Risk in that it has not been demonstrated that the proposal requires a location within the flood plain and justification has not been provided of why possible alternative sites outside the flood plain are unsuitable.

**Signature(s):** Gillian Beattie

**Date:** 21 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	22 December 2023
<b>Date First Advertised</b>	8 January 2024
<b>Date Last Advertised</b>	8 January 2024
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner / Occupier 1 Aughnaree Manor Aughnacloy BT69 6BB The Owner / Occupier 3 Aughnaree Manor Aughnacloy BT69 6BB The Owner / Occupier 5 Aughnaree Manor Aughnacloy BT69 6BB The Owner / Occupier 7 Aughnaree Manor Aughnacloy BT69 6BB The Owner / Occupier 9 Aughnaree Manor Aughnacloy BT69 6BB The Owner / Occupier 11 Aughnaree Manor Aughnacloy BT69 6BB	
<b>Date of Last Neighbour Notification</b>	4 January 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
Ref: M/2001/0292/O Proposals: Proposed Housing Development Decision: PG Decision Date: 17-NOV-03  Ref: LA09/2020/0971/DC Proposals: Discharge of Condition No.10 of approval M/2008/1206/F Decision: AL Decision Date: 17-NOV-20  Ref: M/2005/1953/RM Proposals: Housing development: 34 no. semi-detached dwellings Decision: PG Decision Date: 29-OCT-07	

Ref: LA09/2019/0166/F

Proposals: Change of House Type as approved under M/2008/1206/F.

Decision: PG

Decision Date: 06-JUN-19

Ref: M/2008/1206/F

Proposals: Change of house type on 26 sites and pair of additional semi detached houses, including alteration of road layout.

Decision: PG

Decision Date: 22-JUL-09

Ref: M/2008/0088/F

Proposals: Amendment of previously approved road layout (M/2005/1953/RM) to increase road width.

Decision: PG

Decision Date: 15-JAN-09

Ref: M/1999/6013

Proposals: Proposed land for housing Land behind Moore Street Aughnacloy

Decision: PREA

Decision Date: 10-JUN-99

Ref: M/2001/0339/Q

Proposals: Housing Development

Decision:

Decision Date:

Ref: M/2002/1441/O

Proposals: Housing Development

Decision: PG

Decision Date: 28-APR-04

Ref: M/2010/0236/Q

Proposals: Housing Development

Decision: EOLI

Decision Date: 31-JAN-11

Ref: LA09/2023/1410/F

Proposals: Erection of light industrial unit to include ancillary storage, administration space, and staff facilities, and, associated car parking and landscaping

Decision:

Decision Date:

Ref: LA09/2023/0153/PAD

Proposals: Erection of light industrial unit, associated car parking and landscaping

Decision:  
Decision Date:

Ref: M/2000/0280/O  
Proposals: 7 no two storey detached dwellings  
Decision:  
Decision Date:

Ref: M/2005/0938/RM  
Proposals: Proposed housing scheme (15 two and two and a half storey terrace houses)  
Decision: PG  
Decision Date: 31-MAY-07

Ref: M/2001/0842  
Proposals: Housing Development  
Decision:  
Decision Date:

Ref: M/2002/1442/F  
Proposals: Erection of Industrial Units  
Decision: PG  
Decision Date: 05-FEB-04

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-26-02-2024.docx  
Environmental Health Mid Ulster Council-Planning response.pdf  
Rivers Agency-6615 -Final Response.pdf  
Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-

### **Drawing Numbers and Title**

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

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

Not Applicable



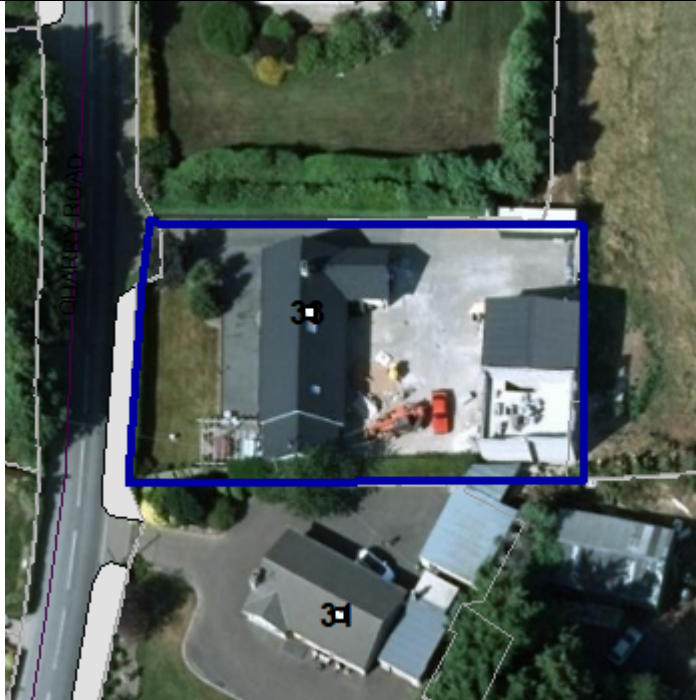


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.14
<b>Application ID:</b> LA09/2024/0086/F	<b>Target Date:</b> 9 May 2024
<b>Proposal:</b> Retrospective garage	<b>Location:</b> 33 Quarry Road Knockcloghrim BT45 8NS
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Michael O Boyle 33 Quarry Road Gulladuff Magherafelt BT45 8NS	<b>Agent Name and Address:</b> Mr Raymond McPeake 5 Ballylame Road Garvagh BT51 5PF
<b>Executive Summary:</b>  One objection received in relation to Land Ownership and the extension of domestic curtilage. An amended P2 form and an accompanying map with notice served on the relevant landowner fulfills the notification requirement under Section 42 (1) (c) of The Planning (Northern Ireland) Act 2011. This retrospective application is recommended for Approval.	

## 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	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The dwelling at 33 Quarry Road, Knockcloghrim is located in open countryside approximately 0.7 km South of Gulladuff and 1.2 km NNE of Knockcloghrim as defined within the Magherafelt Area Plan 2015. This detached bungalow has an existing detached double garage with an adjoining games room / store to the rear along its eastern boundary. The side curtilage to the north and rear curtilage of the dwelling is

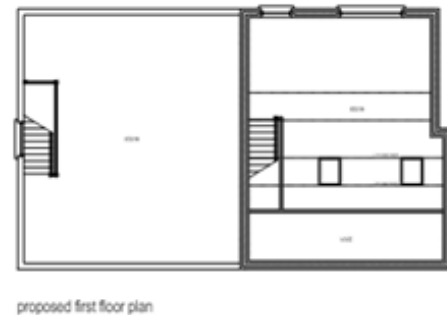
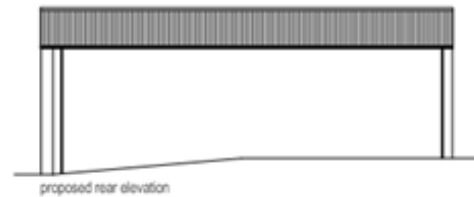
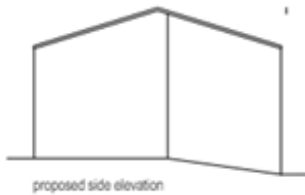
surfaced in concrete, with a grassed area in the front garden. The northern, southern, and western site boundaries contain a mix of trees, hedging, and shrubs with an agricultural field beyond the eastern site confines.

The surrounding area is characterised by detached bungalows along the road frontage on level plots. The wider area, despite being in open countryside has a decidedly urban feel, with significant areas of hard surfaced car parking to the east / south with office buildings, and an active quarry within a few hundred metres south of the existing dwelling.

### Description of Proposal

The applicant seeks retrospective planning permission for a domestic garage incorporating a games room on the ground floor with store above.

### Proposed elevations and floor plans Drawing 03:



### Planning Assessment of Policy and Other Material Considerations

## Policy Consideration

### Planning History.

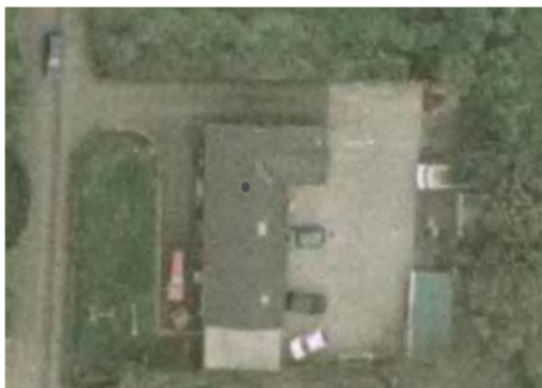
Planning Ref:	Site Address	Proposal	Decision	Decision Date
H/1980/0327	33 Quarry Road, Knockloughrim, Magherafelt	Extensions to bungalow	Permission Granted	Unknown
H/2000/0161/F	33 Quarry Road, Knockloughrim	Extension to dwelling	Permission Granted	12/04/00
LA09/2023/1289/LDE	33 Quarry Road Knockcloghrim BT45 8NS	Replacement domestic games room/store	Permission Refused	23/01/24

### Background information.

The applicant applied to extend the dwelling under H/2000/0161/F, however according to the block plan there were no buildings to the rear of the dwelling at that time. I have been unable to locate a planning application for the erection of the garage and it would appear to me that it was built without the grant of planning permission and was not Permitted Development as it exceeds 4 metres in height. Nevertheless, under Section 132 (1) of The Planning (Northern Ireland) Act 2011, the existing garage with double roller doors is immune from Enforcement Action due to passage of time. The orthophotography (below) shows that this was constructed sometime after 17<sup>th</sup> of September 2003 and before the 7<sup>th</sup> of May 2008. The below imagery further shows that the rear domestic curtilage was extended in an easterly direction within the same timeframe and is also immune from Enforcement action.

17/09/03

07/05/08



Following a site visit on the 11<sup>th</sup> of April 2024, the photograph below shows the existing double garage (immune from Enforcement action) and the adjoining retrospective

garage (games room) on the right-hand side.



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

The existing dwelling at 33 Quarry Road, Knockcloghrim is located in open countryside as defined within the Magherafelt Area Plan 2015.

### **SPPS – Strategic Planning Policy Statement.**

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 and 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 and must not have an adverse impact on the rural character of the areas and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

The SPPS directs readers to ‘retained planning policy’ and refers to the ‘Addendum to Planning Policy Statement 7 Residential Extensions and Alterations’.

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

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

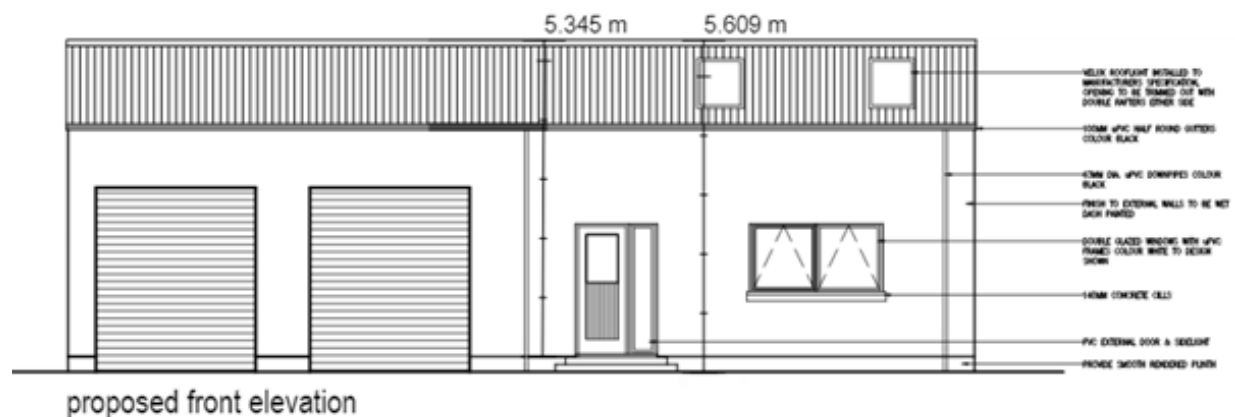
submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations.**

Policy EXT 1 of the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations, is the relevant policy consideration for this type of development proposal.

The requirements of Policy EXT 1 stipulate that planning permission will be granted for a proposal to extend or alter a residential property where all four criteria are met.

In terms of scale and massing, this proposal is 5.6m high, or 5.3m above finished floor level and adjoins an existing double garage, matching its height and width. The building is currently unfinished and when completed the finishes will match the existing double garage and will blend more sympathetically with the existing built form. The existing structure before being demolished measured 4.6m high and 4.43m above finished floor level, with a floor space of 57 m<sup>2</sup>. The new building is only marginally larger in terms of height with a similar floorspace (57m<sup>2</sup>) to what existed previously.



In consideration of the above information relating to scale, massing, design, and external finishes I am satisfied that the proposal is sympathetic to the existing built form and will not detract from the appearance or character of the surrounding area.

Four neighbours were notified about the proposal, and the neighbour immediately south at 31 Quarry Road has not raised any objection to the proposal. In addition, the ground floor window and door near the southern boundary face towards the rear of the applicants dwelling. There is a two-metre high leylandii hedge and mature trees along this boundary which assists in protecting the rear amenity space of 31 Quarry Road. The dwelling at 31 Quarry Road also has a number of outbuildings at the rear of their property, one of which is within a metre of the southern wall of this retrospective garage application (see below photograph).





The dwelling on the other side at 35 Quarry Road is sufficiently removed from this building and with a two-metre high double leylandii hedge along the common boundary between 33 and 35 Quarry Road I do not consider that the privacy or amenity of neighbouring residents will be unduly impacted by this proposal.

This retrospective proposal did not involve the loss of trees or other landscape features and the local environmental quality remains intact.

The existing domestic curtilage to the side and rear of the dwelling is expansive and finished in concrete with significant space for the parking and manoeuvring of vehicles. The proposal does not impact on the ability to undertake domestic and recreational activities and will remain as before.

### **Neighbour Notification.**

Four neighbours notified with one objection relating to an ownership challenge was received.

### **Objection received.**

On the 15<sup>th</sup> of February 2024 I received an objection from Mr Dermot Shaw, 37a Quarry Road, Knockloughrim. Mr Shaw objected on the basis that:

- Applicant is not in possession of all lands outlined in red as illustrated on the site location plan 01.
- The domestic curtilage has been extended into Mr Shaw's land to accommodate the siting of the retrospective garage.

In relation to the extension of the domestic curtilage to the rear of 33 Quarry Road, as previously described and evidenced with orthophotography, this occurred in excess of five years ago, and is therefore immune from Enforcement action as per Section 132 (1) of the Planning (Northern Ireland) Act 2011, which reads:

*Where there has been a breach of planning control consisting in the carrying out without*

*planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of 5 years beginning with the date on which the operations were substantially completed.*

I contacted the Agent via email on the 20<sup>th</sup> of February 2024 to provide clarification that the applicant is in control of all lands within the red line of the location map, by:

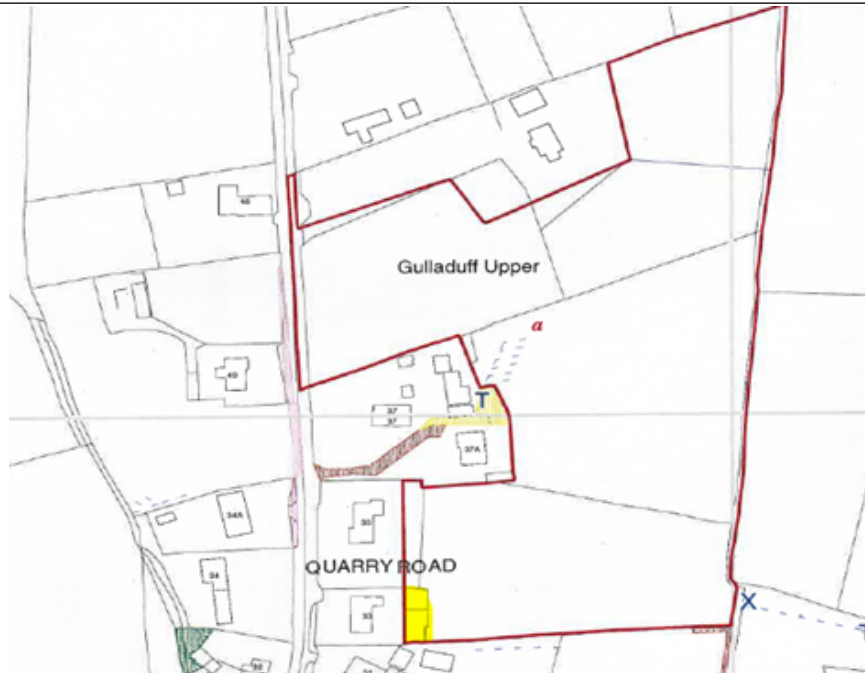
- Submitting documentary proof (for example Land Registry Folio documents) that the applicant is in control of all the land; or
- Submit evidence that notice has been served (Certificate C) on the relevant landowner(s).

Mr McPeake (Agent) responded on the 5<sup>th</sup> of March 2024 with a completed P2 form and accompanying map that referred to a small portion of land along the southeastern boundary indicating that Notice had been served on Mr Dermot Shaw (Landowner) dated 5<sup>th</sup> March 2024.

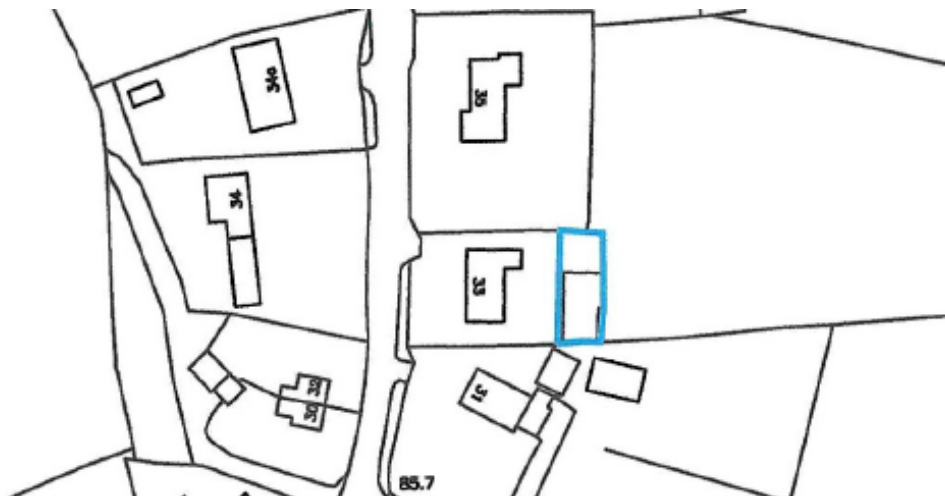
On the 11<sup>th</sup> of March 2024 I notified Mr Shaw via letter in relation to the amended documents outlined above. Mr Shaw responded on the 22<sup>nd</sup> of March taking issue with the amended P2 Form and map, stating that they were incorrect. Mr Shaw provided orthophotography and a map showing the extent of Land Registry folios.

Following discussions at an internal Group meeting it was agreed that I would undertake a Land Registry search to determine the extent of the land owned by Mr Shaw to the rear of 33 Quarry Road. Mr Shaw provided a folio reference LY18624 for his property. I purchased a copy of the folio and map associated with LY18624 from Land Registry which does indicate that a portion of the application site along the eastern boundary is indeed under the ownership of Mr Aiden Dermot Shaw. The land outlined in red shows the extent of Mr Shaw's' land, and the area shaded in yellow shows the portion which overlaps this planning application.





The Agent, having sight of Mr Shaw’s second objection, provided an updated P2 form and accompanying map indicating that notice had again been served on Mr Shaw on the 16<sup>th</sup> of April. The map that accompanied the P2 form included an increased blue shaded area (below) which appears to be an accurate reflection of the lands under Mr Shaw’s control, as indicated within folio LY18624.



Upon receipt of this additional information, I notified Mr Shaw by letter on the 18<sup>th</sup> of April 2024 advising that an amended P2 form and map had been received. I am contented that requirements relating to ‘notification’ specified within Section 42 (1) (c) of The Planning (Northern Ireland) Act 2011 has been complied with. At the time of writing this report on the 17<sup>th</sup> of May 2024, no further comment has been received from Mr Shaw.

**CTY 13 Integration.**

The dwelling is located in open countryside, situated approximately 0.8 km south of the small settlement of Gulladuff as defined within the MAP 2015.

In terms of any visual impact, the retrospective garage cannot be viewed from the public road network and therefore cannot be described as a prominent feature. The retrospective garage is located to the rear of an existing dwelling, with existing vegetation and built form restricting views of the building.

**CTY 14 – Rural character.**

Despite being defined as open countryside, the surrounding land is built up, consisting of dwellings, garages, outbuildings, car parks, hardstanding, industrial / business premises (F P McCann offices). It is my assessment that given the current built form of the area, this retrospective rear garage will not be prominent, respects the current pattern of settlement and will not cause damage to or erode the rural character of this substantially built-up rural location.

**Other material planning considerations:**

The site is not impacted by any Listed Buildings or Listed Structures.

I have no concerns of any detrimental impacts on environmental or ecological features.

The site is elevated and is not impacted by any fluvial flooding or surface water flooding.

**Recommendation:**

Having carried out an appropriate assessment of this development proposal against prevailing planning policy and other material planning considerations, I am content that the proposal satisfies all criteria (a-d) contained within Policy EXT 1 of the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations. I therefore recommend this application be Approved.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

Reason: Retrospective application.

**Signature(s):** Ruairi OKane

**Date:** 17 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	25 January 2024
<b>Date First Advertised</b>	6 February 2024
<b>Date Last Advertised</b>	6 February 2024
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  31 Quarry Road Knockcloghrim Londonderry BT45 8NS  The Owner / Occupier  32 Quarry Road Knockcloghrim Londonderry BT45 8NS  The Owner / Occupier  34 Quarry Road Knockcloghrim Londonderry BT45 8NS  The Owner / Occupier  35 Quarry Road Knockcloghrim Londonderry BT45 8NS</p>	
<b>Date of Last Neighbour Notification</b>	18 April 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2011/0330/F  Proposals: Storey and a half dwelling and garage  Decision: PG  Decision Date: 11-JAN-12</p> <p>Ref: H/1993/0272  Proposals: DWELLING WITH GARAGE  Decision: PG  Decision Date:</p> <p>Ref: H/2000/0161/F  Proposals: Extension to dwelling  Decision: PG  Decision Date: 14-APR-00</p> <p>Ref: H/1980/0327</p>	

Proposals: EXTENSIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2024/0086/F

Proposals: Retrospective garage

Decision:

Decision Date:

Ref: LA09/2023/1289/LDE

Proposals: Replacement domestic games room/store

Decision: PR

Decision Date: 23-JAN-24

### **Summary of Consultee Responses**

-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Existing Site Survey Plan Ref: 04

Existing Plans Plan Ref: 05

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.15
<b>Application ID:</b> LA09/2024/0174/O	<b>Target Date:</b> 27 May 2024
<b>Proposal:</b> Proposed dwelling and domestic garage (renewal of LA09/2020/0153/O)	<b>Location:</b> Adjacent and North East of Junction With Mullaghmoyle Road On Colliers Lane Coalisland
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Marianne Sturtridge 68 Hermitage Road Plymouth PL3 4RY	<b>Agent Name and Address:</b> McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>  Application is being presented to Committee as one no. objection has been received	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist.doc
Non Statutory Consultee	Geological Survey NI (DfE)	3702. CCG Planning. Adjacent and North East of Junction With Mullaghmoyle Road On Colliers Lane Coalisland.pdf
Non Statutory Consultee	NI Water - Single Units West	LA09-2024-0174-O.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2024.0174.O.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Outline & RS1 form.DOCX
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	

Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Non Consultee	Statutory	Environmental Health Mid Ulster Council	

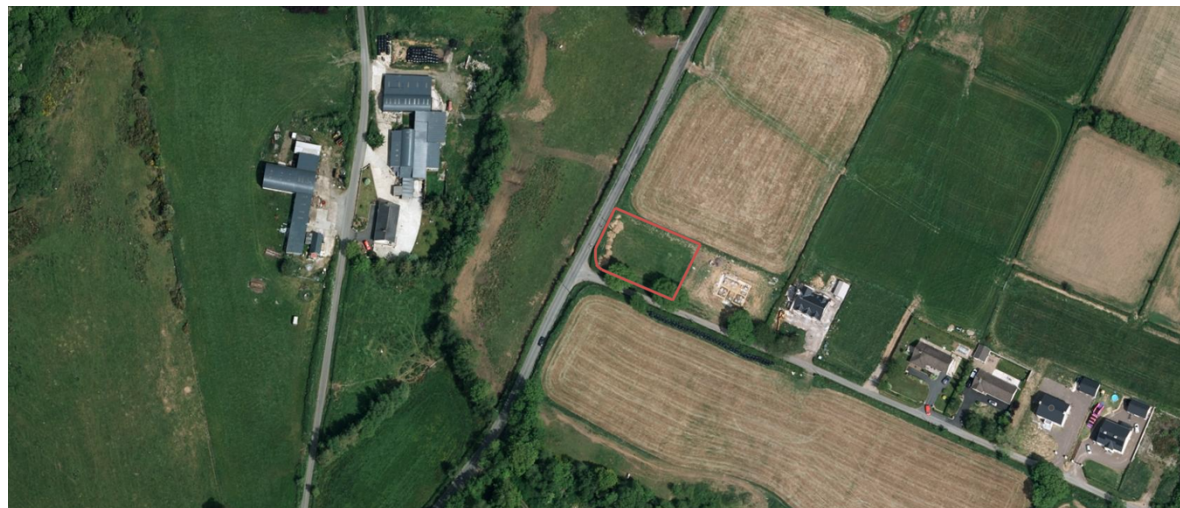
**Representations:**

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**

One no. objection received with concerns over where water will be discharged from the site and why they were not notified of the proposal.

**Characteristics of the Site and Area**



The site is located at the junction of Colliers Lane and the Mullaghmoyle Road and is located on Phase 2 Housing Land within the development limits of Coalisland as defined within the Dungannon and South Tyrone Area Plan 2010. The site outlined in red comprises a roadside rectangular plot of land with boundaries to both public roads. The eastern boundary of the site is undefined with the northern, southern and western boundaries defined by established hedging. There is a newly constructed 2 storey dwelling immediately adjacent and to the east of the site. The surrounding character is rural, however there is a medium degree of development pressure in the immediate surrounding context with a number of dwellings to the east of the site along Colliers Lane.



## **Description of Proposal**

The proposal is an outline application for renewal of planning permission LA09/2020/0153/O, granted on 12<sup>th</sup> April 2021. This application was received on 9<sup>th</sup> February 2024 and is therefore an in time renewal. The application has been made under Article 3 (5) of the Planning (General Development Procedure) Order (NI) 2015 to renew planning permission where existing approval has not yet expired [Schedule 1, Part 1 General Provisions, Paragraph 3].

## **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 histories**

Ref: LA09/2020/0153/O

Proposals: Proposed Dwelling & Domestic Garage

Decision: PG

Decision Date: 14-APR-21

### **Representations**

One (1) neighbouring property was identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. One letter of objection has been received, with concerns over where water will be discharged from the site and why they were not notified of the proposal. I spoke with the objector and explained that this is outline planning permission, and details of discharge points will be shown in any RM or Full application. I further advised that a consent to discharge sewage effluent must be obtained from NIEA Water Management Unit to ensure an effective means of sewage disposal is provided. I explained that they were not neighbour notified as they are not within a 90m radius from the site boundary. The objector was content with this explanation.

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

The application is located on Phase 2 Housing Land within the development limits of Coalisland. The Area Plan states Phase 2 Housing Land in Coalisland would not be released for development prior to a housing land review in 2005 and in the interim planning permission will only be granted on Phase 2 land for single dwellings that are in

accordance with Green Belt policies. The housing review that took place in 2005 indicated that there was sufficient land within Phase 1 to accommodate future housing needs for Coalisland, without the release of Phase 2 land. As such proposals on land zoned for Phase 2 Housing Land in Coalisland are to be assessed under the rigours of Green Belt Policies. Green Belt policies have now been superseded by the provisions of PPS21 Sustainable Development in the Countryside, therefore this proposal will be assessed under PPS21.

### **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.

### **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 28<sup>th</sup> 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 Colliers Lane. 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 as per the RS1 form.

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

The application is an in time renewal, for outline planning permission with no discernible changes to the site since the granting of the original planning permission. It was decided under LA09/2020/0153/O that a dwelling here would not prejudice any of the 8 key site requirements of HOU1, and a dwelling here was considered acceptable as an exception to PPS21 by the Planning Committee. It was determined that a dwelling here at the road junction with limited vegetation to separate it from the string of 8 houses beside it would have little impact on the area. The public road effectively bookends the site and the

established line of built development here, and planning permission was granted.

### **Other Considerations**

NI Water have advised they have no concerns as a septic tank is proposed which will require a separate consent from WMU in NIEA.

Environmental Health Department (EHD) have noted the comments made in the letter of objection and have assessed the site and recommended comments that should be brought to the attention of the applicant with regard to the septic tank, radon and construction noise. I am content that the conditions applied on the original planning permission LA09/2020/0153/O will be carried through on this permission and address any concerns raised.

Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines, and they reviewed the planning proposal in view of stability issues relating to abandoned mine workings. A search of the Geological Survey of Northern Ireland “Shafts and Adits Database” indicates that the proposed site is located on lands within 100m from a number of recorded abandoned mine workings. GSNI advised that to assess any potential risk to the proposed development, further information should be supplied in the form of a Mine Risk Assessment (MRA).

I contacted GSNI directly as an MRA was not requested under LA09/2020/0153/O. They explained that GSNI updated its guidance for developing within areas of abandoned mines in 2021 and this including an updated screening layer to identify areas where a mine risk assessment should be carried out as part of the application process. Through consultation with DETI during the processing of LA09/2020/0153/O A search of the GSNI “Shafts and Adits Database” indicated that the proposed site did not have any known abandoned mines workings on the site, and the location had no known underlying mine activity. GSNI have indicated that it was on the margins and therefore low risk. I am satisfied that as this is an intime renewal and it has previously been determined that the site is low risk that a Mine Rosk Assessment is not required for this application.

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.

In addition to checks on the planning portal, 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 and I have no ecological or residential amenity concerns. From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map I have no flooding concerns.

As there has not been a change to policy in the intervening years, the proposal is still considered acceptable. This in-time renewal can be approved, subject to the same conditions as before.

**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.

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

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

3. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 45m and a 45m forward sight line, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. A detailed scheme of structured landscaping along all the new boundaries of the site identified in red on drawing no 01 date received 9th February 2024, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

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

Reason: To ensure the dwelling integrates into the landform.

6. Prior to the commencement of any development hereby approved the developer shall provide Council with a copy of a Consent to Discharge Sewage Effluent obtained from Water Management unit, The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999. This shall include a legal agreement in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for maintenance/improvement works as required.

Reason: To prevent pollution.

7. Any new or existing septic tank unit shall be kept a minimum of 15 metres from the proposed development or any other habitable dwelling/building such as an office or such dwelling/building in the course of construction or the subject of a planning approval.

Reason: In the interests of amenity.

8. The proposed development shall be sited so as not to compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of a planning approval.

Reason: To prevent pollution.

**Signature(s):** Deirdre Laverty

**Date:** 22 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	12 February 2024
<b>Date First Advertised</b>	27 February 2024
<b>Date Last Advertised</b>	27 February 2024
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 33 Colliers Lane Mousetown Coalisland BT71 4GP</p>	
<b>Date of Last Neighbour Notification</b>	14 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2024/0174/O Proposals: Proposed dwelling and domestic garage (renewal of LA09/2020/0153/O) Decision: Decision Date:</p>	
<p>Ref: M/1984/0362 Proposals: REPLACEMENT BUNGALOW Decision: PG Decision Date:</p>	
<p>Ref: M/1987/0425 Proposals: REPLACEMENT BUNGALOW Decision: PG Decision Date:</p>	
<p>Ref: M/1990/0359 Proposals: Replacement Dwelling (Renewal of Permission) Decision: PG Decision Date:</p>	
<p>Ref: M/2009/0280/F Proposals: Proposed dwelling to increase site area &amp; siting from previous planning</p>	

application M/2007/0482/RM

Decision: PG

Decision Date: 14-MAY-09

Ref: LA09/2020/0153/O

Proposals: Proposed Dwelling & Domestic Garage

Decision: PG

Decision Date: 14-APR-21

Ref: M/1977/0023

Proposals: 11KV O/H LINE

Decision: PG

Decision Date:

Ref: LA09/2022/1234/F

Proposals: Proposed Domestic Garage

Decision:

Decision Date:

### Summary of Consultee Responses

DFI Roads - Enniskillen Office-DC Checklist.doc

Geological Survey NI (DfE)-3702. CCG Planning. Adjacent and North East of Junction With Mullaghmoyle Road On Colliers Lane Coalisland.pdf

NI Water - Single Units West-LA09-2024-0174-O.pdf

Environmental Health Mid Ulster Council-LA09.2024.0174.O.pdf

DFI Roads - Enniskillen Office-Roads Outline & RS1 form.DOCX

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-

### Drawing Numbers and Title

Site Location Plan Plan Ref: 01

### Notification to Department (if relevant)

Not Applicable







## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2024/0177/O	<b>Target Date:</b> 27 May 2024
<b>Proposal:</b> Proposed dwelling and garage in an existing cluster with access onto Curr Road	<b>Location:</b> Land adjacent to 33 Moneymore Road Desertmartin BT45 5LL
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Thomas and Brigid McGuigan 33 Moneymore Road Desertmartin Magherafelt BT45 5LL	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>  Application recommended for Refusal, considered contrary to CTY 1, CTY 2a and CTY 14	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2024 0177 O Dwelling Moneymore Road, Desertmartin.doc
	NI Water - Single Units West	LA09-2024-0177-O.pdf
	DFI Roads - Enniskillen Office	Outline resp.docx
	Environmental Health Mid Ulster Council	LA09 2024 0177 O Dwelling Moneymore Road, Desertmartin.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 application site is located in open countryside approximately 620 metres south of Desertmartin as defined within the Magherafelt Area Plan 2015. The site is accessed from the Curr Road which adjoins the A29 south of Desertmartin. The site is unusually large for a single dwelling measuring 1.5 hectares, with a gentle rise from east to west and north to south and resembles a trapezium in shape. All site boundaries comprise of Hawthorne hedging and there are a small number of trees mixed with the hedge along the southern site boundary. There is a slight dip in the landform two thirds of the way towards the western boundary when viewed from the eastern boundary along the A29 Moneymore Road. This depression contains hedging interspersed with a few semi-mature trees and flows in an NNW to SSE linear direction.

In terms of the existing built form, there are a number of detached single dwellings bordering the application site, for example adjacent to and west of the northwestern and southwestern boundaries, and beyond the southern boundary, with a commercial business that has repurposed farm outbuildings southwest of the site.

## **Description of Proposal**

Proposed dwelling and garage in an existing cluster with access onto Curr Road.

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

### **Policy Consideration**

#### **SPPS – Strategic Planning Policy Statement.**

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 and 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 and must not have an adverse impact on the rural character of the areas and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

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

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

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

### **Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside.**

PPS 21 outlines planning policies for development in the countryside, i.e. land that is outside of the settlement limits as defined within the respective Development Plans. Policy CTY 1 of PPS 21, states that all development proposals within the countryside must be sited and designed to integrate sympathetically with their surroundings.

The regional strategic policy within the SPPS is a lesser test than the current operational Policy CTY 2a in that it does not state that the proposed site should be bounded on at least two sides with other development in the cluster. However, at paragraph 1.12, the text states, “*where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies this should not be judged to lessen the weight to be afforded to the retained policy*”. In accordance with the SPPS’s transitional arrangements, retained policy applies.

This application requires assessment against Policy CTY 2a New dwellings in Existing Clusters of PPS 21 and must meet all six criteria specified therein.

- 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 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.

Following internal Group discussion, a site visit on the 11<sup>th</sup> of April 2024 and having studied current orthophotography for this locus I am not persuaded that this site represents an ‘existing cluster of development’. I concede that there is no justification or amplification text in Policy CTY 2a to define what can constitute a cluster of development. However, it appears that the rationale behind including such a large site area was to assist the application in attempting to satisfy the six criteria outlined within Policy CTY 2a.

On approach to the site from the south, heading north along the A29 towards Desertmartin there is nothing to suggest that the chosen site will be located within an existing cluster of development. Just before the application site on the left-hand side of the road there are two existing dwellings at 29 & 31 Moneymore Road with a mechanical services depot to the rear. There is then a portion of agricultural land (blue arrows below) with approximately 27 metres of road frontage which extends west for 70 metres and

reads as a visual break regarding the surrounding development. Adjacent to and north of this land are two access points (yellow arrow below), one that serves the mechanical services business to the rear of 29 & 31 Moneymore Road, and a separate domestic access that serves the dwelling at 33 Moneymore Road. The application site sits slightly below the level of those dwellings and access points and is identified with red arrows below beyond the fence.



Similarly, driving south from Desertmartin the application site is on the right-hand side and starts where the Curr Road branches off west from the A29 (beyond the hedge in foreground) and again does not give a sense of being an existing cluster of development. For example, the two-storey roof of 31 and single storey roof of 29 Moneymore Road can just about be made out through the trees (see blue arrow below). Likewise, the roof identifying the commercial business to the rear of both dwellings marginally protrudes above the existing treeline (see green arrow below). The purple arrow identifies the applicants address at 33 Moneymore Road, the yellow arrows pinpoints 18 Curr Road, and 19 Curr Road with farm outbuildings is distinguished by an orange arrow.



The Group consensus is that the buildings relied upon are considered separate entities within the landscape and do not comprise of the four qualifying buildings required by the policy. For example, 29, 31 and the commercial business to the rear are visually distinct from 33 Moneymore Road, by virtue of the 120-metre set back position from the public road, intervening agricultural land with road frontage, two access points onto the A29

and a row of mature trees that segregate the commercial and domestic entrances adjacent to the southern site boundary. In addition, another visual break in development exists between 33 Moneymore Road and 18 Curr Road, for example there is a large garden at 33 that extends north and abuts an area of agricultural lands measuring approximately 33 metres before adjoining the dwelling and domestic curtilage of 18 Curr Road. The photo below was taken during my site visit on the 11<sup>th</sup> of April 2024 along the Curr Road, with 33 Moneymore Road on the left and 18 Curr Road on the right.



This physical separation results in a minimal visual relationship between these dwellings and does not appear as a visual entity within the local landscape or give the impression that these buildings are within an existing cluster of development and as such fails to meet the first two criterion of Policy CTY 2a.

Policy CTY 2a requires that the cluster is associated with a focal point and in the absence of a social / community building / facility in the vicinity it must be assumed that the applicant is relying upon the cluster being located at the cross-roads where the Curr Road intersects the A29 beyond the northern site boundary. Subsequent discussions at an internal Group meeting considered this criterion. Firstly, there is no existing cluster of development. Secondly, had Group consensus concluded that the buildings south and west of the site did constitute a cluster, then they are too far removed from the focal point, namely the cross-roads. The separation distances range from 170 metres at 19 Curr road to 250 metres at 29 Moneymore Road from the cross-roads (see below map), therefore contrary to the third criterion.





The fourth criterion states that ‘the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster’. This 1.5-hectare site provides a degree of enclosure (dependant on siting) with the majority of the site boundary being framed by hedging at 1-2 metres in height, and mature trees along a portion of its southern boundary. However, due to the size of the site it would be very difficult to site a dwelling within the field whilst still complying with other CTY 2a criteria. For example, if the dwelling was sited adjacent to the cross-roads within the northern portion of the site, then it would not be bounded by any other development within the ‘cluster’ (setting aside the fact that there is no existing cluster). Moreover, the only vegetation at that point is hedging and would be reliant on additional planting along two of its boundaries to aid integration, otherwise would likely be a prominent roadside site.

To give a further example, (notwithstanding the absence of an existing cluster), if sited in the southern corner, adjacent to and east of 33 Moneymore Road, whilst the site would be suitably enclosed by trees and hedging, it would then fall foul of being significantly removed from the focal point, namely the cross-roads, and would not be bounded by other buildings on its southern boundary. Accordingly, the proposal must fail against criterion four.

The fifth criterion of Policy CTY 2a reads ‘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’. In the first instance, internal Group deliberations do not consider there is an existing cluster of development at this locus and consequently this proposal fails at the first element of this criterion. In addition, even if there was an existing cluster at a focal point, siting would be difficult given the physical and visual separation from the existing buildings in the area and would not represent a ‘rounding off’ or ‘consolidation’ opportunity. Furthermore, the size of the site would far exceed that of existing dwellings in the area in terms of the domestic curtilage and granting permission for a dwelling and garage within this field would alter the rural character and visually intrude into open countryside. In any case, there is no

existing cluster to absorb the development within, and for that reason this proposal is contrary to criterion five of CTY 2a.

Lastly, criterion six refers states ‘development would not adversely impact on residential amenity’. Ignoring the fact that this site doesn’t comply with the previous five criteria, in theory a dwelling and garage could be sited within this field without impacting on the privacy and amenity of neighbouring residents, providing it complied with at least one of the other development opportunities outlined within PPS 21 Sustainable Development in the Countryside.

For the reasons outlined above, the proposal fails to comply with Policy CTY 2a of PPS 21.

### **CTY 14 – Rural Character.**

Policy CTY14 of PPS 21 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 new building will be unacceptable where any of five criteria are offended.

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

The prevailing pattern of development is of detached dwellings on plots of varying sizes, ranging from 53 – 70 metres in length and widths from 33 – 68 metres with a mix of boundary treatments. The dwellings are in small groups, visually segregated by agricultural fields, existing vegetation, access points and ancillary buildings whereas the proposal would be sited on its own within a larger field. The application site is significantly larger than the curtilage associated with the existing pattern of settlement, for example, the southern boundary is 90m; the western boundary 120m; the northern boundary 140m and the eastern boundary 130 metres. There is no development to the north on the Curr Road, and no development to the east across the A29. The proposal would therefore result in an isolated form of development that would not respect the traditional pattern of settlement in the area. For this reason, the proposal does not comply with Policy CTY14.

### **CTY 1 Development in the Countryside.**

The proposal does not comply with Policy CTY2a and Policy CTY14 of PPS21. It is not one of the types of development which, in principle, are considered to be acceptable in the countryside. Policy CTY1 goes on to say that “other types of development will only be permitted where that there are overriding reasons why that development is essential and could not be located in a settlement”. It has not been demonstrated that that there



are overriding reasons why the development is essential and could not be located in a settlement.

**Other material considerations:**

The site is not impacted by any Listed Buildings or Listed Structures.

The site is not impacted by any fluvial flooding, nor has any evidence of surface water flooding come to light.

I have no concerns of any detrimental impacts on environmental or ecological features.

**Recommendation:**

Having carried out an appropriate assessment of this development proposal against prevailing planning policy and other material planning considerations, the Group consensus is that the proposal is contrary to CTY 1, CTY 2a and CTY 14, and I therefore recommend this application be Refused.

**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 location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, in that the proposed dwelling is not located with an existing cluster of development consisting of 4 or more buildings of which at least three are dwellings; and, the proposed site is not bounded on at least two sides with other development in the cluster; the cluster does not appear as a visual entity in the local landscape; the cluster is not associated with a focal point such as a social/community building/facility or is located at a cross-roads; the site cannot be absorbed into the existing cluster through rounding off and consolidation and will significantly alter its existing character through visual intrusion into the open countryside.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s):** Ruairi OKane

**Date:** 23 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	12 February 2024
<b>Date First Advertised</b>	27 February 2024
<b>Date Last Advertised</b>	27 February 2024
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  10 Curr Road Desertmartin Londonderry BT45 5LU  The Owner / Occupier  18 Curr Road Desertmartin Londonderry BT45 5LX  The Owner / Occupier  19 Curr Road Desertmartin Londonderry BT45 5LX  The Owner / Occupier  26 Moneymore Road Desertmartin Londonderry BT45 5LL  The Owner / Occupier  29 Moneymore Road Desertmartin Londonderry BT45 5LL</p>	
<b>Date of Last Neighbour Notification</b>	14 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/1989/0331  Proposals: ALTS AND ADDS TO BUNGALOW  Decision: PG  Decision Date:</p> <p>Ref: H/1995/0556  Proposals: REPLACEMENT BUNGALOW  Decision: PG  Decision Date:</p> <p>Ref: H/1991/0339  Proposals: ALTS AND ADDS TO BUNGALOW  Decision: PG  Decision Date:</p> <p>Ref: LA09/2024/0177/O</p>	

Proposals: Proposed dwelling and garage in an existing cluster with access onto Curr Road

Decision:

Decision Date:

Ref: H/2004/0267/O

Proposals: Site of two storey dwelling and garage.

Decision:

Decision Date:

Ref: H/2002/0989/O

Proposals: Site of Dwelling & Garage

Decision:

Decision Date:

Ref: H/2005/0866/F

Proposals: Change of use from Agricultural shed to commercial property for charitable facilities.

Decision:

Decision Date:

Ref: H/1999/0919/O

Proposals: Site Of Dwelling and Garage

Decision: PR

Decision Date: 29-MAR-01

Ref: H/1998/0247

Proposals: EXTENSION TO DWELLING AND NEW GARAGE AND STORE

Decision: PG

Decision Date:

Ref: H/1993/0081

Proposals: SITE OF REPLACEMENT BUNGALOW

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

Environmental Health Mid Ulster Council-LA09 2024 0177 O Dwelling Moneymore Road, Desertmartin.doc

NI Water - Single Units West-LA09-2024-0177-O.pdf

DFI Roads - Enniskillen Office-Outline resp.docx

Environmental Health Mid Ulster Council-LA09 2024 0177 O Dwelling Moneymore Road, Desertmartin.doc

**Drawing Numbers and Title**

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2024/0184/O	<b>Target Date:</b> 29 May 2024
<b>Proposal:</b> Renewal of planning approval LA09/2020/0795/O - (Erection of dwelling and domestic garage in a gap site under CTY8 of PPS21)	<b>Location:</b> Land between 37 and 43 Tulnavern Road Ballygawley
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Noel Stinson 43 Tulnavern Road Ballygawley	<b>Agent Name and Address:</b> Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b>  This in time application for renewal of planning permission is being presented to Committee for consideration as one letter of objection has been received citing concerns with levels of the dwelling, disturbance to the foundations of their shed, run off of water, clarification of boundaries and the effect on hares in the area.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	24 0184 O Cover sheet.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area



There does not appear to be any significant changes on site or in the immediate vicinity from the previous application on site. The characteristics of the original site and area remain as per LA09/2020/0795/O, with the addition of a new dwelling to the other side of the public road and to the west of the site.

The red outline of the site comprises a roadside agricultural field, which is overgrown at present. The boundaries are defined by mature hedging vegetation with intermittent trees. A single storey dwelling lies to the north of the site with a shed and single storey dwelling to the south. The surrounding context appears rural and is characterised predominantly by agricultural fields and single dwellings with associated outbuildings.

### **Description of Proposal**

The proposal is an outline application for renewal of planning permission LA09/2020/0795/O, granted on 02-Mar-2021. This application was received on 12-Feb-2024 and is therefore an in time renewal. The application has been made under Article 3 (5) of the Planning (General Development Procedure) Order (NI) 2015 to renew planning permission where existing approval has not yet expired [Schedule 1, Part 1 General Provisions, Paragraph 3].

### **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 histories**

Ref: LA09/2020/0795/O

Proposals: Erection of dwelling and domestic garage in a gap site under CTY8 of PPS21

Decision: PG

Decision Date: 02-MAR-21

### **Representations**

Three (3) neighbouring properties were identified to be notified - two from an initial desktop check and one following site inspection, and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, one letter of objection has been received citing concerns with levels of the dwelling, disturbance to the foundations of their shed, run off of water, clarification of boundaries and the effect on hares in the area. I do not consider water runoff should be a concern given the fact the site lies at a lower level than the property to the south. Additionally, drainage issues were raised under LA09/2020/0795/O and conditions to alleviate these concerns have been placed on the OPP and shall also be conditioned under this application. The issues raised about levels, location of development relative to the shed, and drains for water drainage can all be dealt with at RM stage. The boundaries of the site are clearly defined by the red line boundary of the site as shown on the submitted site location map Drawing 01 date received 14 Feb 2024. The proposed development of a single dwelling and garage in the rural countryside on an area of rough grassland is unlikely to have an adverse impact on hares, who have limited protection under domestic legislation in Northern Ireland (classified as a game or quarry species any may be hunted under licence during the open season). I am satisfied the other concerns raised can be dealt with under any RM application.

### **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.

### **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, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration 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 28<sup>th</sup> 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 public road. DFI Roads were consulted and are content provided a scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

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

The application is an in time renewal, for outline planning permission with no discernible changes to the site. PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS21 lists development proposals that are considered to be acceptable forms of development in the countryside, including the development of a small gap site subject to policy criteria within CTY 8 – Ribbon Development being met.

Policy CTY 8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It has been determined under LA09/2020/0795/O that the gap between the existing

dwelling to the south and north of this site is sufficient only to accommodate a maximum of two dwellings, and that a dwelling on this proposed site would represent an acceptable infill opportunity that respects the adjacent plot sizes. The dwelling to the south also has an existing outbuilding located to the side of the dwelling which I consider has a frontage to the road therefore making a line of 3 buildings. As this is an in time renewal the principle of development has already been established, and the application still complies fully with CTY 8.

The application must still comply under CTY 13 and 14, in which the dwelling should be of an appropriate design and be able to visually integrate into the landscape whilst not causing any detrimental change to, or further erode the rural character. I note that this is a renewal therefore I conclude that it has already been agreed that an appropriately designed dwelling will not be prominent and would be able to visually integrate complying under CTY 13. A dwelling in this location will not cause any detrimental change to the character of the area and thus complies with CTY 14.

### **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.

In addition to checks on the planning portal, 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 and I have no ecological or residential amenity concerns. From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map I have no flooding concerns. As the proposal meets CTY 8, 13 and 14 of PPS 21 it is considered acceptable and I recommend approval.

As there has not been a change to policy in the intervening years, the proposal is still considered acceptable. This in-time renewal can be approved, subject to the same conditions as before.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

#### Condition 2

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

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

#### Condition 3

Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.0m x 60m and a 60m forward sight line, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 4

The dwelling hereby permitted shall have a ridge height not exceeding 6 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

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

#### Condition 5

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

#### Condition 6

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

Reason: To ensure the dwelling integrates into the landform.

#### Condition 7

The existing natural screenings of this site shall be retained unless necessary to prevent

danger to the public in which case a full explanation shall be submitted to Mid Ulster District Council in writing, and agreed, 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 8**

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

Reason: To ensure a practical solution to sewage disposal is possible at this site.

**Condition 9**

The building shall be provided with such sanitary pipework, foul drainage and rain-water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain-water separately from that building. The drainage system should also be designed to minimise the risk of wrongly connecting the sewage system to the rain-water drainage system, once the building is occupied.

Reason: In order to decrease the risk of the incorrect diversion of sewage to drains carrying rain/surface water to a waterway.

**Signature(s):** Deirdre Laverty

**Date:** 14 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	14 February 2024
<b>Date First Advertised</b>	26 February 2024
<b>Date Last Advertised</b>	26 February 2024
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 38 Tulnavern Road Ballygawley BT70 2HJ The Owner / Occupier 37 Tulnavern Road Ballygawley BT70 2HJ The Owner / Occupier 43 Tulnavern Road Ballygawley BT70 2HJ	
<b>Date of Last Neighbour Notification</b>	27 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2010/0486/F  Proposals: Amendment to previous approval M/2009/0082/RM to include a new house type and domestic garage  Decision: PG  Decision Date: 11-AUG-10</p> <p>Ref: LA09/2019/0979/O  Proposals: Proposed dwelling and Garage on a farm.  Decision: PG  Decision Date: 15-NOV-19</p> <p>Ref: LA09/2021/0605/O  Proposals: Erection of dwelling &amp; domestic garage in a gap site under CTY 8 of PPS 21  Decision: PG  Decision Date: 07-JUN-21</p> <p>Ref: LA09/2024/0184/O  Proposals: Renewal of planning approval LA09/2020/0795/O - (Erection of dwelling and domestic garage in a gap site under CTY8 of PPS21)  Decision:</p>	

Decision Date:

Ref: M/2002/0317/F

Proposals: Removal of condition 06 to related outline approval ref. no. M/2000/1066/O from 120M squared of floor area to 135M squared floor area

Decision: PG

Decision Date: 30-MAY-02

Ref: LA09/2020/0795/O

Proposals: Erection of dwelling and domestic garage in a gap site under CTY8 of PPS2

Decision: PG

Decision Date: 02-MAR-21

Ref: M/2000/1066/O

Proposals: Site for bungalow

Decision: PG

Decision Date: 27-MAR-01

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-24 0184 O Cover sheet.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	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2024/0190/O	<b>Target Date:</b> 30 May 2024
<b>Proposal:</b> Proposed dwelling under Policy CTY 8 of PPS21	<b>Location:</b> Site adjacent to and Immediately, South, South East of No.60 Kilnaslee Road, Kilmore, Galbally
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Michael Cummings 60 Kilnaslee Road Kilmore Galbally Donaghmore BT70 2UG	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>  The proposal is before Committee as it is recommended for refusal as it is considered to be contrary to Policy CTY1, CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap site in a substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along this stretch of the Kilnaslee Road.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	24 0190 O Cover sheet.docx

### Representations:

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

### Summary of Issues

The application is being presented to Committee as it is contrary to CTY1, CTY8 and CTY14 of PPS 21

### Characteristics of the Site and Area



The site is located adjacent to and east of No. 60 Kilnaslee Road, outwith any development limits as identified in the Dungannon and South Tyrone Area Plan 2010 and approximately 3.8km north-west of Donaghmore. The site outlined in red is irregular in shape, with the north-eastern (roadside) boundary defined by a wooden fence. A post and wire fence defines the northern, western and south-western boundaries. Trees and vegetation define the south-eastern boundary. The northern and eastern boundaries run along the curtilage of No. 60 and there is a wooden fence and intermittent trees along this boundary on No. 60's side of the red line. The site falls away from the public road in an easterly direction.

A two storey dwelling abuts the site to the west (No. 60) with a two storey dwelling currently under construction adjacent to, and to the south-east of the site.

### **Description of Proposal**

Outline application for proposed dwelling under Policy CTY 8 of PPS21

### **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 Histories**

(Histories partially on this site but relating to No. 60 and No.58)

Ref: M/2001/0965/O

Proposals: Site for 1 No Dwelling House

Decision: PG

Decision Date: 24-OCT-01

Ref: M/2003/1209/RM

Proposals: Dwelling

Decision: PG

Decision Date: 26-NOV-03

Ref: M/2005/0860/O

Proposals: Domestic dwelling and garage

Decision: PG

Decision Date: 15-JUN-05

Ref: M/2007/0435/RM

Proposals: New two storey dwelling and detached garage.

Decision: PG

Decision Date: 16-MAY-07

There are no relevant histories to consider on the site.

### **Representations**

Two (2) properties were notified and press advertisement has been carried out in line with the Council's statutory duty. Note that the dwelling to the south-west was under construction at the time of site inspection and therefore was not occupied and eligible for neighbour notification. 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 28<sup>th</sup> May 2021 the Council

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

### **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, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY8 of PPS 21 remains my primary policy consideration in this assessment.

### **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 a new access onto the public road. DFI Roads have no concerns subject to visibility splays of 2.4m x 60m and a forward sight distance of 60m as per the RS1 form being complied with at Reserved Matters stage.

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

CTY1 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 in the case of the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.

Policy CTY8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The site as defined in red is an agricultural field, adjacent to, and to the east of No. 60, and to the north-east of a dwelling under construction (No. 58) which sits below the level of the public road and approximately 90m back from it. The agricultural field within which



the site is located lies between No. 58 and the public road. As a result, I do not consider this dwelling can be considered to have a frontage to the public road as the site lies between it and the public road. Consequently, any dwelling on this site would be situated to the front of No. 58 and not in a continuous line of development (see below)



**Figure 1 – view from the public road looking south-west directly into the site**

To the north of No. 60 is another two storey dwelling (No. 62) which has a frontage to the public road. A single storey dwelling lies to the south-east of the site at No. 56; set back from the public road by 60m. Although not a defined curtilage to the public road as it is agricultural in nature, I am content it can be considered to have a frontage to the public road given the fact no restriction was placed on it at the time of the granting of planning permission. However, I am not persuaded that this constitutes a substantial and built-up frontage, given the fact there is a gap of approximately 60m between the site and No. 56. Additionally, the site itself has a frontage of 30m which leaves a gap between the existing development along the road of 90m. This gap means there is not a line of 3 or more buildings along the road frontage. I am of the opinion that the field in between the site and No. 56 is a visual break that helps retain the rural character of the area and should be protected.



**Figure 2 – google image of visual break between No. 58 and the site**

Furthermore, the set back of No. 56 means that it is not visible when travelling along the public road, further emphasising this visual break.

Ribbon development is cited as being detrimental to rural landscapes, creating a built-up appearance to roads. As such, another dwelling in this location will create build up when read with the two dwellings to the north and will add another dwelling into the existing ribbon of development. I therefore consider that the infilling of this site will be detrimental to the rural character of this area. In the absence of a substantial and built-up frontage consisting of a line of 3 or more buildings along a road frontage, the proposal is contrary to CTY8.

I hold the view that the application has failed to demonstrate that this is a gap site within a substantial and built-up frontage and therefore the proposal fails under CTY8. I will however now consider other policies under CTY1 of PPS 21. The proposal is contrary to Policy CTY2a, in that the application site is not associated with a focal point, nor is it located at a crossroads. There is no dwelling on site to be considered as a replacement under CTY3, and no case has been made under CTY6 for a dwelling based on personal or domestic circumstances. There is no non-agricultural business enterprise in the vicinity for which a dwelling would be required to meet its essential needs. I am not of the opinion the site would qualify for a dwelling on a farm in accordance with CTY10, as it would not be sited with a group of existing buildings on a farm. Having considered all other policies under CTY1 I am not convinced that any of these are applicable to this site, and therefore must recommend refusal under CTY1 and CTY8 respectively.

CTY13 of PPS 21 - Design and Integration 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 CTY13 cannot be dealt with under this application but will be considered under any RM or Full application.

CTY14 of PPS21 - Rural Character 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. It also states that a new building will be unacceptable where it results in a suburban style build up of development or adds to a ribbon of development. A new dwelling would visually link with No. 60. The proposal would add to a ribbon of development which is a suburban style of development and I do not accept that this site is an infill opportunity within an existing ribbon of development. This would therefore cause detrimental change to, and further erode the rural character of the area. I do not consider the proposal complies with CTY14.

### **Other Material 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.

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns.

In addition to checks on the planning portal, 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.

From consideration of all of the above I do not consider the proposal will fill a small gap in an otherwise substantial and built-up frontage as defined in policy, and would therefore result in a detrimental change to the overall rural character of the area. As it currently stands the proposal is still contrary to the SPPS and PPS3 with regard to the access as submitted. I consider the proposed development is contrary to CTY1, CTY8 and CTY14 of PPS 21 and I recommend refusal.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap site in a substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along this stretch of the Kilnaslee Road.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in a suburban style build-up of development when viewed with existing buildings, and would if permitted, create a ribbon of development at this stretch of the Kilnaslee Road and therefore result in a detrimental change to the rural character of the countryside.

**Signature(s):** Deirdre Laverty

**Date:** 17 May 2024



<b>ANNEX</b>	
<b>Date Valid</b>	15 February 2024
<b>Date First Advertised</b>	27 February 2024
<b>Date Last Advertised</b>	27 February 2024
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 62 Kilnaslee Road Donaghmore Tyrone BT70 2UG The Owner / Occupier 60 Kilnaslee Road Donaghmore Tyrone BT70 2UG	
<b>Date of Last Neighbour Notification</b>	20 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2001/0965/O Proposals: Site for 1 No Dwelling House Decision: PG Decision Date: 24-OCT-01</p> <p>Ref: LA09/2019/0002/O Proposals: Proposed dwelling and garage on a farm Decision: PG Decision Date: 09-APR-19</p> <p>Ref: M/2009/0634/F Proposals: Site for dwelling and garage Decision: PG Decision Date: 16-OCT-09</p> <p>Ref: M/2005/0860/O Proposals: Domestic dwelling and garage Decision: PG Decision Date: 15-JUN-05</p> <p>Ref: M/2007/0435/RM Proposals: New two storey dwelling and detached garage.</p>	

Decision: PG  
Decision Date: 16-MAY-07

Ref: M/2003/1209/RM  
Proposals: Dwelling  
Decision: PG  
Decision Date: 26-NOV-03

Ref: M/2006/0191/O  
Proposals: Site for dwelling and garage  
Decision: PG  
Decision Date: 25-JUL-06

Ref: M/1997/0820  
Proposals: Site for Dwelling and Garage  
Decision: PG  
Decision Date:

Ref: LA09/2024/0190/O  
Proposals: Proposed dwelling under Policy CTY 8 of PPS21  
Decision:  
Decision Date:

Ref: LA09/2022/0399/O  
Proposals: Dwelling and garage (Renewal of LA09/2019/0002/O)  
Decision: PG  
Decision Date: 11-MAY-22

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-24 0190 O Cover sheet.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



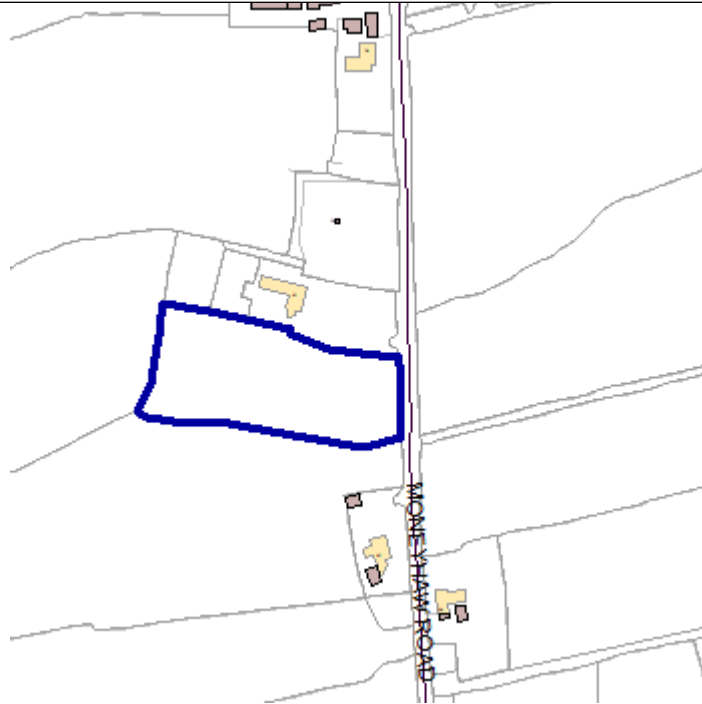


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2024/0411/RM	<b>Target Date:</b> 22 July 2024
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Approx 20M SE of 41 Moneyhaw Road Moneymore
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr and Mrs L Jordan No 7 Cookstown Road Moneymore BT45 7QF	<b>Agent Name and Address:</b> Mr Paul Moran 18B Drumsamney Road Desertmartin Magherafelt BT45 5LA
<b>Executive Summary:</b> <p>This Reserved Matters application for a dwelling and garage is being presented at committee as (1) objection has been received.</p> <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Cookstown Area Plan 2010, PPS 3, PPS 21 (CTY 13 and 14) and Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside 2012. The proposal is not at conflict with any of the relevant policies. DFI Roads have been consulted and raised no concerns.</p> <p>1 objection has been received to date. Issues raised include the location of the septic tank/treatment unit, location of the new proposed entrance to the site and the possibility of the existing farm gate to enter the site being re-opened in the future. Members are advised that all planning issues raised in these objections have been fully considered. The objections do not merit the refusal of this application. Approval is recommended with appropriate conditions attached to any decision.</p>	

## 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 Roads Approval.DOCX

### Representations:

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

### Summary of Issues

#### Representations

One neighbouring property was neighbour notified, and press advertisement was carried out in line with the Council's statutory duty. To date one (1) third party representation has been received from the occupants of number 41 Moneyhaw Road.

## Summary of issues

1 objection was received on the 02/05/2024 and it raised the following concerns:

The location of the septic tank/treatment unit on the site will create offensive odours which will negatively impact upon the objectors' ability to enjoy the outside of their home. Whilst the proposed septic tank as shown on the Site Plan drawing No. 02 is to be located to the rear corner of the site this measures 21m from the proposed septic tank to the closest point of the neighbouring property at No. 45 Moneyhaw Road. The British Standard 6297 – Code for practice for the design and installation of drainage fields for use in wastewater treatment outlines that there should be a minimum distance of 7m from the septic tank to the next habitable building. In this case the proposed location of the septic tank is far enough away for this not to warrant refusal and is over double the recommended separation distance.

The second concern raised is in relation to the location of the new entrance to the site. There is an existing farm gate which is to be closed up and a new entrance created close to the entrance point of 41 Moneyhaw Road. DFI Roads were consulted and did not object to the new entrance or the location of it subject to the addition of conditions attached in the decision notice and that the proposal is constructed and maintained to that detailed on the plans. The objector further discusses the fast and busy road which the entrance point leads out to but as DFI Roads did not point out any concerns for the location of the entrance and do not believe that the proposed entrance point would compromise safety, refusal on this basis is not sustained.

The final concern relates to the possibility of the existing field gate being re-opened in the future to accommodate a second entrance. This gate is to be closed up as outlined in the drawings submitted with this planning application. The opening of the gate in the future would be subject to assessment and as there is no live planning application in relation to this reopening this cannot be commented on. Refusal cannot be attached to a speculative concern.

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

The site of the proposed application is located in the rural countryside outside the settlement development limits of Moneymore as defined within the Cookstown Area Plan 2010. The settlement development limits of Moneymore is located approximately 1.9 km to the North-West of the site as the crow flies. The site is currently a field and there is an existing gate which provides access into the site. The site is located along the Moneyhaw Road which provides access to Moneymore. To the east of the site which is the front boundary there is a hedge which runs along the roadside. To the north elevation there is a wooden fence separating the curtilage of the dwelling at No. 41 Moneyhaw Road. There is existing vegetation to the west and to the south posts with wire fencing and trees exist. The surrounding area is rural in nature with the predominant

land use being agricultural fields, although there are a number of houses built in the area also.

### **Description of Proposal**

This is a Reserved Matters application for a proposed dwelling and garage.

This proposal gained approval under outline application LA09/2021/0147/O.

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

#### Cookstown Area Plan 2010

The site lies in the rural countryside and outside any designated settlement limits as depicted in the Cookstown Area Plan 2010.

#### Relevant histories

LA09/2021/0147/O - Gap site for proposed dwelling and garage - Approx 20.00M S.E. Of 41 Moneyhaw Road – Permission Granted 28/04/2021.

#### Mid Ulster District Council Draft Plan Strategy 2030

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

### SPPS – Strategic Planning Policy Statement for Northern Ireland

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

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

The guide has been prepared to raise awareness of the importance of looking after the Northern Ireland countryside and how to achieve higher quality of sustainable development that will provide a basis to protect and enhance our rural assets. The guide will be used in accordance with all sustainable development in Northern Ireland countryside to understand the requirement of Planning Policy Statement 21. The document is used as a development management tool and will be used as a material consideration in the determination of planning applications for development proposals outside of settlement limits.

I am content that the proposed plans reflect the Building on Tradition guidelines for sustainable development in the countryside.

### Planning Policy Statement 3 – Access, Movement and Parking Policy AMP 2 – Access to Public Roads

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; it does not prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The proposed dwelling and garage seek to construct a new access onto the public road. DFI Roads were consulted and provided no objection to the proposed subject to standard conditions.

### Planning Policy Statement 21: Sustainable Development in the Countryside

PPS 21 is the overarching document for assessing development proposals in the



countryside. Policy CTY1 provides clarification on which types of development are acceptable in the countryside such as a dwelling on a farm, a dwelling to meet the needs of a non-agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built-up frontage. In this instance the principle of development was established in the LA09/2021/0147/O approval which was granted approval under CTY 8 – Ribbon Development. The proposed satisfies the outline conditions including the siting of the dwelling.

#### CTY 13: Integration and Design of Buildings in the Countryside

Policy CTY13 provides that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. The proposal is single storey with a ridge height of 6.1m from finished floor level to the front section of the house and 4.8m to the rear section. The garage is no higher than the front of the house and would not protrude above the ridge height of the dwelling. The materials proposed include smooth render to the external walls, black slates/tiles on the roof, vertically sheeted hardwood with opaque finish on the doors and two course deep cills.

This design is considered to be acceptable, and it is presented that this dwelling could blend successfully with its immediate and wider surroundings. A landscaping scheme is contained within the drawings submitted outlining the vegetation to be retained as well as proposed hedging.

The site benefits from existing mature trees with wooden posts and fencing to the south of the site and vegetation and wooden fencing to the north of the site. It is proposed that a new hedgerow of mixed native species is to be proposed to the north as well as the east which is along the roadside. Some native heavy standard (ash, rowan, birch) trees are proposed throughout the site.

The proposal integrates into the landscape. The dwelling for this application has been proposed within the siting area stipulated at outline stage. I consider the proposed materials to be acceptable in that they are visually integrated and in keeping with the locality.

#### CTY 14 – Rural Character

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously mentioned, I am content that a dwelling in this location will not be unduly prominent in the landscape. It is considered that the site and its environs are suitable in absorbing a dwelling of this size and scale. I consider this design to be acceptable and it is presented that this dwelling could blend successfully with its immediate and wider surroundings. The site benefits from hedging and wooden

posts and wire fencing boundaries. The proposal is suitably enclosed and integrates into the landscape. I am content that there is unlikely to be any adverse impact to the rural character of the area and as such I am content that the application complies under CTY 14.

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application be granted planning permission.

#### Habitats Regulation Assessment

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

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

Approve is recommended

#### Approval Conditions

##### Condition 1

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

##### Condition 2

All landscaping comprised in the approved details of landscaping on the approved drawing No 02 received 08 April 2024 shall be carried out in the first planting season following the occupation of the development hereby approved. 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: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site.

**Condition 3**

The existing natural screenings of this site, as identified as 'existing heavy standard' and 'existing hedgerow' on Drawing No. 02 received 08 April 2024 shall be permanently retained.

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

**Condition 4**

The vehicular access(es) including visibility splays of 2.4m x 100m both directions and any forward sight distance shall be provided in accordance with drawing nr(s) 02 dated April 2024 commencement/occupation/operation of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 5**

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 6**

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.

**Signature(s):** Ellen Gilbert

**Date:** 21 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	8 April 2024
<b>Date First Advertised</b>	23 April 2024
<b>Date Last Advertised</b>	23 April 2024
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 41 Moneyhaw Road Moneymore Londonderry BT45 7XL	
<b>Date of Last Neighbour Notification</b>	8 April 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2002/0439/RM Proposals: Replacement Dwelling Decision: PG Decision Date: 17-SEP-02</p> <p>Ref: LA09/2024/0411/RM Proposals: Proposed dwelling and garage Decision: Decision Date:</p> <p>Ref: I/2001/0723/O Proposals: Proposed Replacement Dwelling Decision: PG Decision Date: 31-DEC-01</p> <p>Ref: I/2002/0787/O Proposals: Proposed Dwelling Decision: PG Decision Date: 15-APR-03</p> <p>Ref: LA09/2021/0147/O Proposals: Gap site for proposed dwelling and garage</p>	

Decision: PG  
Decision Date: 28-APR-21

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads Approval.DOCX

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable

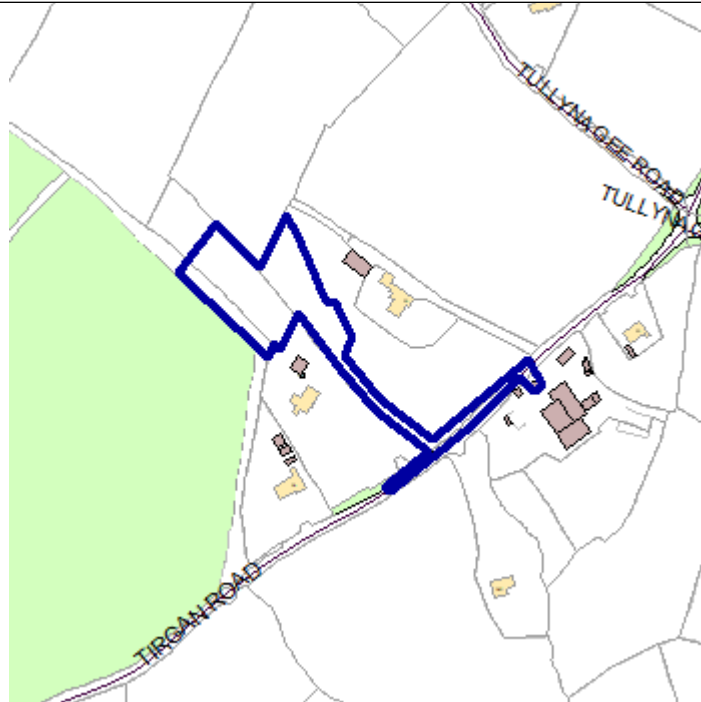


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 June 2024	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2024/0454/O	<b>Target Date:</b> 2 August 2024
<b>Proposal:</b> Site for an off-site replacement dwelling with a ridge height of 8.5m and detached domestic garage, with the existing dwelling retained as farm storage.	<b>Location:</b> 50M West of 22 Tirgan Road Moneymore BT45 7RZ
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Malachy McCrystal 22 Tirgan Road Tullynagee Moneymore Magherafelt BT45 7RZ	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>  The applicant for this outline proposal for a replacement dwelling is an employee of Mid Ulster District Council. The application is therefore brought to the planning committee. A recommendation for approval is provided.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline Tri.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 proposal comprises an irregular-shaped 0.45ha site and is located in the rural countryside within the Sperrins Area of Outstanding Natural Beauty as designated by the Magherafelt Area Plan 2015. The site is located 50m west of no. 22 Tirgan Road, with access to the site is via an existing field gate. The land rises gradually from the main road before levelling out at the application site which is set back approximately 120m

from the road. By way of boundaries, a line of mature trees runs along the south western edge of much of the proposed access lane. The boundary between the site and the neighbouring dwelling at no. 20a Tirgan Rd is also complete with a degree of screening in the form of mature field hedgerow and a number of trees. The site also benefits from a partial backdrop of the large forested area (adjacent and west of site) which rises to the foot of Slieve Gallion. A small stream runs along the site's north eastern boundary, separating the site from dwelling no. 22 (within applicant's ownership). Post and wire fencing marks the site's north western boundary. The wider surrounding environment consists mostly of agricultural fields, though there are a number of dwellings and farm buildings dotted all along the Tirgan Road. Across the road from the site is a farm yard with a number of farm sheds and buildings used for farm storage, including the dwelling to be replaced in this case, which is sited beside the road.

### **Description of Proposal**

This is an outline application for an off-site replacement dwelling with a ridge height of 8.5m and detached domestic garage, with the existing dwelling retained as farm storage.

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

#### **Policy Consideration**

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

#### **Relevant Histories**

None

#### **Representations**

To date no third party representations have been received.

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

The site and is located in the rural countryside within the Sperrins Area of Outstanding Natural Beauty as designated by the Magherafelt Area Plan 2015.

#### **Other Constraints**

The site is located within the Sperrins AONB and therefore will be assessed under Policy NH 6 of PPS 2 Natural Heritage, below.

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



The Flood Maps NI provide that the north eastern side of the site is subject to a degree of surface water flooding. The concept site layout plan provides the approximate position for the dwelling and from this it is clear that only a small portion of the dwelling crosses on to this area of flooding. It is accepted at this outline stage that an appropriately sited dwelling at this location will not give rise to any concerns 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 replacement dwelling opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

#### PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including replacement dwellings, subject to policy criteria within CTY3 - Replacement Dwellings being met.

The dwelling to be replaced has all 4 walls fully intact. From the outside, it is debatable whether the buildings exhibits the essential characteristics of a dwellinghouse. However, upon inspection of the interior and due consideration afforded to the information provided by the applicant, the essential characteristics of the dwellinghouse become apparent, even though most of these features are remnants. The interior clearly shows original ground floor and first floor window openings with original frames, which have since been bricked up. Also evident is a front door opening, which although bricked up is complete with its original timber lintel. The applicant also draws attention to a small section of the roof where a chimney once protruded, which is evident given the roof tiles used to patch over this opening are different from the original slates. Furthermore an internal wall is set below this patched over part of the roof which provided the housing for the fireplace according to the applicant. A record of the Griffith Valuation as well as a

detailed account of the dwelling's inhabitants and uses from 1940s through to restoration works in the 1980s is also contained within the supporting statement, which provides further evidence of the building having been used as a dwelling. While not compelling evidence on its own, this strengthens the case. Given the above, it is considered on balance that the building exhibits the essential characteristics of a dwelling and therefore a replacement opportunity exists in this case.

Policy CTY3 then goes on to set out other criteria for consideration in all replacement cases. It states that the proposed dwelling should be sited within the established curtilage of the existing building unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. The existing dwelling is set on the edge of a working farm yard. Siting a new dwelling at this position or in this area would present health and safety issues pertaining to the expected movement of farm machinery / vehicles and cattle associated with the farm. Furthermore the existing dwelling is without any real domestic curtilage / amenity space which would allow for adequate garden space and parking provision. Therefore it is agreed that the proposed off-site location for the new dwelling is acceptable in this instance. It is agreed that the original dwellinghouse shaded in green on the site location map can be retained solely for the use of farm storage.

In terms of the size, design and visual impact of the proposed replacement dwelling, the majority of these details shall be dealt with at the reserved matters stage. The proposal description includes a ridge height of 8.5 metres, which is higher than all neighbouring dwellinghouses, including the dwelling to be replaced, albeit two storey. It is noted that the site is set back a considerable distance from the main road. This together with the more than adequate degree of natural screening (which renders the site largely out of view from the Tirgan Road), as well as any additional landscaping, will aid in ensuring that the dwelling will not have a visual impact that is significantly greater than that of the existing dwelling. I am content that the proposal complies with CTY 3 at this outline stage.

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. As above, the site benefits from a good degree of natural screening, including a partial backdrop of forested land to the south west of the site. A line of mature trees runs along the south western edge of much of the proposed access lane and this continues around to the southern corner of the site which helps to provide a degree of screening and privacy for the neighbouring third party dwelling at no. 20a Tirgan Rd. Much of the site is therefore complete with a more than adequate degree of long established natural boundaries that would not rely entirely on the use of new landscaping for the integration of a dwelling. There is also a good degree of enclosure at this site. A well designed dwelling at this location could blend with the local landform if designed appropriately and in accordance with the Building on Tradition design guide. In terms of visual prominence, it is considered that the proposed 8.5m ridge height, although higher than nearby dwellings in the area, is able to blend unobtrusively with the environment. As above, this is due to the level of screening and backdrop at the site, as well as the distance from the public road, rendering the site largely out of view from the Tirgan Road. A ridge height condition will ensure that the dwelling is no higher than 8.5

metres from finished floor levels. The applicant has also indicated the intention to retain all the existing screening of the site and this will also be reinforced with a condition. The proposed satisfies Policy CTY 13 of PPS 21 at this outline stage.

Policy CTY 14 states 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 stated previously, an appropriately designed dwelling will not appear visually prominent in the landscape. It is considered that the site and its environs are suitable for absorbing a dwelling at this location. The proposal satisfies Policy CTY 14 of PPS 21 at this outline stage.

There are no concerns in relation to amenity.

#### Planning Policy Statement 2 – Natural Heritage

Policy NH 6 of PPS 2 provides guidance on proposals sited within Areas of Outstanding Natural Beauty. The policy provides that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality. It is already accepted that a dwelling with the proposed ridge height can blend with the surrounding landform and this will not detract from the natural heritage of this area. The final design and precise siting of the dwelling will be considered at the reserved matters stage and provided it follows the Building on Tradition design guide it should not offend Policy NH 6. The proposal complies with Policy NH 6 of PPS 2 at this outline stage.

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

The proposed access arrangements involve the construction of a new access to a public road. DfI Roads were consulted in this case and provided no objection to the proposal subject to the inclusion of the standard RS1 condition. 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, it is recommended that this application be granted permission subject to the below conditions.

#### **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

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

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

#### Condition 3

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

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

#### Condition 4

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

Reason: To ensure the dwelling integrates into the landform.

#### Condition 5

The dwelling hereby permitted shall have a ridge height not greater than 8.5 metres from finished floor levels.

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

#### Condition 6

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

**Condition 7**

The existing natural screening of the site shall be permanently retained.

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

**Condition 8**

Upon occupation of the new dwelling, the dwelling to be replaced, shaded in green on drawing No. 01 and uploaded to public access on 18/04/2024, shall at no point be used or adapted for the purposes of human habitation and may only be used for agricultural storage purposes.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling.

**Signature(s):** Benjamin Porter

**Date:** 21 May 2024

<b>ANNEX</b>	
<b>Date Valid</b>	19 April 2024
<b>Date First Advertised</b>	7 May 2024
<b>Date Last Advertised</b>	7 May 2024
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  20A Tirgan Road Moneymore Londonderry BT45 7RZ  The Owner / Occupier  19C Tirgan Road Moneymore Londonderry BT45 7UA</p>	
<b>Date of Last Neighbour Notification</b>	23 April 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2002/0468/O  Proposals: Site For Dwelling and Garage  Decision:  Decision Date:</p> <p>Ref: H/2005/1307/F  Proposals: Dwelling and Garage in substitution for outline approval H/2004/0117/O  Decision: PG  Decision Date: 10-MAY-06</p> <p>Ref: H/2003/0392/RM  Proposals: Site for dwelling and garage.  Decision: PG  Decision Date: 06-SEP-03</p> <p>Ref: H/2002/1138/O  Proposals: Site of dwelling and garage.  Decision: PG  Decision Date: 18-MAR-03</p> <p>Ref: H/1992/0620</p>	

Proposals: 11 KV O/H LINE BM0693'92

Decision: PG

Decision Date:

Ref: H/1990/0467

Proposals: SITE OF FARM DWELLING

Decision: WITHDR

Decision Date:

Ref: H/2014/0007/O

Proposals: Site for off-site replacement dwelling and garage.

Decision: PG

Decision Date: 16-APR-14

Ref: H/1993/0116

Proposals: BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: H/2001/0442/F

Proposals: 11 KV O/H Line at Tullynagee Road, Moneymore. (BM5710/01)

Decision: PG

Decision Date: 08-JUL-01

Ref: LA09/2021/1048/O

Proposals: Site for off-site replacement dwelling (max.ridge height 8.0m) and detached garage

Decision: PG

Decision Date: 26-NOV-21

Ref: H/1990/0619

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/2006/0115/F

Proposals: 11kv supply

Decision: PG

Decision Date: 11-MAY-06

Ref: H/2004/0117/O

Proposals: Site of dwelling and domestic garage.

Decision: PG

Decision Date: 02-DEC-04

Ref: LA09/2019/1501/O

Proposals: Site for two storey dwelling and garage on a gap site.

Decision: PG

Decision Date: 05-FEB-20

Ref: H/2005/0336/F

Proposals: Proposed alterations and change of use from domestic garage to granny flat

Decision: PG

Decision Date: 10-MAR-06

Ref: H/1993/0205

Proposals: SITE OF BUNGALOW WITH GARAGE

Decision: PR

Decision Date:

Ref: LA09/2024/0454/O

Proposals: Site for an off-site replacement dwelling with a ridge height of 8.5m and detached domestic garage, with the existing dwelling retained as farm storage.

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline Tri.DOCX

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/0443/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling & garage in gap site.	<b>Location:</b> 30m W of 154 Battery Road Cookstown.
<b>Applicant Name and Address:</b> Shauna Quinn 59 Drumads Road Dungannon BT71 5BA	<b>Agent Name and Address:</b>
<b>Summary of Issues:</b> This is not a gap site, a dwelling here would add to ribbon development. No reason for siting away from a group of buildings on a farm has been presented and a dwelling here would result in urban sprawl.	
<b>Summary of Consultee Responses:</b> DFI Roads – access can be provided and set out standards for sight lines of 2.4m x 80.0m to west and 2.4m x 95.0m to west with forward sight distance 80.0m to east and 95.0m to west DEARA – active and established farm	
<b>Characteristics of the Site and Area:</b>  The site, which sits adjacent the Battery Rd, is located in the Countryside Policy Area as depicted within the Cookstown Area Plan, just west of Moortown settlement limits (see Fig: 1).	



Fig 1: Extract of northern portion of Moortown settlement limits taken from CAP 2010 with location of site identified in blue.

The site is a relatively flat rectangular shaped plot cut from the roadside frontage of a much larger agricultural field. The site in effect cuts the roadside frontage of this field in half, occupying the east side. A low mature hedgerow approx. 1.2 metres high defines the southern / roadside frontage boundary of the site and the eastern boundary of the site. The western and northern boundaries of the site are undefined and open onto the host field.

The site which is to be accessed directly off the Battery Rd is located immediately west of an existing line of roadside development consisting of dwellings, ancillary outbuildings/garages and agricultural sheds, extending along the north side of the Battery Rd and out of Moortown settlements limits. The properties in the aforementioned line located outside of Moortown settlement limits, extending east to west, include nos. 156a & 156 Battery Rd, two relatively newly approved and constructed detached bungalow style dwellings; and no. 154 Battery Rd, a detached bungalow with small outbuilding to its rear/west side. No. 156 Battery Rd has a detached garage located to its rear / east side.

Critical views of this site will be limited until passing along the roadside frontage of the host field due primarily to its location. The roadside development to its east screen it on that approach; and the mature high hedgerow and trees along the western boundary of the host field screen it on that approach.

Whilst the site sits just west of Moortown and the immediate stretch of road heading out of the settlement limits has come under some development pressure in recent years the wider area to the north, south and east of the site is typically rural in character comprising largely flat agricultural lands interspersed with single dwellings and farm holdings.

### **Description of Proposal**

This is an outline planning application for a dwelling and garage in a gap site located 30m W of 154 Battery Road Cookstown. The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development, the agent has provided additional information in relation to a farming case for the dwelling under CTY10.

### **Deferred Consideration:**

This application was before the Planning Committee in on 5 October 2021 where it was deferred for an office meeting with the Planning Manager to allow further discussions. At a meeting on 14 October 2021 the agent advised there was a farming case for consideration as the applicants father owns farm buildings in Moortown to the east (Fig 2). It was

advised to submit information to demonstrate this is for an active and established farmer and once this was established, we could look at other lands to see if there are any alternative sites.

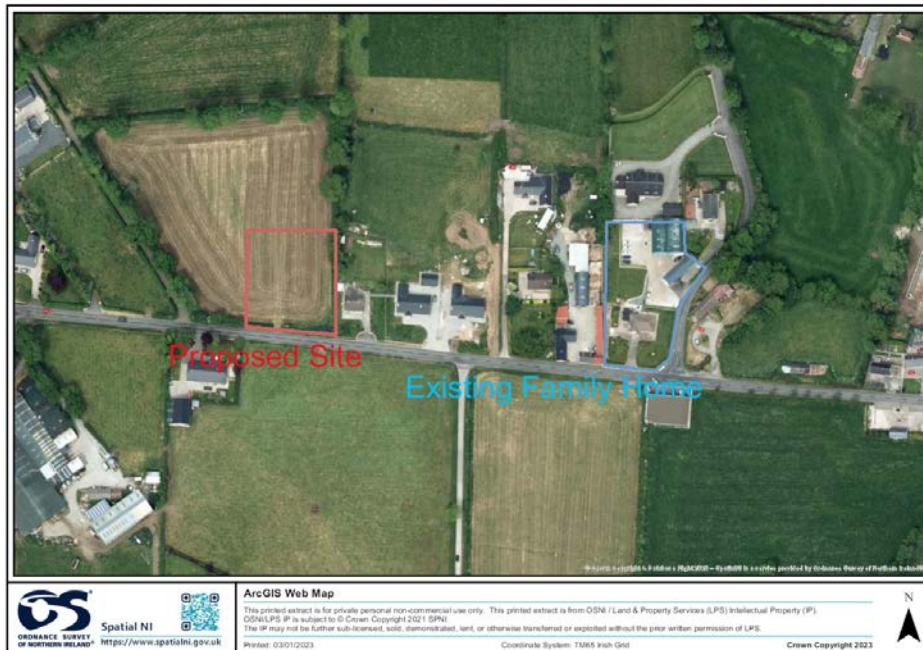


Fig 2 – site and existing farm buildings

Following the meeting information was submitted about the applicants fiancés farm at Edendoit Road, Pomeroy (Fig 3), some 25kms away from the application site. DEARA have confirmed it is an active and established farm and a check of the lands and planning records show that permission was granted for a dwelling in 2004 and nothing within the last 10 years. The agent was asked to provide some information to demonstrate there are verifiable plans to expand the farm or health as safety reasons for not siting beside the existing buildings on the farm. No information has been provided to demonstrate this.



Fig 3 – farm at Edendoit Road

The agent was also advised the site as chosen is not an infill opportunity as it does not constitute a small gap in a substantially built up frontage.

Members are advised CTY15 sets out the principle of settlement limits is to contain and promote development and maintain a clear distinction between the built up area and the surrounding countryside. Planning permission was granted to the east of the site for 2 dwellings under application LA09/2015/1163/O. At that time it was considered these would round off development here and were considered as an exception to policy. Any dwelling here would, in my opinion, add to ribbon development and result in urban sprawl which would mar the distinction between the settlement and the surrounding countryside.

As has already been concluded in the previous report to Committee, the proposed development would add to ribbon development along this side of Battery Road. It would also result in urban sprawl and mar the distinction between Moortown and the surrounding countryside. It does not meet the policy for a dwelling on a farm or the exception within that policy and as such is recommended for refusal.

**Conditions/Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along the Battery Rd leading to a further erosion of the areas rural character.
3. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along the Battery Rd leading to urban sprawl and mar the distinction between Moortown and the surrounding countryside.
4. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated there is a need to site a dwelling here away from an established group of buildings on a farm any dwelling here would add to ribbon development.

**Signature(s)**

**Date:**



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

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

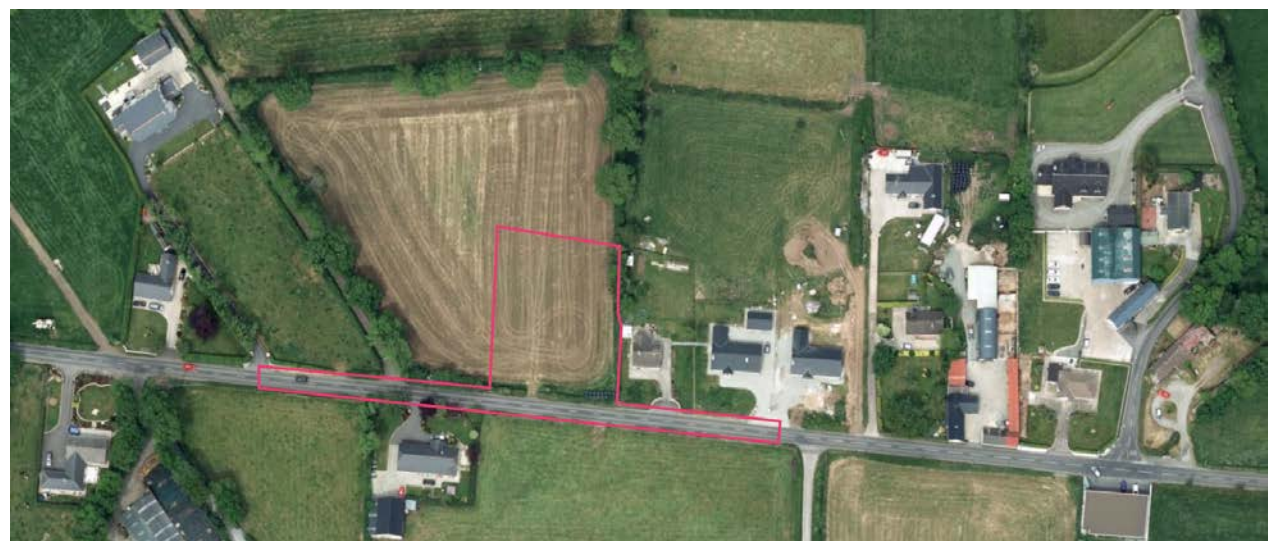
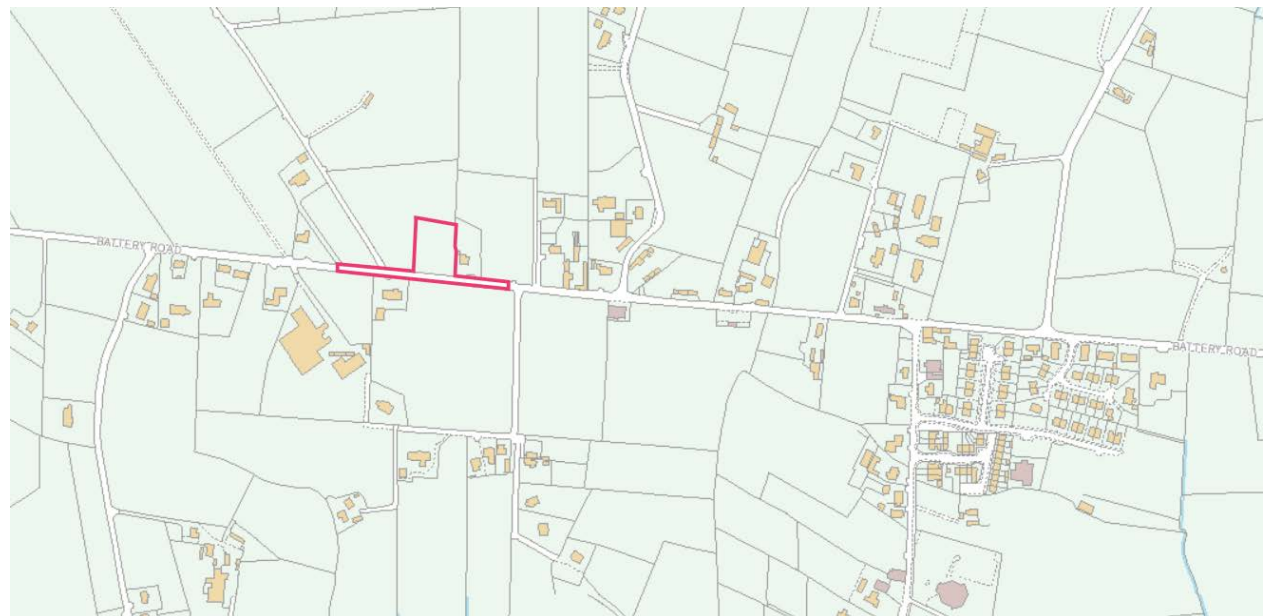
### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0443/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling & garage in gap site.	<b>Location:</b> 30m W of 154 Battery Road Cookstown.
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Shauna Quinn 59 Drumads Road Dungannon BT71 5BA	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



Case Officer Report

Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Rivers Agency	Advice
<b>Representations:</b>		
Letters of Support		None Received
Letters of Objection		None Received
Number of Support Petitions and signatures		No Petitions Received
Number of Petitions of Objection and signatures		No Petitions Received
<b>Description of Proposal</b>		
This is an outline planning application for a dwelling and garage in a gap site located 30m W of 154 Battery Road Cookstown. The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.		

**Characteristics of the Site and Area**

The site, which sits adjacent the Battery Rd, is located in the rural countryside, as depicted within the Cookstown Area Plan, just west of Moortown settlement limits (see Fig: 1).

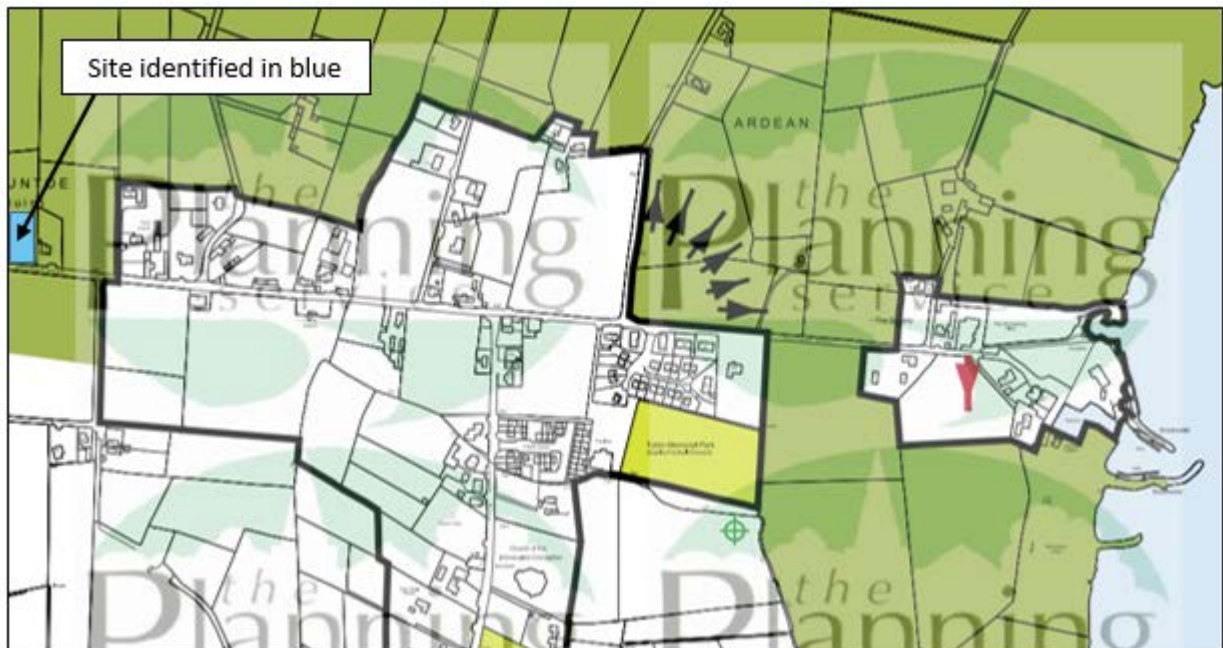


Fig 1: Extract of northern portion of Moortown settlement limits taken from CAP 2010 with location of site identified in blue.

The site is a relatively flat rectangular shaped plot cut from the roadside frontage of a much larger agricultural field. The site in effect cuts the roadside frontage of this field in half, occupying the east side. A low mature hedgerow approx. 1.2 metres high defines the southern / roadside frontage boundary of the site and the eastern boundary of the site. The western and northern boundaries of the site are undefined and open onto the host field.

The site which is to be accessed directly off the Battery Rd is located immediately west of an existing line of roadside development consisting of dwellings, ancillary outbuildings/garages and agricultural sheds, extending along the north side of the

Battery Rd and out of Moortown settlements limits. The properties in the aforementioned line located outside of Moortown settlement limits, extending east to west, include nos. 156a & 156 Battery Rd, two relatively newly approved and constructed detached bungalow style dwellings; and no. 154 Battery Rd, a detached bungalow with small outbuilding to its rear/west side. No. 156 Battery Rd has a detached garage located to its rear / east side.

Critical views of this site will be limited until passing along the roadside frontage of the host field due primarily to its location. The roadside development to its east screen it on that approach; and the mature high hedgerow and trees along the western boundary of the host field screen it on that approach.

Whilst the site sits just west of Moortown and the immediate stretch of road heading out of the settlement limits has come under some development pressure in recent years the wider area to the north, south and east of the site is typically rural in character comprising largely flat agricultural lands interspersed with single dwellings and farm holdings.

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

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Cookstown Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 15: Planning and Flood Risk  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **Relevant Planning History**

On site - None



Adjacent site

- I/1999/0669/O - Dwelling - Adjacent to 150 Battery Rd Coagh – Granted 26<sup>th</sup> January 2001
- I/2002/0786/F - New Dwelling - Site adjacent to 150 Battery Rd Coagh – Granted 16<sup>th</sup> May 2003
- I/2007/0593/F - Proposed new access and gates to existing dwelling - Lands at 150A Battery Rd Coagh – Granted 14<sup>th</sup> November 2007

The above applications relate to the lands now occupied by no. 150a Battery Rd, a two-storey detached dwelling set back from the Battery Rd to the northwest of the site. (See Figs 2 & 3 below)

- LA09/2015/1163/O - Infill site for 2no dwellings - Lands adjacent to and East of 154 Battery Rd Moortown - Granted 14<sup>th</sup> June 2016
- LA09/2016/1194/F - Proposed 2 Dwellings 1 garage - Lands adjacent to and East of 154 Battery Rd Moortown Granted 14<sup>th</sup> November 2016

The above application relate to lands now occupied by no. 156 & 156a Battery Rd, 2 roadside bungalow style dwellings with approx. 6.5m ridge heights located one dwelling (no. 154 Battery Rd) to the west of the site.

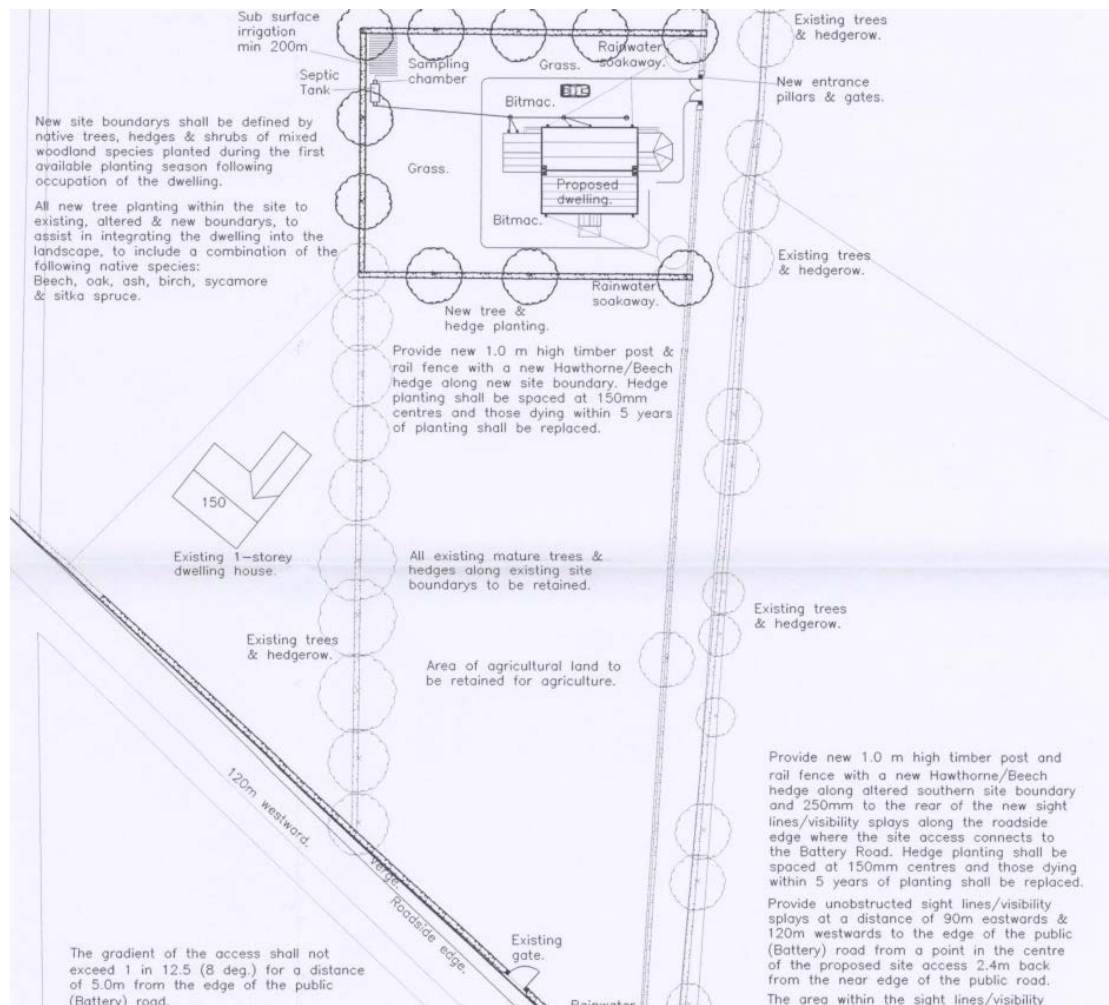


Fig 2: Block plan granted under planning application I/2002/0786/F show land to front of dwelling to be retained for agriculture.



2. River Agency were consulted as Flood Maps NI indicate a small area of surface water flooding to the west side of the site. Under PPS 15 Planning and Flood Risk, Policy FLD3 Development and Surface Water, Rivers Agency responded that a Drainage Assessment (D.A) is not required by the policy but the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere.

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

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

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

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

One instance, and that which the applicant has applied under, is the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

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

Having assessed the site and surround area I do not consider the site meets with the requirements of Policy CTY8. The site / host field is not located within an otherwise substantial and continuously built up frontage i.e. a line of 3 or more buildings running along Drummurrer Lane, without accompanying development to the rear.

Whilst the site / host field is bound by at least 3 buildings running along and fronting onto the Battery Rd to the east (nos. 154, 156, & 156a Battery Rd, as detailed in Characteristics of the Site and Area) it is not bound to its west by buildings with a frontage onto the Battery Rd.

The site is bound to its west by an agricultural field. This field is located to the front of no. 150a Battery Rd, a large 2 storey dwelling set back from and accessed off the Battery Rd via a lane along the west side of the field. This dwelling and access was granted under planning applications I/2002/0786/F and I/2007/0593/F respectively. Under the aforementioned applications, the field / lands to the front of the dwelling adjacent the site were conditioned to be, and currently are, retained in agricultural use.

This proposal, which is not bound by roadside development to the west, will result in the extension of ribbon development along the Battery Rd leading to the further erosion of the area rural character.

Given the opinion above, Planning on the 9<sup>th</sup> August 2021 via email asked the agent has all other cases for a dwelling in the countryside been explored? E.g. does the applicant farm, is there any investment and return from farming, does opportunity exist under Policy CTY 10 of PPS21 for a dwelling on a farm? If there is a possible farm case information should be submitted to demonstrate compliance with Policy CTY10 of PPS21. The information required was to be submitted to Mid Ulster District Council's Planning Department on a without prejudice basis by the 23<sup>rd</sup> August 2021. The agent was advised that If no additional information was received within the specified timeframe this application would proceed to the next available committee meeting based on the information on file.

To date no additional information for further consideration has been received.

**Additional 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 site.

Had the proposal met with Policy CTY8 of PPS 21 the surface water flooding on the west portion of the site would need further consideration to establish whether a dwelling could have sited outside the area indicated by Flood Maps or if a Drainage Assessment (D.A) would be required. PPS 15 requires a D.A for any development proposal except for minor development, which this proposal is not, located in an area where there is evidence of a history of surface water flooding.

**Recommendation:** Refuse

The site / host field is not located within an otherwise substantial and continuously built up frontage i.e. a line of 3 or more buildings running along the Battery Rd, without accompanying development to the rear. It will result in the extension of ribbon development along the Battery Rd leading to the further erosion of the area rural character.

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation</b>	Refuse

<b>Reasons for Refusal:</b>	
1.	The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2.	The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if

permitted, result in the extension of ribbon development along the Battery Rd leading to a further erosion of the areas rural character.

**Signature(s)**

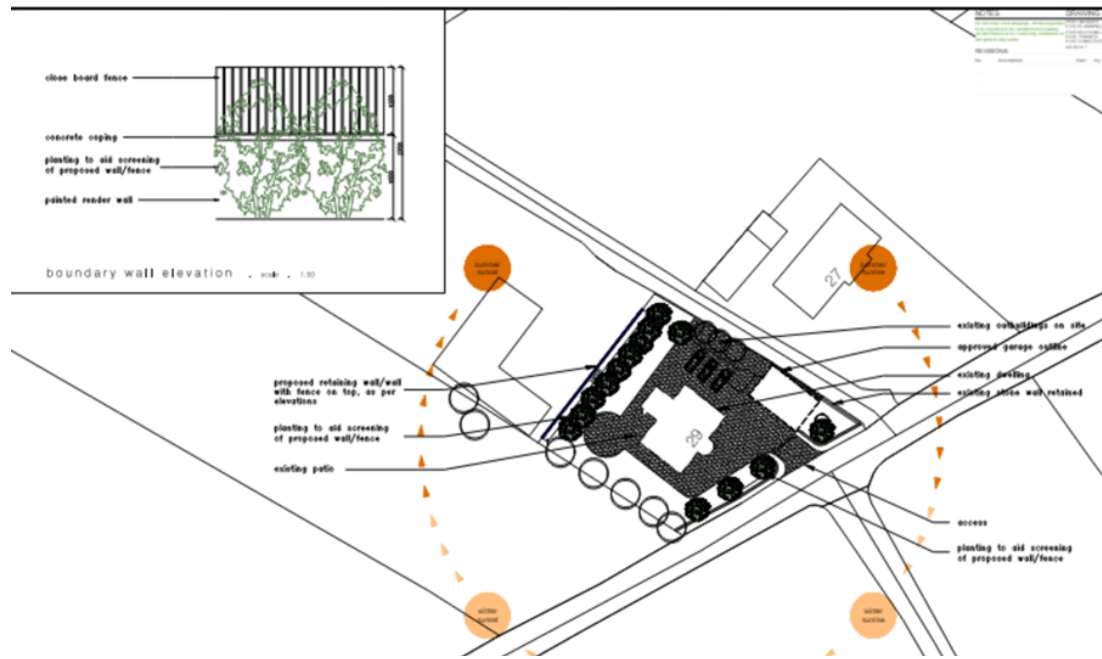
**Date:**

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/0641/F <b>Recommendation:</b> Approve	<b>Target Date:</b> 30 August 2022
<b>Proposal:</b> Retention of boundary wall/fence	<b>Location:</b> 29 Glengomna Road Draperstown BT45 7JQ
<b>Applicant Name and Address:</b> Barry O'Kane 28 Glengomna Road Draperstown BT45 7JQ	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b>  This application was first on the Agenda for November 2022 Planning Committee, with a recommendation to Approve. It was being presented to Committee as there was an objection to the proposal however it was removed from the Agenda on the day of Committee as late information (Structural Assessment) was submitted by the objector which required due consideration by the Planning Department. The application is before Members again with a recommendation to Approve and the justification for this recommendation is detailed further in this report.	
<b>Summary of Consultee Responses:</b>  Consultation was carried out with Liam O'Neill (Engineer) who is a shared service between Mid Ulster Council and Fermanagh and Omagh Council.	
<b>Description of Proposal</b>  This is a full planning application for the retention of a domestic boundary wall topped with a fence. It runs along the rear boundary of the dwelling at number 29 Glengomna road. The wall (1.5m high) has been constructed with concrete block and is finished in a white painted render. It is topped by a closed board wooden fence (1.2m). The overall length of the wall subject to this application is 29m and the fence stops just short of the 29m. The wall does extend further along	



the adjacent laneway however that section is not being considered under this application. Immediately in front of the wall, towards the dwelling, is a raised garden area accessed via concrete steps. The application has been submitted on the back of an enforcement compliant and there is currently a live enforcement case (LA09/2022/1031/CA) for the construction of an unauthorised retaining wall.





### **Deferred Consideration:**

This proposal for the retention of a domestic boundary wall/fence has been subject to 12 representations (objections from a third party and rebuttals to the objections by the applicant) and it is important to summarise and consider all of these at the outset of this deferred consideration as they do raise material planning considerations. Rebuttals to the objections have been submitted by the applicant and are available for Members to view on Public Access.

Objections raised the following issues:

Applicant failed to declare that a relative worked in the Planning Department - P1 amended to provide details of this.

Inaccurate land boundary maps - Applicant submitted an amended site location and I am satisfied that any inaccuracies in this regard have been addressed. The objector has had sight of the revised plans.

Objector didn't receive formal neighbour notification - The objectors property did not fall within



the scope of NN. He is however aware of the application and has not been prejudiced in any way.

Encroachment of the wall onto the laneway and how this is making it difficult and dangerous for vehicles and pedestrians - The laneway is not a public road and so is outside any remit for DFI Roads to comment on. No evidence has been presented to substantiate the claim that it traffic cant pass along the laneway. No verifiable evidence has been presented that pedestrians regularly use the laneway.

Why has the wall been constructed before planning permission has been granted - Planning Legislation provides that development can be applied for retrospectively. The Planning Department can only assess applications that are presented to them. We have an enforcement team to deal with unauthorized development and in this case, the application was submitted to deal with an enforcement compliant.

The walls fails in design (by 2.8 times its capacity and doesn't meet Building Regulations). Structural Reports submitted by Jane Leadon to substantiate this - I will deal with this later in this report.

Part of the wall is built along a "townland pass" between Glengomna Road and Bancran Road and its construction makes it difficult to use this townland pass. - I informally consulted with DFI Roads who advised that they weren't familiar with "townland passes" but that the laneway was a privately maintained shared access that has not been adopted into the public road network. They would have no control over.

The wall is unsightly and will impact on the character of the Sperrins AONB. The initial case officer didn't assess the proposal under Policy DES 4 of the Rural Strategy - I will deal with this further in my report.

The wall will restrict views from the adjacent farm buildings towards the Sperrins - This is not a material planning consideration.

The proposal/application doesn't deal with the wall in its entirety - The Planning Department is assessing the proposal as it is presented. The section along the laneway may fall under Domestic Permitted Development however I am not assessing that under this current application.

The Council could be liable if the wall collapsed especially if they haven't fully considered the structural information provided - In light of the submission of the Structural Assessment by Jane Leadon dated 3rd October 2022 and a rebuttal email submitted by the applicant on the 3rd November 2022, I arranged a meeting with MUDC Building Control on the 8th November 2022 to ascertain if it was within their remit to advise on the structural stability of the wall. Building Control confirmed that Jane Leadon was a competent engineer who regularly submitted reports to them. The contents of her assessment were considered in the context of Building Regulations. Building Control have confirmed that under Regulation 9 (m) of The Building Control Regulations (2012) As Amended, the wall is exempt due to the fact it does not form part of a building to which the Regulations apply. As such, its structural integrity falls outside the remit of Building Control and they have no remit to comment on the content of Jane Leadons Assessment. Consideration was also given by Building Control to the Dangerous Structures Act

and they confirmed to me that as the wall is not on a street or public road, the Dangerous Structures Act is not relevant. Building Control advised that any dispute over the location or structural integrity of the wall was a civil matter between the parties involved.

Despite Building Control advising that it was not in their remit to comment on the wall, it was decided to seek advice from Mr Liam O'Neill who is a shared resource between Fermanagh and Omagh Council and MUDC. He is a Chartered Engineer with over 40 years experience. His advice was sought not from a Building Control perspective but from a Chartered Engineers perspective. He has concluded that the structural stability of the wall is more than adequate. I will go into this in more detail later in this report.

Concern over the findings in the structural report compiled by MEA on behalf of the applicant. Assumptions being relied upon rather than facts. Request that Liam O'Neill do bore holes tests to inform his assessment - This all was highlighted to Liam O'Neill and he was aware of the concerns in advance of preparing his report. On the day of his site visit he did not consider it necessary to dig bore holes to inform his consideration.

Liam O'Neill's response should not hold determining weight in the Councils assessment of the proposal as it has not set out the facts that led to his conclusion - Liam O'Neill is a Chartered Engineer and the Planning Department has no reason to discount his conclusions. He is impartial and not employed by either the applicant or the objector. He has had sight of all information provided by both parties.

Delay by the Senior Officer in processing this case - this is not material to the assessment of this proposal.

## POLICY CONSIDERATION

The proposal has been considered taking account of the Magherafelt Area Plan 2015, the Strategic Planning Policy Statement (SPPS), the Addendum to PPS 7 (Residential Extensions and Alterations), Planning Policy Statement 2 (Policy NH6 - Areas of Outstanding Natural Beauty) and The Planning Strategy for Rural NI (Policy DES 4 - AONB's)

As noted the site is located within the Sperrin's AONB. Policy DES 4 requires that development in these areas should not be detrimental to environmental quality. It should be in sympathy to the special character of the AONB. Policy NH 6 requires sympathetic siting and scale and respect of character, architectural styles, local materials, design and colour. The existing block wall which is finished in a white painted render and topped with grey fencing is sited to the rear of the dwelling. It will be subject to minimal public views. It is a minor development and will not detract from the overall character of the Sperrins AONB.

The overall height of the wall/fence is 2.7m and extends over 29m in length. Its scale and massing is not considered excessive. It does not detract from the appearance and character of the surrounding area. It is minor in nature and sits behind a two storey dwelling with limited visual impact. There are no third party residential properties abutting the site and so it will not impact negatively on neighbours in terms of privacy or amenity. The closest third party buildings are farm buildings. The erection of the wall has not resulted in the loss of any important landscape features and it has not reduced any in-curtilage parking or manouervring of vehicles. I am satisfied that the proposal is not at conflict with any of the criteria contained in Policy EXT 1

of the Addendum to PPS 7.

## OTHER MATERIAL CONSIDERATIONS

The main area of contention with this application rests on a dispute between the applicant and a third party and the fact that the third party objector contends that the wall is not structurally sound. The Planning Department, in the interests of making certain that the stability of the wall has been fully assessed has accepted structural reports from both the applicant and objector. These have been forwarded to an independent and qualified engineer, who has considered both as well as carrying out a site inspection. In his initial response Liam O'Neill concluded that the wall is well capable of retaining the noted garden depth of 0-300mm. In his second response and following his review of Jane Leadons report dated 31 Aug 2023 Liam refers to the fact that Jane notes that the garden levels have increased by between 400-430mm, which makes the levels between the yard and garden practically level along the rear wall. Liam has advised the Planning Department that based on this, it is his opinion that the wall is no longer "retaining" and he is content with his previous conclusion. The Planning Department have no reason to doubt Liam's conclusions - as such, I would be confident in advising Members that the objectors concern about the instability of the wall does not merit the refusal of this application.

Approval is therefore recommended as there is no policy conflict with the proposal and the other material considerations raised have not been given determining weight in the assessment.

### Conditions/Reasons for Refusal:

#### Approval Conditions

##### Condition 1

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

Reason: This is a retrospective application.

**Signature(s):**Karla McKinless

**Date:** 17 May 2024



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 1 November 2022	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2022/0641/F	<b>Target Date:</b> 30 August 2022
<b>Proposal:</b> Proposed boundary wall/fence	<b>Location:</b> 29 Glengomna Road Draperstown BT45 7JQ
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Barry O'Kane 28 Glengomna Road Draperstown BT45 7JQ	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

Objections received. Applicants sister in law works for Mid Ulster District Council Planning Department.

There have been 3 letters of objection from one neighbour. The first objection letter raised concerns over a family member of the applicant working for the council which was not declared on the original application form. This has since been corrected by the agent. Secondly, the objector raised concerns over the accuracy of the map submitted and the type of map. I am content that following updates the maps clearly show what is

on the site and adjoining the site and the maps are accurate. The objector also raised queries as to why they weren't neighbour notified. The principle planner spoke with the objector and advised on this. Further objections were received relating works being proposed on lands which are not within the applicants control.

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

The site is located within the open countryside, outside any defined settlement limits and within an area of outstanding natural beauty as per the Magherafelt Area Plan 2015. The site itself includes an existing two storey dwelling with a mature hedge running along the south western boundary. The roadside boundary is undefined with a shared laneway running along the north eastern boundary of the site with an old stone wall and outbuilding located here also. The north western boundary is undefined and third party farm buildings are located beyond this. The surrounding area is mainly agricultural lands with single dwellings located sporadically throughout.

### **Description of Proposal**

This is a full planning application for a proposed boundary wall/fence.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
Addendum to PPS 7- Residential Extensions and Alterations

The SPPS provides a regional framework of planning policy that will be taken into account of in preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore, transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Paragraph 6.137 of the SPPS advises that residential extensions should be well designed.

Planning Policy EXT 1 details that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- (a) The scale, massing, design and external material 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 manoeuvring of vehicles.

Original plans proposed a wall 1.5m high with a close board fence taking the total height to 3m, running along the north western boundary and then along the corner along the shared laneway until it meets an existing outbuilding. However, amendments were received where the proposed wall has been reduced to a total height of 2.7m high and is now only proposed along the north western boundary to separate the site between the dwelling and the third party farm buildings behind this. Planting has also been proposed within the curtilage of the site to aid the integration. I am content the proposal will not detract from the appearance and character of the surrounding area.

I have no concerns about residential privacy or amenity given the location of the proposed wall and the lack of residential properties at this side. The proposed wall/fence is to provide privacy to the applicants home.

The proposal will not cause the loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. The proposal includes additional planting which will aid the local environmental quality on the site.

Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles. From such, I am content the proposal fully complies with Policy EXT 1 of addendum to PPS 7.

#### **Other Material Considerations**

With regards the objectors points over land ownership although this is a civil matter, I am content that the correct application form has been submitted and the correct certificate has been completed by the applicant. Two pieces of land were questioned, the first directly to the rear of the applicants property stating the red line was within an area outside their ownership. However, having measured the red line of the site location against a land registry folio and another map supplied by the objector I am content the red line is accurate and appears to be within the applicants ownership. There was another issue of land ownership raised by the objector relating to a piece of land along the shared laneway adjacent the site where initial plans proposed a wall to be built however, following a discussion with the principle planner the red line was slightly amended and removed the outbuilding and piece of land adjacent the laneway and the proposal of a wall/fence at this location was also removed from the plans. Therefore, I am content the Planning Department has received the correct application form and the correct ownership certificates have been completed as part of this application and it is a valid application. Any permission granted does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development, any issues over land ownership are a civil matter.

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.

**Summary of Recommendation:**

Approve is recommended

Approval Conditions

Condition 1

The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 105 of the Planning Act (Northern Ireland) 2011

Condition 2

All proposed planting shown on stamped drawing No. 02 Rev A shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside.

**Signature(s):** Ciaran Devlin

**Date:** 17 October 2022



<b>ANNEX</b>	
<b>Date Valid</b>	17 May 2022
<b>Date First Advertised</b>	28 June 2022
<b>Date Last Advertised</b>	28 June 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 27 Glengomna Road Draperstown Londonderry BT45 7JQ</p>	
<b>Date of Last Neighbour Notification</b>	30 September 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2000/0452/F Proposals: Replacement dwelling Decision: PG Decision Date: 19-SEP-00</p> <p>Ref: H/2014/0288/F Proposals: Proposed change of access to recently approved farm dwelling and garage H/2014/0126/O Decision: PG Decision Date: 23-MAR-15</p> <p>Ref: LA09/2015/0098/RM Proposals: Proposed dwelling and garage Decision: PG Decision Date: 24-JUL-15</p> <p>Ref: H/2014/0126/O Proposals: Proposed farm dwelling and garage Decision: PG Decision Date: 19-JUN-14</p>	

Ref: LA09/2022/0641/F

Proposals: Proposed boundary wall/fence

Decision:

Decision Date:

Ref: LA09/2017/1121/F

Proposals: Proposed two storey replacement dwelling and garage

Decision: PG

Decision Date: 23-NOV-17

Ref: H/2002/0430/Q

Proposals: Site for Dwelling.

Decision: 300

Decision Date: 24-MAY-02

Ref: H/2009/0359/O

Proposals: Site of proposed dwelling and garage

Decision: PR

Decision Date: 17-NOV-10

Ref: H/2011/0296/F

Proposals: Proposed farm dwelling and garage

Decision: PG

Decision Date: 28-NOV-12

Ref: H/2003/0912/F

Proposals: Dwelling and garage.

Decision: PR

Decision Date: 30-OCT-05

Ref: H/2011/0224/F

Proposals:

Proposed dwelling and garage on a farm

Decision: PG

Decision Date: 26-JUL-11

Ref: H/1978/0178

Proposals: RETIREMENT BUNGALOW WITH GARAGE

Decision: PG

Decision Date:

## Summary of Consultee Responses

-

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable

## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0652/O <b>Recommendation:</b> Approve	<b>Target Date:</b> 25 September 2023
<b>Proposal:</b> Proposed Dwelling on a Farm	<b>Location:</b> Site at 150M West of 18A Ballynacross Road, Maghera
<b>Applicant Name and Address:</b> Mr David Fulton 100 Carricknakielt Road Knockcloghrim Magherafelt BT45 8PU	<b>Agent Name and Address:</b> Mr Martin Kearney 48 Main Street Castledawson Magherafelt BT45 8AB
<b>Summary of Issues:</b>  This application was first before Members at February 2024 Planning Committee with a recommendation to refuse. It was considered that the proposed development was contrary to Policies CTY 1, CTY 10, CTY 13 and CTY 14 of PPS 21 in that the proposed dwelling was not visually linked or clustered with buildings on the farm and that a dwelling on this site would be prominent and would fail to integrate. Members agreed to defer the application for an office meeting which was facilitated on the 16 <sup>th</sup> February 2024. Following this office meeting and a subsequent site inspection, the proposal is now recommended for approval with justification for this recommendation provided further in this report.	
<b>Summary of Consultee Responses:</b>  No new consultations were issued to inform this deferred re-consideration.	
<b>Description of Proposal</b>  The proposed is an outline application for a dwelling on a farm.	

### **Deferred Consideration:**

This outline application for a dwelling on a farm is assessed primarily under CTY 1 and CTY 10 of PPS 21. Policy CTY1 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 must be considered against Policy CTY 10.

A consultation was made to DAERA who confirmed that the farm business is currently active and has been established for at least 6 years. I am therefore satisfied that there is an active and established farm business for the purpose of the policy test. A check on the planning portal of all the farm lands attached to the farm number provided confirm that there are no dwellings or development opportunities that have been sold off from the farm holding within 10 years of the date of this application.

The basis for the recommendation to refuse was the fact that there are no nearby buildings on the farm that a dwelling at this site is able to visually link or cluster with. The applicant resides at 100 Carricknakielt Rd and this is where his house and his considerable number of farm buildings are located. The applicant has confirmed that he is an intensive pig farmer and has approximately 200 sows and 4000 pigs. Given these numbers it is evident that he has a substantial pig farm and that there would be impacts from odours and noise associated with his pig farming over and above what would be expected from a normal dairy or arable farm.

In terms of siting dwellings away from farm buildings it is normally recommended that any third party dwellings be sited at least 75m from farm buildings in order to protect residential amenity. This increases to 150m for intensive poultry and pig farming. In this case the applicant's son, for whom this dwelling is being applied for, is named on the farm business and his dwelling would not be considered a third party dwelling. As such it is not unreasonable to insist on lesser separation distances. The applicant has however made a case that his son's future wife has not been brought up on a farm and would not be used to odours associated with intensive pig farming.

I do accept that the lands closest to the applicants dwelling and farm buildings would present amenity concerns given the extent of his farming practices. This can be considered as a demonstrable health and safety reason for the purpose of the policy test and would allow for consideration of an alternative site away from the farm buildings. I consider this primarily as the farm is a pig farm and if this was an arable farm my consideration would differ.

The applicant has also provided a map showing the extent of his farm lands and has identified the issues with a siting a dwelling on these lands in terms of visual prominence and accessibility. Having carried out a site inspection, I do accept the case that has been put forward in terms of the unacceptability of these sites and I hold some weight to this in my consideration of the case.

I do agree that the site chosen is the most acceptable he has in terms of integration. A dwelling sited just immediately West of the existing thick hedgerow running through the middle of the site and conditioned to a low ridge of 6m would not appear overly prominent in the local landscape. When travelling from the West to East along the public road it will benefit from a backdrop of rising land as well the existing hedgerow and intermittent semi mature trees. The winding nature of the road when travelling from this direction along with the presence of field boundaries and

trees go some way to filtering out any long term critical views from this approach. When travelling in the opposite direction, mature road side boundaries screen out any long term critical views of the site and the only critical view of the site will be from the site frontage.

For these reasons it is my opinion that there is no conflict with policies CTY 10, CTY 13 and CTY 14 of PPS 21 and I recommend Members approve this application subject to the conditions set out below.

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

#### **Approval Conditions**

##### Condition 1

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

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

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

##### Condition 2

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

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

##### Condition 3

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 form available to view on Public Access

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

##### Condition 4

The proposed dwelling shall have a ridge height of less than 6.0 metres above finished floor level

Reason: To ensure that the development satisfactorily integrates

##### Condition 5

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

Reason: To ensure the dwelling integrates into the landform

**Condition 6**

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity

**Condition 7**

The proposed dwelling shall be sited in the area shaded green on drawing no. 01 uploaded on Public Access on 12 June 2023

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

**Condition 8**

The existing natural screenings of this site as outline in red on drawing no. 01 uploaded to Public Access on 12 June 2023, including the hedgerow running through the middle of the site shall be permanently retained.

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

**Condition 9**

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

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

**Signature(s):**Karla McKinless

**Date:** 20 May 2024



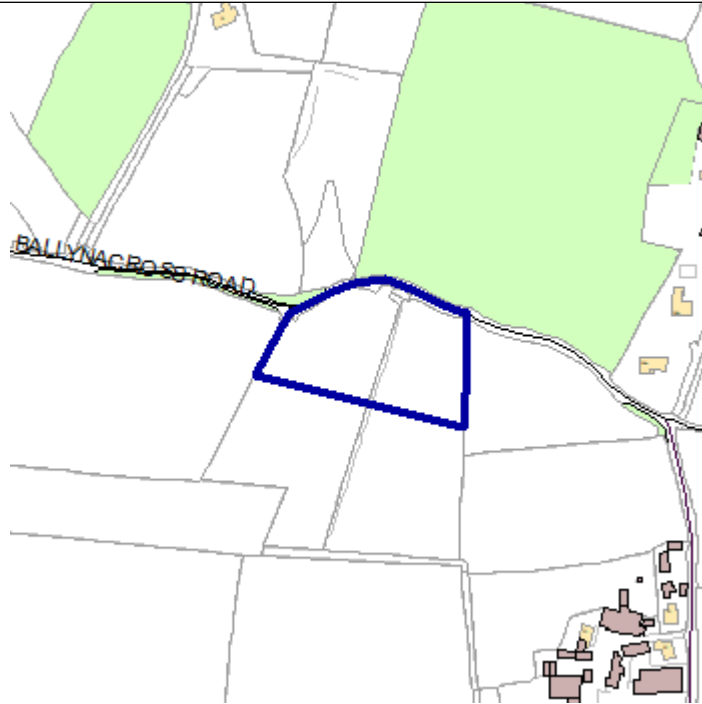
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2023/0652/O	<b>Target Date:</b> 25 September 2023
<b>Proposal:</b> Proposed Dwelling on a Farm	<b>Location:</b> Site at 150M West of 18A Ballynacross Road, Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr David Fulton 100 Carricknakielt Road Knockcloghrim Magherafelt BT45 8PU	<b>Agent Name and Address:</b> Mr Martin Kearney NEWLINE ARCHITECTS 48 Main Street Castledawson Magherafelt BT45 8AB
<b>Executive Summary:</b> <p>This application is brought to the planning committee with a recommendation for refusal. The proposal does not comply with Policy CTY 10 of PPS 21 in that the farm dwelling does not visually link or cluster with an established group of farm buildings. The proposal is also contrary to Policy CTY 13 and Policy CTY 14 of PPS 21 in that it would be unduly prominent in the landscape and the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.</p>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0652-O.DOCX
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0652-O.DOCX
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 of the proposed development is located in the rural countryside approximately

0.8 miles north west and outside the Knockcloghrim settlement limit as defined in the Magherafelt Area Plan 2015. The 0.92 hectare area site comprises two adjoining agricultural fields which front the Ballynacross Rd. The western field section of the site is relatively flat while the eastern portion slopes upwards to the east. The existing access to the site is that of a field gate. Field hedgerow runs down the middle of the site between the two fields, with a small scattering of trees. Site boundaries include field hedgerow along the northern roadside boundary and post and wire fencing along the southern edge of the site. There are no nearby farm buildings to the site. The wider surrounding environment consists mostly of agricultural fields with a series of farm yards, buildings and dwellings scattered all along the Ballynacross Rd.

### **Description of Proposal**

The proposed is an outline application for a proposed dwelling 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 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 0.8 miles north west and outside the Knockcloghrim settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Relevant Histories**

None

#### **Representations**

No third party representation have been received to date.

#### **Other Constraints**

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

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

The Flood Maps NI identify two small lines of surface water flooding on the western portion of the site which is the flatter area of land. This is a miniscule area of surface

water flooding. As a precaution, If approval is to be granted, it is recommended that a siting condition be applied so that the dwelling or any hard surfacing is located away from this area.

### 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

Policy CTY1 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 must be considered against Policy CTY 10.

A consultation was made to DAERA who confirmed that the farm business is currently active and has been established for at least 6 years.

A check on planning portal of all the farm lands attached to the farm number provided confirm that no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of this application.

A new access is proposed for the dwelling at this outline stage. There are no nearby buildings on the farm that a dwelling at this site is able to visually link or cluster with. The agent was asked to consider an alternative siting with the applicant. It was suggested that a siting at lands at 100 Carricknakielt Rd (close to applicant's current address) would provide visual linkage with existing buildings on the farm, with scope to also provide a separation distance of 75m from the same group of buildings, which are used for pig farming.

Because the current siting is without visual linkage to any buildings on the farm, the

proposed development fails to satisfy 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 as the design are only received at the reserved matters stage if approval is granted at this outline stage. It is considered that a dwelling at this site would be an unduly prominent feature in the environment. The site is quite open and sits close to the road. The most prominent views of the site are along the western approach of the Ballynacross Rd where both fields are in clear view. It is my view that a dwelling at this site would spoil the rural character of this area with its prominence. A dwelling at this site would also have to rely almost entirely on the use of new landscaping for its integration. It is therefore my view that the proposed development fails to satisfy Policy CTY 13.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As mentioned above, it is considered that a new dwelling at this site would be unduly prominent in the landscape and damage the rural character of the area. It is therefore my view that the proposed development fails to satisfy Policy CTY 14.

#### Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. The proposed access arrangements involve the creation of a new access onto the public road. DfI Roads were consulted in this application and provided no objection to the proposed subject to condition. It is considered that the proposed accords with Policy AMP 2 of PPS 3.

#### Recommendation

Given the proposed development does not site to visually link or cluster with any established buildings on the farm, the proposed fails to meet Policy CTY 10 and therefore I have to recommend that this application be refused. It is also considered that a dwelling at this site would be a prominent feature in the landscape and therefore it is my opinion that the proposed development fails to meet Policy CTY 13 and CTY 14 of PPS 21.

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

Refuse is recommended

#### Refusal Reasons

**Reason 1**

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

**Reason 2**

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

**Reason 3**

The proposal is contrary to Policy CTY 13 and Policy CTY 14 of PPS 21 in that it would be unduly prominent in the landscape and the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.

**Signature(s):** Benjamin Porter

**Date:** 23 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	12 June 2023
<b>Date First Advertised</b>	27 June 2023
<b>Date Last Advertised</b>	27 June 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/0652/O  Proposals: Proposed Dwelling on a Farm  Decision:  Decision Date:</p> <p>Ref: H/2003/0797/F  Proposals: New 33kv Overhead Electric Line and alterations to existing lines.  Decision:  Decision Date:</p>	
<b>Summary of Consultee Responses</b>	
DAERA - Coleraine-Consultee Response LA09-2023-0652-O.DOCX DAERA - Coleraine-Consultee Response LA09-2023-0652-O.DOCX DFI Roads - Enniskillen Office-Outline resp.docx	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Farm Boundary Map Plan Ref: 02

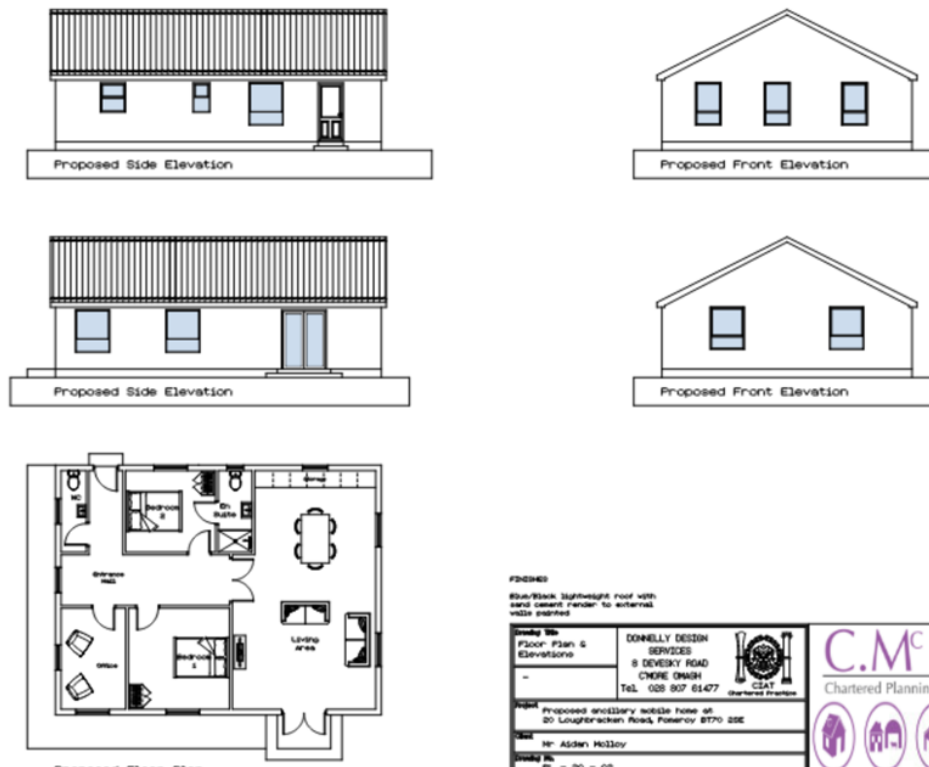
**Notification to Department (if relevant)**

Not Applicable

## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0693/F <b>Recommendation:</b> Refuse	<b>Target Date:</b> 16 October 2023
<b>Proposal:</b> Proposed temporary mobile home	<b>Location:</b> 20 Loughbracken Road, Pomeroy
<b>Applicant Name and Address:</b> Mr Aidan Molloy 20 Loughbracken Road Pomeroy BT70 2SE	<b>Agent Name and Address:</b> Mrs Carol Gourley Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
<b>Summary of Issues:</b>  This application was first before Members at March 2024 Planning Committee. It was recommended for refusal as it was considered that the proposal failed to comply with Policy CTY 6 of PPS21 in that it had not been demonstrated that a genuine hardship would be caused if planning permission was refused. The applicant was granted speaking rights at that time so that he could make his case directly to Members. It was agreed to defer the application for an office meeting which was facilitated on the 21 <sup>st</sup> March 2024. Following a re-consideration of the case I recommend that the application be refused and justification for this recommendation is provided further in this report.	
<b>Summary of Consultee Responses:</b>  No consultations were issued to inform this deferred consideration	
<b>Description of Proposal</b>  This is a full application for a proposed temporary mobile home to be sited within the existing domestic curtilage of number 20 Loughbracken Road. The mobile home will be used as a standalone unit of residential accommodation and you can see from the floor plan below, it contains 2 bedrooms (1 of which is ensuite), an office, a bathroom and a kitchen/living/dining area. It is not physically connected to number 20.	





**Deferred Consideration:**

Policy CTY 1 of PPS 21 provides clarification on which types of development are acceptable in the countryside. The application will be assessed under all relevant policies contained within PPS 21, primarily CTY 6, CTY 9, CTY 13 and CTY14.

Under Policy CTY 9 planning permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances. These exceptional circumstances include:

- o the provision of temporary residential accommodation pending the development of a permanent dwelling; or
- o where there are compelling and site-specific reasons related to personal or domestic circumstances (see Policy CTY 6).

This application for a temporary mobile home has been applied for on the basis of the applicants personal and domestic circumstances. Under Policy CTY 6 planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

- (a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and

(b) there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

I have reviewed all the evidence put forward by the applicant including the information provided by him at the office meeting. This includes supporting documentation from his agent, his sister and a therapeutic counsellor. I will not provide the specific details of this supporting documentation due to its sensitive nature. I can provide further detail, in confidence, at Planning Committee.

The first test of the policy is that the proposal is required to meet the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances. Based on the evidence provided there is nothing that sets out the long term needs of the applicant based on his condition. The development is being applied for on a temporary basis and this fact alone would indicate that the mobile is not being considered for the long term. The applicant at the office meeting advised that he could only consider things in the short term hence his application is for a temporary mobile. The policy does indicate that a temporary mobile home can be considered for a limited period to deal with immediate short term circumstances. Again, it is my opinion that the evidence provided does indicate any immediate short term circumstances that necessitate a mobile home in this location. The applicant currently resides in number 20 and has not detailed what level of care he currently requires or gets in the short term to meet this test of the policy.

The next test is based on whether there are compelling and site specific reasons for needing a dwelling/mobile home. Having reviewed the documentation there has been no medical evidence put forward that sets out that a dwelling/mobile home is needed in this exact location. A therapeutic counsellor and his sister have advised that he requires support and a stable home environment and I do not dispute that there is some evidence that he has personal circumstances that he is addressing but in my opinion this is not compelling or site specific justification for the purpose of the policy.

The policy also has a genuine hardship test. This is quite difficult to assess and both mental and physical hardship must be considered. From the supporting evidence provided there would be no physical hardship experienced if permission were refused. Both a therapeutic counsellor and his sister have advised that not having his own dwelling/mobile home would result in health concerns. Whilst I do hold some weight to this evidence, on the whole it is my opinion that it is not strong enough to show full compliance with the policy test.

The final test of the policy relates to the exploration of alternative solutions. At the office meeting it was suggested to the applicant to consider extending the dwelling at number 20 to provide ancillary accommodation. This would allow his sister and her family to return home from America to reside in the dwelling and for him to have his own independence whilst at the same time being close to her for support. It was also suggested to give consideration to a garage conversion. The applicant's agent has advised that these aren't options that the applicant can consider due to cost. His counsellor however has advised that if the conversion is the preferred option, the applicant would like it considered under this current application as it would be too costly to submit a new application. Notwithstanding this indication that he may consider a garage conversion if it was assessed under this planning application, I am of the opinion that

the applicant does not have compelling or site specific reasons which justify a mobile home or a garage conversion in any instance.

#### OTHER MATERIAL CONSIDERATIONS

I refer Members to an appeal decision (2018/A0249) for a dwelling applied for under Policy CTY 6 of PPS 21. The appellant here made a case that his daughter needed to live beside him so that he and his wife could provide emotional support and encouragement through difficult times. The commissioner noted that no evidence had been provided to confirm that there is a genuine need for her to live beside her parents and that no details were provided about the current level of care required and provided. The commissioner noted that she could not take account of past requirements or future concerns and that she had not been provided with sufficient details to demonstrate that there is a genuine need for a dwelling at the appeal site or that genuine hardship would result if the appeal were dismissed. The appeal was dismissed and the application refused under CTY 6 of PPS 21. This case has many similarities and is material in my consideration of the proposal.

I recommend that Members refuse this application for the reasons stated below.

#### Conditions/Reasons for Refusal:

##### Refusal Reasons

###### Reason 1

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

###### Reason 2

The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused. Furthermore, it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

**Signature(s):**Karla McKinless

**Date:** 22 May 2024



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 March 2024	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2023/0693/F	<b>Target Date:</b> 16 October 2023
<b>Proposal:</b> Proposed temporary mobile home	<b>Location:</b> 20 Loughbracken Road, Pomeroy
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Aidan Molloy 20 Loughbracken Road Pomeroy BT70 2SE	<b>Agent Name and Address:</b> Mrs Carol Gourley Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
<b>Executive Summary:</b> <p>The application is before Members as it is recommended for Refusal. It is proposed for a temporary mobile home. This proposal has been assessed under all relevant policy, namely the SPPS, the Cookstown Area Plan 2010, and PPS 21 (CTY 1,6,9,13 and 14). No objections have been received to date. Issues raised by the Planning Department include conflict with policy such as the PPS21 CTY 6 with regards to genuine hardship being caused and CTY 9 with relation to the temporary siting of the mobile home. A special circumstances case has been put forward however it is considered that the application is contrary to paragraph 5.29 of CTY 6 as no verifiable documents from a GP/Medical Professional that explain how genuine hardship would be caused if this application were to be refused. With Regards CTY 9 no adequate details have been provided of the immediate short-term circumstances and how a temporary mobile home will deal with these.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the open countryside as defined in the Cookstown Area Plan 2010, approximately 0.8km northeast of Pomeroy village. The site is identified as 20 Loughbracken Road an existing two storey detached dwelling which is set back from the road, the dwelling is accessed from the Loughbracken Road via a private lane. Mature hedging and fencing surround the sites curtilage, I note that the immediate surrounding

area is rural in nature however there is several existing dwellings located along this section of Loughbracken Road.

### **Description of Proposal**

This is a full application for a proposed temporary mobile home.

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

#### **Policy Consideration**

#### **Representations**

Two (2) neighbouring properties were notified with (No.24 returned by royal mail – addressee inaccessible), and press advertisement was carried out in line with the Council's statutory duty. To date no third party representations have been received.

#### **Consultations**

No consultations were considered necessary for this application.

#### **Relevant Planning History**

Reference: I/1999/0126

Location: 20 Loughbracken Road Pomeroy

Proposal: Extension & Alterations to dwelling

Decision: Permission Granted

### **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 21 - Sustainable Development in the Countryside
  - CTY 1 – Development in the Countryside
  - CTY 6 - Personal and Domestic Circumstances
  - CTY 9 - Residential Caravans and Mobile Homes
  - CTY 13 - Integration and Design of Buildings in the Countryside
  - CTY14 - Rural Character

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

The Cookstown Area Plan 2010 identifies the site as being in the rural countryside, approximately 0.75km north of Pomeroy. There are no other zonings or designations within the Plan.

### **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.

### **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 21 – Sustainable Development in the Countryside**

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. The application will be assessed under all relevant policies contained within PPS 21 such as CTY 6, CTY 9, CTY 13 and CTY14.

### **Policy CTY 9 – Residential Caravans and Mobile Homes**

Planning permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances.

These exceptional circumstances include:

- the provision of temporary residential accommodation pending the development of a permanent dwelling; or
- where there are compelling and site-specific reasons related to personal or domestic circumstances (see Policy CTY 6).

The planning department has not been provided with adequate details of the immediate short-term circumstances and how a temporary mobile home will deal with these.

## **Policy CTY 6 – Personal and Domestic Circumstances**

Planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

(a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and

(b) there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

I am of the opinion that there is not enough information for the planning department to determine if genuine hardship would be caused if planning permission were refused. CTY 6 (b) also states that permission will be granted the use of a temporary mobile home for a limited period to deal with short term circumstances however the agent/applicant has not provided detailed information as to why a temporary mobile home would deal with short term circumstances and what the short-term circumstances are.

Paragraph 5.29 states that applicants will be expected to provide sufficient information to allow a proper assessment of each specific case.

Such information should include:

- *a statement detailing the special personal or domestic circumstances supported if appropriate by medical evidence from a medical or health professional.*

Whilst the applicant has provided us with a statement of case detailing the personal circumstances these have not been verifiable from a GP or medical professional.

- *details of the level of care required in relation to any medical condition again supported by the appropriate health professional, the identity of the main carer, their current address and occupation.*

A letter submitted by the applicant's sister explains that she currently resides in New York City where she works as a registered nurse. M Molloy details that she intends to relocate to Ireland in Spring 2024, to provide a level of care for her brother, the applicants sister states 'This arrangement would offer him a more stable home environment, close family support coupled with maintaining his independent living which is crucial for his rehabilitation'. No details have been provided that identify a carer is needed for Mr Molloy and that the registered carer for Mr Molloy is his sister. No documents have been submitted which specify who Mr Molloy's current carer is while his sister resides in the New York City.

- *an explanation of why care can only be provided at the specific location and how*



*genuine hardship would be caused if planning permission were refused.*

No information has been provided indicating why care can only be provided at the proposed site.

Having carried out an assessment of the planning policy, I recommend that this application be refused planning permission as it is contrary to PPS21 policies CTY 6 and CTY9.

### **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 proposed temporary mobile home is considered contrary to planning policy statement 21 CTY 6 as the applicant has not demonstrated that genuine hardship will be caused should planning permission be refused based on his special circumstances.

**Signature(s):** Ciara Carson

**Date:** 8 February 2024

<b>ANNEX</b>	
<b>Date Valid</b>	3 July 2023
<b>Date First Advertised</b>	30 January 2024
<b>Date Last Advertised</b>	11 July 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 18 Loughbracken Road Pomeroy Tyrone BT70 2SE The Owner / Occupier RNN 24 Loughbracken Road Pomeroy Tyrone BT70 2SE	
<b>Date of Last Neighbour Notification</b>	19 January 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1999/0126  Proposals: Extension &amp; Alterations to dwelling  Decision: PG  Decision Date:</p> <p>Ref: I/1979/0017  Proposals: EXTENSION AND IMPROVEMENTS TO DWELLING  Decision: PG  Decision Date:</p> <p>Ref: LA09/2017/0278/O  Proposals: Farm dwelling and garage  Decision: PG  Decision Date: 22-MAY-17</p> <p>Ref: LA09/2023/0693/F  Proposals: Proposed detached ancillary granny flat  Decision:  Decision Date:</p>	

**Summary of Consultee Responses**

-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Proposed Plans Plan Ref: 02  
Site Location Plan Plan Ref: 01/1

**Notification to Department (if relevant)**

Not ApplicableNot ApplicableNot Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0916/F <b>Recommendation:</b> Approve	<b>Target Date:</b> 15 December 2023
<b>Proposal:</b> Proposed off site replacement dwelling and garage	<b>Location:</b> 180M West of No 16 Carncoise Road Cranny Moneymore
<b>Applicant Name and Address:</b> Mr Gregory McGovern 31 Tirgan Road Moneymore BT45 7RZ	<b>Agent Name and Address:</b> CMI Planners 38B Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b> <p>This application was first before Members at February 2024 Planning Committee with a recommendation to refuse. It was considered that the proposed development was contrary to Policy CTY 3 of PPS 21 in that the proposed dwelling would have a significantly greater visual impact than the dwelling it was replacing. Members agreed to defer the application for an office meeting which was facilitated on the 16<sup>th</sup> February 2024. Following this office meeting and a subsequent site inspection, the proposal is now recommended for approval with justification for this recommendation provided further in this report.</p>	
<b>Summary of Consultee Responses:</b> <p>No consultations were carried out to inform this deferred consideration</p>	
<b>Description of Proposal</b> <p>This is a full application for a proposed offsite replacement dwelling and garage. The existing dwelling is shown in the photo below and it is proposed to replace it with the dwelling detailed in the plan drawing further below.</p>	



**Deferred Consideration:**

The main concern with this application is that it was considered that the proposed dwelling would have a significantly greater visual impact than the dwelling it was replacing. As such, it was considered contrary to policy CTY 3 of PPS 21.

CTY 3 states that the overall size of a new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing dwelling. Having carried out a site inspection I can confirm that the existing dwelling cannot be viewed from the public road. The policy allows for off site locations in certain circumstances and in this application the applicants justification for an off site location has been considered acceptable. Moving the dwelling off-site is resulting in a dwelling that will be viewable from the public road. The site is set back from the Carnose Road and the presence of mature roadside and field boundaries will filter and soften any views of the dwelling and it is considered that whilst the new dwelling will have a greater visual impact, it will not be significantly greater. This is also helped by the fact that the dwelling is single storey and incorporates a good landscaping scheme, which will be a condition of approval to ensure the dwelling integrates into the surrounding landscape.

Members are advised to approve this application as it is considered that there is no conflict with Policy CTY 3 of PPS 21.

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

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

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

**Condition 2**

The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, coloured green on drawing no. 01, uploaded on Public Access on 1 September 2023, is demolished, all rubble and foundations have been removed in accordance with the details on the approved plans

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site

**Condition 3**

The vehicular access including visibility splays 2.4 x 33 metres East and 2.4 x 45 metres West and any forward sight distance, shall be provided in accordance with Drawing No. 06 uploaded on Public Access on 12 January 2024, prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 4**

During the first available planting season after the occupation of the dwelling hereby approved, the proposed trees and vegetation shall be planted in accordance with drawing no. 02 uploaded on Public Access on the 1 September 2023.

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

**Condition 5**

The existing natural screenings of this site, as identified on drawing 02, uploaded on Public Access on 1 September 2023, shall be permanently retained.

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

**Signature(s):**Karla McKinless

**Date:** 20 May 2024



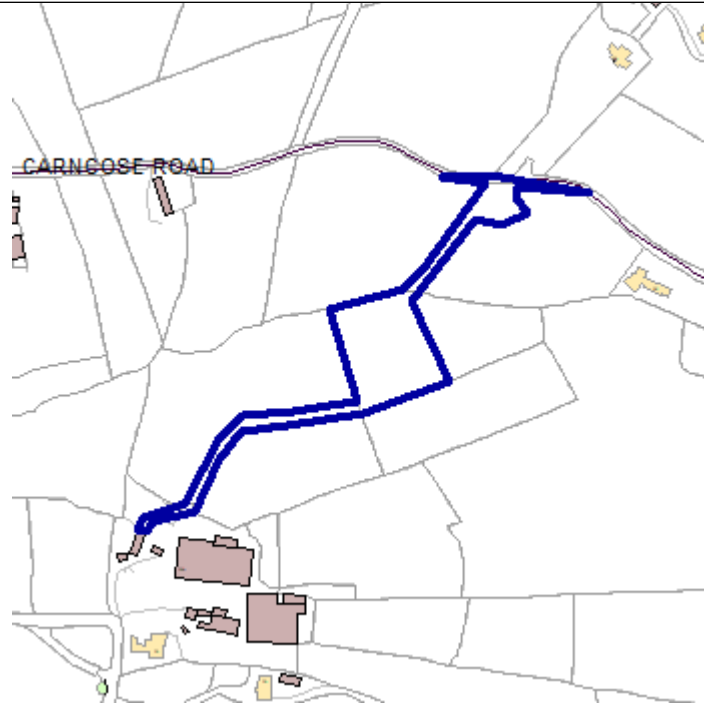
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.26
<b>Application ID:</b> LA09/2023/0916/F	<b>Target Date:</b> 15 December 2023
<b>Proposal:</b> Proposed off site replacement dwelling and garage 180m West of No. 16 Carnose Road, Cranny, Moneymore, BT45 7RY	<b>Location:</b> 180M West of No 16 Carnose Road Cranny Moneymore
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Gregory McGovern 31 Tirgan Road Moneymore BT45 7RZ	<b>Agent Name and Address:</b> CMI Planners 38B Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b> <p>This proposed full application for an off-site replacement dwelling is brought to the planning committee with a recommendation for refusal. The proposed fails to meet the criteria in Policy CTY 3 of PPS 21 in that it would, if permitted, have a significantly greater visual impact than the existing dwelling.</p> <p>I am however content that the proposed complies with Policy CTY 13 and CTY 14 of PPS 21.</p>	



## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed development is in the rural countryside outside any designated settlement limit as defined in the Magherafelt Area Plan 2015. The site for the proposed dwelling is 180m west of no. 16 Carncoise Road Moneymore and comprises a hilltop portion of a larger agricultural field. The site is set back approximately 90 metres from

the Carnose Rd. Boundaries include field hedgerow along the northern and southern edges of the site and post and wire fencing along the western boundary. The site for the dwelling is 170 metres north west of Tir-con Engineering which is comprised of a large built up yard area with a series of large sheds. The existing dwelling to be replaced lies along the western edge of this yarded area and is marked in green within the red-lined area of the site location map.

### **Description of Proposal**

This is a full application for the proposed off site replacement dwelling and garage 180m west of no. 16 Carnose Road, Cranny, Moneymore, BT45 7RY.

### **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**

LA09/2023/0357/F – Proposed off-site replacement dwelling and detached garage – Lands approx. 1110m NE of 37 Tirgan Road Moneymore – Permission Granted 13/11/2023

#### **Representations**

To date no third party representations have been received.

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

The site of the proposed development is in the rural countryside outside any designated settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

The site is located in the Sperrins AONB. The proposal is considered against Policy NH 6 of PPS 2 in the main body of the report.

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

There are no issues pertaining to flooding at the site.

#### **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 replacement dwelling opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### PPS 3 – Access, Movement and Parking

The proposed involves the creation of a new access to a public road. Given this is a replacement dwelling, there will be no intensification of the use of this access and thus the proposed will not prejudice road safety. DfI Roads were consulted in this application and provided no objection to the proposal, subject to condition. I am content that the proposed satisfies policy AMP 2 of PPS 3.

### PPS 21 – Sustainable Development in the Countryside

PPS21 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 replacement dwellings, subject to policy criteria within CTY 3 - Replacement Dwellings being met.

The existing building on site exhibits the essential characteristics of a dwellinghouse, including what appears to be the remnants of a fireplace / chimney and domestic-scale door and window gaps. All four walls are substantially intact. Thus I am content that the existing dwelling qualifies for replacement. It is not a listed building and nor is it considered to make an important contribution to the heritage, appearance or character of the locality.

Policy CTY 3 provides that the proposed replacement dwelling should be sited within the established curtilage of the existing building. I acknowledge that the existing building is located along the western edge of a heavily built up and busy yard area with limited existing domestic curtilage and therefore it is accepted that the proposed replacement dwelling cannot be sited at this location.

The design of the replacement dwelling is considered to be appropriate for its rural setting, with rendered walls and flat dark concrete tiles. All necessary services can be provided without significant adverse impact on the environment and the access to the public road is considered to be in compliance with PPS 3, as established above.

Finally, the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building. While the proposed dwelling is single storey and modest in size, it is considered that the siting for the dwelling on what is a significantly more prominent position atop a hill, will result in the dwelling having a significantly greater visual impact than the existing dwelling. The agent was asked to consider with the applicant an alternative siting location for the replacement dwelling, including the agricultural field just north of the existing dwelling, though this has not been forthcoming. Because of this I have to advise that the proposal fails on this aspect of the policy and therefore fails to meet Policy CTY 3.

Consideration is given to a similar application which was recently granted planning permission. Planning approval was granted to the off-site replacement dwelling under LA09/2023/0357/F, the existing dwelling of which was the adjoining dwelling to the south of the existing dwelling in this current case under consideration. There were initial concerns raised pertaining to the height of the dwelling in that case, and as a result the proposed dwelling was reduced to single storey. While this current application also proposes a single storey dwelling, the siting by comparison to the siting of that approved, results in a significantly greater visual impact than that of the existing dwelling.

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. As above, the design of the dwelling is considered to be acceptable. The proposed site is complete with a degree of long established natural boundaries which include field hedgerow to the north western and south eastern boundaries. There is a degree of proposed landscaping at the site consisting of natural species feature trees dotted around the proposed dwelling. It is considered that the proposed dwelling would not be a prominent feature in the environment, though it is important to note that this does not mean that the proposed dwelling does not have a significantly greater visual impact than that of the existing dwelling as has been established for the purposes of Policy CTY 3 above. I am content that the proposal meets the criteria under Policy CTY 13.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its environs are suitable for absorbing a dwelling of this size and scale. I am content that the proposal meets the criteria under Policy CTY 14.

### Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application for planning

permission be refused.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal fails to comply with Policy CTY 3 of PPS 21 in that it would, if permitted, have a significantly greater visual impact than the existing dwelling.

**Signature(s):** Benjamin Porter

**Date:** 18 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	1 September 2023
<b>Date First Advertised</b>	12 September 2023
<b>Date Last Advertised</b>	12 September 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 31 Tirgan Road Moneymore Londonderry BT45 7RZ The Owner / Occupier 19 Carncoose Road Moneymore Londonderry BT45 7RY	
<b>Date of Last Neighbour Notification</b>	12 September 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/0624/F  Proposals: Proposed single storey rear extension and alterations to dwelling  Decision: PG  Decision Date:</p> <p>Ref: H/2006/0145/O  Proposals: Site of proposed Community Hall (Removal of Existing) for Social Community Events &amp; Provision of Car Parking Facilities  Decision: PG  Decision Date: 06-SEP-07</p> <p>Ref: H/2003/1362/O  Proposals: Site of dwelling and garage.  Decision:  Decision Date:</p> <p>Ref: H/1994/0553  Proposals: SITE OF RETIREMENT DWELLING  Decision: WITHDR  Decision Date:</p> <p>Ref: H/2008/0293/F</p>	

Proposals: Proposed new access laneway into house No. 31a Tirgan Road, Moneymore

Decision: PG

Decision Date: 15-APR-09

Ref: H/1988/0118

Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/1980/0051

Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/2006/0355/F

Proposals: Proposed new access laneway into house No. 31a Tirgan Road, Moneymore

Decision:

Decision Date:

Ref: LA09/2023/0928/LDE

Proposals: Existing Manufacture, Storage & Office Buildings for Tircon Engineering specialising in the Manufacture & Erection of steel agricultural sheds

Decision:

Decision Date:

Ref: H/2000/0836/PA

Proposals: Telecommunications Apparatus

Decision: 53

Decision Date: 03-JAN-01

Ref: H/1989/0368

Proposals: RETIREMENT BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2023/0357/F

Proposals: Proposed off-site replacement dwelling and detached garage

Decision:

Decision Date:

Ref: H/1975/0200

Proposals: 11KV AND M/V O/H LINES (C.7060)

Decision: PG

Decision Date:

Ref: H/2000/0771/F

Proposals: 11kv Overhead Line

Decision: PG

Decision Date: 18-DEC-00

Ref: LA09/2023/0916/F

Proposals: Proposed off site replacement dwelling and garage 180m West of No. 16 Carnose Road, Cranny, Moneymore, BT45 7RY

Decision:

Decision Date:

Ref: LA09/2020/0500/F

Proposals: Proposed off Site Replacement Dwelling

Decision: WDN

Decision Date: 16-JUN-21

Ref: LA09/2021/0934/O

Proposals: Dwelling & Garage

Decision: WDN

Decision Date: 06-SEP-23

Ref: H/2008/0628/F

Proposals: Extension and refurbishment to existing dwelling and erection of new garage for domestic use.

Decision: PG

Decision Date: 18-FEB-09

Ref: H/2007/0861/F

Proposals: Replacement Dwelling

Decision:

Decision Date:

Ref: H/2015/0084/LDP

Proposals: Improvement works are proposed within the existing NI water service reservoir site to facilitate deployment of emergency tankering operations if required during extreme weather conditions. The works include creation of a parking bay, new posts to abut existing fence proposed concrete post and strained wire fence

Decision: PG

Decision Date: 06-AUG-15

Ref: H/1996/0448

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: H/1995/0441

Proposals: SITE OF DWELLING



Decision: WITHDR

Decision Date:

Ref: H/1996/0028

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1983/0136

Proposals: REINFORCED CONCRETE RESERVOIR AND OUTSTATION

Decision: CROWN

Decision Date:

Ref: LA09/2016/0019/RM

Proposals: Proposed dwelling and garage for residential purposes

Decision: PG

Decision Date: 25-FEB-16

Ref: LA09/2015/0642/O

Proposals: One dwelling house and garage

Decision: PG

Decision Date: 09-NOV-15

Ref: H/2003/1280/O

Proposals: Site of single dwelling.

Decision: PG

Decision Date: 01-MAR-05

Ref: H/1986/0123

Proposals: BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: H/1977/0430

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: H/1975/0244

Proposals: 11KV AND MV O/H LINES C7240

Decision: PG

Decision Date:

Ref: H/1974/0053

Proposals: SITE OF CONVERSION OF RECREATION BUILDING TO OFFICES AND STORES

Decision: PG  
Decision Date:

Ref: H/1994/0053  
Proposals: REPLACEMENT DWELLING  
Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx  
DFI Roads - Enniskillen Office-Full Resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Floor Plans Plan Ref: 03  
Proposed Floor Plans Plan Ref: 04  
Proposed Elevations Plan Ref: 05  
Road Access Plan Plan Ref: 06

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2023/1071/O	<b>Target Date:</b> 24 January 2024
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> Approx 50M NE of No 2 Cullenramer Road Dungannon
<b>Applicant Name and Address:</b> Mr Michael Walls 2 Cullenramer Road Greystone Dungannon BT70 1SS	<b>Agent Name and Address:</b> C. Mcllvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
<b>Summary of Issues:</b> This application is for a dwelling and garage in the countryside. The application is being assessed against CTY2a, dwelling in a cluster. The site is close to a crossroads, not at the crossroads. The area is known locally as Greystone, which centres around the 2 crossroads and where there was historically the Greystone Post Office. A dwelling here would cluster with a group of buildings.	
<b>Summary of Consultee Responses:</b> DFI Roads - provided standards for acceptable access	
<b>Characteristics of the Site and Area:</b>  The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural though around the crossroads and extending along Legilly Road there is a small rural shop (Greystone Stores) a builders yard (Greystone Joinery) vehicle sales and repairs beside the former post office at the crossroads. The application site is an agricultural field where the land rises from the roadside to the rear boundary. There is a row of established trees along the rear boundary. Fencing is the	

boundary treatment along the remaining boundaries. There is a single storey dwelling, garage and outbuildings to the rear of the site at No.2. Another gable fronted bungalow and outbuildings, some formerly used as a beauticians and spa retreat, are at No.4. A low 2 storey farmhouse and agricultural buildings is located further north which provides a stop to the development here. Opposite is a 2 storey dwelling and agricultural building which back onto a small river.

**Description of Proposal**

This is an outline application for a proposed dwelling and garage at lands approx. 50m NE of No 2 Cullenramer Road, Dungannon.

**Deferred Consideration:**

This application was before the Planning Committee in February 2024 where it was deferred for a meeting with Dr Boomer to discuss the clustering policy and explore other potential policies that might be more appropriate. A meeting was held on 15 February 2024 where the clustering policy was discussed and it was indicated a dwelling was proposed in the west part of the site, in front of the applicants house and outbuildings. It was advised there had been permission granted for a dwelling here before, however this was not acted upon.

A check of the planning history provided shows:

M/1979/0821, Outline Planning Permission granted for 2 dwellings (bungalows) on the road frontage of the site

M/1979/0822, Outline Planning Permission granted for a dwelling at the roadside part of this site

M/1984/0214, Outline Planning Permission granted for a dwelling

M/2006/1064/O, Outline Planning Permission for a dwelling was refused as it was considered a dwelling here when added to the existing would constitute a group of houses in the countryside. This site was to the south west of the application site.

Members are advised the above applications were all considered under a different policy context and the proposal must be assessed against the current policies contained in PPS21, until Mid Ulster Council develops and adopts its own suite of policies. 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.

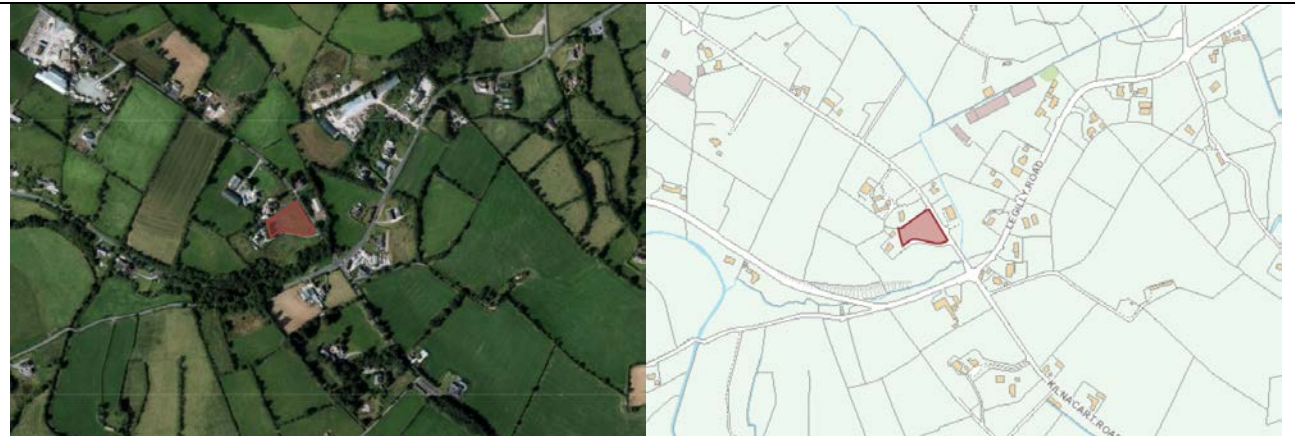


Fig 1 and 2 – aerial and map, Greystone Sores to east of pic, Greystone Joinery to east and cluster of development around the site.

As set out in the previous report the application was assessed against CY2a as a dwelling in a cluster and was recommended as a refusal as it did not meet one of the criteria, it was not considered to be associated with a focal point or located at a crossroads. Members are advised the criteria is not specific that a focal point must be a social/community building/facility, it states 'a focal point such as a social/community building/facility'. Previous decisions have been based on the focal point being a place where someone would know or it has an identity or is easily identifiable. In this case the site is located at Greystone, which is a locally known area. It is identifiable by the small rural shop called Greystone Stores to the east, the builders/construction company called Greystone Joinery and the former Greystone Post Office at the crossroads, which still has the marker 'Greystone' on the wall. I am of the opinion the proposed site is associated with the focal point of Greystone and as such does meet with the criteria for a dwelling as set out in CTY2a – New Dwellings in Existing Clusters.

In light of all of the above I consider the proposal does meet the clustering test and a dwelling and garage may be approved on this site.

#### Conditions/Reasons for Refusal:

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

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

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

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

3. Details of existing and proposed levels within the site, levels along the roadside, and the finished floor level of the proposed dwelling shall be submitted for approval at Reserved Matters stage. The dwelling shall be built in accordance with levels agreed at Reserved Matters stage.

Reason: To ensure that the dwelling integrates into the surrounding countryside.

4. The dwelling hereby approved shall be sited as generally shown on drawing No 02 received 17 January 2024.

Reason: In the interest of visual amenity and to ensure the dwelling clusters with other development.

5. The dwelling hereby approved shall have a ridge height not exceeding 6.0m above the finished floor level and the underbuilding shall not exceed 0.45m at any point.

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

6. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All new curtilage boundaries shall be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage. During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Mid Ulster 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 otherwise agreed by Mid Ulster Council in writing.

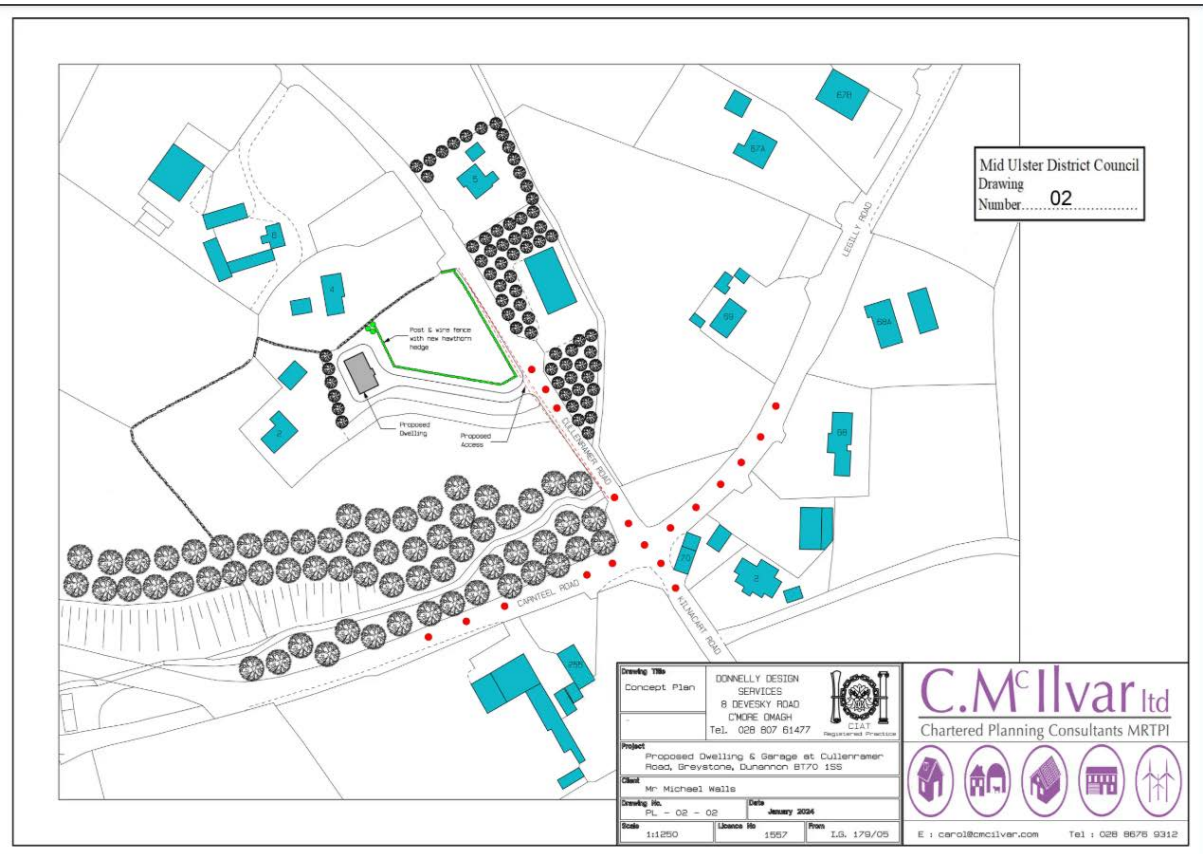
Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

7. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the uploaded form RS1 including sight lines of 2.4m by 80.0m to the northwest and 2.4m by 60.0m to the southeast where the access meets the public road. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

**Signature(s)**

**Date:**





**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.29
<b>Application ID:</b> LA09/2023/1071/O	<b>Target Date:</b> 24 January 2024
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> Approx 50M NE of No 2 Cullenrammer Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Michael Walls 2 Cullenrammer Road Greystone Dungannon BT70 1SS	<b>Agent Name and Address:</b> C. McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
<b>Executive Summary:</b>  No third party representations have been received.	



## 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 of Objection	0
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

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

character with agricultural fields, interspersed with groups of farm buildings and single dwellings.

The application site is an agricultural field where the land rises from the roadside to the rear boundary. There is a single storey dwelling and garage to the rear of the site at No.2. There is another dwelling to the north at No.4 and across the road is a dwelling and shed. There is a row of established trees along the rear boundary. Fencing is the boundary treatment along the remaining boundaries.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage at lands approx. 50m NE of No 2 Cullenramer Road, Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

No recent planning histories at the application site.

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

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

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone

Area Plan 2010 and is not within any other designations or zonings in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that**

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

**Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a new dwelling in an existing cluster CTY 2a is the relevant policy in the assessment.

**Policy CTY 2a – New Dwellings in Existing Clusters**

I am content there is a cluster of development outside of a farm and there are four or more buildings with at least three are dwellings as shown in figure 1 below.



Figure 1 – Image of the site in the context of the surrounding area.

There is No.2 to the west, No.4 and No.6 to the north are dwellings and No.5 across the road is a dwelling. In addition, there is a shed directly across the road.

I am content the cluster appears as a visual entity in the landscape as shown in figure 1 above.

There is no focal point in the immediate area such as a community building or social facility. I consider the site is not located at a crossroads. There is a crossroads nearby, but the policy states the cluster should be located at a crossroads. In a supporting statement submitted by the agent it is argued the site is located at a crossroads as the crossroads is easily identifiable when travelling along the roads which lead into it. It is stated that roadside development is found along all four roads which meet at the junction.

I am content there is a suitable degree of enclosure and there is development on two sides as there is a dwelling to the west and north of the site.

I consider a single storey dwelling on the western portion of the site adjacent to No.2 and No.4 would round off the existing cluster. I am content a dwelling in this siting would not have a detrimental effect on rural character.

There is a row of established trees along the western boundary which will assist in

protecting neighbour amenity at No.2 to the north. The proposed dwelling would be adjacent to No.4 to the north, but I consider additional planting would assist in the integration of the dwelling and reduce any overlooking or loss of privacy.

Having assessed all the evidence, the proposal does not meet all the criteria in CTY 2a as the site is not at a crossroads or has a focal point. However, the proposal if sited in the western half of the site would rounding off a cluster of buildings and would not have a detrimental impact on rural character as shown on the concept plan submitted. It is stated in the supporting statement that the proposed dwelling would read with the existing cluster of development.

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

The land rises steeply from the roadside to the rear boundary of the site adjacent with No.2 Cullenrammer Road. The predominant house type in the area is single storey and due to the rising topography, I consider a single storey dwelling would be the most acceptable house type in this location. I am of the opinion a modest dwelling to the rear of the site would round off the cluster and not be a prominent feature in the landscape. There are established trees along the rear boundary but additional hedging around the remaining boundaries would assist in the integration into the landscape. I am content a dwelling would integrate at the site subject to a siting condition.

### **CTY 14 – Rural Character**

As stated earlier in the assessment I am content a dwelling in this location would not be a prominent feature in the landscape. There are already several other dwellings in the immediate area so I am of the opinion another dwelling would not exacerbate a suburban style build-up of development. I consider a dwelling in this location would not have an unacceptable impact on rural character.

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

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

The site does not access onto a protected route, so I have no concerns in this regard. Roads were content a new safe access could be created to the site subject to the positioning of a dual access with the existing laneway.

### **Other Considerations**

I completed checks on the statutory map viewers and I am satisfied there are no other ecological, historical or flooding issues at the site.

### **Summary of Recommendation:**

Refuse is recommended

The application site does not meet any policies in PPS 21 for a dwelling in the countryside.

**Refusal Reasons**

Reason 1

Contrary to CTY 1 - Development in the Countryside in PPS 21 as there is no overriding reason why the proposed development is essential and could not be located within a settlement.

Reason 2

Contrary to CTY 2a - New Dwellings in Existing Clusters in PPS 21 in that the application site is not at a crossroads or associated with a focal point.

**Signature(s):** Gillian Beattie

**Date:** 22 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	11 October 2023
<b>Date First Advertised</b>	23 October 2023
<b>Date Last Advertised</b>	23 October 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 4 Cullenramer Road Dungannon Tyrone BT70 1SS The Owner / Occupier 2 Cullenramer Road Dungannon Tyrone BT70 1SS	
<b>Date of Last Neighbour Notification</b>	12 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/2004/1595/F Proposals: Proposed dog kennels for commercial use Decision: Decision Date: Ref: M/1979/0822 Proposals: PROPOSED DWELLING Decision: PG Decision Date: Ref: M/1979/0821 Proposals: TWO DWELLINGS (BUNGALOWS) Decision: PG Decision Date: Ref: M/1984/0214 Proposals: DWELLING Decision: PG Decision Date: Ref: LA09/2023/1071/O Proposals: Dwelling and garage Decision: Decision Date: Ref: M/1987/0379 Proposals: DWELLING	

Decision: PG  
Decision Date:  
Ref: M/1981/046901  
Proposals: ERECTION OF DWELLING AND GARAGE  
Decision: PG  
Decision Date:  
Ref: M/1981/0469  
Proposals: DWELLING AND GARAGE  
Decision: PG  
Decision Date:  
Ref: LA09/2016/0262/F  
Proposals: Removal / variation of condition 8 of M/2011/0500/F  
Decision: PG  
Decision Date: 09-MAY-16  
Ref: LA09/2015/0447/PAD  
Proposals: Proposed pet crematorium  
Decision: PAD  
Decision Date: 30-NOV-15  
Ref: M/2006/2096/F  
Proposals: Proposed change of use from domestic garage to provide office  
Decision:  
Decision Date:

**Summary of Consultee Responses**

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

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



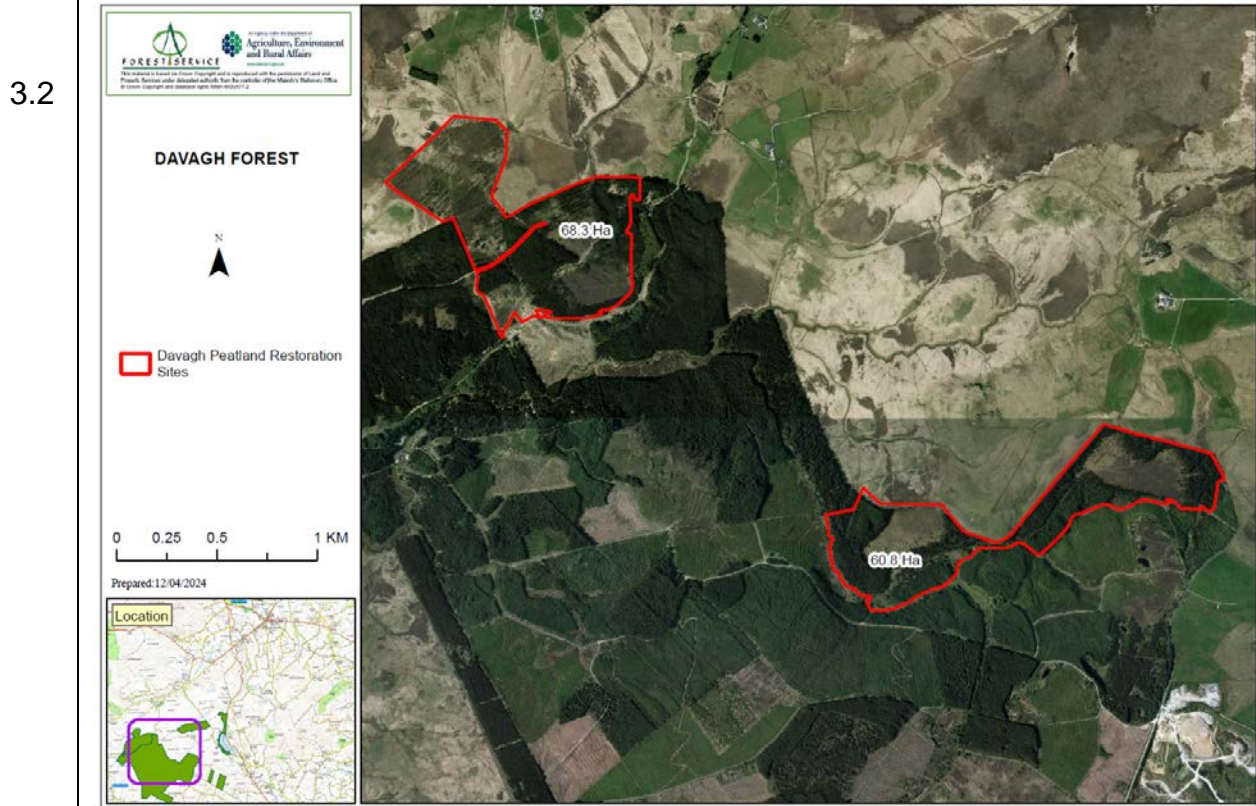
<b>Report on</b>	Consultation on Forest Service deforestation proposal
<b>Date of Meeting</b>	Tuesday 4 <sup>th</sup> June 2024
<b>Reporting Officer</b>	Lorraine Moon
<b>Contact Officer</b>	Melvin Bowman

<b>Is this report restricted for confidential business?</b> If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	x

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To inform members of a statutory consultation received from Forest Service, an Agency of the Department of Agriculture, Environment and Rural Affairs (DAERA) in accordance with the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 (as amended) in relation to a deforestation proposal at Davagh Forest, Co. Tyrone.
<b>2.0</b>	<b>Background</b>
2.1	<p><b>PROJECT DETAILS</b></p> <p>Townland and Location: Davagh Forest, Co. Tyrone</p> <p>Project Type: Deforestation – Harvesting of conifers followed by bog restoration.</p> <p>Project Area: Davagh North 68.3ha, Davagh East 60.8ha</p>
2.2	Forest Service on behalf of the Department of Agriculture, Environment & Rural Affairs (DAERA) is required to form an opinion under the EIA (Forestry) Regulations as to whether the above project is likely to have a significant effect on the environment.
2.3	They have consulted with Mid Ulster District Council as a Statutory Consultee requesting any information relating to this project or considerations the Council may have which would assist them in providing an opinion in accordance with the Regulations.
2.4	Forest Service have included an initial screening of this project in respect of the Forestry EIA Regulations and is based on limited data only.
2.5	The consultation was received by email on 30 <sup>th</sup> April and a response is requested within 14 days. However, an extension of time has been requested due to the dates of the Committee meetings. Forest Service on behalf of the Department of Agriculture, Environment & Rural Affairs (DAERA) is required to form an opinion under the EIA (Forestry) Regulations as to whether the above project is likely to have a significant effect on the environment. Forest Service have requested views on this project proposal which MUDC consider may be of assistance in providing an opinion in respect of the Regulations.

**3.0 Main Report**

3.1 The proposed deforestation scheme is located at Davagh Forest, Co. Tyrone xy co-ords Davagh North: 270160 387600 (H 70160 87600) – see map 1 below.



Map 1. Screenshot of project area provided by Forest Service.

3.3 The proposal is a deforestation proposal, for the harvesting of conifers followed by bog restoration in two locations of 68.3ha and 60.8ha respectively.

3.4 In addition to the features identified in Forest Service's screening report, which is attached in appendix 1, we have the following comments to make.

3.5 According to DFI Rivers Flood Map the proposal site is not affected by any existing flooding issues or potentially by any climate change flooding issues according to strategic maps.

**4.0 Other Considerations**

**4.1 Financial, Human Resources & Risk Implications**

Financial

Human:

Risk Management:

<b>4.2</b>	<p><b>Screening &amp; Impact Assessments</b></p> <p>Equality &amp; Good Relations Implications:</p> <p>Rural Needs Implications:</p>
<b>5.0</b>	<p><b>Recommendation(s)</b></p>
5.1	<p>Members are requested to note the contents of this report and agree to issue the consultation response attached in appendix 2.</p>
<b>6.0</b>	<p><b>Documents Attached &amp; References</b></p>
	<ul style="list-style-type: none"> <li>- Appendix 1 – Forest Service Screening matrix</li> <li>- Appendix 2 – Consultation Response to Forest Service from MUDC (Draft – To be agreed)</li> </ul>

## Appendix 1

### Screening Matrix for Deforestation Projects

File	ERA 23/24 - 47
Townland and location	Davagh Forest, Co. Tyrone XY co-ords Davagh North: 270160 387600 (H 70160 87600) and Davagh East: 273000 385850 (H 73011 85872)
Project Type	Deforestation- Harvesting of conifers followed by bog restoration.
Block/Area	Davagh North 68.3 ha Davagh East 60.8 ha
Type of woodland; Species; provenance of native species; age of trees; growth (good/poor)	Sitka spruce (SS) planted in 1957, 1960, 1961, 1978, 1997, 2001 & 2011. Lodgepole pine (LP) planted in 1957, 1960, 1963, 1978, 1980 & 1981. NS planted in 1957. Birch/Rowan/Common Alder/Willow planted in 1997. Willow planted in 2007.
If grant aided, is the felling to take place within the commitment period of the grant?	N/A
Is the area subject to a current felling licence?	N/A
Nature of the proposal	<p>The proposed works will contribute to the DAERA Climate Action Plan peatland restoration targets in line with the Climate Change Act (Northern Ireland) 2022. The proposal aims to deliver a wide range of ecosystem services through the restoration of afforested peatlands to fully functioning peat bogs. It will help reduce carbon emissions and contribute to capturing additional carbon by improving the hydrological conditions of degraded peatlands. The restoration will improve biodiversity by improving and extending the natural and semi-natural habitats for the range of priority species present.</p> <p>Davagh Forest is located Sperrin AONB and mainly within the Beaghmore Moors and Marsh Landscape Character Area. It is an area of commercial conifer plantation consisting mainly of Sitka spruce and lodgepole pine. It is in close proximity to Teal</p>

	<p>Lough and Slaghtfreeden Bog, Teal Lough part II and Owenkillew River ASSIs and Glenviggan Bog SLNCI.</p> <p>The forest and associated unplanted bog areas provide important habitats for golden plover, merlin, snipe, peregrine falcon and red grouse.</p> <p>The removal of the trees, and subsequent restoration back to blanket bog in this project would join adjacent areas (Glenviggan Bog) to create continuous areas of open blanket bog. The removal of conifer trees will provide a greater range of ecosystem services than retaining it in forest by improving the landscape impact, providing additional habitat for raptors, breeding waders and other priority species, recreating the blanket bog habitat by blocking drains, and acting as a carbon store. It will also provide benefits in terms of water quality and flood risk mitigation. The project may also assist in managing predator control which is considered a major factor in determining breeding success for ground nesting birds.</p> <p>The work may be phased over a number of years.</p> <p>The project proposes to cut and remove the conifer trees from site using forestry equipment and systems specifically designed to minimise ground compaction and maximise the removal of conifer timber and branches from the site to aid subsequent restoration operations.</p> <p>Proposed restoration operations, following the harvesting and removal of timber and forest residues, include stump flipping, ground smoothing, backfill trenching, furrow blocking and furrow re-profiling and installation of dams to restore the site hydrology to aid the re-establishment of the natural bog habitat.</p>
Land Use	Conifer plantation
Soil	Deep peat

Vegetation	There is limited vegetation under the tree canopy – pockets of Sphagnum moss and Vaccinium myrtillus are present in Davagh north site.
Water	There are drains and water courses within the sites. Small streams run through and along the boundaries of the sites.
Designated areas - Within a 2km radius of project - SAC, SPA, ASSI, RAMSAR, proposed (SAC & SPA & ASSI), hen harrier breeding sites, breeding wader sites. Within 1km - red grouse. Within 100m – SLNCI, AWI, prop SLNCI, fens. Adjacent to AONB or NNR ASAI - Areas of Special Archaeological Interest	Teal Lough and Slaughterfreeden bog, Teal lough part II and Owenkillev River are within, or within 2km, of the site. SPA – None Ramsar – None Hen Harrier breeding sites – None recorded. Breeding Waders – Within 1km and 2km of Davagh East. Just outside the 2km zone of Davagh North. Red Grouse – 2 sightings within 1km of Davagh East in 2004. SLNCI – Glenviggan bog adjacent to Davagh North AONB – Sperrin AWI – None Fens – None ASAI – Beaghmore
Non-designated priority habitats (see NIEA website); Breeding Sites (priority species and species of conservation concern, species protected under Wildlife (NI) Order); Veteran trees and Deadwood	Badger setts, Golden Plover, Merlin, Snipe and Peregrine Falcon have all been recorded on or close to these sites.
Built Heritage/ Archaeological Features	None known within the confines of the sites or within a 100m radius. A megalithic tomb is recorded just outside the 100m radius of Davagh North.
Impact on people, including neighbours	The restoration site is in a remote location with no dwellings within the site. There will be minimal to no impact on the public. Blocking of drains may create some deep pools of water in the short term but peat dams will also offer a “bridge” for crossing.
Topography, Landscape Character Assessments & Impacts	<b>Beaghmore Moors and Marsh LCA</b> A relatively elevated, rolling plateau of wide shallow valleys and broad, rounded ridges to the south and east of the Sperrin Mountains. Extensive glacial deposits form irregular ridges and mounds throughout the area. Slopes typically have shallow, smooth

profiles, although some quarried outcrops have an irregular skyline. This is an expansive, relatively homogeneous landscape, fragmented in some areas by small conifer shelterbelts protecting the whitewashed farmsteads from the prevailing wind. Despite the conifer woodlands, the area feels exposed. Broad, peaty marsh extends across the shallow valley floors. The pastures on the lower slopes are divided by open, straight drainage channels; in more elevated areas they are often enclosed by low stone walls. Scrubby, stunted hedgerows and wire fences surround fields where stone walls are absent. Extensive conifer plantations on the shallow valley slopes often mask the landform. The plantations have hard, geometric edges and sometimes form an abrupt transition at the edges of the valley marsh. There are some deciduous woodlands in gullies on valley sides and the incidence of woodland increases towards the slopes of the Sperrins to the north west. Roads crossing the valley marshes are generally straight and raised on embankments, crossing the many streams at stone, hump-backed bridges. There are no large villages, only scattered farmsteads, and occasional groups of cottages on higher land. The buildings are typically white-washed and stand out clearly against the dark green backdrop of the shelterbelts. Farm buildings often have red roofs. The farmsteads are prominent and form a visual focus throughout the area.

**Slieve Gallion LCA** (Davagh East partial)

Slieve Gallion is a prominent peak on the far eastern fringe of the Sperrins. It is a volcanic plug and has a distinctive profile, with a steep-sided, flatter summit than the surrounding mountains and an uneven slope profile. The solid geology of the Slieve Gallion area is particularly complex, with igneous rocks of volcanic origin surrounded by areas of granite. Granite extends up onto the southern slopes of Slieve Gallion, producing a particularly scenic and unusually verdant landscape on the shores of Lough Fea. The upland plateau to the west of the

	<p>summit is dominated by extensive blanket bog, small rounded loughs and the conifer plantations of Davagh Forest. A resistant band of limestone outcrops at the foot of Slieve Gallion and is deeply dissected by numerous streams within deep, narrow valleys. The lower slopes of Slieve Gallion have a diverse landscape pattern, with an irregular patchwork of fields, punctuated by small blocks of woodland. Many of the narrow glens are densely wooded and there are a few small conifer plantations, fringed with deciduous trees, on the granite ridges to the south of the summit. The fields become smaller on steeper slopes and on the valley floor and there are some larger arable fields on the ridgetops. All the fields are enclosed by hedgerows, although there are some granite stone walls on the south-eastern slopes of Slieve Gallion. In addition to the larger woodlands, there are copses and numerous hedgerow trees, creating a secluded, soft sheltered character at the foot of the mountain slopes. Within the valleys, the vegetation becomes more scrubby and there are willows alongside the streams and in the hedgerows. There are no large settlements; the many scattered farms and cottages are connected by narrow, twisting lanes. Red-roofed barns are a characteristic feature of the larger farmsteads.</p>
<p>Mitigating measures</p>	<p>This work is being carried out in compliance with the <b>UK Forestry Standard (UKFS)</b>: The UK governments' approach to sustainable forestry '.</p> <p>The 4th edition of the UKFS encourages the restoration of open habitat where it is proven to benefit priority habitats and species. The following extracts are relevant to this project.</p> <p>Forests and Biodiversity General Forestry Practice Requirement 4 states "Particular consideration should be given to conserving, enhancing or restoring priority habitats and species identified in the statutory lists of priority species and habitats for England, Scotland, Wales and Northern Ireland,</p>



through the delivery of country biodiversity strategies and local level plans.”

Forests and Biodiversity Guideline 2 states “Consider options to extend and improve priority habitats and to increase and extend populations and ranges of priority species; plan forest operations to minimise any adverse impacts on biodiversity”.

Forests and Biodiversity Guideline 24 states “Consider practical opportunities to restore open habitats where their value could be reinstated and sustained.”

Forests and Climate Change Guideline 8 and Forests and Soil Guideline 25 states “Consider the balance of benefits for carbon and other ecosystem services before making the decision to restock on soils with peat exceeding 50 cm in depth.”

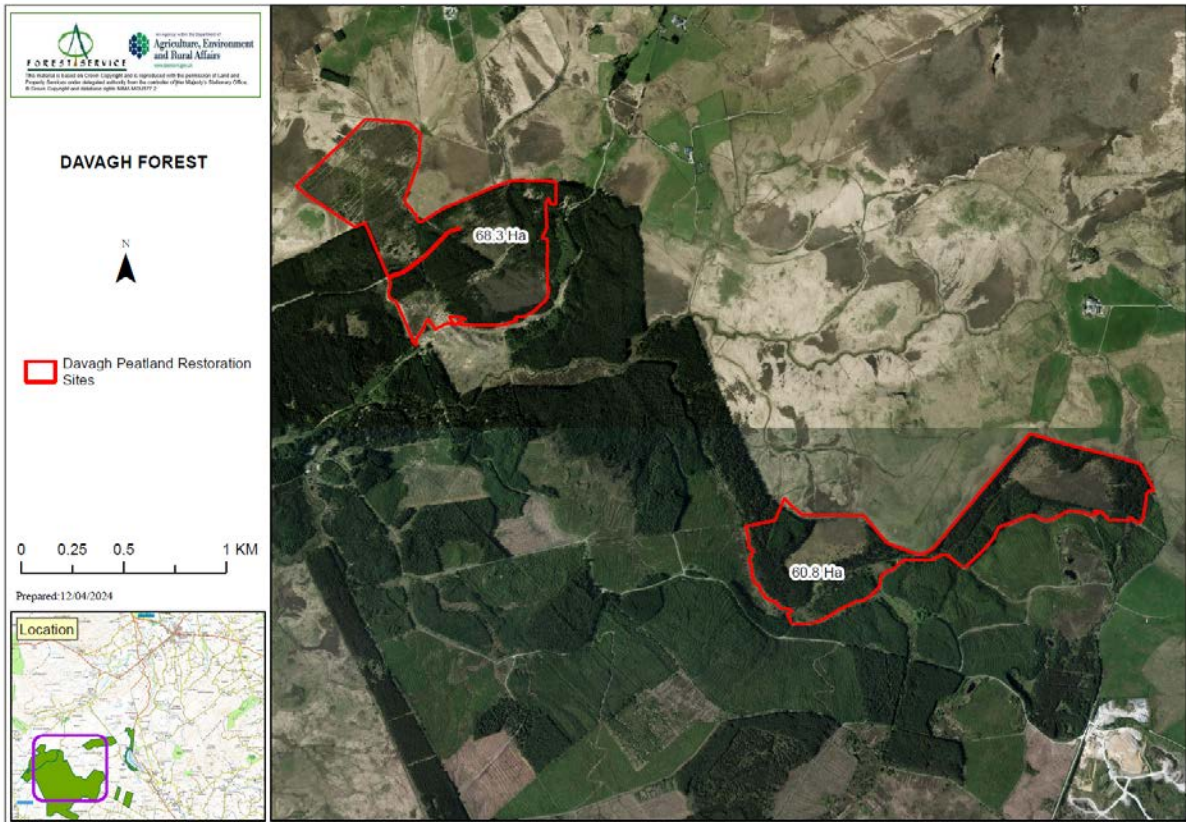
**Water quality** – Prior to any restoration work all drains on the site will be blocked with peat dams. This will ensure that minimal sediment will escape in surface water during the construction. When carrying out restoration work such as ground smoothing or stump flipping, buffer zones will be left around watercourses where no disturbance will take place.

**Biodiversity** – Relevant authorities and organisations such as the NIEA and NI Raptor Study Group will be contacted prior to restoration work commencing to ensure that there will be no unnecessary disturbance of wildlife e.g. by not working during the nesting season if required. The remaining conifer blocks within the wider forest area provide important habitat for Kestrel nesting sites.

Precautions will be taken to avoid disturbance of nesting birds such as raptors (birds of prey) and breeding waders (particularly Snipe), between 01 March and 31 August. Activity by birds of prey will be monitored during this period and advice on mitigation of disturbance sought from the Northern Ireland Raptor Study Group. If

	<p>works during the breeding season are unavoidable, the Northern Ireland Raptor Study Group will be consulted regarding the presence of breeding birds of prey and any trees or other vegetation to be removed will be checked by competent individuals prior to any works or removal of trees. Should breeding activity be detected, buffer zones of appropriate radius will be established around nests and works excluded from these. The buffer radius for any nesting bird of prey will be at least 500m.</p> <p><b>Operational Management -</b>  Tree removal and restoration operations will aim to minimise peat compaction and disturbance.  Innovative harvesting systems that reduce compaction and disturbance will be deployed to protect these sensitive and vulnerable peatland sites. These involve whole tree harvesting or the use of specialised harvesting machinery implementing harvesting systems which minimise the need for conventionally spaced brash mats.</p> <p>The work will be carried out by fully trained and competent contractors who are already familiar with the sites and who have been instructed on the environmental sensitivity of the area. If at any time an issue arises that could have a significant adverse effect on the environment, work will be stopped immediately. Any machinery used will be in a sound mechanical order with no leaks. All machinery will be maintained/fuelled as per best practice, and away from drains and soakaways, where spillages and leaks can be contained.</p>
Screening by/ Date	Michael Keown 07/07/23
Result of NIEA (and where appropriate other) consultations	
Opinion – Relevant/ Not relevant	
Reasons for Opinion	
Signed by/ Date	

# Map of area outlined in red





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

Mid Ulster District Council  
Planning Department  
Local Development Plan Team  
50 Ballyronan Road  
Magherafelt  
BT45 6EN  
Tel – 03000 132 132  
Email: [developmentplan@midulstercouncil.org](mailto:developmentplan@midulstercouncil.org)

Mr Brendan Mulholland  
Forest Officer  
[Brendan.mulholland@daera-ni.gov.uk](mailto:Brendan.mulholland@daera-ni.gov.uk)  
**By email only**

Your Ref: ERA23/24-47  
Date: 05/05/2024

Dear Brendan,

**Re: Deforestation Project at Davagh Forest, Co. Tyrone.**

Thank you for your correspondence dated 30<sup>th</sup> April relating to the EIA screening of a proposed deforestation scheme at Davagh Forest, Co. Tyrone.

Mid Ulster District Council note the contents of your assessment of the site contained within the attached Screening Matrix. In addition to the information provided within your documentation and having carried out an assessment of the site and location, the Council have no comments to add for the purposes of this EIA screening exercise.

Should you have any queries then please do not hesitate to contact this office.

Yours sincerely,

For and on behalf of Mr Melvin Bowman  
Head of Strategic Planning MUDC.

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 May 2024 in Council Offices, Circular Road, Dungannon**

**Members Present**

Councillor S McPeake, Chair

Councillors Black (5.20 pm), J Buchanan, Clarke, Cuthbertson, Graham, Kerr, Mallaghan, McConnell, McElvogue, McFlynn, D McPeake, Robinson, Varsani

**Officers in Attendance**

Mr Bowman, Head of Strategic Planning (HSP)  
Ms Donnelly, Council Solicitor  
Ms Doyle, Head of Local Planning (HLP)  
Ms McCullagh, Senior Planning Officer (SPO)  
Mr McClean, Senior Planning Officer (SPO)  
Ms McKinless, Senior Planning Officer (SPO)  
Mr Brown, ICT  
Ms Grogan, Committee and Member Services Officer

**Others in Attendance**

LA09/2023/0775/F – Jim Maneely  
LA09/2023/0775/F – Eamonn Loughrey  
LA09/2019/1482/F – Hayley Wilson  
Shane Carr  
LA09/2023/0683/O – Eamon Cushnahan  
LA09/2023/0466/O – Damian McMurray

The meeting commenced at 5.00 pm.

**P061/24 Notice of Recording**

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

**P062/24 Apologies**

Councillors Carney and Martin.

**P063/24 Declarations of Interest**

The Chair, Councillor S McPeake reminded members of their responsibility with regard to declarations of interest.

**P064/24 Chair's Business**

Mr Bowman, Head of Strategic Planning (HSP) said that members would be aware of DfI's consultation regarding the A29 Cookstown bypass which was discussed at full Council with a corporate line being taken on it. The HSP advised that Planning

Department were also written to directly in a parallel way and wished to get members agreement to feed some comments back into the overall corporate response. There were no issues for local planning and welcomed the delivery of the road, but what will be caveated into the response will be some comments around making sure that habitat, heritage, flood risk and other potential impacts are considered. Also welcomed will be planting and landscaping proposals to assist the integration of the road line and in consulting with Environmental Health Department, were pleased to see that noise from road traffic, construction and contaminated land air quality are all factored into the environmental statement. Comments will be added in the ensure that lighting with the road line does not impact on anybody's enjoyment of the residential property along the road line.

The HSP said if members were agreeable that he would feed this back as a response to the corporate view.

Councillor Cuthbertson enquired if this would be a separate view from the full Council as he recalled Councillor Brown raising issues in relation to build up of traffic going into Moneymore and if Council would highlight this. The member said that he was unsure whether this was a planning issue or a corporate issue.

The HSP advised that he had noted this already on the draft that he had seen from full Council and intended to add this point across.

Agreed.

The Head of Local Planning (HLP) advised that the following application has been withdrawn from tonight's meeting schedule - Agenda Item 5.2 – LA09/2020/1679/F – Change of house type from approved 6 semi-detached dwellings under M/2005/0066/F to 1 block of 4 town houses, 1 block of 5 town houses at lands immediately W of 21 Fintona Road, Clogher for Newpark Homes Ltd.

The Head of Local Planning referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 5.7 – LA09/2023/0365/F – Farm storage shed at 200m W of 24 Reenaderry Road, Coalisland for Mr John Duffy

Agenda Item 5.9 – LA09/2023/0659/O – Infill site for dwelling and garage at lands approx. 50m N of 152 Moneymore Road, Magherafelt for Ms Dorothy Bradley

Agenda Item 5.11 – LA09/2023/0975/O – Farm dwelling and garage at approx. 260m SW of 31 Loves Road, Magherafelt for Mr Seamus Donnelly

Agenda Item 5.12 – LA09/2023/1199/O – Dwelling and garage at site 45m W of 1 Tullynure Road, Lissan, Cookstown for Mr Henry McCracken

Agenda Item 5.14 – LA09/2023/1331/F – Retention of timber handrail and perspex roof canopy over rear porch at 24 Parkmore Heights, Magherafelt for Rafal Zakonek and M Reniewich

Agenda Item 5.17 – LA09/2024/0176/O – Dwelling and garage at 40 SW of 11 Lough Road, Magherafelt for Mr Peter Cassidy

Proposed by Councillor Kerr  
Seconded by Councillor McElvogue and

**Resolved** That the planning applications listed above be deferred for an office meeting.

### **Matters for Decision**

#### **P065/24 Planning Applications for Determination**

The Chair drew Members attention to the undernoted planning applications for determination.

**LA09/2018/1643/F Residential development of 42 units (30 semi-detached and 12 detached), a new access/right turn lane from Coolshinney Road, open space/private amenity space, landscaping and ancillary site works at lands 100m SW of 13 Coolshinney Road and 20m N of 2 Thornhill, Magherafelt for Mullaghboy Construction Ltd**

Members considered previously circulated report on planning application LA09/2018/1643/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2018/1643/F be approved subject to conditions as per the officer's report.

**LA09/2020/1679/F Change of house type from approved 6 semi-detached dwellings under M/2005/0066/F to 1 block of 5 town houses at lands immediately W of 21 Fintona Road, Clogher for Newpark Homes Ltd**

Application withdrawn earlier in the meeting.

**LA09/2022/1045/F Housing development of 52 units comprising of 48 two storey semi-detached and 4 two storey detached dwellings adjacent to 25A Ballyneill Road, Ballyronan for Bell Contracts**

Members considered previously circulated report on planning application LA09/2022/1045/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/1045/F be approved subject to conditions as per the officer's report.

**LA09/2022/1238/F**                    **Housing development of 19 two storey dwellings and associated site works (16 semi-detached and 3 detached) at lands immediately W of NW of 10 Altmore View, Cappagh for Damian Donnelly**

Members considered previously circulated report on planning application LA09/2022/1238/F which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor Varsani and

**Resolved**    That planning application LA09/2022/1238/F be approved subject to conditions as per the officer's report.

**LA09/2022/1765/F**                    **Northerly phased lateral extension to the existing sand and gravel pit at Murnells with restoration to Woodland Planting and Grassland Habitats at lands at Murnells Sand and Gravel Pit, N of 46 Murnells Road, Pomeroy and W of 56 Cavanoneill Road, Pomeroy for Ms Catherine Keenan**

Members considered previously circulated report on planning application LA09/2022/1765/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McConnell and

**Resolved**    That planning application LA09/2022/1765/F be approved subject to conditions as per the officer's report.

**LA09/2023/0355/F**                    **Two storey dwelling and garage at lands 75m S of 16 Ballyheifer Road, Magherafelt for Mr and Mrs Jarlath and Oonagh Conway**

Members considered previously circulated report on planning application LA09/2023/0355/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved**    That planning application LA09/2023/0355/F be approved subject to conditions as per the officer's report.

**LA09/2023/0365/F**                    **Farm storage shed at 200m W of 24 Reenaderry Road, Coalisland for John Duffy**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0390/O**                    **Site for dwelling and garage on a farm at approx. 250m SW of 24 Rarogan Road, Garvaghy, Ballygawley for Mr Patrick J & E O'Hagan**



Members considered previously circulated report on planning application LA09/2023/0390/O which had a recommendation for approval.

Proposed by Councillor McConnell  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2023/0390/O be approved subject to conditions as per the officer's report.

**LA09/2023/0659/O**      **Infill site for dwelling and garage at lands approx. 50m N of 152 Moneymore Road, Magherafelt for Mrs Dorothy Bradley**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0775/F**      **Supermarket and petrol forecourt, additional three 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 new site access via Fountain Road, previously approved under LA09/2017/1083/F at lands at 2-10 Church Street/Fountain Road, Cookstown for TJ Hamilton**

Members considered previously circulated report on planning application LA09/2023/0775/F which had a recommendation for approval.

Councillor Clarke advised that he wished to raise a point regarding this application. The member said that this proposal faces onto Fountain Road, which had been raised before and possibly overlooked at that time. Fountain Road joining Church Street has a set of traffic lights and two lanes of traffic going out of the junction, with most of the traffic emerging from the left-hand lane going towards Dungannon, the centre lane would not be as busy as traffic go straight ahead or turning right. The member said that he uses the road regularly and found that when there was a build-up of traffic, the left-hand lane gets a filter early but the traffic in the centre lane can block anyone getting into the left-hand lane. The member suggested if there was an extension of a few vehicle lengths permitted onto the inside lane it would relieve a lot of build-up of traffic.

The Chair said that it would be useful for members to hear what the roads report was advising on it.

Ms McCullagh (SPO) said that she was able to get the latest response from DfI Roads who did not offer any objections subject to conditions that were in accordance with the fallback position which was still live from the 2017 application which proposed the access from the Fountain Road as well. The SPO advised that she had checked the case officer's report and all the conditions on that were on the 2017 application. An additional one had been added that roads have recommended

regarding retail or other operations happening which is all noted on the report under the Private Streets also.

Councillor Clarke said that it was unfortunate that there wasn't the opportunity to extend by a few vehicles lengths to relieve the traffic build up on that stretch of road. The member felt that if this remains the same the situation will not change.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2023/0775/F be approved subject to conditions as per the officer's report.

**LA09/2023/0975/O** **Farm dwelling and garage at approx. 260m SW of 31 Loves Road, Magherafelt for Mr Seamus Donnelly**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/1199/O** **Dwelling and garage at Site 45m W of 1 Tullynure Road, Lissan, Cookstown for Henry McCracken**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/1311/F** **Dwelling and domestic garage (change of house type and garage approved I/2006/0008/RM including relocation of garage within extended curtilage) at site opposite 64 Feegarron Road, Cookstown for Mr & Mrs Alan & Claire Boyle**

Members considered previously circulated report on planning application LA09/2023/1311/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2023/1311/F be approved subject to conditions as per the officer's report.

**LA09/2023/1331/F** **Retention of timber handrail and perspex roof canopy over rear porch at 24 Parkmore Heights, Magherafelt for Rafal Zakonek and M Reniewich**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2024/0067/O** **Site for single dwelling and garage at lands approx. 60m SW of 21 Corvanaghan Road, Cookstown for Ms Joanne McGurk**

Ms McKinless (SPO) presented a report on planning application LA09/2024/0067/O advising that it was recommended for refusal.

Ms McKinless (SPO) advised that the application was submitted by the applicant and no agent involved.

The Chair said that it would be useful to defer the application for an office meeting to allow the applicant a chance as they had already paid their fees and had got to this stage. The Chair felt as there was no agent involved the committee should do this justice and allow the applicant to avail of an agent and provide the opportunity to come to an office meeting.

Councillor Clarke advised that he was also going to suggest this and would be happy to second the Chair's proposal.

Proposed by Councillor S McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2024/0067/O be deferred for an office meeting.

**LA09/2024/0154/F**                    **Alterations and ground floor extension to rear of existing dwelling at 61 Killyneil Road, Dungannon for Dr Roy Peak**

Members considered previously circulated report on planning application LA09/2024/0154/F which had a recommendation for approval.

Councillor Cuthbertson advised that he had been copied into two pieces of correspondence in relation to this matter. One for an objection regarding a window facing out the back from the objector where he had been refused a rear facing window on his property previously some years ago. The member stated that he was copied into further correspondence from the objector advising that there had been a condition included to put in an obscure window, but the objector felt that the best scenario would be for a roof-light rather than obscure glass due to the window being opened. The member was unsure if any conversation has taken place with the agent or applicant where this could be agreeable rather than putting the other condition on. The member said that he had seen the correspondence from the complainant who advised that he was refused a rear-facing window when he was building his house, but as this application was for a renovation it seemed different. The member stated that these two houses were always there and because the objector built a new house, he was refused the opportunity for a rear-facing window.

The Chair advised that every situation was different and what may seem similar to an objector doesn't necessarily be that way. He said that it would be useful for Mr Marrion (SPO) to comment on the windows and privacy aspect in relation to this application.

Councillor Cuthbertson stated that the two houses were back-to-back.

Mr Marrion (SPO) advised that this was for an extension to the dwelling to the gable wall of the property and a window in the gable itself. The SPO provided members with an overhead view of the property outlining the cable projection to the rear where the window is upstairs, the objector is requesting that roof-lights be put into the side

opposed to the window at the rear. The SPO outlined the objector's property and separation distances between the two sites which was significant even for being in a rural area. Having looked at that and the condition proposed to introduce obscure glazing for the window, officers felt that this would be enough to prevent any undesirable and unacceptable overlooking of the objector's property.

Proposed by Councillor Varsani  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2024/0154/F be approved subject to conditions as per the officer's report.

**LA09/2024/0176/O Dwelling and garage at 40m SW of 11 Lough Road, Magherafelt for Mr Peter Cassidy**

Agreed that application be deferred for an office meeting earlier in meeting.

*Councillor Black entered the meeting at 5.20 pm.*

**LA09/2024/0216/O Site for single storey dwelling and garage at approx. 20m N of 229 Coalisland Road, Mullaghmarget, Edendork for Ms S Casey**

Mr Marrion (SPO) presented a report on planning application LA09/2024/0216/O advising that it was recommended for refusal.

Councillor Varsani advised that she had taken a close look at the details on this application and felt that it was quite an unusual one in that there had been no objections, it was in a cluster, doesn't have any road access problems except perhaps the actual entrance needing a bit more visibility and was the same as most of the other houses on the same road. The member felt that this application could benefit from an office meeting and was also aware that it was stated that no noise impact statement has been carried out yet due to it being beside an industrial site and felt that this should not be held against residents. The member suggested that any issues could be explored through an office meeting.

Proposed by Councillor Varsani  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2024/0216/O be deferred for an office meeting.

**LA09/2019/1482/F Retention of workshop at approx. 70m W of Unit 10, Station Road Industrial Estate, Station Road, Magherafelt for Four Dee (NI) Ltd**

Members considered previously circulated report on planning application LA09/2019/1482/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor D McPeake

**Resolved** That planning application LA09/2019/1482/F be approved subject to conditions as per the officer's report.

**LA09/2023/0466/O Dwelling and garage at land approx. 150m N of 30 Killyfaddy Road, Magherafelt for Mr Arron McMurray**

The Chair advised that the above application will be heard in confidential business due to personal circumstances.

**LA09/2023/0467/O Dwelling and domestic garage in a gap site at land adjacent and NE of 70 Glenhoy Road, Ballygawley for Mr Sean O'Neill**

Members considered previously circulated report on planning application LA09/2023/0467/O which had a recommendation for approval.

Proposed by Councillor McElvogue  
Seconded by Councillor McConnell and

**Resolved** That planning application LA09/2023/0467/O be approved subject to conditions as per the officer's report.

**LA09/2023/0683/O Dwelling at an existing cluster adjacent to and SW of 150A Washingbay Road, Coalisland for Mr Patrick Brady**

Members considered previously circulated report on planning application LA09/2023/0683/O which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0683/O be approved subject to conditions as per the officer's report.

**P066/24 Receive Report on Property Certificate Charges**

Ms Doyle (HLP) presented previously circulated report to seek approval for the implementation of agreed revised charges for Regional Property Certificates (RPC) processed by the Planning Department.

Proposed by Councillor Mallaghan  
Seconded by Councillor Varsani and

**Resolved** That the administrative charge of £84 be applied immediately following consultation with The Law Society.

## **P067/24      Receive Dalradian Update Report**

Mr Bowman (HSP) presented previously circulated report which was to seek members agreement on the content of the Council's proposed statement of case further to previous submission to the Planning Appeals Commission (PAC) in relation to the upcoming Dalradian Mine project Local Public Enquiries due to be held on 10<sup>th</sup> September 2024 (LA10/2017/1249/F).

The HSP advised members that he has just seen from PAC's website that they have appeared to suspend the hearings yet again with no date now, when originally aiming for an enquiry in September and were preparing a statement of case for the deadline of 31<sup>st</sup> May.

The HSP stated that the purpose of the paper was to provide an update position to reflect the fact that we were aiming for 31<sup>st</sup> May submission. He said that there were a few other things that he wished to seek members agreement in relation taking forward our statement of case. Council had resolved and have made their position publicly known already and part of the discussion at the time was that it went into the Dark Skies and Stone Circles. When preparing the evidence Officers had been looking at things like that and was to seek members agreement that this be fleshed out a bit more in terms of potential impacts that this could have on the Dark Skies Park and Stone Circles. Also, at the time of the last report Fermanagh and Omagh's Draft Plan Strategy had not got to independent examination, it has now got through that stage and has since been adopted and now able to update our line in terms of that plan.

The HSP sought members agreement to add the additional points to the Statement of Case in preparing the evidence and forward in due course when that arises in the future.

The Chair said that the report has now been updated to reflect the additional changes in the circumstances since the original response, objecting to the proposal and hoping to include the protection of the Dark Skies and Stone Circles areas which wasn't as prevalent at that time. Also to agree to include further comments from Fermanagh and Omagh based on their approved Draft Plan Strategy.

The HSP agreed or effectively for this Council to reflect the now more advanced stage that the Fermanagh and Omagh plan is since 2021 when it hadn't been to independent examination.

Councillor Clarke felt that this would be very important as things have moved on a lot due to our ASAI's having grown and extra townlands within Mid Ulster. He advised that Omagh has included the ASAI's as it is a huge area and includes a lot of features including the Stone Circles and Dark Skies. The member stated that this was more of an important site now than at any stage.

The HSP said that as part of a wider discussion around Heritage or Archaeological Heritage this would be looked at along with comments that HED have also provided. He said that there was a significant amount of material online but would certainly take those points on board. The HSP stated that these were somewhat covered within the first resolution from the last time to consider the impacts generally on the

AONB in terms of visual impact, but these will be factored into the consideration also.

Councillor Kerr said that he had been following the public enquiry and was aware that it has been suspended in September. The member queried if the public enquiry does go ahead what representation does Mid Ulster intend to use and asked if Council have any experts to outline our very rigorous opposition to the proposed gold mine. He was aware of other public authorities coming out publicly against it and asked if it would be worth exploring having a joint effort in any legal fees to show that there was a united front as it was a very important public enquiry as it affects many authorities. The member said he was aware that there were major health implications for residents living in Mid Ulster Council area if the gold mine was to go ahead.

The HSP advised that Council does not have any particular experts in that field, Officers would be representing the Council in relation to what we have agreed to pursue so far with a lot around that being visual impact and things that Officers can form a fairly solid view on anyway. For areas like the Dark Skies and other areas, it may be worthwhile having a think about a bit more expert opinion on that since there is now time to do so. He was aware of the difficulty for Environmental Health Officers to comment on light pollution as it was not an area of expertise for them and felt that there was merit in looking on what could be drawn on and happy to explore this further now that we don't have to meet the deadline of 31<sup>st</sup> May. The HSP said that he would be happy to explore the area on expertise around light pollution which may help.

The Chair adding on from Councillor Kerr's comments said that previously as a Council we said that if and when the inquiry came about, we would look at supporting the other Councils in possibly jointly procuring in bringing in advice or specialisms at that stage. He said that it would do no harm in looking at that resolution and determining the appropriate time for doing so and was his understanding that was the decision taken at that time.

Councillor Kerr said that he welcomed the HSP's comments but wished to raise major negative factors of the application in relation to health implications. If people's life expectancy is being lowered, then this should be one of the more stronger fields of experts that Council should be exploring as no-one should be at risk because of this application.

The Chair enquired if it was known when the public enquiry would resume again.

The HSP advised that it does not indicate when it would resume again and updated the committee on PAC's statement:

*"that the commission to suspend arrangements for the current enquiry timetable in the circumstances and once the commission is in receipt of a valid direction from DAERA in relation to the expected abstraction and impoundment licence applications together with all of the relevant papers in respect of those applications, it will move to set directions and new dates for the submission of statements of case".*

The HSP said that this was very open ended and unsure how long this was going to be.

Councillor Cuthbertson said that he would urge caution on comments made in relation to engaging legal teams and experts as this could run this Council into a lot of expense as this was not our decision and would not be making it. This Council has a Planning team of Officers within our remit who have a proven track record in relation to planning skills and policies and did not think that we need to be engaging or wasting money on outside advice when we have a team of Officers who know the planning system and provide advice on policy.

The Chair said that he would differ with the member's opinion and the way of dealing with this would be going back to see where Council stands as he believed that there was a record of committee taking the decision of when specialist advice was required that we would look at assistance from them various fields. There was a proposal came forward at the time that Mid Ulster and Fermanagh & Omagh come together in a joint procurement venture and decision was taken that we would hold back to see what was happening. Given the complexities, the different areas of specialisms and reports, we certainly do not have the capabilities within our staff for what was going to be required. The Chair felt that it was important to keep an eye on things and employ those services as and when required.

Proposed by Councillor Clarke  
Seconded by Councillor S McPeake and

**Resolved** To agree that those additional issues of concern referenced in the minutes of the 2<sup>nd</sup> August 2021 meeting, and at Paragraph 3.2 within this report, along with the more advanced stage of the Fermanagh and Omagh Council plan, are to be included and reflected in the Council's evidence to the Inquiry further to the Council's initial submission.

**P068/24 Update on Findings of Survey Carried Out on Preferred Start Time for Planning Committee**

Ms Doyle (HLP) presented previously circulated report to provide Members with and update on the findings of the survey carried out on preferred start time for Planning Committee.

The Chair thanked the HLP and her team for carrying out the survey which was done very speedily with Councillors and staff.

Proposed by Councillor S McPeake  
Seconded by Councillor Black and

**Resolved** That following review of the start time of the Planning Committee, commencement of meeting be changed to 6pm in line with the overall majority of Members and Officers commencing next month.

**Matters for Information**

**P069/24 Minutes of Planning Committee held on 9 April 2024**

Members noted previously circulated minutes of Planning Committee held on 9 April 2024.



**P070/24 Receive Appeal Decision – Iniscarn Road, Moneymore**

Members noted update from Planning Appeals Commission following a decision by the Planning Committee to refuse planning permission for the proposed development.

**P071/24 Receive Planning Service Plan 2024/25**

Members noted Planning Department Service Plan for the period 2024-2025.

*Live broadcast ended at 5.42 pm.*

**Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Kerr  
Seconded by Councillor Mallaghan and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P072/24 to P075/24.

**Matters for Decision**

P072/24 Receive Enforcement Notice

**Matters for Information**

P073/24 Confidential Minutes of Planning Committee held on 9 April 2024

P074/24 Enforcement Cases Opened

P075/24 Enforcement Cases Closed

P076/24 Any Other Business

**P077/24 Duration of Meeting**

The meeting was called for 5 pm and concluded at 6.50 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## **Annex A – Introductory Remarks from the Chairperson**

Good evening and welcome to the Council's [Planning, Policy & Resources /Environment/ Development] Committee in the Chamber, [Cookstown /Dungannon/Magherafelt].

I specifically welcome the public watching us through the Live Broadcast. The Live Broadcast as aforesaid, will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

I would remind the public and press that taking photographs of proceedings or using any means to enable anyone not present to see or hear proceedings, or making a simultaneous oral report of the proceedings are not permitted.

Thank you and we will now move to the agenda.