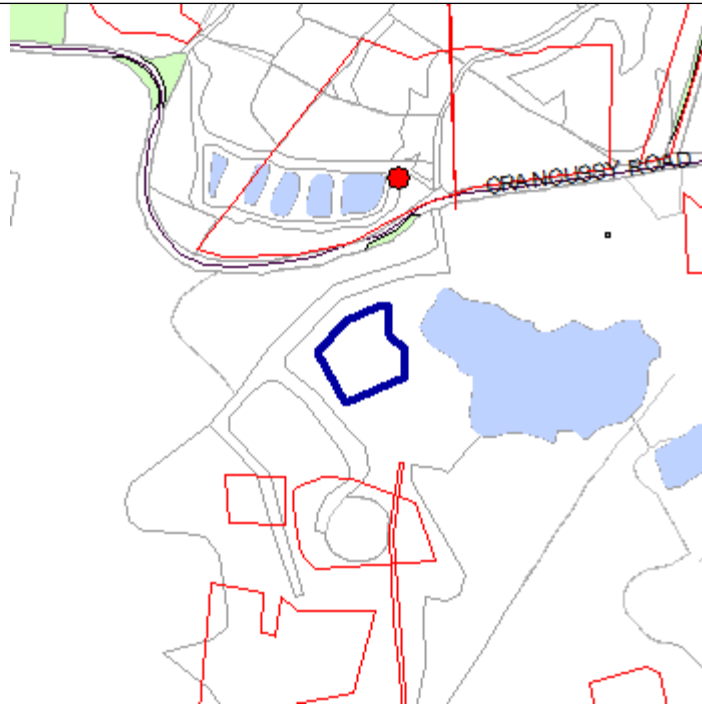




Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.1
Application ID: LA09/2018/1337/F	Target Date: 4 December 2018
Proposal: Proposed water recycling tank and sand de-watering unit with dosing units and associated equipment/ cabins with mobile log washer unit to assist the existing plant. This auxiliary plant will use less water and energy in the processing of material and over burden from sand washing and aggregates processing as this is an even more modern and sustainable approach to aggregates processing. The log washer will enable more yield from the plant and allow a more diverse range of feed materials	Location: 25 Crancussy Road Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Core Aggregates 25 Crancussy Road Cookstown	Agent Name and Address: Core Aggregates 25 Crancussy Road Cookstown BT80 9PW
Executive Summary: This application is being recommended for approval however it is before Members as there is objection to the development. A total of 35 objections have been received to date. These have been considered further in this report. The proposal has been assessed under all relevant policy including the Cookstown Area Plan 2010, the SPPS, PPS 21, PPS 2, PPS 3 and the Planning Strategy for Rural NI and it is considered that there is no conflict with any of the policy.	

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Shared Environmental Services	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Shared Environmental Services	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR

	Environmental Health Mid Ulster Council	Substantive: TBC
	Shared Environmental Services	Substantive: TBC
	NIEA	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR

Representations:

Letters of Support	0
Letters of Objection	35
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

A total of 35 objections have been received to this application. These have been submitted by the occupiers of number 31 Crancussy Road (Mr G Glencross), 19 Island View Road, Greyabbey (Mr A Clapperton), 4 Breezemount Park, Omagh (Colm McGinn) as well as Mr Ciaran McClean and KRW Law, Queen Street, Belfast. Some of these objections, as they asked specific questions have been responded to directly as council correspondence and the responses can be viewed on the working file.

I will summarise and comment on all material planning issues raised in these 35 objections. The majority of these issues have been dealt with later in my report. Those that have not, I have addressed further below.

- o Scale of development and added noise and its impact on amenity
- o Site is in a sensitive area, Lough Doo ASSI
- o Damage to the ASSI
- o Requirement for an Environmental Statement to be submitted
- o Vagueness of the intended purpose of the development
- o Impact of extra vehicle movements

- o Requirement for a noise assessment to be carried out
- o Lack of noise monitoring
- o Request to begin enforcement proceedings
- o Concern over applying immunity
- o Query over the traffic figures provided on the TAF and the impact of traffic on amenity
- o Concern over the findings of the noise report completed by Irwin Carr
- o Soundness of the EIA screening carried out

- o Requirement for a waste management plan and EIA Screening - I am satisfied that a waste management plan is not required under PPS 11 for the development being applied for.

- o Flooding and drainage concerns - the site is outside any identified floodplain.

- o The unauthorized use of Lough Allen as a water source for the quarry - this has not been substantiated.

- o Query over discharge approvals and what a more diverse range of feed equates to - WMU were consulted and have provided advice in respect of discharge approvals. This advice will be referenced in a general informative.

- o Applicant has misled Council by stating that the proposal does not involve mineral extraction - I am satisfied that the description of this proposal is accurate and that no mineral extraction is being applied for under this application.

- o Plant in operation fails to meet quarry regulations in full - outside the remit of this application.

Characteristics of the Site and Area

The application site is a 0.33 hectare plot located within an existing sand and gravel quarry at 25 Crancussy Road, Cookstown. It is outside the development limits of any settlement defined in the Cookstown Area Plan 2010.

The site is however located within Lough Doo ASSI (Area of Special Scientific Interest), which is of national importance and has been designated as such due to its Earth Science features. The wider area is rural in character with a very dispersed settlement pattern. There are a scattering of dwellings and agricultural buildings in the locality. Lough Allen is located immediately to the East of the site and Loughaslane is just further to the SE. The site is also in the vicinity (1km) of the Upper Ballinderry River SAC (Special Area of Conservation)

Description of Proposal

This is a full application for a water recycling tank and sand de-watering unit with dosing

units and associated equipment/ cabins with mobile log washer unit to assist the existing plant. This auxiliary plant will use less water and energy in the processing of material and over burden from sand washing and aggregates processing and is an even more modern and sustainable approach to aggregates processing. The log washer will enable more yield from the plant and allow a more diverse range of feed materials.

Relevant Planning and Enforcement History

LA09/2016/0581/F - Variation of Condition No.11 of planning Approval I/1977/0072/F - retention of scrap associated with and to be reused in the maintenance of existing mineral development plant and quarry. Permission Granted

LA09/2015/0674/F - Retention of storage area for deposition and drainage of silt (originating from ongoing quarrying operations in association with planning permission I/1977/0072/F) for re-use within the area of approved Quarry under planning permission I/1977/0072/F. Permission Granted

I/2010/0038/F - variation of condition no 17 of planning approval I/1977/0072 -- relocation of settlement ponds. Permission Granted

I/1977/0072 - SAND WASHING PLANT, GARAGE, OFFICE WEIGHBRIDGE ETC. Permission Granted

LA09/2022/0017/CA - 1) Alleged unauthorised excavation outside phase 1 boundaries of I/1977/0072/F; 2) Alleged unauthorised scrapping/storing of overburden; 3) Nitrate leaching into remaining lands and waterways; 4) Alleged unauthorised 360 excavator with a rock piling rig attachment to break bed rock at the site, outside of permission I/1977/0072/F and detrimental Noise impacts from rock piling activity. Case currently open.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

EIA Screening – the proposal was initially screened on the 26th Nov 2018 and this concluded that the application did not need accompanied with an Environmental Statement. This initial screening was subsequently deemed to be unsound as EIA consultations were not issued to inform the screening. A re-screening was carried out on the 21st May 2019 and considered EIA consultation responses from NIEA, EH, DFI Roads and SES. The re-screening arrived at the same conclusion.

The relevant policies being given consideration in this assessment are as follows

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Mid Ulster District Council Local Development 2030 - Draft Plan Strategy

Cookstown Area Plan 2010 (CAP)

Planning Policy Statement 21 - Sustainable Development in the Countryside

Planning Strategy for Rural NI

Planning Policy Statement 2 – Natural Heritage

Planning Policy Statement 3 – Access, Movement and Parking

Strategic Planning Policy Statement for Northern Ireland (SPPS)

The Department of the Environment published the Strategic Planning Policy Statement for Northern Ireland (SPPS) in September 2015. This policy is a consolidation of some twenty separate policies, however, the policy provisions of A Planning Strategy for Rural Northern Ireland - Policies MIN1 - MIN8 (Minerals Development) are retained until such times as Mid Ulster District Council adopts a Plan Strategy for the Council area. There is no conflict between the Policy on Minerals in the SPPS and the retained policies.

Mid Ulster District Council Local Development 2030 - Draft Plan Strategy

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.

Cookstown Area Plan 2010

The application is outside any defined settlement in the CAP. It is not subject to any area plan designations which are relevant to this assessment.

Planning Policy Statement 21 - Sustainable Development in the Countryside

PPS 21 Sustainable Development in the Countryside states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety.

In terms of integration, as the site is located within the larger quarry site, the proposed development will have a negligible visual impact on the surrounding landscape.

PPS 21 goes on to state that in relation to non-residential Development planning permission will be granted for non-residential development in the countryside in the following cases which includes minerals development in accordance with the MIN Policies of PSRNI.

Planning Strategy for Rural NI (PSRNI)

The PSRNI advises that while there will be a general presumption in favour of development, in considering a particular application account will be taken of the value of the mineral to the economy, the environmental implications and the degree to which adverse effects can be mitigated in relation to the character of the local area . The relevant policies are MIN1-MIN8.

MIN 1 – Environmental Protection

This policy states that mineral development within or close to areas such as ASSI's will not normally be given permission. It goes on to advise that the Department/Council should balance the case against the need to protect and conserve the environment. It also states that measures designed to prevent pollution of rivers, watercourses and ground water should be included in applications for mineral extraction and processing plant.

This application is for new plant within an existing and operational quarry. Consultation has been carried out with NIEA and SES in order to determine the environmental impacts of the proposal on Lough Doo ASSI and the Upper Ballinderry SAC. It is important to note that NIEA designated this area as an ASSI after the date of the original quarry permission (I/1977/0072). There is justifiable concern that the quarry as a whole is at odds with the ASSI designation as the designation was about retaining landform and a quarry is about excavating and if the existing quarry permission is implemented the ASSI may very well be harmed. However, Members should note that consultation with NIEA concluded that they did not take into account the quarry when designating Lough Doo ASSI, nor have they asked for quarrying operations at this location to be discontinued. It is my opinion that given the extent of the extant permission, what is proposed in this application will cause no greater harm to the Environment/Lough Doo ASSI.

MIN 2 – Visual Implications

This policy recognises that visual intrusion can often be one of the most significant impacts associated with mineral workings. It advises that particular regard should be given to protect skylines and to the proposed location of plant, stockpiles and overburden within the working.

The proposed plant identified above will be sited within the quarry beside existing plant. Views into the site from the Crancussy are limited due to the stockpiles and existing bunding. There is no conflict with this policy.

MIN 3 – Areas of Constraint

In view of their nature conservation importance, ASSI's are also designated as Areas of Constraint on Mineral Developments in the Cookstown Area Plan 2010. Policy MIN 3 states that within these areas there will be a presumption against the granting of planning permission for the extraction and/or processing of minerals. Exceptions may be made where the proposal is short term and impacts are significant.

I would re-iterate the fact that NIEA designated this area as an ASSI with the knowledge that there was an extant quarry permission for sand and gravel extraction. Any objective to constrain mineral development in this area is therefore meaningless.

MIN 4 – Valuable Minerals

This policy is more relevant to the extraction of more valuable minerals such as oil, gas and lignite and holds limited weight in this assessment.

MIN 5 – Mineral Reserves

Again this policy is more relevant to the extraction of minerals considered to be of particular value to the economy such as oil, gas and lignite and holds limited weight in this assessment.

MIN 6 – Safety and Amenity

This policy recognises that some mineral operations make the bad neighbours. Conflict may be reduced by providing adequate separation distances. As this proposal involves the introduction of additional plant which has the potential to impact on local residents with regard to noise, consultation has been carried out with EH. On the 21-12-2018 EH requested the submission of a noise assessment so that impacts could be considered on numbers 26, 28, 29 and 31 Crancussy Road. This was submitted on the 4-3-2019. Also considered by EH was a separate noise review undertaken by Dick Bowdler submitted on behalf of an objector. EH responded on the 2-5-2019 seeking further clarification on tonality from the proposed noise sources and all existing plant noise. Having considered all information dealing with noise, EH on the 7-8-2019 advised that they would have no objection to the proposal subject to 3 conditions being attached to any permission so as to protect nearby residential amenity. I am therefore satisfied that there is no conflict with this policy.

MIN 7 – Traffic

This policy requires account to be taken of the safety and convenience of road users and the amenity of persons living on roads close to the quarry. The Council seek advice from DFI Roads in respect of traffic movements and road safety. A TAF was submitted with the application and DFI Roads have advised that the information provided on the TAF and P1 Form should be an accurate estimate and that they would expect some fluctuations. They have acknowledged that the quarry is an existing operation and that the proposed plant will not be the generator for any expected change or intensification to vehicular movements. DFI Roads have considered all objections which have raised roads issues and they do not offer any objection to the application. In light of their advice I am also satisfied that there are no PPS 3 policy concerns that need to be highlighted or addressed.

MIN 8 – Restoration

This policy requires mineral workings to be restored at the earliest opportunity. Given the nature of this proposal, there is no requirement to seek restoration proposals or condition any restoration proposals.

On the whole, I am satisfied that the proposal does not result in any conflict with any of the MIN policies contained in the PSRNI.

Planning Policy Statement 2 – Natural Heritage

This policy must be considered if a development has the potential to impact upon many designations including ASSI's and SAC's. As noted above the site is within Lough Doo ASSI and is in close proximity to the Upper Ballinderry SAC. For these reasons,

consultation has been issued to both NIEA and SES.

Policy NH1 (European and Ramsar sites) will permit development if doesn't have a significant effect on a SAC which is a site of international importance. SES have carried out a stage 1 HRA screening which indicates that there are no viable environmental pathways to any European sites. The proposal involves the recycling of all water on site and there is no discharge to any outside watercourse. WMU have also been consulted and have advised that they have considered the impacts of the proposal on the surface water environment and on the basis of the information provided, have no objections subject to standard conditions and the applicant referring to standing advice and informatives.

No concern has been raised by NIEA about the impact of the proposal on species protected by law. As such Policy NH 2 is not relevant.

Policy NH 3 deals specifically with national sites of conservation importance. These include Lough Doo ASSI. As noted above there is justifiable concern that the quarry as a whole is at odds with the ASSI designation as the designation was about retaining landform and a quarry is about excavating and if the existing quarry permission is implemented the ASSI may very well be harmed. However, consultation with NIEA concluded that they did not take into account the quarry when designating Lough Doo ASSI, nor have they asked for quarrying operations at this location to be discontinued.

Policy NH 5 deals with habitats, species or features of natural heritage importance. This includes features of earth science conservation importance. NIEA (NED) have consulted internally with their Conservation Science section as Lough Doo ASSI is designated for its earth science features. They have determined that the proposed activity poses no additional threat to the earth science value of Lough Doo ASSI.

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 the application site, shall not exceed the levels stated in Table 1 below:

Receiver Location	Predicted Noise Level (dB LAeq, 1hr)
-------------------	--------------------------------------

R1	45
R2	40
R3	40
R4	40
R5	43

Reason: To protect nearby residential amenity.

Condition 3

Within 8 weeks of a written request by the Planning Department, following a reasonable noise complaint, the applicant shall, at their expense, employ a suitably qualified and competent person to assess and report the level of noise emissions from the site and their impact at the complainant's property. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To protect nearby residential amenity.

Condition 4

If a report submitted, as per condition 3 indicates that noise levels from the development exceed levels listed in Table 1 of condition 2, then a scheme outlining corrective action with proposed timescales for their implementation shall be agreed in writing with the Planning Department.

Reason: To protect nearby residential amenity.

Case Officer: Karla McKinless

Date: 20 February 2024

ANNEX

Date Valid	9 October 2018
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Date First Advertised	25 October 2018
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Date Last Advertised	24 October 2018
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Details of Neighbour Notification (all addresses)

The Owner / Occupier
31 Crancussy Road, Cookstown, BT80 9PW
The Owner / Occupier
26 Crancussy Road, Cookstown, BT80 9PW
The Owner / Occupier
28 Crancussy Road, Cookstown, BT80 9PW
The Owner / Occupier
30 Crancussy Road, Cookstown, BT80 9PW

Date of Last Neighbour Notification	17 June 2019
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: I/2010/0038/F

Proposals: variation of condition no 17 of planning approval I/1977/0072 -- relocation of settlement ponds

Decision: PG

Decision Date: 11-JUN-10

Ref: LA09/2018/1337/F

Proposals: Proposed water recycling tank and sand de-watering unit with dosing units and associated equipment/ cabins with mobile log washer unit to assist the existing plant. This auxiliary plant will use less water and energy in the processing of material and overburden from sand washing and aggregates processing as this is an even more modern and sustainable approach to aggregates processing. The log washer will enable more yield from the plant and allow a more diverse range of feed materials

Decision:

Decision Date:

Ref: I/1977/0072

Proposals: SAND WASHING PLANT, GARAGE, OFFICE WEIGHBRIDGE ETC

Decision: PG

Decision Date:

Summary of Consultee Responses

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

Shared Environmental Services-Substantive: TBCResponseType: FR

NIEA-Substantive: YResponseType: FR

NIEA-Substantive: YResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

Shared Environmental Services-Substantive: TBCResponseType: FR

NIEA-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBC

Shared Environmental Services-Substantive: TBC
NIEA-Substantive: TBC
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
NIEA-Substantive: YResponseType: FR
NIEA-Substantive: TBC
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Proposed Elevations Plan Ref: 05
Proposed Elevations Plan Ref: 04
Site Layout or Block Plan Plan Ref: 03
Site Location Plan Plan Ref: 02

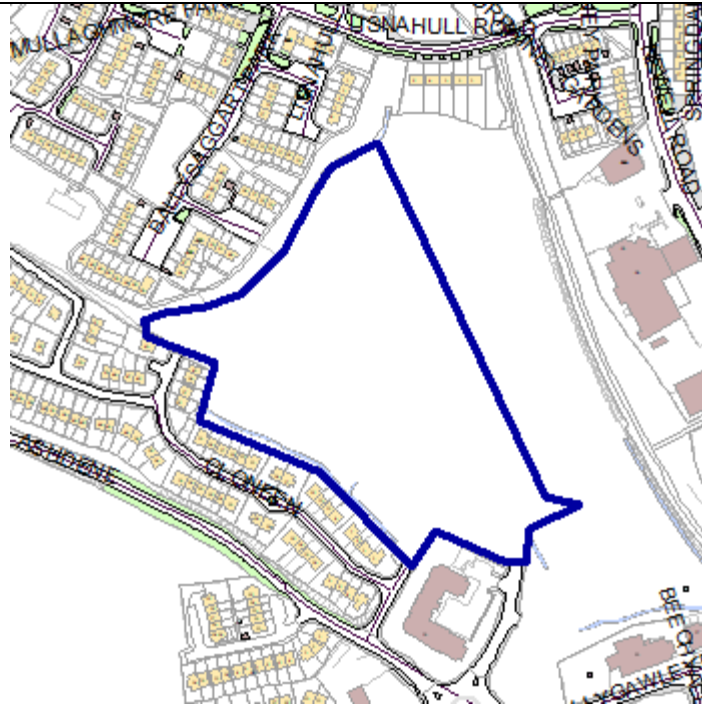
Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5
Application ID: LA09/2020/1319/F	Target Date: 20 May 2021
Proposal: Erection of mixed-use development comprising 80 units (56 dwellings & 24 apartments) & 8 industrial units (light industrial & storage)	Location: Immediately North Of 31 Ballygawley Road Dungannon Bounded By Cloneen & Ballysaggart Park To The South & West
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Orchard County Contracts 17 Mullanary Road Dungannon BT71 7LS	Agent Name and Address: O'Callaghan Planning 20 Castle Street Newry BT34 2BY
Executive Summary: Approve with conditions as per case officer report	

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
		Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Northern Ireland Housing Executive - Central Planning	Substantive: TBCResponseType: FR
Non Statutory Consultee	Rivers Agency	488713 final.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2020 1319 F MUD Ballygawley Rd.doc
Statutory Consultee	NIEA	PRT LA09-2020-1319-

		F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2020 1319 F (002).doc
Statutory Consultee	Rivers Agency	An extension of 30 days is requested for the following reason: - the consultation requires additional assessment from the internal DfI Rivers' modelling unit because the FRA disputes the findings of the flood plain extents affecting the site.
Statutory Consultee	Rivers Agency	71333 - final.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 20 1319 F Ballygawley Rd Dungannon.doc
Statutory Consultee	NIEA	PRT LA09-2020-1319-F.PDF
Statutory Consultee	NIEA	
Statutory Consultee	DFI Roads - Enniskillen Office	08-02-2024.docx
Statutory Consultee	NIEA	
Statutory Consultee	DFI Roads - Enniskillen Office	Conditions 15-02-2024.docx
Statutory Consultee	NIEA	PRT LA09-202-1319-F.pdf
Statutory Consultee	MUDC Environment and Conservation Team	Consulted in error.Consulted in error.
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 22 1319 MUD Ballygawley Rd.doc
Statutory Consultee	NIEA	PRT LA09-2020-1319-F.PDF
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 20 1319 F Ballygawley Rd Dungannon.doc
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 20 1319 F Ballygawley Rd Dungannon.doc
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	NIEA	PRT LA09 2020 1319 F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	06-03-2023.docx
Statutory Consultee	NIEA	PRT LA09-2020-1319-F.PDF
Representations:		
Letters of Support		0
Letters of Objection		0
Letters Non Committal		0
Number of Support Petitions and signatures		0

Number of Petitions of Objection and signatures	0
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Characteristics of the Site and Area

The site is located North of 31 Ballygawley Road, Dungannon and is bounded by Cloneen and Ballysaggart Park to the south and west. The site is low lying but rises gradually from SE to NW. The western boundary of the site is an embankment that slopes upwards to Ballysaggart Park.

Access is by an existing road which serves the adjacent Nursing Home. The site currently is cleared with no buildings on it.

The surrounding area is built up with mixed character of residential developments. The surrounding area is of mixed character. There are residential units to North, NW, West and SW and to the south. Some terraced, semi-detached, generally all being 2 storey.

The Nursing home is located to the south, and a car show room and forecourt to the SE. There is a building supplies merchant to the south of the site. There is a convenience store to the NE.

The site is zoned for industry and business use in the DSTAP 2010, designated under D1 05 - Lands at Ballygawley Road.

Planning approval was granted on lands including this site under M/2008/0496/F for a mixed-use scheme in 2011. This approval was granted as an 'exception' to normal policy restrictions. This permission has now lapsed.

M/2014/0343/F was granted approval on adjacent site for purposes of Recreation and Open Space in 2014. In this assessment approval was granted as an 'exception' to normal policy restrictions in terms of the normal presumption against the loss of industrial land.

Description of Proposal

Erection of mixed-use development comprising 80 units (56 dwellings & 24 apartments) 45 Units will be for social housing- 56% of the housing & 8 industrial units (light industrial & storage)

Planning Assessment of Policy and Other Material Considerations

Relevant planning history

M/2008/0496/F was approved in 2011 for a mixed-use scheme on lands that included this site. The permission granted permission for 15 light industrial units, 1 storage warehouse and 97 social housing units. Permission has been granted as an 'exception' to normal policy restrictions, as the site is zoned for industry. The developer submitted evidence that the site was not economically viable solely for industry, there would be severe site enabling costs due to poor geotechnical characteristics, industrial space in the area does not justify the expenditure for such development and there was a significant amount of undeveloped industrial land in Dungannon. This permission has since expired, however the agent has advised works commenced on site although no Certificate of lawfulness has been submitted to verify this. This approval involved a planning agreement.

M/2014/343/F was granted in 2014 to Dungannon & South Tyrone Borough Council to develop this for the purposes of recreation and open space. This site forms part of the same industrial zoning as M/08/0496/F and these lands has been included in that application. This again was granted as an 'exception' to normal planning restrictions. LA09/2016/0849/F - Proposed erection of new building supplies merchant's premises with associated access, yard area, vehicle turning area, car parking and all associated site works. This was withdrawn on the site.

Image 1 shows the application site outlined in red. Image 2 shows the approval granted under M/2008/0496/F, which included additional lands. These lands have now been approved under M/2014/343/F for open space/recreation, shown in Image 3.



Image 1



Plate 6: Approved site layout pertaining to M/2008/0496/F

Image 2



Plate 7: Proposed recreation / open space development on adjoining lands.

Image 3

Dungannon and South Tyrone Area Plan 2010, RDS 2035, SPPS, PPS2, PPS3, PPS4, PPS7, PPS8, PPS12, PPS15, Creating Places.

Dungannon and South Tyrone Area Plan 2010

The key issue with this proposal is the potential conflict with policy for development on zoned land/the need to develop land in accordance with the zoning and compliance with the sites key site requirements.

The site is zoned for industry and business use in the DSTAP 2010, designated under D1 05 – Lands at Ballygawley Road.

Policy IND1 Industry and Business

Existing Industry and Business Use areas are identified and listed within the Area Plan.

It states in the Plan, 'Within both existing and additional areas, planning permission will normally be granted for industry, storage and distribution, and other appropriate business uses where the development meets the key site requirements contained within Part 3 of the Plan. The introduction of inappropriate non-conforming uses that would prejudice the efficient operation of industrial and business uses will not normally be permitted'.

While policy presumes against the loss of industrial land, the use of the word 'normally' confirms that there will be cases whereby industrial land can be reallocated for a firm development proposal, even though the policy presumes against the loss of industrial land. The policy deals with the matter of a 'non-confirming use' that would prejudice the efficient operation of industrial and business use. The current proposal will not have this effect and the presumption can therefore be set aside, as has been previously done on this site and in this particular zoning.

This extant Plan is clearly out of date, however The Local Dev Plan 2023 draft plan strategy does not carry determining weight. 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.

In this case, due to the nature of the proposal, the planning history on the site which is a material consideration and that adequate sites in the area are being retained for Industrial uses, weight can be given to this in order to justify it in terms of the spirit of the Area Plan. Developing this site would not diminish what is available to prospective industrial developers.

In addition, the development should be encouraged as it is providing an element of social housing where there is a need for this in the area as identified by Ark Housing Association.



The dwellings marked in red on the Site Layout have been identified as the social housing sites.

The breakdown of these are as follow,

8 No. 1 Bed apartments.

25 No. 2 Bedroom Houses

9 No. 3 Bedroom Houses

3 No. 4 Bedroom Houses.

45 Units in Total so over 50% of the housing element of the development.

Key Site Requirements of D1 05 – Land at Ballygawley Road

As an exception is being made to the Industrial zoning, so to a certain extent the key site requirements can be set aside, however they have been generally complied with.

- **Vehicular access should be provided from Ballygawley.**

The access is taken from the existing Nursing home served from here.

- **Development should be set back at least 20 metres from existing residential units with a landscaping buffering.**

A suitable degree of separation has been provided between existing and proposed properties. There will also be the benefit of the planned open space development and the landscape it will provide.

- **Pedestrian access should be provided through the site link with Ballygawley Road and Ballysaggart Park.**

This is shown to be to provided, as well as a pathway to the open space area.

- **Foul sewer pumping may be required.**

Applicant is aware that effluent may need to be pumped, NI Water has been consulted and are content.

- **The open watercourse to the SE portion of the site should be obtained and incorporated within the layout.**

Plans show the open watercourse indicating a fence that can be accessed for maintenance purposes. The applicant is in possession of the statutory consent to culvert the watercourse.

- **Infilling may be required due to low lying nature of the site**

Applicant is aware of this and is content they can achieve the development without relying on imported material.

PPS4 – PLANNING AND ECONOMIC DEVELOPMENT

PED 1- Economic Development in Settlements

The element of the proposal that includes light Industry is assessed in line with PED1. The storage units are approx. 1000 sq ft and are intended to facilitate small scale business activity. Their scale, form and nature will be appropriate to this location.

PED 7 - Retention of zoned land and economic development uses

Development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses.

An exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally. Retailing or commercial leisure development will not be permitted except where justified as acceptable ancillary development.

The land has not been substantially developed for alternative uses. The exception under PED7 for sui generis employment uses can't be met by the residential part of the policy so an exception or departure from this would be required to allow for this proposal. In the assessment of the previous approval, it was taken into account that the sites ground conditions were so poor that disproportionate construction costs will arise in the event the site is developed in accordance with the Plan's zoning. These costs can only be recovered through the resale of individual dwellings, which is the only viable course of action and development of the site for industrial purposes would not be economically viable owing to the amount of preliminary works that would be required. These circumstances have not changed since the granting of that permission and so is this is still a valid consideration.

The agent has put forward the argument that the release of this land and its development for industrial purposes is not likely to occur due to the lack of demand for industrial development at this location. The land will remain undeveloped, causing blight as it is clear demand for industrial land is being met elsewhere given the length of time this land has been lying undeveloped.

Precedents have been established within this zoned land to alternative uses including the following;

M/2005/1294/O - Builders Yard

M/2007/0731/F - Nursing Home

M/2005/1287/O - Bunscoil

M/2008/0496/F - Residential development

M/2014/0343/F - Open Space

So on 5 separate occasions the zoning here has been set aside to allow the above approvals, which has established a precedent and indicates there is not a need for this land for industrial use nor has there been the interest or demand to do so.

The argument has been put forward that the proposal is 'enabling development' , because the development of the site, for exclusively industrial purposes, would not be financially viable, an alternative has been found, which will deliver some industrial development to make the scheme financially achievable. The inclusion of affordable housing allows for this to occur and without it there is no other potential revenue stream available.

This will be a mixed-use scheme, including some industrial and the housing is required to ensure scheme can go ahead, this scheme will ensure part of the land will be used for industrial and would be more desirable in policy terms, than exclusively housing. The proposal aims to delivery quality and affordable housing for the area. The proposal will include an area of Open Space which will be accessible to the surrounding population.

This application will allow for the provision of 10,000 sq ft of industrial units, which otherwise would not be deliverable and in turn will create employment making an important contribution to the local economy.

Applications must be considered on their own merits, and taking the benefits of this proposal along with the previous planning histories, I feel it is justified to depart from the confines of PED7.

PED9 relates to the general criteria for economic development.

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 proposal will be in keeping with the existing character of the area and uses, in terms of the use and the visual element.

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

There will be sufficient distance between existing and proposed units to ensure this does not occur. Landscaping shown is adequate to aid with this.

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

No archaeological or built heritage features nearby.

Following a number of ecological reports submitted to NIED – Natural Heritage they have now considered all the impacts on natural heritage interests and on the basis of this information have no concerns subject to conditions provided.

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

flooding;

The proposed 'built development' is all outside the flood plain, with only some footpaths and part of the road located within it. Due to the previous approval, it would be unreasonable to ask for any changes in this respect.

DFI Rivers were consulted, and this is detailed further in the report under Policy PPS15, relevant conditions have been provided.

(e) it does not create a noise nuisance;

Env Health were consulted and following the provision of additional information to ensure the nearby Nursing home was not detrimentally impacted upon, they have accepted the findings on predicted noises and provided conditions which aid in restricting operational hours.

There will be an acoustic fence around the perimeter of the industrial units, this will blend in with the overall development and aid in reducing any noise. Acoustic glazed windows are to be installed in all the proposed dwellings.

An acoustic fence will also be installed along the boundary of the development to the rear of units 1-4 to further mitigate any noise, especially for Willow Grove Nursing Home.

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

Due to the size and scale of the units emissions and effluents this is not an issue.

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

DFI Roads have been consulted and provided relevant conditions to be attached to any approval. There is only a moderate amount of traffic associated with the industrial units, which are light industry and storage only.

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

DFI Roads have been consulted and provided relevant conditions to be attached to any approval.

(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;

There is no impact on rights of way. The site is accessible to Dungannon town centre and there are regular bus services.

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

biodiversity;

New landscaping will be introduced to aid with this and the development of the adjacent open space by the Council will be intrinsically linked to the development.

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

The industrial units will have limited visual impact and any storage will be fenced off.

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

This criterion has been met through maximum surveillance and defensible open space.

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

N/A as not located in the countryside.

Overall, the proposal meets with the criteria of PED9 of PPS4.

PPS7 - Quality Residential Environments

The residential part of this mixed development comprises of 80 units. Erection of mixed-use development comprising 80 units (56 dwellings & 24 apartments). 45 Units in Total so over 50% of the housing element of the development.

In order to ensure the delivery of the social housing element of the proposal a planning agreement is necessary. The planning agreement will be between the Council and the developer and will be required to ensure the delivery, timing and phasing of the social housing units.

Proposals need to conform to all 9 identified criteria laid out in QD1 of PPS7.

The proposal respects the surrounding context and is appropriate to character of the area in terms of layout, scale, massing and appearance.

The proposal has taken into account the townscape and landscape characters. The nearby dwellings are mainly 2 storey, and this layout would not adversely affect the character of the area.

The dwellings have been orientated to present an attractive outlook and front on to roads and the materials used will match to what is existing in the surrounding area.

There are no archaeological areas of interest that will be affected.

In terms of public open space, an area has been provided to the south, however there is a new park adjacent to the site and the developer has focused on utilising this rather

than providing formal play areas.

Private open space has been sufficiently provided for in line with Creating Places. Adequate and appropriate parking provision has been provided in line with Parking Standards and DFI Roads have given relevant conditions.

The requirements of QD1 of PPS7 have been met.

PPS8 – Open Space

A normal expectation of at least 10% of the total site area is required. However provision at a rate of less than 10% may be acceptable where the residential development 'is close to and would benefit from ease of access to areas of existing public open space' or 'is located within a town centre'.

In this case the site is located just outside the town centre, it would benefit from ease of access to areas of existing public open space (including the adjacent amenity site granted to the Council).

9% of open space has been provided, rather than the 10 normally desired, so in this case would be acceptable. The space provided by the developer is more for visual amenity rather than recreational on the basis of the provision of the open space adjacent recreational park.

PPS12 - Housing in Settlements

The main aims and objectives of this policy are to manage housing growth, achieve a sustainable pattern of development, promote housing within urban areas, increase housing without town cramming, promote good design and balanced communities. The proposal is considered to meet these requirements.

PPS15 – Planning and Flood Risk.

FLD1 - Development in Fluvial and coastal Flood Plains – Flood Maps (NI) indicate that the site lies partially within the 1 in 100-year fluvial flood plain. In accordance with policy development will not be permitted within the 1 in 100-year fluvial flood plain unless the Planning Authority deems it to be an 'exception' or of overriding regional or sub-regional importance as defined in policy FLD.

The proposed 'built development' is all outside the flood plain, with only some footpaths and part of the road located within it, approx. 200m². Due to the previous approval, it would be unreasonable to ask for any changes in this respect.

FLD2 - Protection of Flood Defence and Drainage Infrastructure – The site is affected by undesignated watercourses, according to the blue lines marked "ditch" on the map on the last page of Appendix D in the Flood Risk Assessment (see below). Under 6.32 of the policy a 5m to 10m level maintenance strip is required. This will be conditioned as such.

FLD3 - Development and Surface Water – The drainage system is to be adopted by Northern Ireland Water and, according to the drainage assessment, the 100-year storm water generated will be attenuated contrary to the guidance in Sewers for Adoption N I that states: - Storage over and above the 1 in 30-year event should not be sited within the adoptable system.

The drainage assessment has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100-year event will be contained within the network, when discharging at existing greenfield runoff rate, and therefore there will be no exceedance flows during this event.

Further assessment of the drainage network will be made by NIW prior to adoption. However, to ensure compliance with Planning Policy Statement 15, DfI Rivers requests that the potential flood risk from exceedance of the network, in the 1 in 100-year event, is managed by way of a condition - 'Prior to the commencement of any of the approved development, the applicant must demonstrate how any out of sewer flooding, emanating from the surface water drainage network agreed under Article 161, in a 1 in 100-year event, will be safely managed so as not to create a flood risk to the development or from the development to elsewhere.

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

FLD4 - Artificial Modification of watercourses

The Flood Risk Assessment and associated plans show, it is intended to alter an open watercourse by culverting in the south of the site.

Under FLD 4 of Planning Policy Statement 15, artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons.

The original approval was granted in 2011 and PPS15 was introduced in September 2014, so policy in this respect has changed. There is not an automatic right to culvert but in this case, it is being treated as an exception, due to the historical approval on the site and the applicant has received statutory consent to culvert. This will also minimise the risk of flooding on the site, without increasing the risk of flooding elsewhere.

Also, as part of the proposal for the dwellings is for social housing there is a need in the area. This proposal is therefore providing a 'gain', coupled with the previous approval it would again be unreasonable in this instance, that all existing watercourses be diverted as it would prevent development of the site and go against natural justice.

FLD5 - Development in Proximity to Reservoirs – DfI Rivers reservoir inundation maps indicate that this site is in a potential area of inundation emanating from Ballysaggart Lough.

It needs to be demonstrated that the condition, management and maintenance regime of Ballysaggart Lough is appropriate to provide sufficient assurance regarding reservoir safety so as to enable the development to proceed, as require under Policy FLD 5.

A Certificate of Lawfulness was approved in July 2023 for 'Replacement/refurbishment of the existing outlet at Ballysaggart Lough' for MUDC. The proposal allowed for the erection of equipment on the land belonging to and maintained by the Council for the purposes of any function exercised on the land. These works are for a function exercised for the Council as they are to improve the land for the approved leisure function associated with Ballysaggart Lough.

New development will only be permitted within the potential flood inundation area of a 'controlled reservoir' as shown on the Strategic Flood Map if certain factors exist. The site is within a potential flood inundation area, Ballysaggart Lough is the reservoir in question. It is required by the applicant to provide sufficient assurance regarding reservoir safety. The Council are working towards obtaining 'Responsible Manager Status' of Ballysaggart Lough and this process is almost complete. This process has been taking a consideration amount of time and it was agreed with the Service Director of Planning that a condition could be attached to ensure development was not held up due to this delay, whilst ensuring flooding concerns and any risk to life are fully taken into account.

DFI Rivers comments have been taken into account, however Planning Service are the deciding authority and as such PPS15 has been fully considered.

In conclusion, the site has been inactive for a significant period of time, if accepted, the arguments put forward will ensure this overgrown site is utilised for its intended purpose, light industry, as well as meeting a housing need in this area. The site has been a known focal point for anti-social activity in the past and its development will be a 'planning gain' to the surrounding area. This proposal will discourage anti-social behaviour, it will result in environmental benefits including accessibility to open space, new landscaping and provide much needed social housing. No objections have been received from any neighbouring properties. I therefore recommend the proposal be approved with the conditions attached.

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 94 of the Planning Act (Northern Ireland) 2011

Condition 2

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

The Department 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. JPC 002 Revision D bearing PSD stamp dated 15/2/24.

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.

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 the development.

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

Condition 3

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

- a) Clear aims and objectives of proposed habitat management/restoration/compensation for Open Mosaic Habitat NI Priority Habitat;
- b) Description of pre-construction, baseline habitat conditions;
- c) Appropriate maps, clearly identifying habitat management areas which should reflect plans as shown on Landscaping Plan Biodiversity Framework (Published to the MU-PP 07/12/2023);
- d) Detailed methodology and prescriptions of habitat management and restoration/compensation measures, including timescales, and with defined criteria for the success of the measures;
- e) Details of the prohibition of habitat damaging activities, including agricultural activities, landscaping maintenance works etc;
- f) Details of the regular monitoring of the effectiveness of habitat management and compensation measures using appropriate methodology (e.g. visual inspections, vegetation quadrats, fixed point photography) in years 1, 2, 3, 4 and 5 post construction;
- g) Details of the production of regular monitoring reports which shall be submitted to the Planning Authority within 6 months of the end of each monitoring year and which shall include details of contingency measures should monitoring reveal unfavourable results.

Reason: To compensate for the loss of and damage to Northern Ireland priority habitats.

Condition 4

- An Acoustic barrier shall be erected within the site as presented on Site Layout Plan PO5 E, dated Sept 2020. The barriers shall be constructed of either masonry or timber panelling (close lapped with no gaps) and shall have a minimum self-weight of 25kg/M2. The barrier shall be permanently retained and maintained.

The industrial units operating times shall be as follows:

08:00 - 18:00 Monday to Friday

08:00 - 15:00 Saturday

No operations on a Sunday

- -Audible reversing alarms to HGVs/vehicles on site shall be of the broadband type and not single tone reversing sirens.

Construction Noise

- "Noise from construction activities should - not exceed 75 dB LAeq, 1hr between 07.00 hours and 19.00 hours on Monday to Fridays, or 75 dB LAeq, 1hr between 08.00 hours and 13.00 on Saturdays, when measured at any point 1 metre from any façade of any residential accommodation, and not exceed 65 dB LAeq, 1hr between 19.00 hours and 22.00 hours on Monday to Fridays, or 13.00 hours to 22.00 hours on Saturdays when measured at any point 1 metre from any façade of any residential accommodation, and

not be audible between 22.00 hours and 07.00 hours on Monday to Fridays, before 08.00 hours or after 22:00 hours on Saturdays, or at any time on Sundays, at the boundary of any residential accommodation. (As a guide the total level (ambient plus construction) shall not exceed the pre-construction ambient level by more than 1 dB(A). This will not allow substantial noise producing construction activities but other "quiet" activities may be possible). Routine construction and demolition work which is likely to produce noise sufficient to cause annoyance will not normally be permitted between 22.00 hours and 07.00 hours."

Reason: Protection of residential amenity

Condition 5

Prior to the commencement of any of the approved development, the applicant must demonstrate how any out of sewer flooding, emanating from the surface water drainage network agreed under Article 161, in a 1 in 100-year event, will be safely managed so as not to create a flood risk to the development or from the development to elsewhere.

Reason - In order to safeguard against surface water flood risk to the development and

manage and mitigate any increase in surface water flood risk from the development to elsewhere.

Condition 6

No development hereby permitted shall take place until a 5 metre level maintenance strip is provided along the eastern boundary of the site to be protected from impediments, land raising or future unapproved development.

Reason: To ensure protection from impediments in relation to potential flooding issues.

Condition 7

Prior to the commencement of any of the approved development, the applicant must demonstrate how any out of sewer flooding, emanating from the surface water drainage network agreed under Article 161, in a 1 in 100-year event, will be safely managed so as not to create a flood risk to the development or from the development to elsewhere.

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

Condition 8

The industrial units hereby approved shall be used only for Class B2 Light Industry and Storage and for no other purpose in Class B2 of the Schedule to the Planning (Use Classes) Order (NI) 1989.

Reason: To prohibit a change to an unacceptable use within this Use Class.

Condition 9

All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No 5 rev 02 uploaded on 7 Dec 2023 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: To ensure the provision, establishment and maintenance of a high standard of landscape.

Condition 10

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 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 the Council gives its written consent to any variation.

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

Condition11

No dwelling or apartment hereby approved shall be occupied until the Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with an appropriate management company, for all areas beyond the plot curtilage as shown on drawing No 5 rev 02 uploaded on 7 Dec 2023. These areas shall be permanently retained as landscape/open space.

Reason: To ensure that open space is provided, maintained and managed in accordance with the Departments Policy Statements, PPS 7 - Quality Residential Environments and PPS8 - Open Space, Sport and Outdoor Recreation and to ensure its retention in perpetuity.

Condition12

The sewerage treatment plant shall be located as per Drawing 20 rev 04 uploaded on 13 Feb 2024 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved. The plant shall be shall be maintained by the developer until such times as it is adopted by NI Water or is no longer necessary to serve the development.

Reason: To protect nearby residential amenity from noise and odour.

Condition13

No building shall be occupied until Mid-Ulster District Council has confirmed that measures required to ensure there will be no uncontrollable release of water have been identified and a contract entered into for the implementation of these works.

Reason - To prevent flooding and any risk to human life.

Case Officer: Emma McCullagh

Date: 20 February 2024

ANNEX

Date Valid	22 October 2020
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Date First Advertised	18 December 2023
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Date Last Advertised	3 November 2020
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Details of Neighbour Notification (all addresses)

The Owner / Occupier
5 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
17 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
13 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
58 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier
31 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
25 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
57 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier
43 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
3 Cloneen, Dungannon, Tyrone , BT70 1SY
The Owner / Occupier
51 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier
27 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
29 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
35 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
37 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
39 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
41 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
21 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
23 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier
19 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier

59 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

1 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier

31 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

53 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

33 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

7 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier

49 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

55D, Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

9 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier

31 Ballygawley Road, Dungannon, Tyrone, BT70 1EL
The Owner / Occupier

55C, Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

15 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier

7 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

55B, Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

9 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

55A, Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ
The Owner / Occupier

11 Cloneen, Dungannon, Tyrone, BT70 1SY
The Owner / Occupier

Willow Grove Care Home 31 Ballygawley Road, Dungannon BT70 1EL

Date of Last Neighbour Notification	7 December 2023
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Date of EIA Determination	19 November 2020
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ES Requested	<events screen>
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<u>Planning History</u>

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR
NI Water - Multiple Units West-Substantive: TBCResponseType: FR
Rivers Agency-Substantive: TBCResponseType: FR
-Substantive: YResponseType: FR
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
NIEA-Substantive: YResponseType: FR
Northern Ireland Housing Executive - Central Planning-Substantive: TBCResponseType: FR
FR
Rivers Agency-488713 final.pdf
DFI Roads - Enniskillen Office-
Environmental Health Mid Ulster Council-LA09 2020 1319 F MUD Ballygawley Rd.doc
NIEA-PRT LA09-2020-1319-F.PDF
Environmental Health Mid Ulster Council-LA09 2020 1319 F (002).doc
Rivers Agency-An extension of 30 days is requested for the following reason: - the consultation requires additional assessment from the internal DfI Rivers' modelling unit because the FRA disputes the findings of the flood plain extents affecting the site.
Rivers Agency-71333 - final.pdf
Environmental Health Mid Ulster Council-LA09 20 1319 F Ballygawley Rd
Dungannon.doc
NIEA-PRT LA09-2020-1319-F.PDF
NIEA-
DFI Roads - Enniskillen Office-08-02-2024.docx
NIEA-
DFI Roads - Enniskillen Office-Conditions 15-02-2024.docx
NIEA-PRT LA09-202-1319-F.pdf
MUDC Environment and Conservation Team-Consulted in error.Consulted in error.
Environmental Health Mid Ulster Council-LA09 22 1319 MUD Ballygawley Rd.doc
NIEA-PRT LA09-2020-1319-F.PDF
Environmental Health Mid Ulster Council-LA09 20 1319 F Ballygawley Rd
Dungannon.doc
Environmental Health Mid Ulster Council-LA09 20 1319 F Ballygawley Rd
Dungannon.doc
DFI Roads - Enniskillen Office-
NIEA-PRT LA09 2020 1319 F.pdf
DFI Roads - Enniskillen Office-06-03-2023.docx
NIEA-PRT LA09-2020-1319-F.PDF

Drawing Numbers and Title

Elevations and Floor Plans Plan Ref: 18
Elevations and Floor Plans Plan Ref: 17
Elevations and Floor Plans Plan Ref: 16
Elevations and Floor Plans Plan Ref: 15
Elevations and Floor Plans Plan Ref: 14
Elevations and Floor Plans Plan Ref: 13
Elevations and Floor Plans Plan Ref: 12
Elevations and Floor Plans Plan Ref: 11
Elevations and Floor Plans Plan Ref: 10
Elevations and Floor Plans Plan Ref: 09
Elevations and Floor Plans Plan Ref: 08
Elevations and Floor Plans Plan Ref: 07
Levels and Cross Sections Plan Ref: 06
Landscaping Plan Plan Ref: 05
Levels and Cross Sections 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
Site Layout or Block Plan Plan Ref: 19/01
Proposed Plans Plan Ref: 03/02
Proposed Elevations Plan Ref: 15/01
Proposed Elevations Plan Ref: 16/01
Landscape Proposals Plan Ref: 05/01
Site Layout or Block Plan Plan Ref: 19 Rev 01
Site Layout or Block Plan Plan Ref: 02 rev 02
Site Layout or Block Plan Plan Ref: 03 rev 02
Technical Specification Plan Ref: 20 rev 01
Cross Sections
Cross Sections Plan Ref: 22
Site Layout or Block Plan Plan Ref: 19 rev 02
Site Layout or Block Plan Plan Ref: 02 rev 03
Site Layout or Block Plan Plan Ref: 03 rev 03
Technical Specification Plan Ref: 20 rev 02
Longitudinal Sections Plan Ref: 21
Proposed Plans Plan Ref: JPC004 Version: B
Proposed Plans Plan Ref: JPC005 Version: D
Proposed Plans Plan Ref: JPC003 Version: D
Road Access Plan Plan Ref: JPC002 Version: D
Site Layout or Block Plan Plan Ref: JPC001 Version: E
Elevations and Floor Plans Plan Ref: 07-01
Elevations and Floor Plans Plan Ref: 08-01
Elevations and Floor Plans Plan Ref: 09-01
Elevations and Floor Plans Plan Ref: 10-01
Elevations and Floor Plans Plan Ref: 11-01
Elevations and Floor Plans Plan Ref: 12-01
Elevations and Floor Plans Plan Ref: 13-01
Elevations and Floor Plans Plan Ref: 14-01
Elevations and Floor Plans
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Elevations and Floor Plans

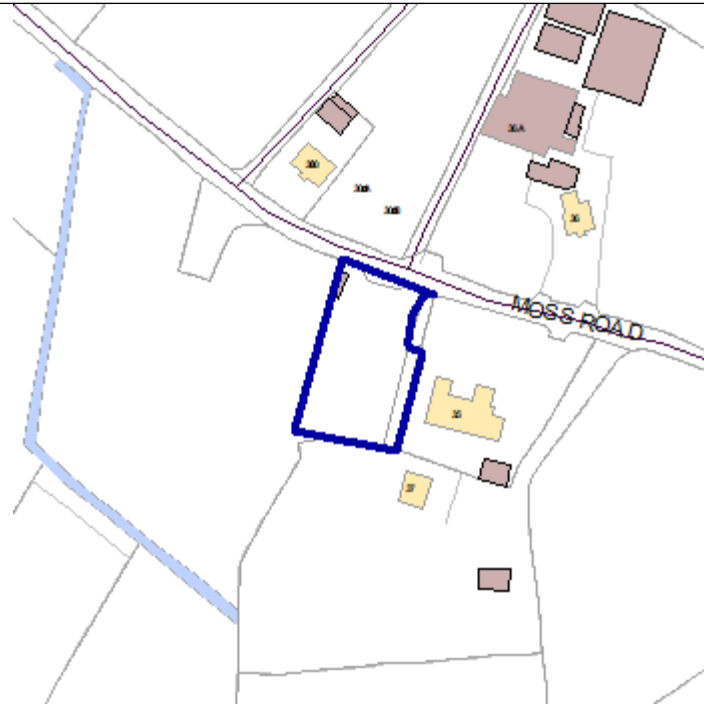
Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.3
Application ID: LA09/2021/0511/F	Target Date: 25 May 2021
Proposal: Proposed storage building to replace existing storage unit	Location: Approx 20M West of 35 Moss Road Ballymaguigan Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Christopher Cassidy 38 Airfield Road Toomebridge	Agent Name and Address: Cmi Planners Ltd 38 Airfield Road Toomebridge
Executive Summary: This application is before Members with a recommendation to refuse as it is considered that the proposal fails to comply with Policies CTY 1, CTY 14 and CTY 15 of PPS 21 as well as Policy PED 4 of PPS 4. There has also been 1 no. objection to the proposal.	

Case Officer Report**Site Location Plan**

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Consultations:

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

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

In line with Statutory Neighbour Notification Procedures, all relevant neighbouring properties were notified of this application and it has been advertised and re-advertised in local press.

At the time of writing this report, there has been 1 objection to the application. This is

from the occupants of number 37 Moss Road who have raised concern about a treatment plant and discharge point being on their land.

I have carried out a land registry check and it would seem that the land shown in blue is currently not registered to anyone. The applicant advised that this contested land was owned by his father who passed away without leaving a will. The application site (Folio LY73553) is registered to the applicant Chris Cassidy and Orla Hendry. A revised site location plan (02 rev 5) has been submitted to show the treatment plant now on land legally controlled by the applicant. This has been re-advertised and neighbours re-notified. No change to Certificate A is therefore necessary and I am satisfied that the application is valid. The discharge point does appear to be on land not registered to anyone. This becomes a legal matter to be dealt with outside the planning process.

Characteristics of the Site and Area

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

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

Description of Proposal

This is a full application for a proposed storage building to replace an existing storage unit. The proposed storage building is two storey, measures 12.6m x 6.9m and has a ridge height of 7.6m. The most recent revision to the site plan (02 rev 5) indicates that the building is gable fronting onto the Moss Road. The front elevation which faces West has 3 dormer windows and 3 roller shutter doors. The rear elevation has 4 roof lights and 3 ground floor windows. The LHS gable has a door and large feature window and the RHS gable has 1 first floor window.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Relevant Planning History

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

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

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

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

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

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

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

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

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

LA09/2018/0754/O - Dwelling and Garage. Adjacent to 35 Moss Road. Under consideration.

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

Relevant Enforcement History

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

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

LA09/2017/0076/CA Unauthorised change of use of portacabin from storage to office accommodation on lands adjacent to 35 Moss Road, Ballymaguigan, Magherafelt, Londonderry, BT45 6LJ. Closed

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

The relevant policies and guidance under consideration in this assessment are:

- o Strategic Planning Policy Statement (SPPS)
- o Magherafelt Area Plan 2015 (MAP)
- o Mid Ulster District Council Local Development 2030 - Draft Plan Strategy
- o Planning Policy Statement 3 - Access, Movement and Parking.
- o Planning Policy Statement 4 - Planning and Economic Development
- o Planning Policy Statement 21 - Sustainable Development in the Countryside

SPPS - Strategic Planning Policy Statement for Northern Ireland

The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Para. 6.87 of the SPPS also expresses support for expansion and redevelopment proposals where it states that "Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside. Such proposals may occasionally involve the construction of new buildings, where they can be integrated in a satisfactory manner."

The strategic direction from the SPPS is considered through my assessment of the proposal in line with the relevant planning policies for this type of development.

Magherafelt Area Plan 2015 (MAP)

The application site lies just outside the settlement limit of Ballymaguigan. It is not subject to any other designations or zonings contained in the MAP. The MAP is therefore not material. It therefore must be considered in line with relevant planning policy - primarily CTY 1 of PPS 21.

Mid Ulster District Council Local Development 2030 - Draft Plan Strategy

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.

PPS 21 - Sustainable Development in the Countryside

CTY 1 states that there are range of types of development which are considered to be acceptable in principle in the Countryside and that will contribute to the aims of sustainable development. This includes industry and business uses in accordance with the provisions of PPS 4.

Planning Policy Statement 4 - Planning and Economic Development

As the proposed development is to replace the existing structure on the site, PED 3 of PPS 4 (Expansion of an established economic development use) is not deemed an applicable policy test. The existing portacabin benefits from a CLUD (LA09/2016/0635/LDE) for storage purposes only, which is a B4 use class. Based on the lawful use of the structure for storage, it is my opinion that PED 4 of PPS 4 - redevelopment of an established economic development use in the countryside, is the relevant policy test in this assessment. This is a view taken by the PAC in paragraph 12 of appeal decision 2016/A0070 whereby the commissioner states that an existing storage use can still be considered to be an established development use in its own right.

PED 4 states that a proposal for redevelopment of an established economic development use in the countryside for industrial or business purposes will be permitted where it is demonstrated that all of 4 criteria are met - (a) where its scale and nature doesn't cause harm to rural character and where there is only a proportionate increase in the site area (b) where there would be environmental benefits (c) where the scheme deals with the full extent of the site and (d) where the visual impact of replacement buildings is not greater than the existing.

The existing structure, a modest portacabin siting at a lower level within the site, is proposed to be replaced by a 2 storey building which has over twice the footprint. Critical views of the portacabin are limited given its siting and scale and the presence of existing vegetation. The access/hard surfaced area associated with the portacabin is contained to the small area in front of the portacabin. Despite the set back position and orientation of the proposed building, its siting, scale, massing and associated hardstanding for vehicle parking and manoeuvring, will have a significantly greater visual impact than the existing structure. Hedge removal along the site frontage would be required and this would open the site further to more critical views. I would therefore consider that the proposed building would harm the rural character and appearance of the local area if approved. New hedgerow is proposed within the site but as noted in CTY 13 of PPS 21, new planting should not be relied upon primarily for the purpose of integrating a building on a site. The proposal therefore fails to meet criteria (a) and (d) of PED 4

It has been accepted by the PAC under 2016/A0070 that the proposed increase in the site area, although difficult to determine, could be deemed as proportionate and so this aspect of criterion (a) is not offended.

It has not been demonstrated that the proposal would bring about any demonstrable environmental benefits, beyond the removal of the derelict and somewhat unsightly portacabin. Again this was a view taken by the PAC in appeal 2016/A0070 paragraph 17. As such, there is conflict with criterion (b) of PED 4.

In considering the development against the provisions of PED 4 and considering the fact that there have been no changes in policy or its interpretation since Commissioner Watson made his decision on 2016/A0070, I am satisfied that the policy is not met.

In addition to PED 4, this type of development is required to meet all 18 criteria contained within PED 9 (General Criteria) of PPS 4.

Criteria (a) and (b) deal with the compatibility of the development with surrounding landuses and its impact on residential amenity. It is accepted that there are some established businesses in close proximity to the site, albeit the majority are within the settlement limits. There are also dwellings in close proximity to the site, numbers 35 and 37. The level of activity associated with a storage building would not make it incompatible with these surrounding landuses. The proposal is for a storage unit, which by its nature should not generate too much noise/nuisance. There is no information to tell us what will be stored in this building or how often there will be activity. An inventory list submitted detailed a range of office equipment, however the office element of the proposal has now been removed so it is unclear as to what exactly will be stored. The traffic figures provided on the P1 would indicate an increase in the number of vehicles attending the site however it is unlikely, given the existing level of traffic using the Moss Road, that the increase would harm the amenities of nearby residents by way of noise or pollution. I would contend therefore that there is no conflict with criteria (a) or (b) of PED 9 and also (e) which deals with noise nuisance. This was a view also taken by the PAC in 2016/A0070.

Criterion (c) considers impacts on natural and built heritage. Given the nature of the proposal and the lack of a hydrological connection to Lough Neagh, I have no natural heritage concerns. There are no built heritage features (ie) listed building or archaeological monuments to be considered. The site is not located in a floodplain and the building proposed does not meet the threshold for submission of a drainage assessment therefore criterion (d) is not offended. There will be no emissions generated and it is proposed to deal with foul sewage via a treatment plant. Criterion (g) concerns the ability to deal with traffic movements. DFI Roads have been consulted with this application and have raised no concerns about the proposed vehicle movements or any other road safety matters. They have recommended standard sight splay conditions be attached to any permission. Criterion (g) is therefore met.

Criterion (i) requires a movement pattern that supports walking and cycling and meets the needs of people with impaired mobility. This site although close to the settlement of Ballymaguigan, is in a rural area where the predominant mode of transport is car. Walking and cycling to the site could be unsafe given the absence of a footpath. The public transport provision in the area would be poor and would be unsuitable for the purpose of the development (ie) storage. Whilst this is a difficult criteria to adhere to especially in rural locations, it is not complied with. Again, this was a view taken by the PAC in 2016/A0070 and there has been no change in the policy since that decision was made. The only difference is that this proposal does not include an office use.

Criterion (j) deals with layout, design and landscaping. The building proposed does look like a triple domestic garage. Its design is generally not offensive however given its positioning on this site, which will be more visually intrusive and prominent than the structure it proposes to replace, along with the level of hardstanding around the building, it is my opinion that this criterion is not fully met.

Criteria (k) and (m) are concerned with enclosure, the screening of outside storage and measures to aid integration. Drawing 02 rev 5 does not indicate any outside storage, however it is unclear to what exactly is being stored inside this building too. The

applicant has a well established planning consultancy business currently located on airfield road. The applicant has advised me over the phone on numerous occasions that its his intention to use this building in connection with his business - which is not a storage business, so i cannot say with any certainty what the building will be used to staore and if there will be any outside storage. Some new hedging is proposed within the site, which is more to define the driveway than to provide any greater integration. Existing vegetation is shown to be retained. I am therefore not persuaded that either of these criteria are fully met.

Given that the proposal fails to comply with Policy PED 4 of PPS 4 it does not meet CTY 1 of PPS 21 in that there are no overriding reasons why the development is essential and could not be located in a settlement. It also fails to meet some of the provisions of PED 9 of PPS21

Polices CTY 14 and CTY 15 of PPS 21 are also material to this assessment. CTY 15 advises that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. The purpose of a settlement limit is partially to maintain a clear distinction between the built up area and the surrounding countryside. If approved, the redevelopment of the site and the introduction of a large area of hardstanding for parking and manoeuvring, would in my opinion, urbanise the area and would mar the distinction between the settlement of Ballymaguigan and the countryside. It was recognised by Commissioner Watson in 2016/A0070 that the site acts as a visual break between the edge of Ballymaguigan and numbers 35 and 37. If this building were approved it would result in a visual consolidation between these dwellings and the development within the settlement limit. This consolidation would impact on the rural character of this area and for these reasons the development is considered contrary to both CTY 14 and CTY 15. In terms of rural character, I would also reference the fact that the proposed building, given its scale and siting would appear more prominent that the portacabin. For this reason the proposal is also contrary to CTY 14 as well as CTY 13.

Other Material Considerations

Very important to this recommendation is planning application LA09/2015/0598/F for a replacement office and storage unit associated with an established business (retrospective) 50m West of 35 Moss Road, Ballymaguigan, Magherafelt. This application was refused on the 25.05.2016 and was also dismissed at appeal under 2016/A0070. The PAC in their decision accepted that this site acts as a visual break between the edge of Ballymaguigan and the countryside. Its development would further erode rural character in the area. The PAC also accepted that there is no policy support in PPS 4 for such development. There has been no change in planning policy in the interim and these issues remain reason for refusing this current application.

There was also an enforcement appeal on this site 2017/E0024 to deal with an unauthorised modular structure which resulted in the enforcement notice being upheld. Commissioner Beggs (now Chief Planner DFI) concluded that the appeal development was contrary to criteria (a) (b) and (d) of PED 4 and as such CTY 1 of PPS 21. He was

not convinced criteria (i) of PED 9 was fully met but was of the opinion that (j) (k) and (m) of PED 9 were all offended. He also concluded that the appeal development was contrary to CTY 13 and CTY 14 in terms of rural character as well as CTY 15.

These appeal decisions are very material to the assessment of the application.

There is a current live enforcement case on this site for an alleged unauthorised building. LA09/2023/ 0155/CA. The outcome of this application will impact on the enforcement case.

LA09/2022/0556/O - Infill Dwelling adjacent to 37 Moss Road was refused on the 20.4.23. Two of the reasons were CTY 14 and CTY 15. There has been no change in policy or the Council interpretation of policy since that decision was reached by Members at April 2023 Planning Committee. This application should be therefore be considered for refusal under these same reasons.

Consultations

DFI Roads have been consulted and have no objections to the proposed development from a PPS 3 perspective. They have recommended standard conditions to be attached to any favourable decision.

NIE were consulted as there are high voltage lines in the area of the proposal. They have responded advising that they are concerned that the proposal may infringe on safety clearances that are required. As such they have formally objected to the application. It is possible that a negative condition could be attached to any favourable decision which would ensure that agreement be sought from NIE in respect of siting.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policies CTY14 and CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, if approved, it would result in the visual consolidation between dwellings and their outbuildings in the countryside and the development within the settlement limit of Ballymaguigan. This would mar the distinction

between the settlement and the countryside and further erode the rural character of this area.

Reason 3

The proposal is contrary to Policies CTY13 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed building will be a prominent feature in the landscape, and this will have a negative impact on the rural character of the area.

Reason 4

This proposal is contrary to policy PED 4 of Planning Policy Statement 4, Planning and Economic Development in that the proposed redevelopment of a storage use in the countryside will have a visual impact which will harm the rural character of this area. Also, it has not been demonstrated that there will be any environmental benefits as a result of this redevelopment proposal.

Reason 5

This proposal is contrary to policy PED 9 of Planning Policy Statement 4, Planning and Economic Development in that the movement pattern does not support walking nor is there adequate or convenient access to public transport. The scale and layout of the building results in it being overly prominent in the landscape. Insufficient boundary treatment and planting is proposed to sufficiently integrate the building.

Case Officer: Karla McKinless

Date: 9 February 2024

ANNEX	
Date Valid	30 March 2021
Date First Advertised	14 February 2023
Date Last Advertised	13 April 2021
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 30A Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 32 Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 36A Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 36 Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 30 Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 37 Moss Road Magherafelt BT45 6LJ The Owner / Occupier 35 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 30A Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 32 Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 36A Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 36 Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 30 Moss Road, Magherafelt, Londonderry, BT45 6LJ The Owner / Occupier 37 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 35 Moss Road Magherafelt Londonderry BT45 6LJ</p>	
Date of Last Neighbour Notification	17 January 2024
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: H/1997/0292
Proposals: SITE OF REPLACEMENT DWELLING
Decision: PG
Decision Date:

Ref: H/1993/0120
Proposals: SITE OF REPLACEMENT DWELLING
Decision: WITHDR
Decision Date:

Ref: H/2004/0669/O
Proposals: Site of proposed dwelling and garage.
Decision: PR
Decision Date: 19-NOV-05

Ref: LA09/2022/0556/O
Proposals: Domestic dwelling and garage.
Decision:
Decision Date:

Ref: LA09/2017/1405/F
Proposals: Part use of Port A Cabin for office use (retrospective)
Decision:
Decision Date:

Ref: LA09/2016/0761/F
Proposals: Extension to existing portacabin to provide storage and office accommodation
Decision: PR
Decision Date: 05-OCT-17

Ref: H/2011/0360/O
Proposals: Proposed infill dwelling and garage
Decision: PR
Decision Date: 19-JAN-12

Ref: H/2002/0467/F
Proposals: Site of Dwelling and Garage
Decision:
Decision Date:

Ref: H/2004/0708/O
Proposals: Site Of Two Storey Dwelling
Decision: PR
Decision Date: 17-JAN-06

Ref: LA09/2015/0347/LDE
Proposals: Portacabin used by CMI Planners for meeting and storage rooms

Decision: PR
Decision Date: 08-JUL-15

Ref: H/2006/0693/F
Proposals: Replacement dwelling and detached garage
Decision: PG
Decision Date: 08-DEC-08

Ref: LA09/2016/0197/F
Proposals: Alterations and extension to existing dwelling to form additional single storey sun lounge
Decision: PG
Decision Date: 31-MAR-16

Ref: H/1992/0061
Proposals: ALTS & ADDS TO DWELLING
Decision: PG
Decision Date:

Ref: LA09/2017/0617/F
Proposals: Extension and replacement roof to existing garage
Decision: PG
Decision Date: 07-JUN-17

Ref: H/2003/0365/F
Proposals: Proposed sun room extension and first floor conversion to dwelling.
Decision: PG
Decision Date: 29-JUL-03

Ref: H/1989/0106
Proposals: SITE OF REPLACEMENT DWELLING
Decision: PR
Decision Date:

Ref: H/1999/0025
Proposals: REPLACEMENT DWELLING
Decision: PG
Decision Date:

Ref: LA09/2018/0754/O
Proposals: Dwelling and garage
Decision:
Decision Date:

Ref: H/1998/0679
Proposals: DWELLING AND GARAGE
Decision: PG
Decision Date:

Ref: LA09/2015/0598/F

Proposals: Replacement office and storage unit associated with an established business (retrospective)

Decision: PR

Decision Date: 25-MAY-16

Ref: H/2004/0714/O

Proposals: Site of two storey dwelling.

Decision: PR

Decision Date: 11-MAR-06

Ref: LA09/2021/0511/F

Proposals: Proposed storage building to replace existing storage unit (Amended Description) (Amended Plans)

Decision:

Decision Date:

Ref: LA09/2017/1378/F

Proposals: Part use of portacabin for office use (Retospective)

Decision:

Decision Date:

Ref: LA09/2016/0635/LDE

Proposals: Portacabin for storage purposes

Decision: PG

Decision Date: 09-SEP-16

Ref: H/2004/0677/O

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 19-NOV-05

Ref: H/2003/1437/O

Proposals: Site of two storey dwelling and garage.

Decision: PR

Decision Date: 10-NOV-05

Ref: H/2004/0354/O

Proposals: Site of dwelling.

Decision: PR

Decision Date: 25-NOV-05

Ref: H/2009/0190/O

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

Decision: PG

Decision Date: 10-DEC-09

Ref: H/2004/1497/F

Proposals: Extension to a dwelling and detached garage

Decision: PG

Decision Date: 22-MAY-05

Ref: H/1999/0495

Proposals: SITE OF DWELLING & GARAGE

Decision: 461

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Proposed Elevations Plan Ref: 04

Roof Details Plan Ref: 03

Existing and Proposed Floor Plans Plan Ref: 02

Site Layout or Block Plan Plan Ref: 02 Rev 4

Site Layout or Block Plan Plan Ref: 02 Rev 5

Site Layout or Block Plan Plan Ref: 02 REV 3

Proposed Elevations Plan Ref: 03 REV 2

Notification to Department (if relevant)

Not Applicable

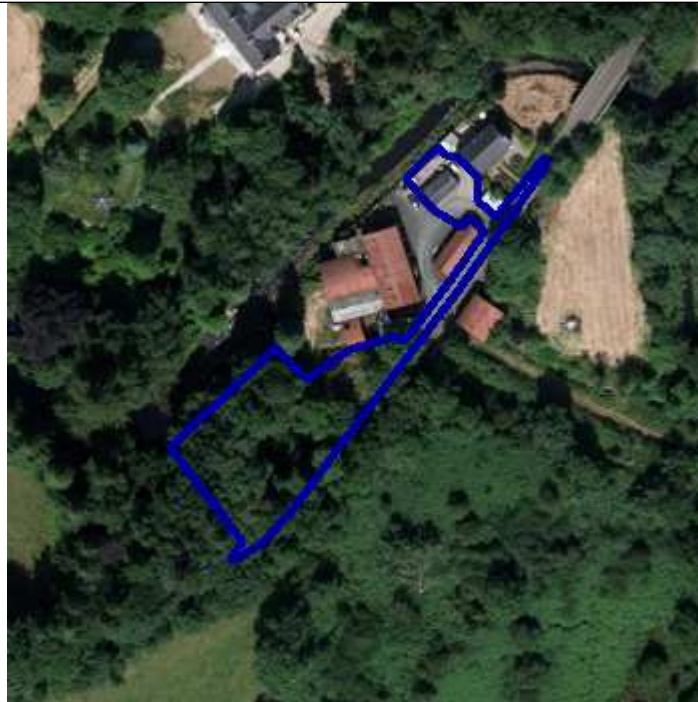


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.4
Application ID: LA09/2022/1280/O	Target Date: 29 November 2022
Proposal: Proposed off site replacement dwelling and domestic garage.	Location: Lands approximately 90M South West of No 26 Hillside Road, Upperlands
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Dr Kate Lagan and Keith Higgins No 53 Macknagh Road Upperlands BT46 5SD	Agent Name and Address: MR BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
Executive Summary: The current application is presented as an approval, however it is being presented at Committee following receipt of 5no. objections from two objectors. Those objectors are Belfast based planning consultants who have not confirmed which local resident they are acting on behalf of.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-1280-O.pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	NIEA	PRT - LA09-2022-1280-O.PDF
Statutory Consultee	NIEA	
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1280-F - [Elimination] 18.04.2023.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	LA09 22 1280 O Hillside rd.doc
Statutory Consultee	Rivers Agency	11262 - Final reply.pdf
Statutory Consultee	NIEA	PRT LA09-2022-1280-O.PDF
Statutory Consultee	Historic Environment Division (HED)	

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	5
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

The objector's concerns are addressed below:

- The proposed dwelling is not located within the curtilage of the original dwelling and no justification has been provided for the off-site relocation – These concerns have been addressed within this report.
- The existing dwelling makes an important contribution to the heritage, appearance and character of the area and must be retained and improved on – These concerns have been addressed within this report.
- Sufficient space to accommodate modest sized dwelling within the curtilage of existing dwelling – These concerns have been addressed within this report.
- Proposal adds to existing ribbon development, therefore fails to meet policy CTY 8 - These concerns have been addressed within this report.
- Proposal fails to meet a number of criteria within policy CTY 13 – These concerns have been addressed within this report.
- The application site was cleared, and vegetation removed prior to the submission of the planning application – This is not a material planning consideration. No planning permission is required to clear vegetation onsite.
- The validity of the application – I am satisfied that this application is valid as per the GDPO (NI) 2015 Part 3.
- Environmental concerns – NIEA (NED) have been consulted. These concerns have been addressed within this report.
- Insufficient information has been submitted for the impact of the development on the environment, historic setting and rural character to have been considered – Adequate information has been submitted with and during the processing of this application in order for me to make an informed recommendation.
- Concerns whether the visibility splays recommended by DfI Roads can be achieved without third party land – We have not received a challenge to the P2 certificate which was submitted with the planning application. It is the applicant's responsibility to ensure control of lands to provide the visibility splays and that these are in place prior to any approved works commencing.
- Road safety issues – DfI Roads were reconsulted following the submission of Traffic/Road/Flooding Safety Statement which raised concerns over visibility splays being too short, the existing wall being removed to achieve the splays, and an increased risk of vehicles entering the vicinity of the sluice gate and channel. DfI reviewed and considered the objection statement and were satisfied with their previous comments and the visibility splays recommended, and had no objection to the application.

- Flood Risk and Environmental issues – Dfl Rivers were consulted following the submission of Traffic/Road/Flooding Safety Statement which raised concerns over flood risk, drainage, and the viability of the wastewater treatment system, and the associated approval to discharge. Dfl Rivers reviewed and considered the objection statement, and carried out a site visit. They stated that the site does not lie within a floodplain. Dfl Rivers had no concerns, subject to conditions.

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 located within an extensive Local Landscape Policy Area, Designation US 02, in the Magherafelt Area Plan 2015. The dwelling to be replaced is situated within an active yard which is part of the old Flax Mill site which consists of a number of outbuildings and structures, including the old mill. The old mill complex is an Industrial Heritage site. The proposed off-site application site is approx. 90m southwest of No. 26 Hillside Road and is accessed via Hillside Road. The southern roadside boundary is defined partially by a small, short stone wall and partially by a wire and wooden fence. The western boundary is defined by tall, mature trees, and the remaining two boundaries are undefined. There is a watercourse flowing along two of the site boundaries. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings.

Description of Proposal

This is an outline application for a proposed off site replacement dwelling and domestic garage, at lands approximately 90m southwest of No. 26 Hillside Road, Upperlands, BT465SD.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

No relevant neighbours to notify.

Five objections were received from two objectors.

Relevant Planning History

No relevant planning history.

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy
Strategic Planning Policy Statement (SPPS)
PPS 1: General Principles
PPS 2: Natural Heritage
PPS 3: Access, Movement and Parking
PPS 21: Sustainable Development in the Countryside
Building on Tradition – A Sustainable Design Guide for Northern Ireland Countryside

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

PPS 21: Sustainable Development in the Countryside

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development area are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under Policy CTY 3 of PPS 21.

Policy CTY 3

Following my site visit, it is my opinion the building to be replaced exhibits the essential characteristics of a dwelling with all external structural walls substantially intact. This building appears to be a dwelling and therefore, I am content this constitutes a valid replacement opportunity. I also consider this building as vernacular as it exhibits the characteristics set out in Annex 2 of PPS 21. Policy CTY 3 states the retention and sympathetic refurbishment of non-listed vernacular dwellings in the countryside will be encouraged in preference to their replacement. Proposals involving the replacement of such dwellings will be assessed as follows:

- if the dwelling makes an important contribution to the heritage, appearance or character of the locality planning permission will only be granted where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved.
- if the dwelling does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a

new dwelling. In such cases the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group.

In this case, it is my opinion, that while the building is vernacular it does not make an important contribution to the heritage, appearance, or character of the locality due to very limited views from public vantage points. In this instance policy would direct to the retention of the building where it is sympathetically incorporated into the layout of the overall development scheme. This proposal, however, cannot achieve this, due to the separation distance between the building and the proposed site, and the outbuildings and structures in between. However, it is my recommendation to condition the existing dwelling to be retained as an ancillary domestic store.

Policy CTY 3 states proposals for a replacement dwelling will only be permitted where all the following criteria are met:

- the proposed replacement 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.

This application is for an off-site replacement dwelling which is not sited within the established curtilage of the existing building. It was clear from my site visit, the dwelling is located within an existing, active yard with a very limited existing curtilage given the development surrounding it. I am of the opinion that if the dwelling were to be replaced in situ, there would be an unacceptable amount of usable and quality private amenity space available due to the presence of existing buildings on the site. I note the agent provided justification for the off-site location given its limited curtilage, and health and safety concerns being located in the middle of an active farmyard. The agent has proposed the dwelling to be located at the closest possible position in the field immediately adjacent to the yard. Following my site visit, and the information provided by the agent, I am of the opinion that the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, therefore I consider this criteria has been met.

- 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;

It is my opinion that a new dwelling will be able to integrate into the surrounding landscape. As the existing dwelling has very limited views from the public road, any new dwelling on this off-site location will have a greater visual impact. Whether this is significant can only be determined when a design is submitted under any future application. It is important to note that there are very limited, short-term views of the proposed site. Also, the proposed site is immediately adjacent to the large mill building

and its associated buildings, and it is my opinion that a dwelling on this site will cluster with these existing buildings.

- the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness;

I note that this is only an outline application, therefore exact size, design, and siting have not been agreed, however I am content that an appropriately designed dwelling will be able to respect its rural setting and have regard to local distinctiveness. It is important to note, that if the existing dwelling were to be replaced in situ, a modern bungalow would be out of character on the old mill site.

- all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and

I am content that this proposal will not have an adverse impact on the environment or character of the locality.

- access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

DfI Roads were consulted, and they had no objections to this proposal subject to conditions, therefore I am content this criteria has been met.

With this in mind I am content that this application is in compliance with CTY 3 of PPS 21.

Policy CTY 13

Policy CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design. A new building will be unacceptable where:

- it is a prominent feature in the landscape

It is my opinion that a new dwelling will not appear as a prominent feature in the landscape. Whilst the site is slightly elevated, it is immediately adjacent to the large mill building therefore the proposed dwelling will cluster and read with the existing mill and associated buildings.

- the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape

There is existing vegetation and mature trees on the site, and these will provide a suitable degree of enclosure for the building to integrate into the landscape.

- it relies primarily on the use of new landscaping for integration

Whilst new landscaping may be required along the undefined boundaries, it will not be relied on primarily, as the existing vegetation and mature trees on the site will provide good integration.

- ancillary works do not integrate with their surroundings

This is an outline application, therefore the ancillary works would be a matter for Reserved Matters stage if this application was approved. It is considered that any ancillary works will not read as being incongruous in this area.

- the design of the building is inappropriate for the site and its locality

As it is an outline application, the size, design, and siting have not been agreed, however I am content a dwelling can be designed appropriately for the site and its locality and will be assessed at Reserved Matters stage

- it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop

I am content that an appropriately designed dwelling would be able to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop. This would be a matter for Reserved Matters stage if this application is approved.

- in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

As this application is for an off-site replacement dwelling, this criteria does not apply. With this in mind I am content that this application is in compliance with CTY 13 of PPS 21.

Policy CTY 14

Policy CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. A new building will be unacceptable where:

- it is unduly prominent in the landscape

It is my opinion, that a new dwelling will not appear unduly prominent in the landscape. Whilst the site is slightly elevated, it is immediately adjacent to the large mill building therefore the proposed dwelling will cluster and read with the existing mill and associated buildings.

- it results in a suburban style build-up of development when viewed with existing and approved buildings

I am content that a dwelling in this location will not a result in a suburban style build-up of development, I am of the opinion that a new dwelling in this location will cluster with existing development at the old mill site.

- it does not respect the traditional pattern of settlement exhibited in that area

The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings. Therefore, I am of the opinion, this proposed dwelling will respect the traditional pattern of settlement exhibited in the area.

- it creates or adds to a ribbon of development

Although this proposal will extend the line of existing development there does exist a valid replacement opportunity which in my opinion is justified in its offsite proposal. The character of the immediate area at this location will not be detrimentally impacted in a localised sense of buildup and it will respect the traditional pattern that exists in the immediate locale of the site.

- the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

The ancillary works will be a matter for Reserved Matters stage if this application is approved but I do not consider they will read as being incongruous at this location.

With this in mind I am content that this application is in compliance with CTY 14 of PPS 21.

PPS 2: Natural Heritage

The application site is adjacent to the Knockoneill River, and following my site inspection I considered it necessary to assess the potential impact of any future development on European Designated sites and protected species.

In terms of European Designated sites, consultation has been carried out with SES. SES carried out an Stage 1 Appropriate Assessment which confirmed the following:

“The application site has no viable hydrological pathways to any European site. A tenuous hydrological link to Lower Bann SAC, 50+km downstream is not considered to be a viable pathway for effects, due to the nature and scale of the development and the downstream distance. The proposed development can have no conceivable effect on any European site.”

From this response, I am content the proposal will have no impact on European Designated site.

In terms of protected species, I requested the submission of a biodiversity checklist and PEA from the agent, and following this submission, I carried out consultation with NIEA (NED).

NED’s initial response directed me to a general DAERA Standing Advice – Single Dwellings. Following this, I reconsulted with NIEA for clarification purposes, as the submitted ecology report referenced two concerns: protected habitats - close proximity to a salmonid water river, and protected plant species - bluebells present on site. These concerns were not addressed in NED’s initial response.

NED then provided a detailed response which highlighted a few concerns based on a desk top survey:

- Concerns there is a small brick structure within the site that NED believe has some bat roost potential and there is no mention of it within the ecology report. NED requested a bat roost potential on this structure.

Following NED’s response and concerns over this structure I carried out a re-inspection

of the site, and confirmed that this structure was no longer present on the site, therefore I did not consider it necessary to request a bat assessment.

- Concerns over potential future works to the existing dwelling, and NED recommended conditioning a bat survey at Reserved Matters stage.

In my opinion, this does not meet the six test as this condition is not considered necessary. The applicant has not shown any alterations to the existing building. In the future, if any alterations are carried out to the existing building it is the responsibility of the landowner to satisfy themselves there will be no harm caused to any species protected by the Conservation (Natural Habitats etc) Regulations (Northern Ireland) 1995 as amended. Further guidance is available on the DAERA website. I am content the proposal will have no impact on protected species and subject to the appropriate conditions recommended from consultees, I am content this proposal complies with PPS 2: Natural Heritage.

Policy CON 2

The application site is located within Local Landscape Policy Area (LLPA), therefore Policy CON 2 from the Magherafelt Area Plan 2015 must be considered. Although an LLPA designation does not preclude development, planning permission will not be granted to development proposals within a LLPA that would adversely affect their intrinsic environmental value and character. I am satisfied the proposed development for an off site replacement dwelling will not have an adverse affect on the character of Designation US 02, therefore I am content that this proposal complies with Policy CON 2, and Designation US 02 from the Magherafelt Area Plan 2015.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

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

Condition 2

Upon occupation of the new dwelling, the dwelling to be replaced, coloured green on

Drawing No. 01 REV B (uploaded on the Planning Portal on 21st February 2024) , shall no longer be used or adapted for purposes of human habitation and may only be used as a store, or ancillary accommodation or any other purpose incidental to the enjoyment of the approved dwelling house.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in this rural area.

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 the Council, in writing, before any development is commenced.

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

Condition 4

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

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

Condition 5

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

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

Condition 6

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the Reserved Matters application showing the access to be constructed and other requirements in accordance with the RS1 Form.

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

Condition 7

An OCEMP must be provided at Reserved Matters stage to ensure the construction phase does not cause water pollution due to the proximity of the site to the water course.

Reason: To protect Natural Heritage interests.

Condition 8

Along the northern boundary of the site a working strip of 5 metres as shown in yellow on Drawing No. 01 REV B (uploaded on the Planning portal on 21st February 2024) shall be permanently retained and kept free from impediments.

Reason: To ensure access is not hindered for the maintenance of flood defence and drainage infrastructure in accordance with PPS 15, Policy FLD 2.

Signature(s): Seáinín Mhic Íomhair

Date: 21 February 2024

ANNEX	
Date Valid	16 August 2022
Date First Advertised	15 August 2023
Date Last Advertised	30 August 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 24 Hillside Road Upperlands Londonderry BT46 5SD The Owner / Occupier 26 Hillside Road Upperlands Londonderry BT46 5SD	
Date of Last Neighbour Notification	3 August 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/2009/0270/F Proposals: (APPLICATION PROCESSED BY DFI, PLEASE REFER TO THE DFI PORTAL FOR FURTHER INFORMATION) Works to listed buildings to include: the extension, and conversion of the former Art Deco Building into a new factory (extending to 4,030 sq metres); change of use and retention of 1a for car parking; change of use and retention of 14a as a communal space; change of use and refurbishment of buildings 3a and 13a to create 18 apartments; alterations and extension of 2 existing dwellings - buildings 2a and 21a; change of use, extension and refurbishment of buildings 4b, 4c, 4e and 25a for museum/exhibition space and other associated site works.(Additional Drawings) Decision: Decision Date:</p> <p>Ref: H/2009/0271/LBC Proposals: (APPLICATION PROCESSED BY DFI, PLEASE REFER TO THE DFI PORTAL FOR FURTHER INFORMATION) Works to listed buildings to include: the extension, and conversion of the former Art Deco</p>	

Building into a new factory (extending to 4,030 sq metres); change of use and retention of 1a for car parking; change of use and retention of 14a as a communal space; change of use and refurbishment of buildings 3a and 13a to create 18 apartments; alterations and extension of 2 existing dwellings - buildings 2a and 21a; change of use, extension and refurbishment of buildings 4b, 4c, 4e and 25a for museum/exhibition space and other associated site works.

Decision:

Decision Date:

Ref: H/2008/0118/Q

Proposals: Restoration & retention of the listed mill buildings & a mixed use regeneration proposal incorporating employment creation, residential development, leisure uses, local neighbourhood centre & a museum.

Decision: PRENC

Decision Date: 19-FEB-08

Ref: H/1978/0377

Proposals: SITE OF PARKLAND WITH WALKS

Decision: PG

Decision Date:

Ref: H/2012/0377/F

Proposals: Replacement of existing 2 storey extension and outbuildings with new 2 storey extension

Decision: PG

Decision Date: 28-NOV-12

Ref: H/2007/0845/O

Proposals: Site of proposed dwelling and garage.

Decision:

Decision Date:

Ref: LA09/2022/1280/O

Proposals: PROPOSED SITE FOR DWELLING AND DOMESTIC GARAGE

Decision:

Decision Date:

Ref: H/2003/0098

Proposals: Upgrade existing buildings for use as an educational and tourist resource for the visiting public.

Decision: 461

Decision Date:

Ref: H/1973/0122

Proposals: LT O/H LINE PRIVATE SUPPLY

Decision: PG

Decision Date:

Ref: H/1977/0162

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: H/1979/0414

Proposals: HV O/H LINE (BM 3108)

Decision: PG

Decision Date:

Ref: H/2009/0264/O

Proposals: (APPLICATION PROCESSED BY DFI, PLEASE REFER TO THE DFI PORTAL FOR FURTHER INFORMATION)

Demolition of unlisted buildings to facilitate the heritage led regeneration (restoration and retention of listed mill buildings) of the former William Clark and Sons Linen Mill complex incorporating: residential development, leisure and recreational uses, community facilities including museum/exhibition space and other associated site works.(Additional Drawing:

Decision:

Decision Date:

Ref: H/1990/0486

Proposals: CAR-REPAIR WORKSHOP

Decision: PR

Decision Date:

Ref: LA09/2019/0081/LBC

Proposals: Listed Build Consent for holding and stabilisation works to building 3a and 3b following recent fire damage. Works in accordance with structural engineers report and drawings and as described in the Design Access and Heritage Statement

This is a revised application to the works previously approved in LA09/2017/1203/LBC

Decision: CG

Decision Date: 04-APR-19

Ref: H/1976/0421

Proposals: EXTENSION TO HOUSE

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

NI Water - Single Units West-LA09-2022-1280-O.pdf

Historic Environment Division (HED)-

NIEA-PRT - LA09-2022-1280-O.PDF

NIEA-

NIEA-

Shared Environmental Services-LA09-2022-1280-F - [Elimination] 18.04.2023.pdf

DFI Roads - Enniskillen Office-LA09 22 1280 O Hillside rd.doc

Rivers Agency-11262 - Final reply.pdf

NIEA-PRT LA09-2022-1280-O.PDF

Historic Environment Division (HED)-

Drawing Numbers and Title

Site Location Plan Plan Ref: L01

Site Location Plan Plan Ref: 01 REV A

Site Location Plan Plan Ref: 01 REV B

Notification to Department (if relevant)

Not Applicable

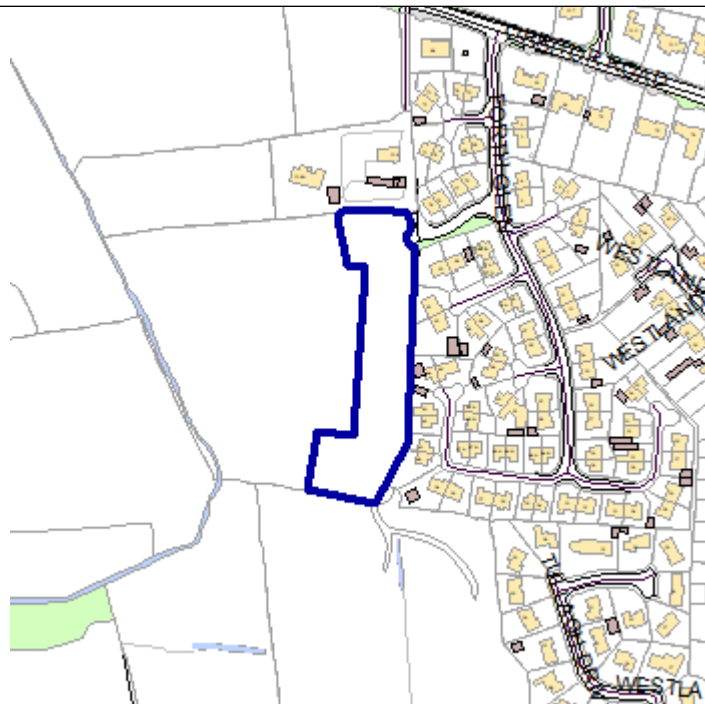


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.5
Application ID: LA09/2023/0238/F	Target Date: 16 June 2023
Proposal: Proposed residential development and associated ancillary works.	Location: Lands to The West of Forth Glen, Cookstown. adjacent to Nos.40,41,42,43,44,61,62,63 and 79 Forth Glen Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: JAMDAC Developments LTD Unit 16 Creagh Business Park Toome BT41 3UF	Agent Name and Address: Hayley Dallas 14 King Street Magherafelt BT45 6AR
Executive Summary: Proposal is for 20 units (social housing) located on phase 2 housing land within Cookstown. Proposal presented to committee as there have been two objections and it represents a departure from the CAP in the form of a release of phase 2 land. Justification for the departure from the Plan and the consideration of objections, along with all relevant policy is included in the report. Recommendation is to approve.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template - 26 July 2023.docx
	Northern Ireland Housing Executive - Central Planning	Forth Glen Planning Consultation Cookstown LA09.2023.0238.pdf
Statutory Consultee	Rivers Agency	307981 - Final reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx DFI response dated 26/07/2023 is still valid. gerry
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0238.F.pdf
Statutory Consultee	Rivers Agency	189140 - Final response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template.docx
Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0238-F.pdf

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	3
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
Summary of Issues	
Characteristics of the Site and Area	
<p>The site is located within the settlement limit of Cookstown. It consists of a long, roughly rectangular piece of land which runs north to south and is cut out of a large agricultural field. The site is agricultural in nature but bounded by existing housing immediately on the eastern boundary. The housing immediately to the east is known as Forthglen. Access to the site is taken from the existing estate road of Forthglen. The site is flat and there are no obvious differences in levels between the site and the existing housing. The boundary between the existing houses and the site is defined by a mix of fencing belonging to the existing housing and some deciduous trees. There is evidence that some very rough ground work has taken place as there are a few piles of soil on the site. The site is zoned as phase 2 land in the Cookstown Area Plan (CAP 2010). There is a recent planning history on the site; LA09/2018/0518/O - Refusal - Contrary to the Cookstown Area Plan.</p>	
Description of Proposal	
<p>Proposed residential development and ancillary works. The applicant has made it clear that the site is intended for use for social housing and has got a registered housing provided on board to deliver the project. The proposal involves the erection of 4 detached dwellings, 10 semi detached units and 6 apartments (20 units in total).</p>	
Planning Assessment of Policy and Other Material Considerations	
<u>Policy Consideration</u>	
<p>The following polices are relevant;</p> <ul style="list-style-type: none"> • Cookstown Area Plan • Mid Ulster Local Development Plan - Draft Plan Strategy. • Strategic Planning Policy Statement (SPPS) • PPS 7 – Quality Residential Environment • Creating Places • PPS 3 – Access, Movement and Parking • PPS 15 – Planning and Flood Risk 	

Strategic Planning Policy Statement

Para. 6.143 of the SPPS states that the LDP process is the primary vehicle for delivering social housing via the designation of sites or by the introduction of policy directions/key site requirements. This of course, is dependant on the Council being permitted to bring forward their LDP.

Cookstown Area Plan (2010)

The site in question is designated as phase 2 land as part of zoning H26.

In accordance with policy HOUS 1 of the CAP 2010, phase 2 land is protected from housing development until a review of housing land points to the need to release more phase 2 land, from whence it will be subject to the same controls as Phase 1 land.

The exception to this is for single dwellings in accordance with greenbelt policies GB/CPA 1 of the Planning Strategy for Rural Northern Ireland (these policies from the PSRNI have obviously since been replaced by Planning Policy Statement 21).

This proposal is therefore contrary to policy HOUS 1 of the CAP 2010, in that no Phase 2 land has been released and the development does not constitute the development of a single dwelling house and is therefore not classed as an exception to the presumption against development, contained within plan policy HOUS 1.

The CAP also states that zoning H26 has a number of Key Site Requirements (KSRs). Given the size of the entire zoning, not all KSRs are relevant to this application site. The KSRs which are relevant to this site are as follows;

- Access including public transport / pedestrian / cycle movement should be made available to link Orritor Road through H26 and H17 to Tullagh Road.
- Housing should be orientated to avoid overlooking neighbouring back gardens along the eastern site boundary

In relation to the first KSR, this scheme will not prejudice a pedestrian, vehicular or cycle access linking the Orritor Road and the Tullagh Road through the two named zonings. The estate road proposed could be used as part of this linkage. In relation to the second KSR, this will be considered as part of any consideration into the layout of the development, giving cognisance to guidance contained within Creating Places.

As the site is on phase 2 land, as currently stands the proposal represents a departure from policy as set out in the Plan.

Mid Ulster Local Development Plan – Draft Plan Strategy

The Mid Ulster Local Development Plan – draft Plan Strategy was submitted to DFI in May 2021 and as yet, DFI have not caused an independent examination. The draft Plan

Strategy is therefore a material consideration but is not in and of itself a determining factor in the assessment of planning applications.

Policy HOU1 of the draft Plan Strategy includes a policy direction whereby phase 2 land can be released for social housing. Policy HOU 1 states that development of phase 2 housing land will conflict with the Plan except where a number of scenarios apply, one of which is for social / affordable housing to meet an identified social housing need.

The definition of affordable housing has been revised by DFI as of April 2021 and includes the provision that “affordable housing” encompasses (amongst other things), social rented housing which is defined as “housing provided at an affordable rent by a Registered Housing Association; that is, one which is registered and regulated by the Department for Communities as a social housing provider.”

In this instance, there is commitment from Apex housing to build this development and they have confirmed that they are now in receipt of a design and build tender for the delivery of this housing scheme, subject to obtaining planning permission. Apex housing are a registered housing association which provides over 6,000 homes in Northern Ireland. The NIHE has been consulted as part of this application and have stated that for the period 2022-2027 there will be a need for 124 social housing units in Cookstown.

There is a clear policy shift in the draft Plan Strategy in favour of releasing phase 2 and for social housing. If, as was expected at the time of the submission of the draft Plan Strategy, the document had underwent examination and been adopted by now, this proposal would have met the criteria contained with policy HOU 1. As it stands, delays in the Plan Process caused by DFI, mean that the new Plan Strategy has not yet progressed to this stage and the result is that the Council is left with a Policy which is past its notional end by date and as I will demonstrate, has left the existing Plan incapable of meeting Social Housing Needs in Cookstown.

Research conducted as part of the evidence gathering phase for the draft Plan Strategy, reveals that there are only 2 phase 1 sites which are without a commitment for housing. These are sites H16 and H20. These are incapable of meeting the identified social housing need for Cookstown albeit they could make a contribution with a willing developer. However, given development (or a commitment to develop) on these sites has not occurred in 25 years, there are obvious questions as to whether applications will ever come forward on this land.

The applicant has successfully set out the need for social housing land and have stated in their planning statement that a 2023 NIHE call for sites was carried out. This call for sites closed in June 2023 with only the owners of this application site responding. Therefore, the other two phase 1 sites (H16 and H20) have not made their land available to provide social housing. This site was the only one in Cookstown to be put forward as a potential home for social housing in Cookstown.

Given it is in the wider public interest to meet the social housing need in Cookstown and in light of the shortage of land available to provide affordable units in Cookstown, I am

minded to support a departure from the Plan. In coming to this view I have taken into account the Councils Community Plan and Corporate Plan both of which state the Council will use its influence to shape and facilitate the provision of adequate affordable housing and that an improved supply of social and affordable housing is a successful outcome in relation to the community planning process. Although determining weight cannot be given to the Draft Plan Strategy I have also taken into account its ambition to retain phase two housing land but allow social housing on phase 2 land where this cannot be met on existing zoning. Indeed to wait for an adopted Local Policies Plan would only exacerbate the social housing need in Cookstown.

With this in mind and given that the proposal amounts to 20 units, which is a very minor departure and is not of a scale to prejudice the emerging draft plan strategy, nor does it represent a precedent which would lead to the uncontrolled release of phase two land, I am of a mind to accept the principle of development on this site, with the caveat that it is to be solely developed for social housing and that this is secured by way of a planning agreement.

I will now consider the issues with regards to the design and layout of the scheme.

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 residential development located within an area where the only other land use, apart from farming / agriculture, is residential. There is a mix of house types and tenures in the immediate vicinity ranging from terraced housing and semi detached housing to detached properties. The density of this development is approx.. 28 units per hectare. This similar density to the closest housing development, Forthglen which has a density of approx. 26 units per hectare.

The development will utilise the existing estate road from Forthglen to access the site and the adopted access road for the development will be a continuation of this access road. The design of the units in terms of massing and scale is appropriate and is typical of other units approved in Cookstown and at other locations.

- (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 archaeological or built heritage features nearby which would be impacted by this development.

- (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;**

Policy OS 2 Of PPS 8 states that adequate provision of public open space is a requirement for developments of 25 units or more. Given the fact that this development is for 20 units, there is no need for the developer to provide an appropriate level of open space therefore. The remainder of the H26 zoning will be capable of housing a larger housing scheme in the future and appropriate open space provision can be facilitated at this point.

In relation to private open space, Creating Places recommends that new developments should display a range of garden sizes in order to provide a range of choice for residents but that the average level of private open space should be 70 sq. metres per unit. This proposed development has a range of private amenity spaces for the dwelling houses provided with each dwelling, ranging from 65 sq. metres (unit 16) to 172sq. metres (unit 15) with an average provision for the 16 detached units in excess of 100 sq. metres per unit.

Creating Places requires between 10 sq. metres and 30 sq. metres for apartment units. In relation to the 4 apartments in this development, the site layout shows 4 individual plots of private amenity space with an average size of approx. 40 sq. metres.

A landscaping proposal has been submitted which shows a planted buffer to the eastern boundary.

- (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 off Forthglen will link to the Orritor road leading into and out of Cookstown and will facilitate pedestrian or cycle access to all services / recreational facilities and shops located within Cookstown. There will be an adopted road leading to all 20 of the properties. There is a 2m footpath provided as part of the adopted road and if the land to the south were to be developed in the future, this would

not be excluded by this development and indeed this road could be used to enable the linkage required between Orritor Road and the Tullagh Road, as required by the KSR in the CAP in relation to zoning H26.

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

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

The PSD layout drawing which has been signed and agreed by DGI Roads, shows a parking schedule for all dwellings.

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

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

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

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

The existing land use in the immediate vicinity is exclusively residential. There are no industrial land uses, active farmyards, intensive agriculture, intensive sports uses for example, in the immediate locality. It would therefore be very difficult to say that there is a land use close to the site that is incompatible with the proposed land use. The zoning of the site as a phase 2 zoning for housing supports the conclusion that this is land which is suitable for housing in terms of its relationship with other land uses.

NI Water have expressed concern that the site is within an odour consultation zone in relation to an NI Water pumping station. NI Water state that the odour consultation zone takes in all development within 400m from the pumping station. This pumping station at Malloon Bridge is approx. 375-385m from sites no. 1 & 2 and more than 400m from the majority of the properties hereby proposed. The remaining 18 of the 20 properties are out with this 400m parameter. In addition, there are already intervening properties between the site and pumping station as well as other properties located closer to the pumping station.

There is a smaller pumping station also located immediately to the south of the site and this would bring the proposed properties within the odour consultation zone. However, given these overflow pumping stations are infrequent in terms of use and are already

located extremely close to existing properties, I do not believe their existence poses a problem for the proposed dwellings. NIWater refer to the odour consultation zone as relating to “waste water treatment works” and that proposed dwellings could experience problems due to their proximity to “waste water treatment works.” However, these two pieces of infrastructure are not “waste water treatment works” and therefore the rationale for their comments is brought into question.

I have also consulted with Environmental Health and they have not expressed any concerns in this regard.

Creating Places recommends a separation distance of 20m where the proposed properties are back to back with existing properties, with a minimum distance of 10m from the rear of new houses to the common boundary. The dwelling to the north of the site (130 Orritor Road) has outbuildings which will screen the site from the property but in any case separation distances are adequate.

The properties in Forthglen, nos. 39-44 and nos. 61-63 are those which are in closest proximity to the proposed dwellings. All proposed dwellings have adequate garden depth with none of the proposed properties coming within 10m of the common boundary, in line with aforementioned Creating Places guidance. Site no 16, comes closest to the common boundary where the site pinches inwards at the southern edge but there is no dwelling to the rear of this property so this does not pose a problem.

The considerable separation distances from the proposed properties to the common boundary means that in the majority of cases, separation distances to existing properties in Forthglen are 20m or greater. There are a few properties where this is not the case however, as a result of significant rear extensions being built onto existing properties. For example, in relation to no 62 Forthglen a significant extension has been approved to the existing property which brings it close to the common boundary and therefore closer to the proposed dwelling. The original drawings submitted by the agent did not include this (and other) extensions to Forthglen houses but I have requested amended drawings with these included, and these have been provided.

These amended drawings show a minimum separation distance of 16m from the rear of the proposed property to the closest point of the existing house, as extended. There is a 12m distance from the proposed house to the common boundary but the extended property comes to within 4m of the boundary, by virtue of the new extension. I am also conscious that the extension appears to be used as a main habitable room for number 62. In my opinion, given the lack of level change between the two sites, 16m is an adequate separation distance and is just under the recommended guidance contained within Creating Places. This is particularly relevant when one considers the considerable separation distance of proposed site no. 5 from the common boundary.

I have also requested the agent to augment the level of planting along the common boundary, to mitigate the relatively reduced separation distance between 62 Forthglen and site no.5.

There is another property in Forthglen which has also been extended and comes closer to the common boundary than existing properties. A two storey extension exists at no. 43

Forthglen however in this case, there is no first floor window. All the other considerations that were relevant to no. 62 Forthglen are relevant here also. There is still a considerable distance to the common boundary and augmented planting has been obtained from the agent.

In addition to the above considerations, I am off the view that the site is within the settlement limit and zoned for housing (albeit phase 2) so there has always been the presumption that housing would be located within this site, and adjacent to the existing houses.

In relation to noise and other disturbances from the development, the end use will be housing which will not generate noise of a nature or level which will be incompatible with existing housing. The only issue which could potentially be raised in terms of noise from the development is construction noise and the possibility of dust etc. arising from the construction phase.

Environmental Health have been consulted in relation to this application and have stated that in order to minimise disturbances by way of noise, vibration, dust etc to the existing houses, a condition should be attached to the approval which requires a Construction Environmental Management Plan to be submitted and agreed in writing, prior to the commencement of development.

Given all of the above, I am satisfied that the development is acceptable in terms of this criterion.

(i) The development is designed to deter crime and promote personal safety

The development is located immediately adjacent to the built footprint of the settlement of Cookstown and accessed via an existing development which benefits from street lighting. There are no alleyways or blind spots where anti social behaviour can develop. There is good natural surveillance from existing and proposed properties which will deter crime and / or antisocial behaviour.

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

PPS 3 – Access, Movement and Parking

The proposed development will utilise an existing access from an existing housing development and not involve the creation of a new access onto a public road.

DFI Roads have been consulted and are content with the proposal in terms of the proposed estate road (signed PSD drawings returned by DFI Roads) and the level of parking.

PPS 15 – Planning and Flood Risk

Policy FLD 3 of PPS 15 states that all residential developments comprising of more than 10 units will require the submission of a drainage assessment. The agent has submitted a drainage assessment with this application and DFI Rivers have been consulted on it accordingly.

Following a subsequent request and the submission of Schedule 6 consent to discharge and revised attenuation calculations, DFI Rivers have responded to say that they have no objections subject to the imposition of a condition requiring the final submission of a detailed drainage network design prior to construction of said drainage network.

OTHER MATERIAL CONSIDERATIONS

Three objections have been received to this proposal although 2 of those objections have been submitted from the same person / address. The issues raised in the objections are laid and addressed in the paragraphs below.

Objection from 62 Forthglen – ISSUES RAISED

- a) Loss of Privacy
- b) Loss of Daylight / Sunlight
- c) Drawings did not include extension to objectors property
- d) Lack of capacity in sewer network
- e) Social housing does not fit into the area as most houses in Forthglen are privately owned.

CONSIDERATION

- a) This issue has been considered in the main body of my report under criterion h) of policy QD 1 of PPS 7. The following consideration in my report demonstrates how consideration has been given to this specific concern.

These amended drawings show a minimum separation distance of 16m from the rear of the proposed property to the closest point of the existing house, as extended. There is a 12m distance from the proposed house to the common boundary but the extended property comes to within 4m of the boundary, by virtue of the new extension. I am also conscious that the extension appears to be used as a main habitable room for number 62. In my opinion, given the lack of level change between the two sites, 16m is an adequate separation distance and is just under the recommended guidance contained within Creating Places. This is particularly relevant when one considers the considerable separation distance of proposed site no. 5 from the common boundary.

I have also requested the agent to augment the level of planting along the common boundary, to mitigate the relatively reduced separation distance

between 62 Forthglen and site no.5.

- b) At present the objectors property has no buildings immediately to the rear. The building of the houses in this site may reduce direct sunlight to the rear of no 62 at some point in the day, however this in itself is not a reason to refuse the development.

The site is within the settlement limit and there is a presumption that it will not always be a vacant site. On a mid-summer's day when the sun is at its highest point in the sky there will still be direct sunlight into the objectors property as shown in the image below



There is adequate separation distance between the two properties as I have explained above and also there is a very considerable distance between the proposed property and the common boundary. In theory, the proposed house could be closer to the common boundary and still meet the guidance in Creating Places and therefore have an even greater impact in terms of impact on sunlight in the evenings.

If I were to accept that this proposal will cause a significant unacceptable impact on no.62 in terms of loss of sunlight then I would effectively be ruling out development on this part of the site in perpetuity which would be an illogical position on land that is zoned for housing.

- c) Drawings were amended by the agent to show the extensions to properties in Forthglen and impact on these properties has been considered in my report.
- d) NI Water have been consulted and have stated that whilst there is capacity in the

receiving WWTW there may be issues with capacity in the sewage network. This is a common problem in many large settlements in Northern Ireland. The position of the planning authority is that permission can still be granted with a condition to ensure that no development takes place until a satisfactory means of sewage disposal has been secured.

- e) This is a subjective opinion and not one which I agree with. I am of the view that a range of housing tenures is desirable in securing a more diverse housing offer, a mix of house types and tenures is essential to achieving balanced communities. This is something which is supported by the SPPS at para. 6.137. The planning system cannot regulate or control property prices so any inference that we should be considering such is unfounded.

Objection(s) from 63 Forthglen - ISSUES RAISED

- a) Road Safety concerns – road not able to deal with additional traffic and safety concerns of children playing on road.
- b) Drainage issues – site floods at present and development will exacerbate these issues
- c) Social housing does not fit into the area as most houses in Forthglen are privately owned and
- d) Noise pollution from development – Forthglen is currently on the edge of the settlement and development will increase noise levels and light pollution which are currently not an issue.

CONSIDERATION

- a) The construction traffic and the new additional residential traffic will use the existing estate road to access this development. Children playing on an estate road will currently be at danger and it would seem that any potential problem with safety here would arise from the practice of children playing on the road as opposed to the additional traffic generated by this development using the road. I therefore cannot give weight to this particular argument that additional traffic will prejudice road safety because estate roads are not intended as locations for children's to play.

DFI Roads have been consulted and have not expressed any concerns in this regard.

- b) As mentioned in the main body of the report, DFI Rivers have been consulted on the drainage assessment submitted by the developer and have not objected to this proposal subject to the imposition of a condition requiring a detailed drainage layout design be submitted prior to development. The site is not located within any DFI Flood maps, either fluvial or pluvial (surface water).

- c) This issue has been raised in the previous objection (point (e)) and has been

addressed in consideration of that objection. The same points apply in relation to responding to this objection.

- d) This issue has been addressed in the main body of my report and deals with the impacts of noise, vibration dust etc. arising from the development and how these will be minimised during the construction phase by the submission and agreement of a CEMP, prior to commencement.

I do not see how light pollution from a housing development can be given serious consideration when the development is within the settlement limit of Cookstown and the area already has street lighting and lights from existing houses.

Summary of Recommendation:

Approve is recommended

RECOMMENDATION

Given all the above considerations in this report, I am of the view that this application can be approved subject to conditions which are outlined below.

Members are asked to agree to approve this application subject to a planning agreement being entered into between the developer and the Council under Section 76 of The Planning Act (Northern Ireland) 2011. The Planning Agreement will require the development approved to only be built for the purposes of providing Social Housing.

No decision on this application will issue until such an agreement has been signed by both parties.

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

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

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. 05, uploaded to the Mid Ulster Planning Portal on 18th December 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 4

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 05 which was uploaded to the Mid Ulster Planning Portal on 18th December 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 5

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

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

Condition 6

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

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

Condition 7

The proposed planting along the eastern boundary, shown on drawing 04 rev 2 uploaded to the planning portal on 17th January 2024, shall consist of mature trees with a minimum height of 4m, along the entirety of the eastern boundary.

Reason: To provide a firm and distinct landscape buffer between the proposed development and the existing residential properties in Forthglen and to protect the residential amenity of existing properties.

Condition 8

Prior to the commencement of any development hereby permitted a Construction Environmental Management Plan shall be submitted to and be approved in writing by the Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration and dust. The plan should include, but not be limited to:

- o A construction method statement for the development.
- o Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- o Arrangements for liaison with Mid Ulster District Council's Environment Health Department.
- o Deliveries to and removal of plant, equipment, machinery and waste from the site to take place within permitted hours.
- o Mitigation measures as defined in 'BS 5228: 2009 +A1:2014 Noise and Vibration Control on Construction and Open Sites - Part 1: Noise' to minimise noise disturbance from construction works.
- o Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.

Once approved, the Construction Environmental Management Plan shall be adhered to at all times, unless otherwise agreed in writing with the Planning Authority.

Reason: To protect amenity of nearby residential properties.

Condition 9

Prior to the construction of the drainage network, the applicant shall submit a final drainage assessment, containing a detailed drainage network design, 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.

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

Informative 1

This permission is subject to a planning agreement made under Section 76 of The Planning Act (Northern Ireland) 2011, between Mid Ulster District Council and the developer and is subject to all the conditions of that planning agreement being met.

Signature(s): Colin McKeown

Date: 15 February 2024

ANNEX	
Date Valid	3 March 2023
Date First Advertised	14 March 2023
Date Last Advertised	14 March 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 39 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 40 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 41 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 42 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 43 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 62 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 61 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 63 Forth Glen Cookstown BT80 8TT The Owner / Occupier 79 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 130 Orritor Road Cookstown Tyrone BT80 9RB The Owner / Occupier 79 Forth Glen Cookstown Tyrone BT80 8TT The Owner / Occupier 44 Forth Glen Cookstown Tyrone BT80 8TT</p>	
Date of Last Neighbour Notification	14 February 2024
Date of EIA Determination	
ES Requested	<events screen>

Planning History

Ref: I/1986/0014

Proposals: 33/11 KV CHANGEOVER (2ND AMEND)

Decision: PG

Decision Date:

Ref: I/2005/0020/F

Proposals: Housing Development of 97 dwellings and 0.5 ha open space

Decision: PG

Decision Date: 11-JAN-08

Ref: I/2004/0587/Q

Proposals: Housing Zoning in the Cookstown Area Plan

Decision: 360

Decision Date: 21-DEC-04

Ref: I/2000/0828/F

Proposals: 4 no semi-detached dwellings and proposed new link road for future development - road designed for buses

Decision: PG

Decision Date: 29-MAR-02

Ref: LA09/2021/0247/F

Proposals: 2 storey rear extension to provide living, dining & 1 bedroom, bathroom above & minor internal alterations.

Decision: PG

Decision Date: 23-APR-21

Ref: I/1986/0435

Proposals: HOUSING DEVELOPMENT (SITE NOS 59, 60, 61, 62, 63 AND 64)

Decision: PG

Decision Date:

Ref: I/1993/6066

Proposals: Site Layout (Roads) Forthglen Housing Development Orritor Road Cookstown

Decision: QL

Decision Date:

Ref: LA09/2023/0238/F

Proposals: Proposed residential development and associated ancillary works.

Decision:

Decision Date:

Ref: LA09/2017/0993/PAN

Proposals: Proposed residential development and access

Decision: PANACC
Decision Date: 14-AUG-17

Ref: I/2010/0005/Q
Proposals: Proposed 60/70 Bed Nursing Home
Decision: 211
Decision Date: 06-JAN-10

Ref: I/1979/0027
Proposals: PRIVATE HOUSING DEVELOPMENT
Decision: PR
Decision Date:

Ref: I/1991/6037
Proposals: Site for Dwelling Auglish
Decision: PRER
Decision Date: 10-SEP-91

Ref: I/1981/0037
Proposals: PRIVATE HOUSING DEVELOPMENT
Decision: PR
Decision Date:

Ref: I/1993/0136
Proposals: Dwelling.
Decision: WITHDR
Decision Date:

Ref: I/1993/0226
Proposals: Dwelling
Decision: PG
Decision Date:

Ref: I/2006/0704/F
Proposals: Extension to dwelling
Decision: PG
Decision Date: 20-DEC-06

Ref: I/1994/0148
Proposals: 8 No Dwellings
Decision: PG
Decision Date:

Ref: LA09/2018/0518/O
Proposals: Residential development comprising approx. 48 no dwelling units, access, amenity space, landscaping and ancillary site works

Decision: PR
Decision Date: 05-DEC-18

Ref: LA09/2017/1592/PAN
Proposals: Proposed residential development and access
Decision: PANACC
Decision Date: 11-JUN-18

Ref: LA09/2017/0142/PAD
Proposals: Housing development of approx. 97 dwellings and 0.5 hectares open space
Decision: PAD
Decision Date: 01-JAN-18

Ref: I/1981/0171
Proposals: 2 NO DWELLINGS
Decision: PG
Decision Date:

Ref: I/1976/0359
Proposals: PRIVATE HOUSING (6 DWELLINGS PER ACRE NET)
Decision: PG
Decision Date:

Ref: I/1984/0157
Proposals: HOUSING DEVELOPMENT AND PUMPING STATION
Decision: PG
Decision Date:

Ref: I/1984/015701
Proposals: HOUSING DEVELOPMENT AND PUMPING STATION
Decision: PG
Decision Date:

Ref: I/1995/0158
Proposals: Erection of 14 No dwellings
Decision: PG
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Response Template - 26 July 2023.docx
Northern Ireland Housing Executive - Central Planning-Forth Glen Planning Consultation
Cookstown LA09.2023.0238.pdf
Rivers Agency-307981 - Final reply.pdf
DFI Roads - Enniskillen Office-Roads Consultation full approval.docx
DFI response dated 26/07/2023 is still valid.

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Environmental Health Mid Ulster Council-LA09.2023.0238.F.pdf

Rivers Agency-189140 - Final response.pdf

DFI Roads - Enniskillen Office-Response Template.docx

NI Water - Multiple Units West-LA09-2023-0238-F.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Site Layout or Block Plan Plan Ref: 03

Site Layout or Block Plan Plan Ref: 04

Roads Details Plan Ref: 05

Proposed Plans Plan Ref: 06

Proposed Plans Plan Ref: 07

Proposed Plans Plan Ref: 08

Proposed Plans Plan Ref: 09

Proposed Plans Plan Ref: 10

Proposed Plans Plan Ref: 11

Proposed Plans Plan Ref: 12

Proposed Plans Plan Ref: 13

Proposed Plans Plan Ref: 14

Proposed Plans Plan Ref: 15

Block/Site Survey Plans Plan Ref: 02 REV 1

Block/Site Survey Plans Plan Ref: 04 REV 1

Notification to Department (if relevant)

Not Applicable

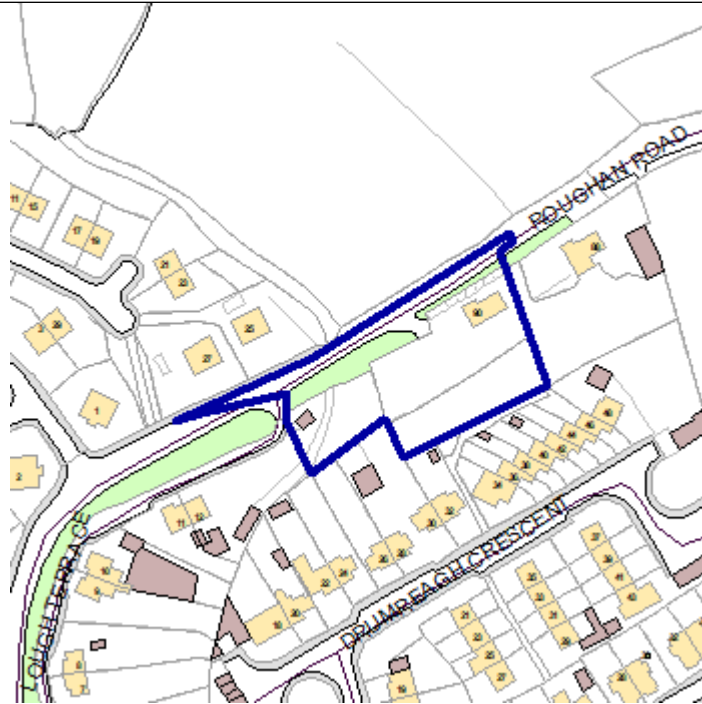


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.6
Application ID: LA09/2023/0433/F	Target Date: 20 July 2023
Proposal: Proposed development of 5no. dwellings (1no. detached and 4no. semi-detached) with associated site works and the relocation of an existing access to an existing dwelling	Location: Land adjacent to 90 Roughan Road Newmills Dungannon
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Nigel Johnston 36 Coolmaghry Road Dungannon BT70 3HJ	Agent Name and Address: Henry Marshall Brown Architecture Partnership 10 Union Street Cookstown BT80 8NN
Executive Summary: A letter of objection was submitted from a neighbouring resident. This proposal fails to meet the policy requirements of QD 1 of PPS 7 and LCD 1 of the Addendum to PPS 7 in that it is in my opinion an overly engineered design resulting in over development of the site which does not achieve a quality residential environment.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	28-09-2023.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	
	DFI Roads - Enniskillen Office	02-06-2023.docx
	NI Water - Multiple Units West	LA09-2023-0433-F.pdf
	Environmental Health Mid Ulster Council	Planning Response LA09-23-0433.pdf

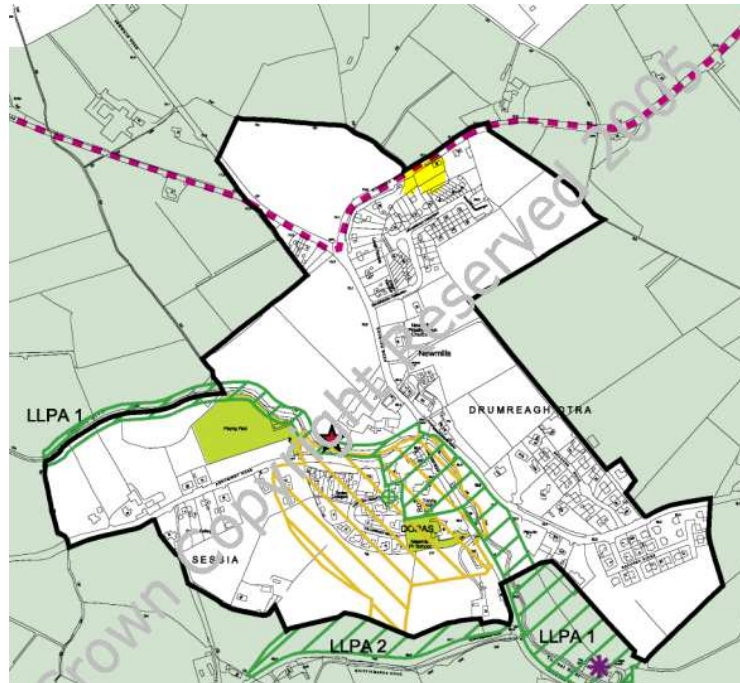
Representations:

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

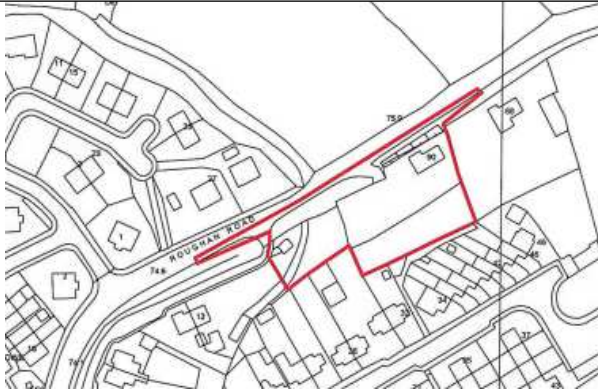
Summary of Issues

Characteristics of the Site and Area

This application occupies an irregular rectangular shaped site which sits to the south of Roughan Road, Newmills. It is located in the northern part of Newmills, within a traffic calmed part of the village and is whiteland as designated as whiteland in the Dungannon and South Tyrone Area Plan (DSTAP). The surrounding area within the development limit is residential at this end of the village with the rural countryside adjacent contributing to a rural edge of settlement element of this immediate area.



The site measures approximately 0.36 ha and includes the bungalow at No 90 Roughan Road which is sited along the eastern boundary and is owned by the applicant. The access which currently serves No 90 joins the public road just under 20 metres to the south of the site. Part of this site to the south of the dwelling's access appears to have been previously utilised as an extension of the curtilage of the dwelling for outdoor amenity space. This application site also includes a parcel of land which has a tarmaced driveway which allows access to the rear of No 12 Lough Terrace in the southern portion of the site. This part of the site was once an overgrown disused field with vegetation and trees but has been cleared. The site rises steeply to the rear of the site where the residential development of Drumreagh Crescent sits at a level much higher than this site.



Planning History

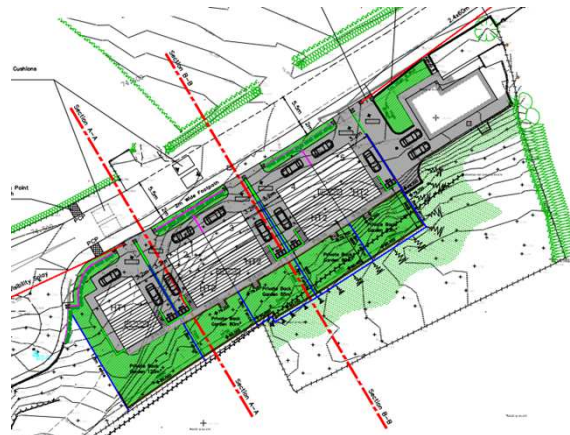
M/2004/0089/Q – Development of terrace dwellings – Roughan Road, Newmills - Mrs Sarah Badger

M/1989/0241 - Extension to Dwelling - 12 Lough Terrace Newmills

Description of Proposal

This application seeks full planning permission for the development of 5 dwellings with associated site works and the relocation of an existing access to an existing dwelling on land adjacent to No 90 Roughan Road, Newmills. This existing dwelling is a bungalow which sits above the road with a concrete wall defining the curtilage of the small linear garden area to the front.

The composition of the proposed development is 1no. detached in the southern part of the site and 4no. semi-detached dwellings in the remainder.



This proposal will retain the bungalow at No 90 and create a shared access for it with the semi-detached dwelling at Plot 5. A total of 3 paired accesses will be provided, including those for Plots 1&2 as well as Plots 3&4.



Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

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

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

Representations

A letter of objection was submitted from a resident of Drumreagh Crescent which sits to the south and rear of the site at an elevated position above the site. They have concerns as the drainage from the rear gardens of these properties previously had naturally drained down onto the site where the vegetation and trees ensured it dissipated and there was no issues with this natural drainage. When the site was bought the new owner removed much of this mature vegetation which therefore could have an impact on drainage onto this application site.

The agent is aware of these concerns and it is in the applicant's interest to ensure any development on this application site is not affected by or cause any drainage issues to other properties, which lies outside of the realm of the planning process.

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 has 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 fail to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

Policy QD1 - Quality in New Residential Development in PPS7 - Quality Residential Environments states all proposals for residential development will be expected to conform to all of the following criteria:

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

Whilst the proposed development respects the surrounding context in that it is residential by nature, there are concerns regarding the topography of the site in terms of scale, proportions, massing and appearance of buildings, along with their amenity landscaped and hard surfaced areas. I am not satisfied that this proposal respects the surrounding context in terms of layout as it proposes to provide 5 dwellings within this small, restricted site and it is my opinion this is considered to be over-development of the site as the built form limits the potential to provide a quality residential design.

When travelling into the village of Newmills along the Roughan Road, before you approach this application site there is a single bungalow on this side of the road as you enter the development limits. Prior to this there is no roadside development for some 200 metres and the land directly opposite the site is outside of the settlement limits of Newmills and thus in the rural countryside and is an open agricultural field. The design of

the dwellings on this site in my opinion illustrate how this site cannot accommodate a quality residential development. Each dwelling has a 2-storey appearance to the front elevation and a single storey elevation to the rear. This results in the rooms at ground floor level to the rear of the property not having any rear openings as the dwelling is built into a cut-out part of the site. The only openings to the kitchen are on the side elevation and these are a small window and the side door. The utility room and the toilet on the ground floor have no windows as they are sited along the internal wall of the semi-detached dwellings.

Each of the side elevations of the dwellings are only metres from the intervening 1.8 metre high fence which defines the curtilage separating each property which further inhibits natural light to the rooms to the rear of the dwellings. This issue is also exacerbated as the land rises at the side and to the rear, therefore increasing the height of the fences above ground level also and further restricts what little light could infiltrate into the rear rooms at ground level.

At the rear elevation, the bedroom may also have restricted natural light due to the presence of the existing two storey dwellings at a higher elevation to the south. The garden area also slopes to a height above the eaves of most of the proposed dwellings leaving an undesirable rear to the property and potential for loss of natural light to the proposed dwellings. In my opinion this lack of opportunity for natural light to such integral communal room such as the kitchen does not attribute to a quality residential design and fails to meet this part of the criteria.

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

There are no archaeological or built heritage features to be protected on this site. This site appears to have been previously cleared of most vegetation and trees with nothing remaining of value worth protection. Although the site is located within an area of townscape character, there are no features of archaeological or built heritage, nor are there any landscape features which require protection.

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.

This proposed layout is for 5 dwellings, therefore there is no requirement for the provision of public open space due to the small scale of this development proposed. Creating Places sets the standards which are considered acceptable for private open space, 'To promote choice for residents a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq m per house or

greater. Garden sizes larger than the average will generally suit dwellings designed for use by families, while smaller areas will be more appropriate for houses with 1 or 2 bedrooms or houses located opposite or adjacent to public or communal open space. For any individual house however an area less than around 40 sq m will generally be unacceptable'.

Private open space must also be useable which is my concern regarding this proposal. Not only does the provision of rear amenity space for Site 2 fall below the recommended 70 sq. metres, the functional capacity of this useable space is not evident due to the design of the dwelling and the topography of the site.

The agent was informed there were concerns regarding the amenity space of the properties as they were not of adequate provision.

The agent claimed the scale was incorrect and this was thereby changed and the rear amenities of 3 of the properties were reduced by over 50% from what was initially submitted. This reduction in the rear garden areas has resulted in the creation a vacant plot of land between this proposed development and that of the existing development which would also be an undesirable feature in the landscape.

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

As the site is located within the development limits of Newmills it is within walking distance of a range of existing local facilities and services. There is no requirement to provide local neighbourhood facilities as part of this planning application due to its scale.

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;

This site has direct access onto Roughan Road and thus caters for an acceptable movement pattern including walking and cycling, to enable occupants to access public transport routes and the public network system. As this site lies within the development limits of Newmills, it is within the 30 miles per hour restriction on the maximum speed and there are existing speed ramps on this part of the road in front of the site. However as per DfI Roads comments discussed below, these calming methods will need repositioned. DfI Roads also require the applicant to provide a footpath to link to the existing footpath.

f) adequate and appropriate provision is made for parking;

This proposed scheme makes provision for in-curtilage parking of 2 spaces for each dwelling. Creating Places sets the standards for parking requirements for such developments and states that for a 3 bedroomed house 2.5 in-curtilage spaces are required and 2.25 spaces for a semi-detached house, therefore a total of 11.5 spaces

are required by this development.

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

The finishes of dark natural roof slate and red brick are not unfamiliar to the immediate area surrounding this site and are considered acceptable for this urban location.

As indicated above, discussions at group have concluded that the proposed design of these dwellings is not of an appropriate as the rear amenity space is inadequate and the site is overdeveloped. The roadside dwellings at Hollow Hills Meadows on the opposite side of the road have a density of 13 dwellings per hectare, as does the dwellings at Lough Terrace. The 5 dwellings proposed on this application site would have a density of 16 per hectare. Although the proposed density is not greatly more than that existing in the surrounding area, combined with the, I am not satisfied with this proposal as is.

The agent was informed of my concerns regarding overdevelopment, inappropriate design of each property and the lack of useable amenity space. It was suggested to the agent from discussions at group to reduce the number of dwellings in this application in order overcome the issues highlighted, however this advice was disregarded.

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;

Given the existing surrounding land uses, the proposal will not create a conflict with adjacent land uses which is predominantly residential. It is my opinion this proposal will not have undesirable impacts on any existing dwelling, however the design and layout of each dwelling along with the topography could result in potential loss of light and overshadowing to the adjacent dwellings proposed in this planning application.

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

I am satisfied that the development is considered to be designed to deter crime and promote personal safety. Parking is provided for within the curtilage of each dwelling and each dwelling fronts onto and accesses the public road.

Policy LC1 - Protecting Local Character, Environmental Quality and Residential Amenity in the Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas states that planning permission will only be granted in established residential areas for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 is met, along with all the additional criteria discussed below.

(a) the proposed density is not significantly higher than that found in the established residential area;

As discussed in the consideration of Policy QD1 above, the density of the surrounding area is less than what this application proposes. The roadside dwellings at Hollow Hills Meadows on the opposite side of the road have a density of 13 dwellings per hectare, as does the dwellings at Lough Terrace. The 5 dwellings proposed on this application site would have a density of 16 per hectare. Although the proposed density is not greatly more than that existing in the surrounding area, combined with the inappropriate design of each property and the lack of useable amenity space, I am not satisfied with this proposal as is and therefore it is contrary to this policy test.

(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area;

The residential properties along this section of the Roughan Road are characteristically detached or semi-detached with substantial garden areas. A large portion of this site was utilised as in-curtilage amenity space for No 90 Roughan Road which is the adjacent bungalow. The proposed layout of this development has a small green area to the front of each dwelling and a small garden area to the rear. I do not feel the design of these dwellings have successfully taken into consideration the existing topography to the rear of the site. It is the Case Officer's opinion this proposed development is an overly engineered solution to a site which may not be suitable for development.

(c) all dwelling units and apartments are built to a size not less than those set out in Annex A.

I am content this development exceeds the requirements of this policy test.

PPPS 3 - Access, Movement and Parking.

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the creation of a new access onto the Roughan Road as well as the alteration of an existing access onto the same road.

DfI Roads were consulted and a number of amendments were necessary as identified below;

- Show 2.4 x 45m sight lines to the southwest from each of the access points.
- Show 2.4 x 60m sight lines to the northeast from each of the access points.
- Widen public road along site frontage to 6.00m
- Provide linking footway to existing footway at the junction with the Newmills Road.

- Remove cross sections lines, cross sections and typical details.
- Remove contour lines.
- Show any retaining walls and annotate the height of the walls.
- Speed reducing cushions at the access to site 1 need to be relocated.

As we were not happy with this development proposal, we did not request these amendments. However the agent did submit amended drawings but at group it was decided not to consult DfI Roads as the overall design of the proposal was not acceptable.

NI Water were consulted and have stated there is available capacity at the Newmills Wastewater Treatment Works (WwTW) for a maximum period of 18 months from the date of their consultation response which would be 25th November 2024. There is a foul sewer and a public water main within 20 metres of this site which can adequately service this application.

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

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

This application has been advertised in Local Press in line with statutory consultation duties part of the General Development Procedure Order (GDPO) 2015. There were 18 neighbouring properties which were notified and there was 1 letter of objection received as detailed earlier.

Summary of Recommendation:

Refuse is recommended

As this proposal does not comply with the provisions of QD1 of PPS 7, specifically parts a, c, g and h nor Policy LC 1 in the Addendum, it is the Case Officer's opinion this proposal be refused as discussed above.

Refusal Reasons

Reason 1

The proposal is contrary to parts a, c, g and h Policy QD 1 of PPS 7 in that does not create a quality residential development.

Signature(s): Cathy Hughes

Date: 25 January 2024

ANNEX	
Date Valid	6 April 2023
Date First Advertised	18 April 2023
Date Last Advertised	18 April 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 12 Lough Terrace, Newmills Dungannon</p> <p>The Owner / Occupier 26 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 28 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 30 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 32 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 34 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 36 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 38 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 42 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 44 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 46 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 48 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier 40 Drumreagh Crescent Dungannon Tyrone BT71 4HJ</p> <p>The Owner / Occupier RNN - 12 Lough Crescent, Newmills Dungannon</p> <p>The Owner / Occupier 88 Roughan Road Newmills Dungannon</p> <p>The Owner / Occupier 25 Hollow Mills Meadows Dungannon Tyrone BT71 4GZ</p> <p>The Owner / Occupier 27 Hollow Mills Meadows Dungannon Tyrone BT71 4GZ</p>	

Date of Last Neighbour Notification	21 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/1988/0245 Proposals: BICYCLE WORKSHOP, SALES AND STORE Decision: PG Decision Date:</p> <p>Ref: M/1976/0476 Proposals: IMPROVEMENTS TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/1984/0479 Proposals: ALTERATIONS TO PORCH AND ERECTION OF GARAGE Decision: PG Decision Date:</p> <p>Ref: M/1995/0660 Proposals: Alterations to Dwelling Decision: PG Decision Date:</p> <p>Ref: M/2006/2063/O Proposals: Housing Development Decision: PG Decision Date: 15-FEB-07</p> <p>Ref: LA09/2023/0433/F Proposals: Proposed development of 5no. dwellings (1no. detached and 4no. semi-detached) with associated site works and the relocation of an existing access to an existing dwelling Decision: Decision Date:</p> <p>Ref: M/2003/1014/F Proposals: 18 no Townhouses, 24 no Semi-detached Houses, 20 no Detached Houses Decision: PG Decision Date: 27-MAR-06</p> <p>Ref: M/2007/1439/F</p>	

Proposals: Retrospective application for a constructed dwelling.

Decision: PG

Decision Date: 13-JUN-08

Ref: M/2002/0838/Q

Proposals: Development Use (Approximately 10 Houses per acre)

Decision: 300

Decision Date: 29-JUL-02

Ref: M/2002/1266/Q

Proposals: Housing Development

Decision: 360

Decision Date: 22-OCT-03

Ref: M/2006/1874/LDP

Proposals: Sites 2-9 & 26-45 House Positions changed

Decision: PG

Decision Date: 20-AUG-07

Ref: M/2007/0933/F

Proposals: Erection of 18 townhouses to supersede planning approval M/2003/1014/F

Decision:

Decision Date:

Ref: M/2007/0054/F

Proposals: Turning Head at Townhouses changed

Decision: PG

Decision Date: 05-APR-07

Ref: M/1989/0241

Proposals: Extension to Dwelling

Decision: PG

Decision Date:

Ref: M/2004/0089/Q

Proposals: Development of terrace dwellings

Decision: ELA

Decision Date: 26-JAN-04

Ref: M/2006/1150/O

Proposals: Housing development

Decision:

Decision Date:

Ref: M/1989/0221

Proposals: Domestic garage

Decision: PG
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-28-09-2023.docx
Environmental Health Mid Ulster Council-
DFI Roads - Enniskillen Office-02-06-2023.docx
NI Water - Multiple Units West-LA09-2023-0433-F.pdf
Environmental Health Mid Ulster Council-Planning Response LA09-23-0433.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
Site Layout or Block Plan
Site Layout or Block Plan
Site Layout or Block Plan
Site Layout or Block Plan
Site Layout or Block Plan
Site Layout or Block Plan
Proposed Plans
Proposed Plans

Notification to Department (if relevant)

Not ApplicableNot Applicable

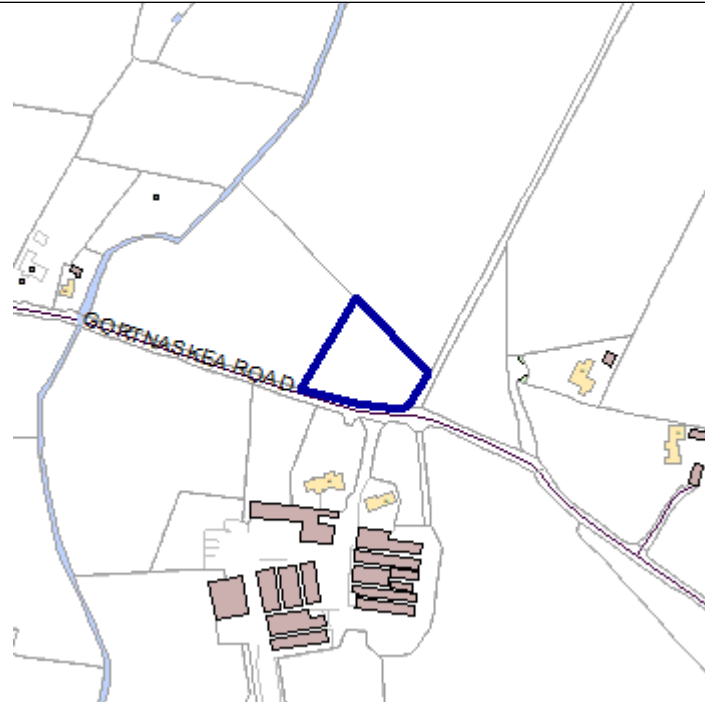


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.7
Application ID: LA09/2023/0520/F	Target Date: 23 August 2023
Proposal: Dwelling and garage under PPS21, Policy CTY 10	Location: 75M North of 42 Gortnaskea Road, Stewartstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Philip McCrea 42 Gortnaskea Road Stewartstown BT71 5NY	Agent Name and Address: Kee Architecture Ltd 9A Clare Lane Cookstown BT80 8RJ
Executive Summary:	

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 full.docx
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0520-F.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Recon response.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 settlement designated by the Cookstown Area Plan 2010, approx. halfway between Stewartstown and Coagh located to its south and north respectively. It sits adjacent and to the north side of the minor Gortnaskea Road approx. 400m east of the Coagh Road, the main road connecting Stewartstown and Coagh (see Figs 1 & 2, below).



Fig 1: Site outlined red.



Fig 2: Site outlined red.

The site as seen above (Figs 1 & 2) and further below (Figs 3, 4 & 5) is a relatively square shaped plot cut from the roadside frontage and eastern corner of a large

agricultural field. The south / roadside frontage; east side; and northeast / rear boundaries of the site are all defined by low hedgerow vegetation. The west side boundary of the site is open onto the host field. A small sheugh run to the inside of the site's rear boundary; and a gravelled agricultural lane off the Gortnaskea Road runs along the outside of the site's east boundary.



Fig 3: View of site on the east approach along the Gortnaskea Road just before passing its roadside frontage.



Fig 4: View of site on the east approach along the Gortnaskea Road. Applicants farm building visible to opposite side of road.



Fig 5: View of site on the west approach along the Gortnaskea Road.
Critical views of the site are from the Gortnaskea Road on both approaches and passing along its roadside frontage.

The area surrounding the site is typically rural in character comprising undulating agricultural landscaping interspersed by single dwellings, ancillary dwellings and farm groups. Two dwellings exist on lands to the south of the site to the opposite side of the Gortnaskea Road, nos. 40 and 42 Gortnaskea Road a bungalow and two storey dwelling, respectively. These dwellings are bound to the south / rear by a substantial number of farm buildings and sheds. No. 42 is listed on the application forms accompanying this application as the applicant address.

Description of Proposal

This is a full planning application for a dwelling and garage under Planning Policy Statement 21, Policy CTY 10 'Dwellings on Farms'. The site is located 75m North of 42 Gortnaskea Road, Stewartstown.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland
Cookstown Area Plan 2010
Planning Policy Statement 3: Access, Movement and Parking
Planning Policy Statement 21: Sustainable Development in the Countryside
Development Control Advice Note 15: Vehicular Standards
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.

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 on Site

- I/2005/0680/O - Proposed 2 storey dwelling and garage - 120m SW of 62 Ballynargan Road, Stewartstown - Mr Victor McCrea - Refused (appealed - appeal upheld 21st May 2008)
- I/2011/0226/RM - Proposed dwelling and garage - 120m SW of 62 Ballynargan Road, Stewartstown - Mr Victor McCrea - Granted 21st October 2011

Whilst the above applications relate to a site located on the lands farmed by the applicant historical othos available do not indicate the proposal was commenced and as such would have subsequently expired.

Consultees

1. DFI Roads were consulted in relation to access, movement and parking arrangements and subject to revised Drawing No. 03 REV 1 received 5th July 2023 and had no objections to the proposal subject to standard conditions and informatives being applied to any subsequent decision notice to comply with the requirements of PPS 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with a P1C Form and Farm maps submitted alongside the application. DAERA confirmed the farm business identified on P1C Forms and Farm maps has been established for over 6 years (established 2015) and has claimed payments through the Basic Payment Scheme or Agri Environment scheme in each of the last 6 years.

Cookstown Area Plan 2010

The site lies in the rural countryside outside any designated settlement with the Plan.

The Strategic Planning Policy Statement for Northern Ireland (SPPS)

The SPPS advises that the policy provisions of Planning Policy Statement 21:

Sustainable Development in the Countryside are retained.

Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside

PPS 21 is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. These include dwellings on farms in accordance with Policy CTY 10 of PPS 21.

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

1. the farm business is currently active and has been established for at least 6 years,

The applicant has a farm business and as confirmed with the Department of Agriculture, Environment and Rural Affairs (DAERA) it has been established for over 6 years (established 2015) and is currently active having claimed payments through the Basic Payment Scheme or Agri Environment Scheme in each of the last 6 years. Criterion (1) of CTY 10 has been met.

2. 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 or since PPS 21 was introduced on 25th November 2008,

Having carried out 'Planning History' checks there is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

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

I am not content a dwelling on this site would visually link with an established group of buildings on the applicant's farm. I consider that from critical views on the east and west approach along the Gortnaskea Road as detailed further above in 'Characteristics of the Site and Area' a dwelling on this site would not visually link with the applicant's farm dwelling (no. 42 Gortnaskea Road) and substantial number of ancillary farm buildings and sheds located to its south to the opposite side of the Gortnaskea Road. Whilst I acknowledge that a dwelling on this site would read in the same visual frame on the east approach to the site with buildings on the applicant's farm (see Fig 4, above) I do not

believe it would read as being visually interlinked with those buildings. I believe the public road alongside the separation distance and intervening vegetation would create a significant physical separation between a dwelling on this site and buildings on the applicant's farm.

As detailed above exceptionally Criterion (3) makes provision for an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either: demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group(s). In such circumstances however the proposed site must still meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character of PPS 21. Policy CTY 13 outlines permission will only 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; and Policy CTY14 where it does not cause a detrimental change to, or further erode the rural character of an area.

Whilst I consider the 1 ½ storey dwelling (including integral garage) proposed relatively simplistic and reflective of traditional rural design and in keeping with the rural design principles, at the outset of this proposal no justification was submitted for this alternative site elsewhere on the farm and I was not content that the site had the capacity to absorb the dwelling or a dwelling of reduced size, scale and height. I considered the dwelling would be contrary to Policy CTY13 as site lacks long established natural boundaries sufficient to provide a suitable degree of enclosure for dwelling to integrate into the landscape; and contrary to Policy CTY14 in that if permitted, the dwelling would be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Policy CTY 10 also states planning permission granted under this policy will only be forthcoming once every 10 years. I am content checks have not identified any previous such permissions in the last 10 years.

Taking account of the above the agent was advised Planning considered the proposal contrary to Policy CTY10 of PPS21 Criterion (3) as the dwelling proposed is not visually linked or sited to cluster with the established group of buildings on the farm. He was also advised Planning considered the site open and exposed and therefore unable to integrate the substantial dwelling proposed. Given this opinion he was asked:
Are there alternatives sites at the opposite side of road? If there are why not use these?
and / or
Is there justification for the proposed site i.e. demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group(s).

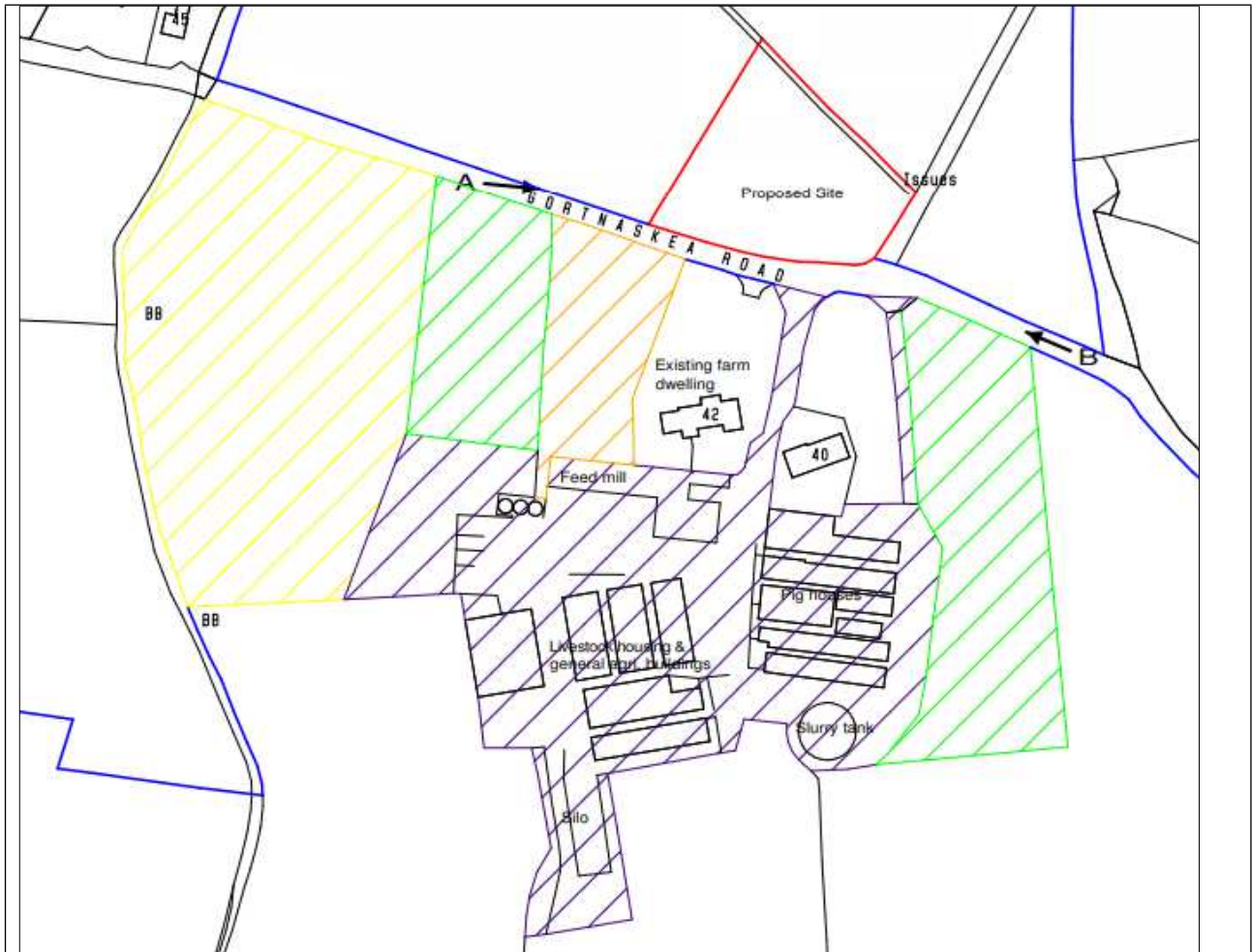


Fig 6: Concept Plan – field used for farm wastewater irrigation (yellow); farm expansion (green); field not suitable due to proximity to feed mill (orange); and extent of existing farm (purple).

Further to the above the agent submitted a Supporting Statement including a Concept Map (see Fig: 6, above) to demonstrate the current and future operations of the farm. He stated several generations of Mr McCrea’s family have farmed here and will probably do so for future generations. That by way of context the applicant seeks this dwelling for himself and the remainder of his family as his son is taking over the main running of the business and will be living in the existing farmhouse. However, the applicant will remain active in the day to day running of the farm and with a large part of that activity breeding pigs, it is imperative his new dwelling is close to the yard. He stated the farm has expanded over the years and with current regulations further expansion is expected soon. That, as hatched green on the Concept Map, the only directions the farm can expand are to the east and west as the land to the south rises sharply. That there are other areas hatched orange and yellow on the Concept Map outside the areas for expansion, but these are not suitable a dwelling i.e. one small field due to proximity to feed mill and another large field used for farm water irrigation. For these reasons, the applicant does not have a suitable site on the same side of the road as the farm complex and the current site in the corner of best and nearest alternative field benefiting from enclosure on three sides a back drop of land, trees and buildings on both approach along the road integrating it into the local landform. The agent contends the site is

visually linked to the existing farm complex directly across the road and draws Planning's attention to two other approvals (I/2012/0392/F and LA09/2020/0630/O) under Policy CTY 10 whereby the dwelling is on lands to the opposite side of the road from the farm.

Having taken account of the additional information submitted every proposal is assessed on individual merit. In this instance I do not consider it has been demonstrated that the dwelling could not be located on lands adjacent and to the same side of the road as the farm buildings whereby it would cluster and visually link. No evidence in the form of definite plans relating to the future expansion of the farm business such as planning permissions have been presented. Additionally, the opinion remain that the proposed site is open and exposed to views as it lacks sufficient long established natural boundaries to provide a suitable degree of enclosure for the new dwelling to integrate into the landscape. As a result, if permitted the dwelling would be unduly prominent in the landscape resulting in a detrimental change to the rural character of the area. Accordingly, the opinion remains that the proposal is contrary Policy CTY10, CTY 13 and CTY14 of PPS 21.

Additional considerations

Had the proposed dwelling been considered acceptable on this site I would have had no concerns regarding it impacting the amenity of neighbouring properties to any unreasonable degree in terms of overlooking or overshadowing given the separation distances that would be retained. The only neighbouring properties in close proximity are located to the opposite side of the road.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online have been checked. HED's map viewer identified no built heritage features of significance on site and whilst NED's map viewer showed the site to be within an area known to breeding waders, I am content that as this site is on improved grassland this proposal would be unlikely to harm a European protected species in accordance with Policy NH 2 - Species Protected by Law European Protected Species.

Flood Maps NI show no flooding on site.

Recommendation: Refuse

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

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

Reason 3

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s): Emma Richardson

Date: 21 February 2024

ANNEX	
Date Valid	10 May 2023
Date First Advertised	23 May 2023
Date Last Advertised	23 May 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 42 Gortnaskea Road Stewartstown Tyrone BT71 5NY	
Date of Last Neighbour Notification	22 May 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2023/0520/F Proposals: Dwelling and garage under PPS21, Policy CTY 10 Decision: Decision Date:	
Summary of Consultee Responses DFI Roads - Enniskillen Office-DC Checklist 1.doc Roads Consultation full.docx DAERA - Omagh-LA09-2023-0520-F.docx DFI Roads - Enniskillen Office-Roads Consultation - Recon response.docx	
Drawing Numbers and Title Site Location Plan Plan Ref: 01 Proposed Plans Plan Ref: 02 Site Layout or Block Plan Plan Ref: 03	

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.8
Application ID: LA09/2023/0683/O	Target Date: 5 October 2023
Proposal: Outline permission for a proposed dwelling at an existing cluster	Location: Adjacent to and SW of 150A Washingbay Road Coalisland
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Patrick Brady 154 Washing Bay Road Upper Meenagh Coalisland BT71 4QE	Agent Name and Address: Mr Eamonn Cushnahann 4 Glenree Avenue Dungannon BT71 6XG
Executive Summary: The proposal is thought to be contrary to the policy requirements held within CTY2a of PPS 21.	

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

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. The proposal is considered to be contrary to CTY 2a of PPS 21 in that it doesn't have a focal point.

Characteristics of the Site and Area

The site is located adjacent and SW of 150a Washingbay Road, Upper Meenagh,

Coalisland. The site is located within the countryside as designated within the Dungannon and South Tyrone Area Plan 2010. The sites current use is agricultural land. The site sits at lands lower than No. 150A and has a mix of boundary treatments including mature trees, post and wire fencing and a grass bank. The immediate surrounding land uses is made up of single dwellings and associated outbuildings. Beyond that, the lands are predominantly agricultural fields with dispersed dwellings and outbuildings.

Description of Proposal

Outline planning permission is sought for a proposed dwelling at an existing cluster.

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: 150A, 150B, 154, 152, 150, 148C and 146 Washingbay Road. At the time of writing, no representations were received.

Planning History

LA09/2020/0034/O - Outline Permission for a proposed dwelling at an existing cluster - Adjacent to and SW of 150A Washingbay Road, Upper Meenagh, Coalisland – APPLICATION WITHDRAWN

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 East of Annaghmore 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 lies outside of a farm and consists of four or more buildings. There are two dwellings north and north east of the red line of the site (150A and 150B) and there is a further dwelling which is derelict south of the site. The dwelling which was approved under LA09/2017/1756/O and LA09/2021/0384/RM (which had no house number evident at the time of writing and was not occupied at the time of site visit) which is located to the SE was under construction at the time of the site visit and was near completion. Therefore, I am content that there are at least four dwellings within the cluster. The cluster is read together and appears as a visual entity in the local landscape. The first and second criteria of CTY 2a have been met.

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 has provided justification for the site and has noted a water pump (known locally as Morris's Pump as stated in planning statement) as the focal point. The agent has provided a further testimony from the applicant which explores further why they consider the water pump as a focal point. The testimony notes that in the past, local families would have gathered at the pump as it was the only water supply for all the households in the townland. From my site visit and from the information provided by the agent/applicant, I am not convinced that the water pump referred to can be considered as a focal point at present.

The proposed site is located South and South West of the existing dwellings on site (150B and 150A) and is set back some distance from the public road behind the dwelling approved under LA09/2017/1756/O and LA09/2021//0384/RM, therefore public views would be somewhat limited. There is an existing agricultural shed SW of the site and thus I consider that the site is bounded on at least two sides with other development in the cluster and therefore the proposal meets the fourth criterion of Policy CTY2a. I feel that the proposed site could be developed to be absorbed into the existing cluster through rounding off and consolidation and site wouldn't alter the existing character or visually intrude into the open countryside if approval was to be forthcoming.

I am also satisfied that the proposed site would not have significant adverse impact on neighbouring amenity, this would be further considered at RM stage if approval was to be forthcoming. The sixth criterion of CTY 2a has been met.

In conclusion, the proposal is considered contrary to the third criterion held within Policy CTY 2a. Policy CTY 2a states that all criteria must be met, therefore the proposal is

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. However, given the limited views available of the site from public view points and existing landscaping, it is considered that the impact of a suitably designed dwelling would be minimal at this site if approval was forthcoming.

DfI Roads were consulted on the application and have offered no objection to the proposal, subject to condition if approval were to be forthcoming.

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 cluster is not associated with a focal point or is not located at a cross-roads.

Signature(s): Sarah Duggan

Date: 14 February 2024

ANNEX	
Date Valid	22 June 2023
Date First Advertised	4 July 2023
Date Last Advertised	4 July 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 154 Washingbay Road Coalisland Tyrone BT71 4QE</p> <p>The Owner / Occupier 152 Washingbay Road Coalisland Tyrone BT71 4QE</p> <p>The Owner / Occupier 148C Washingbay Road Coalisland Tyrone BT71 4QE</p> <p>The Owner / Occupier 150A Washingbay Road Coalisland Tyrone BT71 4QE</p>	
Date of Last Neighbour Notification	26 July 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/2014/0161/O Proposals: Dwelling and garage (infill site) Decision: PG Decision Date: 18-JUN-14</p> <p>Ref: M/1994/0504 Proposals: Site for dwelling and garage Decision: WITHDR Decision Date:</p> <p>Ref: M/1990/0155 Proposals: Extension to Dwelling Decision: PG Decision Date:</p> <p>Ref: M/2009/0295/O Proposals: Replacement bungalow for dwelling already situated on the land Decision: PG</p>	

Decision Date: 14-AUG-09

Ref: M/2008/0400/O

Proposals: Proposed new dwelling

Decision: PG

Decision Date: 18-MAY-12

Ref: LA09/2022/0563/O

Proposals: Proposed two storey dwelling + detached double garage

Decision: REF

Decision Date: 21-NOV-22

Ref: M/2011/0059/F

Proposals: Proposed replacement dwelling and garage

Decision: PG

Decision Date: 09-AUG-11

Ref: M/2011/0003/F

Proposals: Dwelling and garage (Article 23 of the Planning NI Order 1991) without compliance with condition 4 (to raise ridge height from 6 to 7m) of previous outline planning application permission M/2009/0295/O

Decision:

Decision Date:

Ref: LA09/2019/0829/O

Proposals: Dwelling and Garage (new access)

Decision: PG

Decision Date: 16-JUL-20

Ref: LA09/2023/0683/O

Proposals: Outline permission for a proposed dwelling at an existing cluster

Decision:

Decision Date:

Ref: M/1984/0584

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: M/2000/0156/F

Proposals: Erection of 1 1/2 storey replacement dwelling

Decision: PG

Decision Date: 20-MAY-00

Ref: M/1978/0681

Proposals: EXTENSIONS TO DWELLING

Decision: PG
Decision Date:

Ref: M/1998/0713
Proposals: Site for proposed replacement dwelling
Decision: PG
Decision Date:

Ref: M/1981/0102
Proposals: ERECTION OF BUNGALOW
Decision: PG
Decision Date:

Ref: M/1984/0525
Proposals: BUNGALOW
Decision: PG
Decision Date:

Ref: M/1980/0418
Proposals: ERECTION OF BUNGALOW
Decision: PG
Decision Date:

Ref: M/1979/0624
Proposals: BUNGALOW
Decision: PG
Decision Date:

Ref: M/2014/0212/RM
Proposals: Proposed replacement dwelling and garage
Decision: PG
Decision Date: 17-JUL-14

Ref: M/1993/0170
Proposals: Replacement Bungalow
Decision: PG
Decision Date:

Ref: M/2013/0428/O
Proposals: Replacement dwelling and garage
Decision: PG
Decision Date: 04-NOV-13

Ref: M/2014/0213/RM
Proposals: Proposed replacement dwelling
Decision: PG

Decision Date: 24-JUL-14

Ref: LA09/2018/1640/F

Proposals: Ground floor extension to rear of dwelling to accommodate rear sitting room, ground floor toilet and additional utility space

Decision: PG

Decision Date: 05-MAR-19

Ref: M/2013/0427/O

Proposals: Replacement dwelling and garage

Decision: PG

Decision Date: 04-NOV-13

Ref: LA09/2021/0384/RM

Proposals: Replacement rural type storey and half dwelling and garage.

Decision: PG

Decision Date: 08-JUN-21

Ref: M/2005/1799/RM

Proposals: Proposed dwelling house

Decision: PG

Decision Date: 25-NOV-05

Ref: M/1994/0680

Proposals: Site for Dwelling and Garage

Decision: PG

Decision Date:

Ref: M/2000/0394/O

Proposals: Dwelling and Domestic Garage

Decision: PG

Decision Date: 20-OCT-00

Ref: M/2003/1299/O

Proposals: Dwelling and garage

Decision: PG

Decision Date: 12-NOV-03

Ref: LA09/2015/0786/RM

Proposals: Proposed infill dwelling and garage

Decision: PG

Decision Date: 17-DEC-15

Ref: LA09/2017/0597/F

Proposals: Proposed dwelling and domestic garage on infill site

Decision: PG

Decision Date: 08-AUG-17

Ref: M/1998/0841

Proposals: Proposed Replacement Dwelling

Decision: PR

Decision Date:

Ref: LA09/2017/1756/O

Proposals: Replacement dwelling

Decision: PG

Decision Date: 07-MAR-18

Ref: LA09/2020/0034/O

Proposals: Outline Permission for a proposed dwelling at an existing cluster.

Decision: WDN

Decision Date: 07-JUN-21

Ref: LA09/2017/0388/RM

Proposals: Replacement dwelling and detached garage.

Decision: PG

Decision Date: 23-JUN-17

Ref: LA09/2017/0483/RM

Proposals: Replacement Dwelling

Decision: PG

Decision Date: 28-JUL-17

Ref: M/2014/0574/O

Proposals: Replacement dwelling

Decision: PG

Decision Date: 31-MAR-15

Ref: M/2014/0326/O

Proposals: Outline planning permission for a replacement dwelling

Decision: PG

Decision Date: 08-AUG-14

Ref: LA09/2018/1434/F

Proposals: Storey and a half and detached garage with a maximum ridge height of 6.5m
Dwelling to consist of 2 pitched roof elements with flat roof link and to a split level ground floor

Decision: PG

Decision Date: 11-JUN-19

Ref: M/2011/0257/F

Proposals: Dwelling & Garage

Decision: PR
Decision Date: 15-NOV-11

Ref: M/2004/0974/O
Proposals: Dwelling House
Decision:
Decision Date:

Ref: M/2006/1704/F
Proposals: Proposed alteration & extension to existing garage to create 1½ storey dwelling with utility room & hall extension.
Decision: PR
Decision Date: 21-FEB-07

Ref: M/1973/0154
Proposals: 11KV AND LV/MV O/H LINES
Decision: PG
Decision Date:

Summary of Consultee Responses

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

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Site Layout or Block Plan Plan Ref: 02
Miscellaneous Plan Ref: 03

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.9
Application ID: LA09/2023/0693/F	Target Date: 16 October 2023
Proposal: Proposed temporary mobile home	Location: 20 Loughbracken Road, Pomeroy
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Aidan Molloy 20 Loughbracken Road Pomeroy BT70 2SE	Agent Name and Address: Mrs Carol Gourley Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
Executive Summary: 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.	

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 Loughbrackcen 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

ANNEX	
Date Valid	3 July 2023
Date First Advertised	30 January 2024
Date Last Advertised	11 July 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 18 Loughbracken Road Pomeroy Tyrone BT70 2SE The Owner / Occupier RNN 24 Loughbracken Road Pomeroy Tyrone BT70 2SE	
Date of Last Neighbour Notification	19 January 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: I/1999/0126 Proposals: Extension & 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



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.10
Application ID: LA09/2023/0796/F	Target Date: 13 November 2023
Proposal: Retention of existing mobile office space used in connection with existing business	Location: 27 Feddan Road Dungannon BT70 2AP
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Timmy Wiggam 27 Fedden Road Ballygawley BT70 2AP	Agent Name and Address: Prestige Homes 1 Lismore Road Ballygawley Dungannon BT70 2ND
Executive Summary:	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NIEA	PRT LA09-2023-0796-F ERR.PDF
Non Statutory Consultee	Shared Environmental Services	LA09-2023-0796-F-Elimination-27-10-2023.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Approval final.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Full response.docx This application is bordering the A5 WTC Corridor. SRI Department have been consulted for comment on how or if this application affects the proposed A5 WTC vesting area. DFI and Mid Ulster council are advised to await confirmation from SRI before proceeding with this application.
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Approval.docx

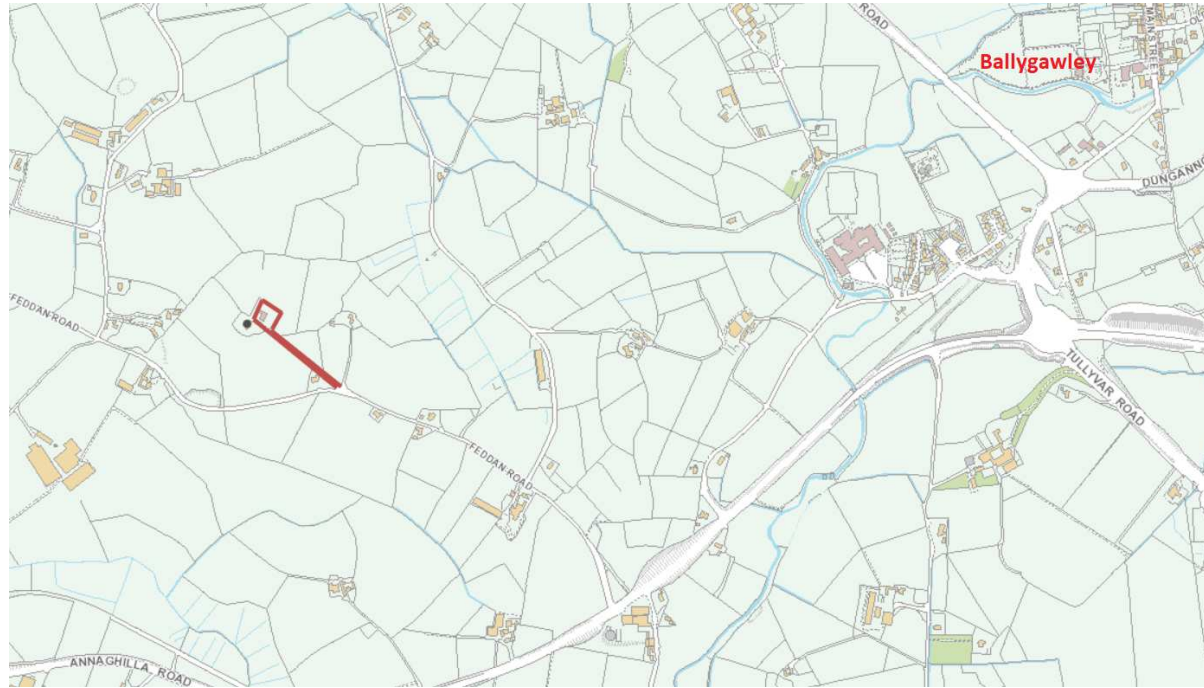
Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	4
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

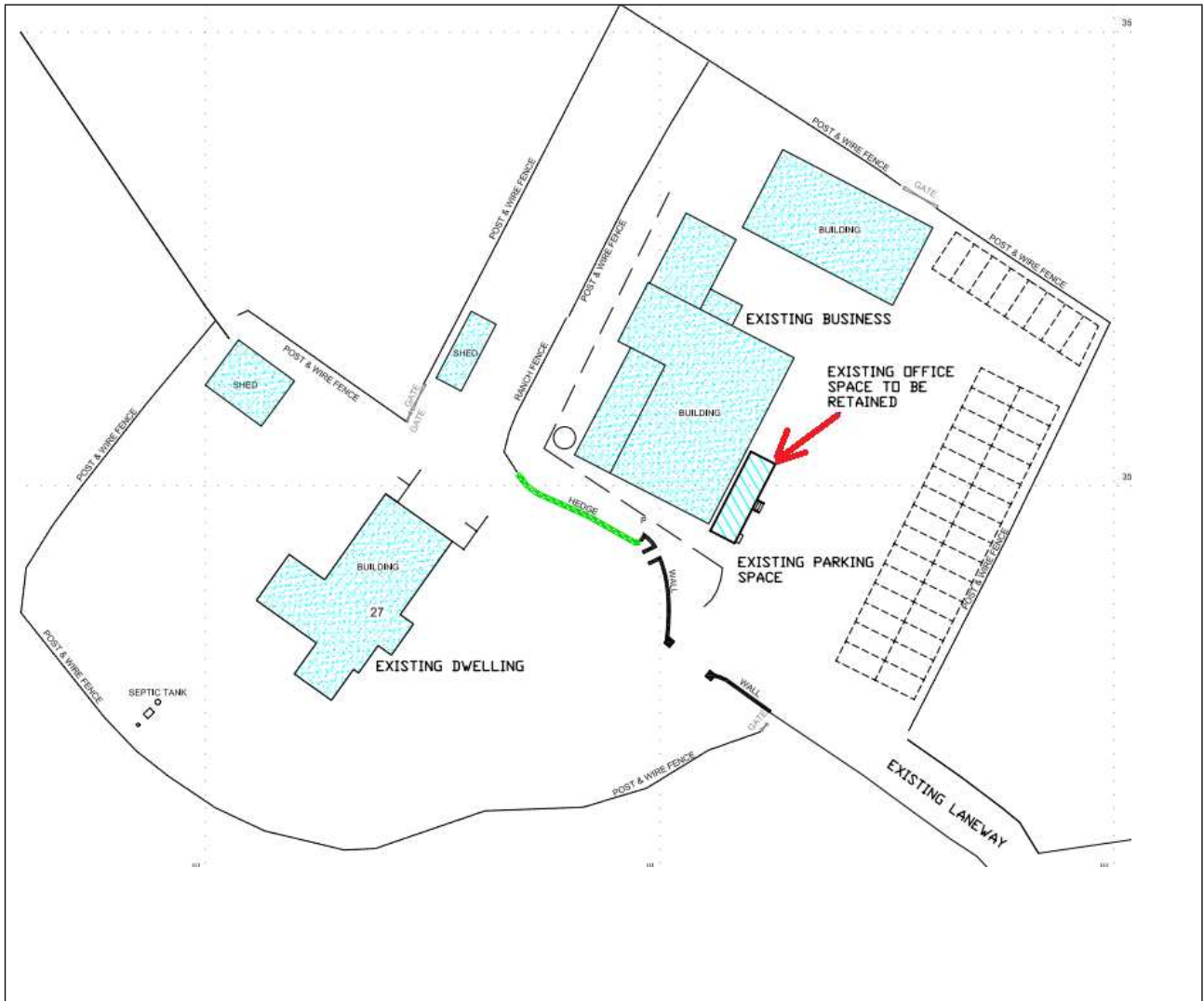
The site lies within the open countryside just a short distance to the south west of the settlement limits of Ballygawley and outside all other areas of constraint as depicted by the Dungannon and South Tyrone area plan 2010.



The site is accessed off the Feddan Road and the red line encompasses a long narrow rising laneway, which runs directly past the rear of number 25. The lane is concrete and has a native species hedgerow on both sides. Approx 240 metres from the Feddan road the lane divides in two, with access to the dwelling at number 27 to the west and the main body of the site to the east.



The site includes a number of large industrial type buildings to the rear of the site with carparking to the front. There are two large trees at the entrance to the site and mature hedging as well as a post and wire security fence on all remaining boundaries. Number 27 which is adjacent to the site is owned by the applicant, there is also a small shed and a cleared rectangular area to the rear of the site. The sheds on site are all of similar design with concrete precast panel bases and corrugated aluminium cladding to upper walls and roof.



Description of Proposal

The proposal seeks full planning permission for the retention of existing mobile office space used in connection with existing business of Skye body repair ltd.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

- Strategic Planning Policy Statement for Northern Ireland
- DSTAP 2010

- Planning Policy Statement 21: Sustainable Development in the Countryside
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 4: Planning and Economic Development

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

History on Site

LA09/2023/0797/F - Retention of existing workshop in connection with existing business – was submitted alongside this application and is currently in the system.

Representations

Press advertisement and neighbour notification has been carried out in line with the Council's statutory duty. At the time of writing, there were numerous objections received from a persons with a legal interest in the surrounding lands.

Assessment of Objections

The objector lists a number of concerns which I will detail and discuss below;

- Disputed site ownership
- Environmental impact i.e. effluent
- Bio diversity checklist needed
- No control over the visibility splays
- Increase vehicle traffic
- Inadequate visibility splays
- Visibility splay X value of 4.5m needed
- Road safety
- Transport Assessment needed
- Certificate of notice erroneously attempted
- Lack of integration, prominent in the landscape
- No legal permission to comply with conditions
- Nor reasonable prospect of getting permission.

Consideration of objections

-With regards to the ownership issues, the applicant has submitted a solicitors letter accompanying the documents and deed maps showing ownership of the land and a right of way to the main road. The applicant has served notice on the surrounding landowners.

-With regards the environmental impact, the applicant has concerns over the discharge of sewerage, and the impact on the drainage basin for the Ballygawley water. The applicant has stated that they will be discharging to a septic tank and this application is currently with NIEA for approval. From site inspection

it is clear there are no water courses in the immediate proximity.

-The applicant was requested to submit a biodiversity checklist, and this was submitted by the applicant raising no serious concerns.

-The next number of points can be discussed as one, with regards to the increase in traffic, road safety and visibility splays. The objector is concerned first and foremost with the sight splay levels required, they feel an X value would be more appropriate. DFI roads are the expert body in this field and they have replied on numerous occasion to state they are happy with the current visibility splays on the ground and show on the drawings.

A transport assessment has been submitted and DFI roads were content from a road safety point of view and did not have any concerns with traffic levels.

The objector also raises ownership issues over the visibility splays; however, the applicant has shown via deed maps that they have a right of way to the road and there is no land required as DFI Roads are content with the splays shown.

The applicant does not own the laneway, however, has shown they do have a right of way and have served notice on the other interested parties.

The objector also states that the applicant does not have full ownership of the sight splays and does not have legal permission to fully comply with the DFI stipulated conditions. However, roads have stated that the splays that are in place are adequate. In addition the objector feels that as the applicant doesn't own all the lands within the splays they are unable to demonstrate control of the land for visibility splays that the application should be refused. However, as the visibility splays in place have satisfied roads the ownership is a civil matter and not have impact on the planning decision.

-The next concern raised was surrounding the prominence of the site in the landscape and the lack of integration, as you can see from the photographs below, the only views of the site are long distance and there is a high level of vegetation surrounding to aid the screening. I have no concerns regarding integration.



The existing buildings (not including the two seeking retention) and hardstanding area have been on site since at least 2013, the applicant has also submitted proof that the business was operational on site for same time and enforcement are content that these main buildings are immune. (see ortho image from 2013 below)



The councils Ortho images also confirm that the building seeking retention through this application has been on site for somewhere between 2 and 6 years.



Key Policy Considerations/Assessment

Dungannon and South Tyrone Area Plan 2010 - The site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

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

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4- Planning and Economic Development.

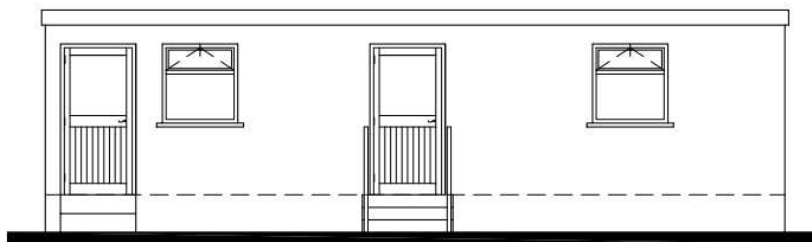
The industrial use on site has been on going for over 6 years, as discussed above there was sufficient

evidence to demonstrate that the business use and operational development of the main buildings and associated yard was immune from enforcement action and therefore lawful. The proposal is for the retention of a further shed which would constitute an extension of an established economic use in the countryside therefore PED3 of PPS4 applies.

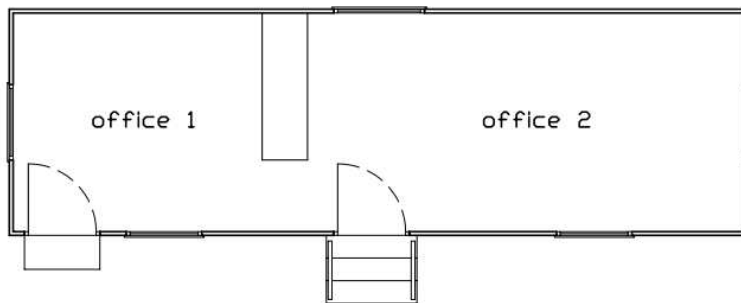
PPS4 - Policy PED 3 Expansion of an Established Economic Development Use in the Countryside states permission will be granted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of enterprise. In exceptional circumstances a major expansion will be granted where it is demonstrated that;

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

The application seeks permission for the retention of a small mobile office with a floor space of approx. 35m². The proposed building sits directly in front of the existing immune buildings which comprise approx. 400m² floorspace.



EXISTING FRONT ELEVATION
SCALE 1/50



It is noted the proposed building subject to this application appears to have been completed without the benefit of planning permission. The proposal sits in front of the existing buildings, however, due to its smaller size, it is considered the siting of the new building consolidates and integrates with the existing built form on site; and is in proportion to existing buildings. It is considered the proposed extension of the established business will have economic benefits and is acceptable in this instance and would not constitute a major expansion.



In terms of impact on rural character the assessment is twofold. Consideration is given to impacts on visual and residential amenity. In my view the proposal will group with the existing established buildings on site. The proposal site is set approx. 240 metres from the roadside and upon site inspection it was barely visible. The proposed buildings are of a similar design and scale and will not be incongruous when viewed in the context of the existing buildings on site. Visual integration is also aided by mature vegetation and trees along the site boundaries.



Given the existing landscaping and distance from the roadside it is considered the proposed development will integrate without significant visual impact.

Given the application relates to engineering works and the proximity to third party dwellings, Environmental Health Department were consulted on this proposal. Environmental Health note that the nearest 3rd party sensitive receptor is located approx.170m from this proposed development, therefore they have no objections subject to conditions and informatives.

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

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

a) the proposal is compatible with surrounding land use;

The business use is established on this site. The proposed expansion will be similar in terms of operations carried out on site, as reflected in the P1 form. The original use is Car body repair and the proposed shed will be for an office for the existing business. The proposed sits directly in front of the existing sheds, it is considered given the existing use, the proposal is compatible for this site and locality.

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

Environmental Health have not raised any objections with respect detrimental impact on nearby neighbours subject to conditions and informatives. The objections received do not raise any amenity issues.

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

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

natural or built heritage features will not be harmed by this proposal. Therefore, I am content the proposal would not be likely to have a significant effect on the features of any European site.

d) it is not located in an area at flood risk and will not cause or exacerbate flooding;
The site is on an elevated site and does not lie in an area of flood risk, no concerns.

e) it does not create a noise nuisance;
Environmental Health have considered the proposal and have not raised any objections subject to conditions attached to any forthcoming approval to ensure no loss of amenity at nearby sensitive receptors due to noise. In light of this, I am content that the proposal will not significantly increase the existing noise within the locality and therefore will not create a noise nuisance to nearby residents.

f) it is capable of dealing satisfactorily with any emission or effluent;
Environmental Health have raised no concern that the proposal will not deal satisfactorily with any emission or effluent.

g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified; DfI Roads had no concerns.

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

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

DfI Roads were consulted on this application and have responded with no objections subject to conditions. It was noted from the site layout plan and on the date of the site inspection that there is an adequate area of parking is provided at the south portion of the site. In light of DfI Roads response and my observations on site it is considered there is adequate access, parking and space for manoeuvring of vehicles due to its countryside location, access to this site is usually by private car or HGV. Therefore, there is little scope to provide a movement pattern of walking, cycling or convenient access to public transport. It is the responsibility of the developer to respect existing public rights of way and to provide for people whose mobility is impaired.

j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;
The site layout, building design, associated infrastructure and landscape arrangements are acceptable for this site and locality given the existing established business on site. It is considered the building design and associated infrastructure respects the existing built form.

k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;
There is sufficient existing boundary vegetation to provide a decent level of enclosure and coupled with the distance from the roadside there is minimal views from the roadside.

i) is designed to deter crime and promote personal safety; and
It is the responsibility of the developer to ensure that the proposal is designed to deter crime and promote personal safety. There is existing fencing surrounding the site.

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

The proposal will satisfactorily integrate into the countryside as it will read with existing buildings, and existing landscaping adequately screens the site.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

Reason: This is a retrospective application

Condition 2

The vehicular access including visibility splays of 2.4m x 60m in both directions and any forward sight distance shall be provided in accordance with the 1/2500 scale location map and 1/500 scale Block plan received on 21st November 2023 within 6 weeks from the date of this decision notice. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

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

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

Condition 4

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 development hereby permitted shall be used only for purposes specified in the description and shall also remain ancillary to the use of the existing business, unless otherwise agreed by Mid Ulster Council.

Reason: To prohibit a change to an unacceptable use and to control the nature and size of the business.

Signature(s): Peter Hughes

Date: 20 February 2024

ANNEX	
Date Valid	31 July 2023
Date First Advertised	14 August 2023
Date Last Advertised	14 August 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 25 Feddan Road Dungannon Tyrone BT70 2AP The Owner / Occupier 23 Feddan Road Dungannon Tyrone BT70 2AP The Owner / Occupier 27 Feddan Road Dungannon Tyrone BT70 2AP</p>	
Date of Last Neighbour Notification	2 August 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>NIEA-PRT LA09-2023-0796-F ERR.PDF Shared Environmental Services-LA09-2023-0796-F-Elimination-27-10-2023.pdf DFI Roads - Enniskillen Office-Roads Consultation - Approval final.docx DFI Roads - Enniskillen Office-Roads Consultation - Full response.docx This application is bordering the A5 WTC Corridor. SRI Department have been consulted for comment on how or if this application affects the proposed A5 WTC vesting area. DFI and Mid Ulster council are advised to await confirmation from SRI before proceeding with this application. Environmental Health Mid Ulster Council-Planning response.pdf DFI Roads - Enniskillen Office-Roads Consultation - Approval.docx</p>	

Drawing Numbers and Title

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

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.11
Application ID: LA09/2023/0797/F	Target Date: 13 November 2023
Proposal: Retention of existing workshop in connection with existing business	Location: 27 Feddan Road Ballygawley
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Timmy Wiggam 27 feddan Road Ballygawley BT70 2AP	Agent Name and Address: Mr raymond gillespie 1 Lismore Road Ballygawley Dungannon BT70 2ND
Executive Summary:	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NIEA	PRT LA09-2023-0797-F ERR.PDF
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Statutory Consultee	Environmental Health Mid Ulster Council	Planning response (2).pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Approval.docx

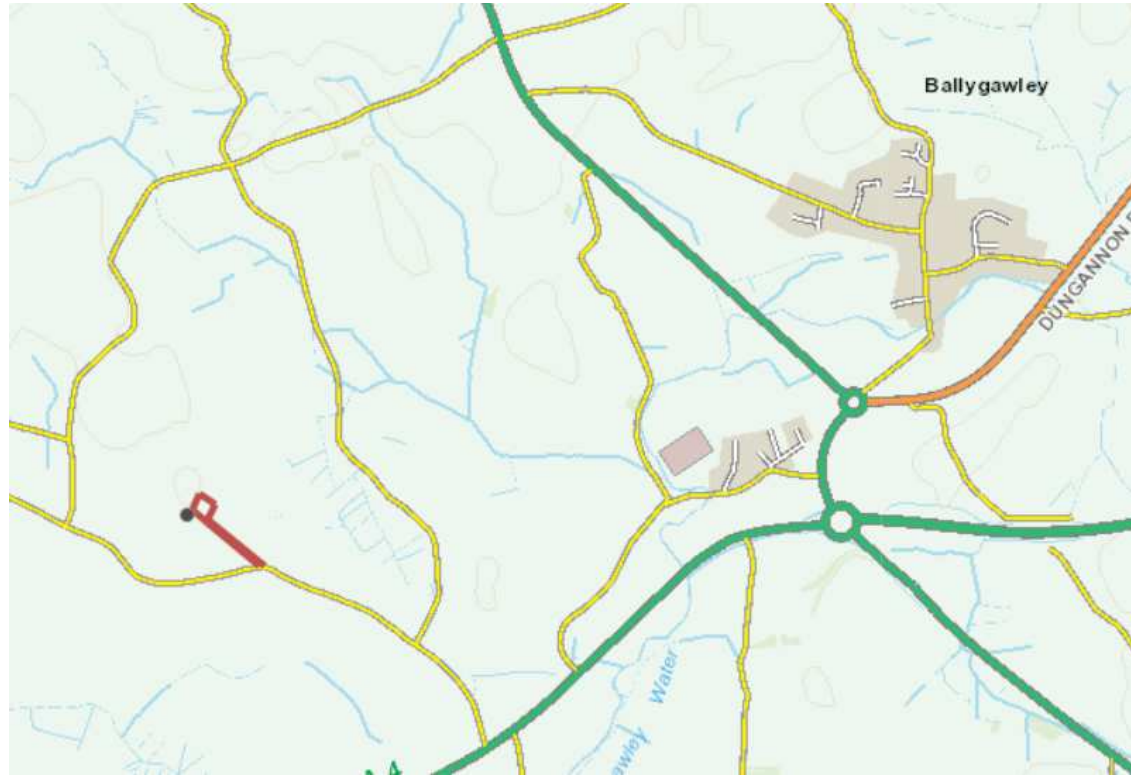
Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	4
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

Characteristics of the Site and Area

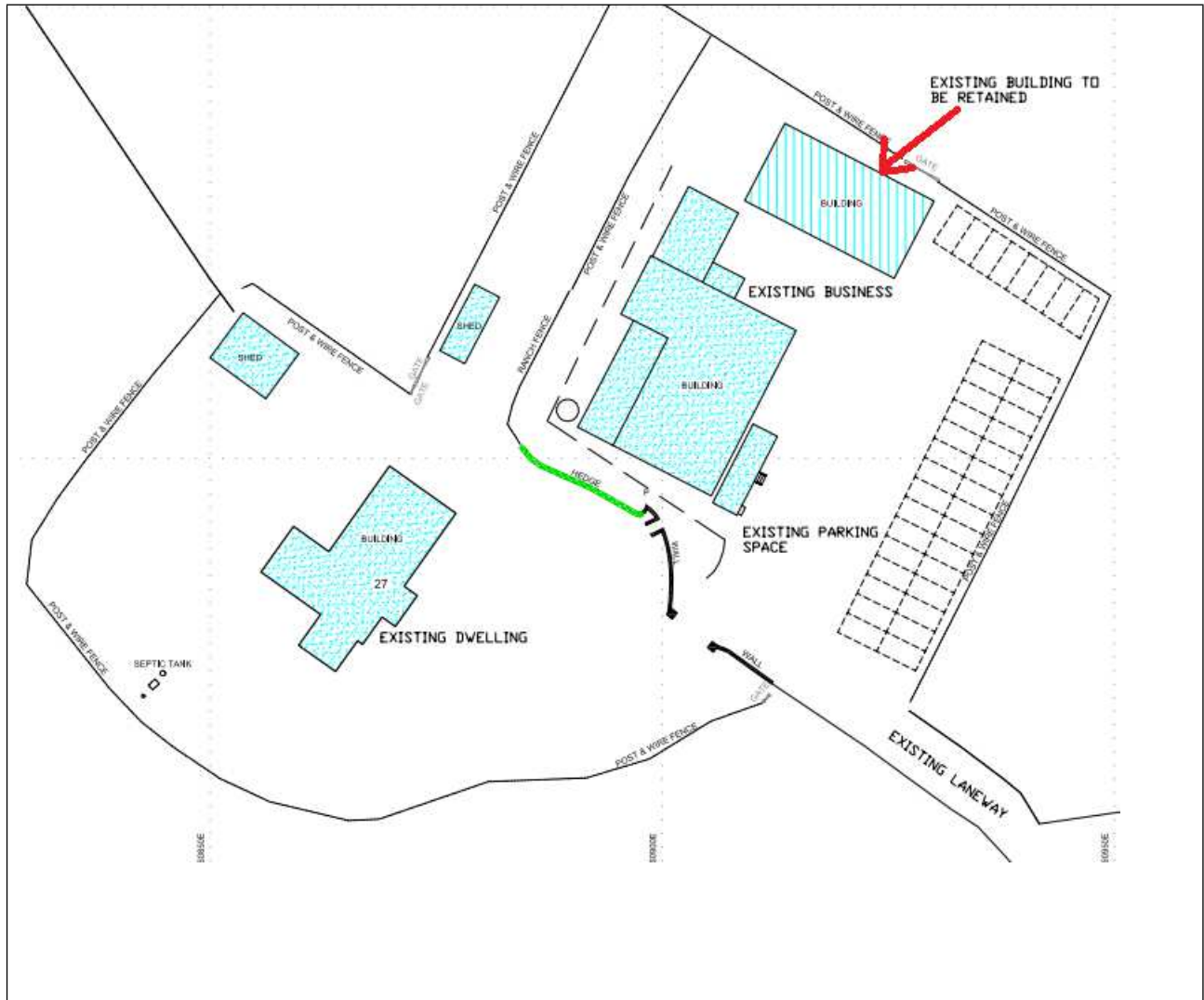
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The site includes a number of large industrial type buildings to the rear of the site with carparking to the front. There are two large trees at the entrance to the site and mature hedging as well as a post and wire security fence on all remaining boundaries. Number 27 which is adjacent to the site is owned by the applicant, there is also a small shed and a cleared rectangular area to the rear of the site. The sheds on site are all of similar design with concrete precast panel bases and corrugated aluminium cladding to upper walls and roof.



Description of Proposal

Retention of existing workshop in connection with existing business

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.

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- Planning Policy Statement 21: Sustainable Development in the Countryside
- Planning Policy Statement 3: Access, Movement and Parking

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Representations

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Assessment of Objections

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- Bio diversity checklist needed
- No control over the visibility splays
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- Visibility splay X value of 4.5m needed
- Road safety
- Transport Assessment needed
- Certificate of notice erroneously attempted
- Lack of integration, prominent in the landscape
- No legal permission to comply with conditions
- Nor reasonable prospect of getting permission.
- impact of hazardous substances on employers or customers
- information missing on extractor fan emissions
- dust and other air pollution
- no pollution prevention and control permits
- waste transfers notes
- numerous other health and safety questions and concerns

Consideration of objections

-With regards to the ownership issues, the applicant has submitted a solicitors letter accompanying the documents and deed maps showing ownership of the land and a right of way to the main road. The applicant has served notice on the surrounding landowners.

-With regards the environmental impact, the applicant has concerns over the discharge of sewerage, and the impact on the drainage basin for the Ballygawley water. The applicant has stated that they will be discharging to a septic tank and this application is currently with NIEA for approval. From site inspection it is clear there are no water courses in the immediate proximity.

-The applicant was requested to submit a biodiversity checklist, and this was submitted by the applicant raising no serious concerns.

-The next number of points can be discussed as one, with regards to the increase in traffic, road safety and visibility splays. The objector is concerned first and foremost with the sight splay levels required, they feel an X value would be more appropriate. DFI roads are the expert body in this field and they have replied on numerous occasion to state they are happy with the current visibility splays on the ground and show on the drawings.

A transport assessment has been submitted and DFI roads were content from a road safety point of view and did not have any concerns with traffic levels.

The objector also raises ownership issues over the visibility splays; however, the applicant has shown via deed maps that they have a right of way to the road and there is no land required as DFI Roads are content with the splays shown.

The applicant does not own the laneway, however, has shown they do have a right of way and have served notice on the other interested parties.

The objector also states that the applicant does not have full ownership of the sight splays and does not have legal permission to fully comply with the DFI stipulated conditions. However, roads have stated that the splays that are in place are adequate. In addition the objector feels that as the applicant doesn't own all the lands within the splays they are unable to demonstrate control of the land for visibility splays that the application should be refused. However, as the visibility splays in place have satisfied roads the ownership is a civil matter and not have impact on the planning decision.

-The next concern raised was surrounding the prominence of the site in the landscape and the lack of integration, as you can see from the photographs below, the only views of the site are long distance and there is a high level of vegetation surrounding to aid the screening. I have no concerns regarding integration.



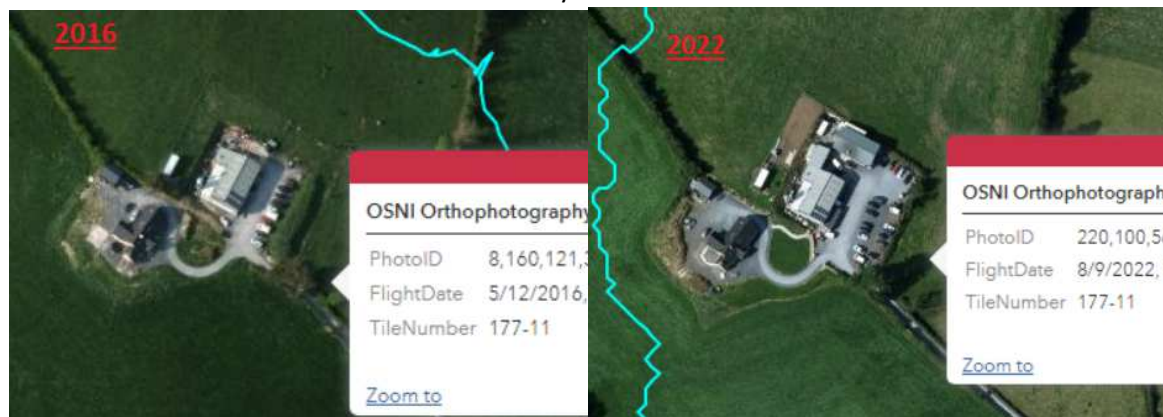
-The remaining concerns relate to hazardous substances, dust and other air pollution, pollution prevention and control permits, waste transfers notes as well as numerous other health and safety questions and concerns would not be considered within the remit of the planning department within the

council. Environmental health were consulted and responded with no objections subject to conditions, the objector may wish to raise these health and safety concerns with public health at the HSENI

The existing buildings (not including the two seeking retention) and hardstanding area have been on site since at least 2013, the applicant has also submitted proof that the business was operational on site for same time and enforcement are content that these main buildings are immune. (see ortho image from 2013 below)



The councils Ortho images also confirm that the building seeking retention through this application has been on site for somewhere between 2 and 6 years.



Key Policy Considerations/Assessment

Dungannon and South Tyrone Area Plan 2010 - The site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

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

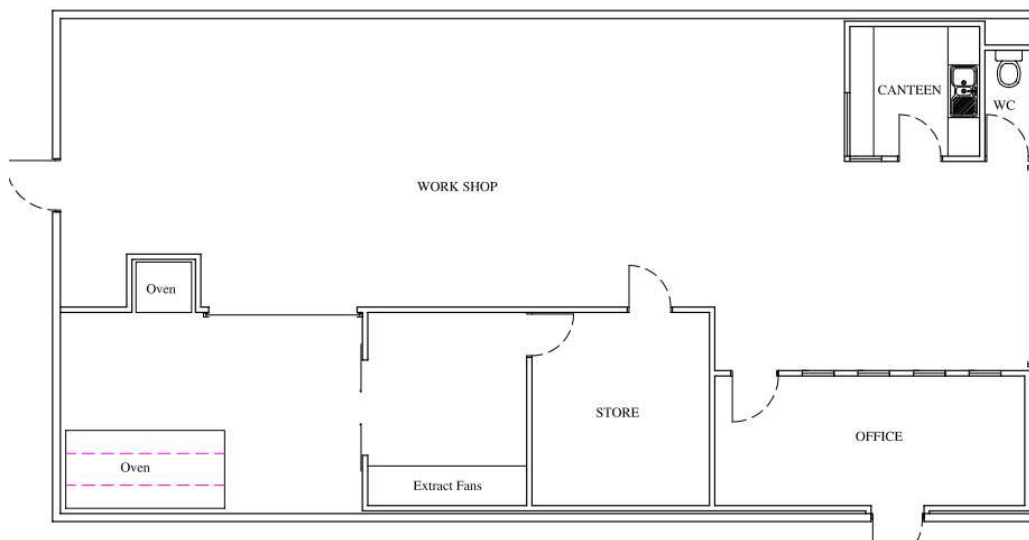
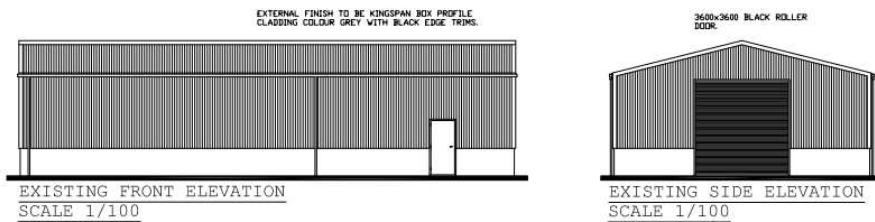
Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4- Planning and Economic Development.

The industrial use on site has been on going for over 6 years, as discussed above there was sufficient evidence to demonstrate that the business use and operational development of the main buildings and associated yard was immune from enforcement action and therefore lawful. The proposal is for the retention of a further shed which would constitute an extension of an established economic use in the countryside therefore PED3 of PPS4 applies.

PPS4 - Policy PED 3 Expansion of an Established Economic Development Use in the Countryside states permission will be granted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site are of enterprise. In exceptional circumstances a major expansion will be granted where it is demonstrated that;

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

The application seeks permission for the retention of an existing workshop, office space, canteen with a combined floor space of approx. 180m². The existing immune buildings comprise approx. 400m² floorspace.



It is noted the proposed building subject to this application appears to have been completed without the benefit of planning permission. The proposal is solely to the rear and it is considered the siting of the new building consolidates and integrates with the existing built form on site; and is in proportion to existing buildings. It is considered the proposed extension of the established business will have economic benefits and is acceptable in this instance and would not constitute a major expansion.



In terms of impact on rural character the assessment is twofold. Consideration is given to impacts on visual and residential amenity. In my view the proposal will group with the existing established buildings on site. The proposal site is set approx. 240 metres from the roadside and upon site inspection it was barely visible. The proposed buildings are of a similar design and scale and will not be incongruous when viewed in the context of the existing buildings on site. Visual integration is also aided by mature vegetation and trees along the site boundaries.



Given the existing landscaping and distance from the roadside it is considered the proposed development will integrate without significant visual impact.

Given the application relates to engineering works and the proximity to third party dwellings, Environmental Health Department were consulted on this proposal. Environmental Health note that the nearest 3rd party sensitive receptor is located approx.170m from this proposed development, therefore they have no objections subject to conditions and informatives.

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

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

a) the proposal is compatible with surrounding land use;

The business use is established on this site. The proposed expansion will be similar in terms of operations carried out on site, as reflected in the P1 form. The original use is Car body repair and the proposed shed will be for wheel repair. The proposed building extends to the rear of the site, it is considered given the existing use, the proposal is compatible for this site and locality.

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

Environmental Health have not raised any objections with respect detrimental impact on nearby

neighbours subject to conditions and informatives. The objections received do not raise any amenity issues.

c) it does not adversely affect features of the natural or built heritage;
No built or natural heritage designations have been identified in close proximity of the site. I am content natural or built heritage features will not be harmed by this proposal. Therefore, I am content proposal would not be likely to have a significant effect on the features of any European site.

d) it is not located in an area at flood risk and will not cause or exacerbate flooding;
The site is on an elevated site and does not lie in an area of flood risk, no concerns.

e) it does not create a noise nuisance;
Environmental Health have considered the proposal and have not raised any objections subject to conditions attached to any forthcoming approval to ensure no loss of amenity at nearby sensitive receptors due to noise. In light of this, I am content that the proposal will not significantly increase the existing noise within the locality and therefore will not create a noise nuisance to nearby residents.

f) it is capable of dealing satisfactorily with any emission or effluent;
Environmental Health have raised no concern that the proposal will not deal satisfactorily with any emission or effluent.

g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified; DfI Roads had no concerns.

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

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

DfI Roads were consulted on this application and have responded with no objections subject to conditions. It was noted from the site layout plan and on the date of the site inspection that there is an adequate area of parking is provided at the south portion of the site. In light of DfI Roads response and my observations on site it is considered there is adequate access, parking and space for manoeuvring of vehicles due to its countryside location, access to this site is usually by private car or HGV. Therefore, there is little scope to provide a movement pattern of walking, cycling or convenient access to public transport. It is the responsibility of the developer to respect existing public rights of way and to provide for people whose mobility is impaired.

j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;
The site layout, building design, associated infrastructure and landscape arrangements are acceptable for this site and locality given the existing established business on site. It is considered the building design and associated infrastructure respects the existing built form.

k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;
There is sufficient existing boundary vegetation to provide a decent level of enclosure and coupled with the distance from the roadside there is minimal views from the roadside.

i) is designed to deter crime and promote personal safety; and
It is the responsibility of the developer to ensure that the proposal is designed to deter crime and promote personal safety. There is existing fencing surrounding the site.

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

The proposal will satisfactorily integrate into the countryside as it will read with existing buildings, and existing landscaping adequately screens the site.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

Reason: This is a retrospective application

Condition 2

The vehicular access including visibility splays of 2.4m x 60m in both directions and any forward sight distance shall be provided in accordance with the 1/2500 scale location map and 1/500 scale Block plan received on 21st November 2023 within 6 weeks from the date of this decision notice. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

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

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

Condition 4

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

There shall be no site operation at the proposed development site outside 08:00 hours-18:00 hours Monday to Friday, 08:00 hours - 13:00 hours Saturday, and no site operation at the proposed development site on Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise

Condition 6

During the hours of operation of use hereby permitted in condition 5, all external doors including roller shutter doors to the proposed development shall remain closed at all times except for access and egress.

Reason: To protect nearby residential amenity from noise.

Condition 7

There shall be no deliveries or despatch of goods to the proposed development outside 08:00 hours - 18:00 hours Monday to Friday, 08:00 hours - 13:00 hours Saturday, and no delivery or despatch of good on Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise

Condition 8

There shall be no activities or processes associated with the proposed development carried out in the external yard areas of the business, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise.

Signature(s): Peter Hughes

Date: 20 February 2024

ANNEX	
Date Valid	31 July 2023
Date First Advertised	14 August 2023
Date Last Advertised	14 August 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 25 Feddan Road Dungannon Tyrone BT70 2AP</p> <p>The Owner / Occupier 23 Feddan Road Dungannon Tyrone BT70 2AP</p> <p>The Owner / Occupier 27 Feddan Road Dungannon Tyrone BT70 2AP</p>	
Date of Last Neighbour Notification	2 August 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>NIEA-PRT LA09-2023-0797-F ERR.PDF Shared Environmental Services-LA09-2023-0797-F-Elimination-27-10-2023.pdf DFI Roads - Enniskillen Office-Roads Consultation - Approval - final.docx DFI Roads - Enniskillen Office-Roads Consultation - Full response.docx This application is bordering the A5 WTC Corridor. SRI Department have been consulted for comment on how or if this application affects the proposed A5 WTC vesting area. DFI and Mid Ulster council are advised to await confirmation from SRI before proceeding with this application. Environmental Health Mid Ulster Council-Planning response.pdf Environmental Health Mid Ulster Council-Planning response (2).pdf DFI Roads - Enniskillen Office-Roads Consultation - Approval.docx</p>	

Drawing Numbers and Title

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

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.12
Application ID: LA09/2023/0860/F	Target Date: 29 November 2023
Proposal: Proposed new fabrication shed and car parking facilities to serve existing workshops and new shed.	Location: 72 Glenshane Road Castledawson BT45 8DQ
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: 72 Glenshane Road Castledawson Magherafelt BT45 8DQ	Agent Name and Address: McGurks Architects 33 King Street Magherafelt BT45 6AR
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	836250 - Final reply.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0860.F 21st Feb 24.pdf
Statutory Consultee	Rivers Agency	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation.docxDC Checklist.doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0860.F.pdf
Statutory Consultee	NI Water - Strategic Applications	LA09-2023-0860-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Rivers Agency	784189 - Final reply.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Rivers Agency	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
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		2
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
Summary of Issues		
<p>Two representations from one objector have been received in relation to this application and relate to the following issues:-</p> <ul style="list-style-type: none"> • Increase in traffic causing congestion on the Glenshane Road; Dfl roads advised that the proposed access is acceptable and did not raise any issues of concern. • Health and safety of children living in close proximity to the proposed premises; The site will be secured by means of a 1.8m high acoustic barrier and an automated sliding gate across the entrance which should make the site safe. No children should not be allowed on the site unaccompanied. • Hours of operation; Environmental Health have recommended hours of operation which are included in the suggested conditions in order to protect amenity of nearby residential properties. • Increase in noise levels leading to noise disturbance; Environmental Health considered the issue of noise and requested amendments to the design of the site to protect residential amenity. Following receipt of the requested amended noise report, Environmental Health advised that the proposed development was acceptable subject to the suggested conditions. • Size and scale of the proposed building extends beyond the existing site boundaries; Given the size of the existing site and the fact it is fully occupied, it is necessary for the expansion of the business, to allow it to extend into the adjacent land. • The proposal is ill-suited to the rural area and should be located within an industrial zone. The proposed development has been assessed against the relevant policy tests and is found to be compatible with these. Therefore the proposed development is acceptable in this location. • Has Environmental Health considered or been involved in assessing the potential for; noise nuisance; smells or odours from paint spraying; and light pollution. 		

Environmental Health fully considered the proposed development and other than requesting amendments in respect of the noise assessment, did not raise any issues.

- Works ongoing at 5:30 am with lorries emptying loads of fill on the proposed site. If the proposed development is granted approval, a suggested condition is included in respect of hours of operation.

Characteristics of the Site and Area

The site is set to the eastern side of the Glenshane Road and is sited within a field immediately adjacent to an existing industrial yard. The yard is currently used by a steel fabrication business (Topframe) which specialises in the manufacturing of steel portal frames and has also diversified into the manufacturing of farm/industrial machinery (Bidby Attachments). The site sits approximately 1m below the level of the existing yard and continues to fall away towards the north east. There are critical views of the site on approach from the south from where the gable end of a building will be visible, however on approach from the north, the site is effectively screened from view by the existing industrial buildings and the applicants dwelling.

Description of Proposal

The proposal is a full application for a new fabrication shed and car parking facilities to serve existing workshops and new shed. The site extends to 0.99ha and covers the entire portion of the field to the north of the existing industrial yard. This is a full application, on a site on which there is a recent history of an outline approval for the same proposal. The initial outline approval was renewed and is now the subject of this full application. The current proposal would have been accepted as a reserved matters application apart from the proposal to extend the boundary of the existing car park, which is outside the approved site boundary.

The proposal is for a 15 bay shed, measuring 90.57m x 30.85m with a wall plate height of 10.03m and a ridge height of 12.91m above ground level.

The external finishes proposed are :-

Roof – Kingspan KS1000 RW roof panel, colour – pure grey. Kingspan day-lite roof lights.

Walls – Kingspan KS1000 RW wall vertical panels, colour – pure grey
Solid blockwork cavity wall with smooth render finish, colour – white

Doors – Steel fire escape doors. Single skin roller shutter doors, colour Anthracite.

Rainwater goods – Kingspan, double sided plastisol ‘Highline’ gutter and downpipes, colour – Anthracite.

The proposed shed has a number of roller shutter doors in all four elevations. The shed is to be positioned at the southern end of the site alongside the existing fabrication buildings and away from the third party dwelling at No. 2 McCoolles Road. The external concrete storage yard is located at the northern end of the site adjacent to the existing and proposed car parks.

The finished floor level of the proposed shed sits between 1.5m and 5.0m below the level of the existing yard. This is due to the level of the site being below the existing yard and falling gently away from the yard. This will necessitate a retaining structure between the proposed building and the existing yard. This difference in site levels has the effect of reducing the visual impact of the proposed shed which is much larger than those on the existing site. The provision of an earth bund along the southern boundary which is proposed to be planted with trees, will also help the new building to integrate into the surrounding landscape.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

At present the existing buildings are occupied by one business which operates under two business names, ie. Topframe which manufactures steel portal frame buildings and other structural and non-structural items and also by a sister company Biddy Attachments which manufactures agricultural/industrial machinery.

The premises was granted approval under the following:-

H/1990/0257/F – change of use to light engineering business 14.01.1991

H/2013/0294/F - Proposed Extension to Side of Existing Engineering Unit 11.12.2013

LA09/2017/1309/O – Site for proposed workshop – Approved 07.03.2018

LA09/2021/0324/O – Renewal of LA09/2017/1309/O – Approved 09.06.2021

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 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 as these policies are cancelled by the introduction of the SPPS.

The SPPS recognises that facilitating development in appropriate locations is considered necessary to ensure proposals are integrated appropriately within rural settlements or in the case of countryside locations, within the rural landscape. The SPPS goes on to advise that 'All development in the countryside must integrate into its setting, respect

rural character, and be appropriately designed' and in addition to the 'other types of development in the countryside apart from those set out above should be considered as part of the development plan process in line with the other policies set out within the SPPS'. It further reinforces this by stating that 'In all circumstances 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 criteria'. It further advises that the supplementary planning guidance contained within 'Building on Tradition': A sustainable Design Guide for NI Countryside' must be taken into account in assessing all development proposals in the countryside.

PPS 21 advises that approval will be granted for industry and business proposals in the countryside in accordance with PPS 4. Therefore the overarching criteria for considering industrial development in the countryside is PPS 4 Policy PED 2 – Economic Development in the Countryside which states that approval will be granted for an expansion of an established economic development in accordance with PED 3.

Policy PED 3 – Expansion of an Established Economic Development Use in the Countryside advises that such a proposal will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area. However, proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. While new buildings may be approved provided they are in proportion to the existing buildings, they respect the scale, design and materials of the existing buildings on site and they integrate as part of the overall development, in all cases measures to aid integration into the landscape will be required for both the extension and the existing site.

A proposal for a major expansion of an existing industrial enterprise which does not meet the above policy provisions may be permitted in exceptional circumstances where it is demonstrated that:-

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

In considering the proposal it is critical to consider the planning history of this site. The site was granted approval for a change of use to light engineering use in 1990 and has been in continuous use since 1999 by the current business. A more recent approval granted approval for a 210m² extension in 2013 which has been implemented. Since that date the business has diversified into the manufacturing of agricultural/industrial machinery which has necessitated the proposed development. Further outline approvals were granted for a site for the current proposed shed, as noted above. Therefore the business is considered to be an established economic development use in the countryside. The only reason the current proposal has not been submitted as a full application and not as a reserved matters application is that the extension to the car park extends outside the red line of the site approved at outline stage.

As present the site is congested, with steel stock stored close to the site entrance and at several places along the yard approaching the manufacturing buildings. This not only creates difficulties for large delivery vehicles in accessing or leaving the site and for large vehicles turning and loading/off-loading but also for smaller vehicles as they have to manoeuvre around the steel stockpiles.

However, notwithstanding the above, the site at present is very heavily used with little room for outside storage of raw steel, finished products, loading/unloading or for turning and parking of both delivery and workers private vehicles. The existing buildings are currently all used by the business which removes the potential for the reuse of any existing building. The only potential for extending the existing buildings would be to the north or west of the existing group which would result in the existing grouping becoming more prominent as the adjacent ground sits considerably higher than the existing buildings. The only remaining potential for expanding the existing yard is towards the west. This is where the proposed site is located and is on lower lying ground. Whilst the proposal is for a much larger building than what exists on site at present, this is necessitated by the continued growth of the existing business. In my opinion, it would be unreasonable, given that Council has already granted outline approval for a shed of the same size and in the same location, to expect the business to relocate to different premises. Such a move would cause logistical problems for the production and movement of products given that the company has different product ranges manufactured using the same machinery. As detailed above, the premises have already been extended and have used all other possible land. In addition to safeguarding the existing 22 jobs, the company indicates that they will create 3 additional jobs. The prospect of locating the proposed building in a business park would divide the business from existing operations, thus creating operational problems. As the proposed building will result in the business employing 25 full-time jobs, this is considered to be a significant contribution to the local economy.

The next issue to be considered is does the scale and nature of the proposal harm the rural character or appearance of the local area and is there a major increase in the site area. Regarding the nature of the development, this is not an issue as the site is already being used in its entirety by the steel fabrication business. Therefore the proposed development does not introduce any new use to the site. Whilst the scale of the proposed development may be of concern as it is considered to be a major increase in terms of both the site area and the size of the proposed building, given the characteristics of the site and the proposed finished floor levels of the building, it is my opinion, as was that agreed at the outline stage, that the proposed building will not have a detrimental impact on visual amenity or rural character.

From inspecting the site and considering the justification for the proposed new building, it is my opinion that there is sufficient reason to provide the new building on the current site as opposed to relocating the existing enterprise to an alternative site. This is a full application which provides full details of the design and materials as detailed in the report above which are in keeping with the established buildings on site. In this context, the appearance of the proposed building would be considered to be acceptable. The site does not have any historic or architectural interest.

The proposed site plan also indicates that there is to be an earth bund created along the

southern boundary and this is to be planted and landscaped which will help the building to integrate into the surrounding landscape. With the help of the earth bund and landscaping together with the lower ground levels, the proposed building should not have a detrimental impact on either visual amenity or rural character. The building will be viewed as part and parcel of the existing built form on the site.

The proposed development also falls to be considered under Policy PED 9 – General criteria for economic development which states that a proposal, in addition to other policy provisions of this PPS, will be required to meet a range of criteria which are addressed below:

- (a) The use is compatible with surrounding land uses as it is for an extension of an existing industrial use located in a rural area and immediately adjacent to the existing business. The site is mainly surrounded by farmland with one third party dwelling located to the north of the site and which shares a paired access point with the site. A second dwelling is located to the immediate west of the existing industrial yard, however, this is located within lands outlined in blue.
- (b) The proposal has the potential to have an adverse impact on the amenity of noise sensitive dwellings in the vicinity by way of noise emanating from the site. One objector raised an issue of the increase in traffic and the effect this would have on their amenity. It is accepted that storage yard and the car park extension will move closer to the nearest dwelling. It has been submitted that the number of cars accessing the site will remain similar to existing levels. The extended car park will accommodate up to 38 vehicles. A 1.8m high acoustic barrier is proposed along the northern boundary with a 5m-10m area of grass between the barrier and the objectors dwelling. Environmental Health have advised that the amended site plan and the revised noise report area acceptable and consequently have no objections subject to the suggested conditions.
- (c) There are no features of natural or built heritage in the immediate vicinity.
- (d) The site is affected by a watercourse flowing along the north eastern boundary and given the size of the site a drainage assessment was submitted. Consequently, Rivers Agency advised that the assessment was acceptable and the development was considered to be acceptable;
- (e) Environmental Health Department requested a noise report taking into account the potential noise effect on noise sensitive dwellings. The proposal also includes the provision of a 1.8m high acoustic barrier. It is my view that the separation distance is adequate to ensure that the proposal does not impact on neighbouring amenity by reason of loss of light, overshadowing or visual intrusion. The design will not cause overlooking and care has been taken to ensure the increased structure does not result in noise nuisance;
- (f) No concerns regarding emissions or effluent have been raised;
- (g) DfI Roads did not raise any objection to the proposal;
- (h) DfI Roads have not raised any issues regarding access or manoeuvring in the site and I am satisfied that the increased parking is sufficient to meet the needs of the

employees;

(i) As the site is located in a rural area it is not considered reasonable to expect there to be convenient access to public transport. However the site is within 200m of the Glenshane Road and therefore there is an acceptable movement pattern which supports walking, cycling. The site is located 2km to the north of the Castledawson Park and ride facility.

(j) The site layout, building design associated infrastructure and landscaping arrangements are considered to be acceptable. The landscaping which includes a good quality hedge along the southern boundary will help improve the integration potential of the site;

(k) The site can be adequately screened by means of a good quality boundary hedge along the southern boundary. Additional planting is proposed around the existing workshops with the existing boundary hedges surrounding the site to be retained. Any areas of outside storage are presently well screened from public view by the topography, the existing buildings on site and the existing mature vegetation. Any proposed landscaping will also be of benefit in screening these areas.

(l) It is in the applicant's interest to guard against crime and with the provision of a sliding entrance gate, the site should be secure.

(m) As the site is located in the countryside, measures to aid integration are required. As described above, the existing boundary hedges are to be retained and the provision of a good quality native species along the southern boundary would help to effectively screen the gable of the proposed building thereby aiding the integration potential of the development.

PPS 21 – Policy CTY 13 Integration and Design of Buildings in the Countryside allows for a building to be approved where it can be visually integrated into the surrounding landscape. Such a building will be unacceptable where it is a prominent feature in the landscape or it relies primarily on the use of new landscaping for integration. As detailed above, the proposal would not be prominent as it is sited on low lying ground and is visually linked to the existing buildings. The proposal is surrounded by existing boundary hedgerows with the exception of the southern boundary and therefore has an acceptable degree of enclosure. The provision of a hedge along the southern boundary can be conditioned. In my opinion, this proposed development satisfies all the requirements of this policy and is therefore acceptable in terms of its integration potential.

PPS 21 – Policy CTY 14 Rural Character allows for a new building to be approved provided it does not have a detrimental change or further erode the rural character. The proposed development is considered to be acceptable, as it is visually linked to and is sited to the rear of the existing buildings, there will only be a transient view on approach from the south for a short distance. However, the majority of the proposed building will be effectively screened from the public view.

PPS 15 – Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains requires any proposed development for a building exceeding 1000m² to be accompanied by a drainage assessment. Such an assessment was submitted and

following consultation, Rivers Agency advised that this was acceptable.

Recommendation

In taking the above into consideration, it is my opinion that although the proposed development involves the provision of a substantial building in the rural area, sufficient justification has been provided as detailed above. In this case the proposal is considered to be acceptable subject to the conditions listed below:-

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

The existing natural screenings along the northern and 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 3

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.
DC09011MW

Condition 4

All proposed planting as indicated on the stamped approved drawing no. 02/2 uploaded to the planning portal on shall be undertaken during the first available planting season following the building hereby approved becoming operational.

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

Condition 5

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 proposal is in keeping with the character of the rural area and in the interests of visual amenity.

Condition 6

No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No. 02/ uploaded to the planning portal on 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 7

Operational works associated with the hereby permitted development shall only take place between 07:00hours – 18:00hours Monday to Friday, 07:00 hours 13:00hours Saturday and at no time on a Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect amenity of nearby residential properties.

Condition 8

The cumulative noise from the proposal shall not exceed 45dBLAeq1hr at 2 McCooles Road when measured at a distance of 3m from the façade of the property as predicted in the Lester Acoustics Outward Sound Level Impact Assessment uploaded to the planning portal on 12th January 2024, referenced MRL/1201/L03.

Reason: To protect amenity of nearby residential properties.

Condition 9

Within 4 weeks of a written request by the Council, 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 limit stipulated in condition 2 is 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.

Condition10

Following completion of the noise survey and where noise monitoring demonstrates exceedances of the noise limit stipulated in Condition 8 the applicant shall provide details of additional noise mitigation measures that will be incorporated into the proposal to ensure compliance with condition 8.

Reason: To protect amenity of nearby residential dwellings.

Condition11

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

Reason: To control noise and protect residential amenity.

Condition12

All fork-lift trucks operating within the development site shall be fitted with white noise (full spectrum) reversing alarms.

Reason: To protect amenity of nearby residential properties.

Condition13

A 1.8m high acoustic barrier shall be erected along the sites northern boundary as depicted on drawing 02/ uploaded to the planning portal on and referred to in the outwards sound level impact assessment uploaded to the planning portal on 12th January 2024. The barrier shall be constructed of either masonry or timber panelling (Close lapped with no gaps). The barrier shall be maintained and permanently retained thereafter.

Reason: To protect amenity of nearby residential amenity.

Signature(s): Malachy McCrystal

Date: 21 February 2024

ANNEX	
Date Valid	16 August 2023
Date First Advertised	29 August 2023
Date Last Advertised	29 August 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 2 Mccooles Road Castledawson Londonderry BT45 8DJ The Owner / Occupier 3 Mccooles Road Castledawson Londonderry BT45 8DJ The Owner / Occupier 1 Mccooles Road Castledawson Londonderry BT45 8DJ</p>	
Date of Last Neighbour Notification	11 September 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2023/0860/F Proposals: Proposed new fabrication shed and car parking facilities to serve existing workshops and new shed. Decision: Decision Date:</p> <p>Ref: H/2001/0207/F Proposals: Bungalow And Domestic Garage Decision: Decision Date:</p> <p>Ref: H/2001/0334/F Proposals: Dwelling and Garage Decision: PG Decision Date: 21-JUN-01</p> <p>Ref: H/1994/0477 Proposals: REPLACEMENT DWELLING(EXISTING DWELLING TO BE CONVERTED TO STABLES)</p>	

Decision: PG
Decision Date:

Ref: H/1990/0257
Proposals: CHANGE OF USE TO LIGHT ENGINEERING BUSINESS(REPLACEMENT)
Decision: PG
Decision Date:

Ref: H/1999/0717/O
Proposals: Site Of Dwelling and Garage
Decision: PG
Decision Date: 11-FEB-00

Ref: LA09/2021/0324/O
Proposals: Renewal of Outline Planning LA09/2017/1309/O.
Decision: PG
Decision Date: 09-JUN-21

Ref: H/1990/0383
Proposals: ENTRANCE SIGN
Decision: PG
Decision Date:

Ref: LA09/2017/1309/O
Proposals: Proposed workshop
Decision: PG
Decision Date: 07-MAR-18

Ref: H/2013/0294/F
Proposals: Proposed Extension to Side of Existing Engineering Unit
Decision: PG
Decision Date: 12-DEC-13

Ref: H/1993/0103
Proposals: SITE OF REPLACEMENT DWELLING AND RETENTION OF OLD HOUSE
AS STABLES
Decision: PG
Decision Date:

Summary of Consultee Responses

Rivers Agency-836250 - Final reply.pdf
Environmental Health Mid Ulster Council-LA09.2023.0860.F 21st Feb 24.pdf
Rivers Agency-
DFI Roads - Enniskillen Office-Roads Consultation.docxDC Checklist.doc
Environmental Health Mid Ulster Council-LA09.2023.0860.F.pdf

NI Water - Strategic Applications-LA09-2023-0860-F.pdf
Environmental Health Mid Ulster Council-
Rivers Agency-784189 - Final reply.pdf
Environmental Health Mid Ulster Council-
Rivers Agency-
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
Site Layout or Block Plan Plan Ref: 02
Existing Plans Plan Ref: 03
Proposed Floor Plans Plan Ref: 04

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.13
Application ID: LA09/2023/0888/O	Target Date: 8 December 2023
Proposal: Infill dwelling & garage	Location: Lands immediately South of 22 School Lane Gulladuff
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mrs Anne McKee 106b Ballinderry Bridge Rd Cookstown BT80 0AX	Agent Name and Address: C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
Executive Summary: <p>The current application for a proposed dwelling and garage is presented as a refusal as it fails to meet Policy CTY 1, CTY 8 and CTY 14 of PPS 21.</p> <p>CTY 1 – This proposal fails to meet Policy CTY1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>CTY 8 – This proposal fails to meet Policy CTY 8 of PPS 21 as this site is not considered as a small gap site along a substantial and continuously built up frontage which includes a line of 3 or more buildings along a road frontage. The curvature of the lane results in very limited visual linkage with the existing buildings on School Lane for this site to be considered a small gap site. Development of this site would be considered as ribbon development and would be detrimental to the character, appearance, and amenity of the countryside.</p> <p>CTY 14 – This proposal fails to meet Policy CTY 14 of PPS 21. If permitted a dwelling would appear as a prominent feature in the landscape and would likely cause a detrimental change to and further erode the rural character of the area.</p>	

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Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.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 is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The site is identified as lands immediately South of No. 22 School Lane, Gulladuff. The application site is rectangular in shape, and part of a much larger agricultural field. The western (roadside) boundary is defined by wooden

and wire fencing, the northern and southern boundaries are defined by mature hedgerows, and the eastern boundary remains undefined. The surrounding area is rural in nature, with scattered dwellings and their associated outbuildings.

Description of Proposal

This is an outline application for an infill dwelling and garage at lands immediately South of No. 22 School Lane, Gulladuff.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Four neighbour notifications were issued, and no representations were received in connection with this application.

Relevant Planning History

No relevant planning history on this site.

Planning Assessment of Policy and Other Material Considerations

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 8 – Ribbon Development

CTY 13 – Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

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

Decisions must be taken in accordance with the provisions of the Local Development Plan 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 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.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21. Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. Following my site visit, I am of the opinion only 2no. buildings can be considered having road frontage along School Lane relevant to this site – No. 18 and No. 22 School Lane. I do not consider the outbuilding Northeast of No. 18 to have a road frontage, and I also do not consider the building set back behind No. 22 to have a road frontage. Furthermore, following my site visit, I am of the opinion that the size of the gap site along with the curvature of the lane results in very limited visual linkage with the existing buildings on School Lane for this site to be considered a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. For these reasons, I am of the opinion this proposal fails to comply with Policy CTY 8 of PPS 21.

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

Policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of

an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape. I note that this application has failed under Policy CTY 8, therefore it will erode rural character and will extend a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.

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 8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal does not constitute a small gap site along a substantial and continuously built up frontage which includes a line of 3 or more buildings along a road frontage.

Reason 3

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings.

Signature(s): Seáinín Mhic Íomhair

Date: 20 February 2024

ANNEX	
Date Valid	25 August 2023
Date First Advertised	5 September 2023
Date Last Advertised	5 September 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 18 School Lane Gulladuff Londonderry BT45 8PE The Owner / Occupier 22 School Lane Gulladuff Londonderry BT45 8PE	
Date of Last Neighbour Notification	29 August 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/2003/0397/O Proposals: Site of dwelling. Decision: PR Decision Date: 01-MAR-05</p> <p>Ref: H/2003/0990/O Proposals: Site of dwelling and garage. Decision: PG Decision Date: 07-JUN-04</p> <p>Ref: H/2003/0991/O Proposals: Site of dwelling and garage. Decision: Decision Date:</p> <p>Ref: LA09/2018/1078/O Proposals: Renewal of planning application LA09/2015/0174/O for dwelling and garage Decision: PG Decision Date: 04-OCT-18</p> <p>Ref: LA09/2015/0174/O Proposals: Dwelling and garage</p>	

Decision: PG
Decision Date: 09-SEP-15

Ref: H/2001/0829/O
Proposals: Site Of Dwelling
Decision: PG
Decision Date: 19-NOV-01

Ref: H/2007/0055/RM
Proposals: 1 No. dwelling and 1 No. garage.
Decision: PG
Decision Date: 31-MAY-07

Ref: H/2008/0101/F
Proposals: Change of access to previously approved dwelling (H/2007/0055/RM)
Decision: PG
Decision Date: 24-APR-09

Ref: H/2003/0215/RM
Proposals: Dwelling and garage.
Decision: PG
Decision Date: 27-MAY-03

Ref: H/1988/0298
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE
Decision: PG
Decision Date:

Ref: LA09/2023/0888/O
Proposals: infill dwelling & garage
Decision:
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx
DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.14
Application ID: LA09/2023/0955/O	Target Date: 27 December 2023
Proposal: Site of dwelling and garage under CTY2a	Location: Adjacent to 19 Moneyneany Road, Draperstown.
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Adrian Kennedy 49A Wilson Street Botany Sydney 2019	Agent Name and Address: Mr AIDAN O HAGAN 5 DRUMDERG ROAD DRAPERSTOWN, BT457EU
Executive Summary: <p>This application is being presented to members with the recommendation to refuse as the proposal fails to meet any policy within PPS 21. The proposal fails to meet CTY 1, CTY2a and CTY8. The agent was asked to confirm if there was a CTY10 case possible but no information on this was forthcoming and on the basis of the surrounding area it is unlikely that a proposal for CTY10 would meet all the relevant policy criteria however, the proposal has not been assessed under CTY 10. Only one neighbour notification letter was issued to No.19 Moneyneany Road as the dwelling to the east was under construction and no address was linked to the dwelling on the planning system. No third-party representations have been received. DfI Roads were consulted and offered no objections subject to a condition.</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

The proposal is contrary to CTY 1, CTY2a, CTY 8 and CTY 14 of PPS 21.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan. The application site is a relatively large agricultural field which is located adjacent to the Moneyneany Road, and extends north east. The site is

relatively flat and sits at a level slightly lower than the existing roadside. The site lacks established mature boundaries and is mainly defined on all sides by post and wire fencing with mature trees providing a backdrop to the site. To the north of the site is a public house 'Mulligans Bar' to the north east there is a single farm shed and to the east of the site is a new dwelling under construction- these are not in the applicants ownership. The surrounding area is mainly rural with no development on the opposite side of the road, with dwellings located further south of the site.

Description of Proposal

This is an outline planning application for a site of dwelling and garage under CTY2a.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 21: Sustainable Development in the Countryside
PPS 3: Access, Movement and Parking

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'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

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 number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

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.

I do not believe there is a cluster of development which lies outside of a farm and consists of 4 or more buildings present. There is one building to the north of the site identified as 'Mulligans Bar' and a dwelling under construction to the south east of the site, as well as a farm building to the north east. As such, there is not enough buildings to constitute a cluster at this location. It is noted there is an outbuilding to the rear of Mulligans Bar but as policy states this cannot be considered. There are a number of additional dwellings to the south of the site as identified on the site location plan but I don't believe these read in conjunction with the proposed site and are too far removed to be considered a cluster.

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

As stated, I do not believe there is a cluster of development as this location so the proposal fails to meet this policy criteria.

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

As mentioned there is not a cluster however, for clarify I am content that the building identified as Mulligans Bar can be considered a focal point as it provides a sense of place to the local area.

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

Again, whilst the site is not located within a cluster, it is technically bounded on two sides by other development. However, it should be noted the redline of the site is large, and it is unlikely a dwelling and curtilage would extend the full width of the field and therefore would not be physically bounded on two sides.

- *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 do not believe a dwelling could be absorbed at this location as there is not established cluster to consolidate with. It is my opinion that a dwelling here would alter the rural character of the area as there is no existing cluster that a dwelling could be absorbed into.

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

Although a dwelling here does not meet the policy, I am satisfied that it would not adversely impact on residential amenity.

From the above, the proposal fails to comply with CTY2a in that there is not existing cluster of development at this location.

For clarity the proposal was also assessed under CTY 8 Ribbon Development. CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of 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.

The first step in determining whether an infill opportunity exists is to identify whether there is an otherwise substantial and continuously built-up frontage present. There is the Public House to the north of the site and a dwelling under construction (substantially completed at the time of the site visit) to the southeast. As this is only two buildings, I do not believe there is a substantial and continuously built-up frontage present. I am content however, that the site is sufficient only to accommodate up to a maximum of two houses. However, as there is no substantial and continuously built up frontage the proposal fails to comply with CTY 8.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that a dwelling here with a ridge height of 6.8m that matches the development in the area would ensure a dwelling would not be a prominent feature within the landscape. The site does lack landscaping however it does have a strong mature tree line to provide a backdrop and it would aid integration. A full landscaping scheme would be required at Reserved Matters stage.

Policy 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 the area. I am content that a dwelling in this location would not be a prominent feature in the landscape and a well-designed dwelling would respect the pattern of development. However, as previously mentioned a dwelling in this location would result in ribbon development and cannot be absorbed into existing development. Therefore, failing to meet the policy criteria set out in Policy CTY 14.

PPS 3: Access, Movement and Parking

Dfl Roads were consulted on the proposal and offered no objection subject to conditions being applied.

Other Material Considerations

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage and would if permitted, create a ribbon of development.

Reason 4

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development.

Signature(s): Ciaran Devlin

Date: 22 February 2024

ANNEX	
Date Valid	13 September 2023
Date First Advertised	2 January 2024
Date Last Advertised	26 September 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 19 Moneyneany Road Draperstown Londonderry BT45 7DU	
Date of Last Neighbour Notification	15 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/1999/0762/F Proposals: Alterations and Additions to Licenced Premises Decision: PG Decision Date: 21-MAY-00</p> <p>Ref: LA09/2021/0797/RM Proposals: Dwelling house and domestic garage Decision: PG Decision Date: 06-AUG-21</p> <p>Ref: LA09/2020/1469/O Proposals: Site of dwelling house and domestic garage ridge height of 6.8m Decision: PG Decision Date: 12-FEB-21</p> <p>Ref: H/2003/0566/O Proposals: Site of dwelling and garage. Decision: Decision Date:</p> <p>Ref: LA09/2023/0955/O Proposals: Site of dwelling and garage under CTY2a</p>	

Decision:
Decision Date:

Ref: H/1999/0106
Proposals: ALTERATIONS TO EXISTING BAR AND CHANGE OF USE OF PART OF DWELLING TO BAR
Decision: PG
Decision Date:

Ref: H/1995/0069
Proposals: ALTS TO FILLING STATION INCLUDING UNDERGROUND TANK
Decision: PG
Decision Date:

Ref: H/1996/0662
Proposals: ALTS & NEW PITCHED ROOF
Decision: PG
Decision Date:

Ref: H/2004/0203/O
Proposals: Site of dwelling and garage.
Decision: PR
Decision Date: 23-MAR-06

Ref: H/1995/0083
Proposals: SITE OF DWELLING
Decision: PG
Decision Date:

Ref: H/2003/0942/O
Proposals: Site of dwelling and garage.
Decision:
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.15
Application ID: LA09/2023/0959/F	Target Date: 28 December 2023
Proposal: Change of House Type from that previously approved under LA09/2017/0507/F; to Proposed Two-Storey Design with Footprint retained and the Addition of a Detached Garage.	Location: 350M South West of 89 Caledon Road, Mulnahorn, Aughnacloy
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr & Mrs David & Belinda Brady 115 Caledon Road Aughnacloy BT69 6HZ	Agent Name and Address: Mr Philip Caddoo 44 Rehaghey Road Aughnacloy BT69 6EU
Executive Summary: Application is being presented to Committee as Rivers Agency have some concerns with flooding however the principle of planning has been accepted and the previous approval has been commenced on site, therefore there is a legitimate fall back position. This application is for an increase in ridge height on the existing footprint and could be completed at any time without the requirement for additional information.	

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 - response.docx
Statutory Consultee	Rivers Agency	864660 - Final Response.pdf
Statutory Consultee	Rivers Agency	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Approval.docx
Statutory Consultee	Rivers Agency	39272 - Final Response.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 a 0.71ha parcel of land located within the rural remainder approx. 1.5km south-east of Aughnacloy. It is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site is roughly rectangular in shape, with mature vegetation defining the western and southern (roadside) boundaries. The eastern boundary encompasses an existing laneway to a poultry unit and is undefined on the ground, as is the northern boundary. The site lies along a dead-end road which terminates at a farm holding approximately 440m to the south of the site. The site also lies 60m from the boundary with the South of Ireland as shown by the red line running to the west of the site on the above orthophotography.

There is little development pressure in the area, with development mostly taking the form of single dwellings and associated outbuildings. There are a number of poultry units along this road with agricultural land surrounding the site.

Description of Proposal

Change of House Type from that previously approved under LA09/2017/0507/F; to Proposed Two-Storey Design with Footprint retained and the Addition of a Detached Garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so 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: M/2012/0057/F

Proposals: Proposed 2 no. select farm poultry sheds with 4 no. feed bins and an office, changing and standby generator building. (Each poultry shed will contain 25,850 chickens).

Decision: PG

Decision Date: 16-MAR-12

Ref: LA09/2015/0530/O

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 08-MAR-16

Ref: LA09/2017/0507/F

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 07-JUL-17

Ref: LA09/2023/0803/NMC

Proposals: Amended roof structure with overall rise in height of approx. 0.9m Attached carport and garage positions revised; and rooflights omitted in lieu of first floor windows.

Decision: APPRET - Application Returned

Decision Date:

Representations

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

Dungannon and South Tyrone Area Plan 2010

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

Mid Ulster District Council Draft Plan Strategy 2030

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

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies.

PPS 3 – Access, Movement and Parking

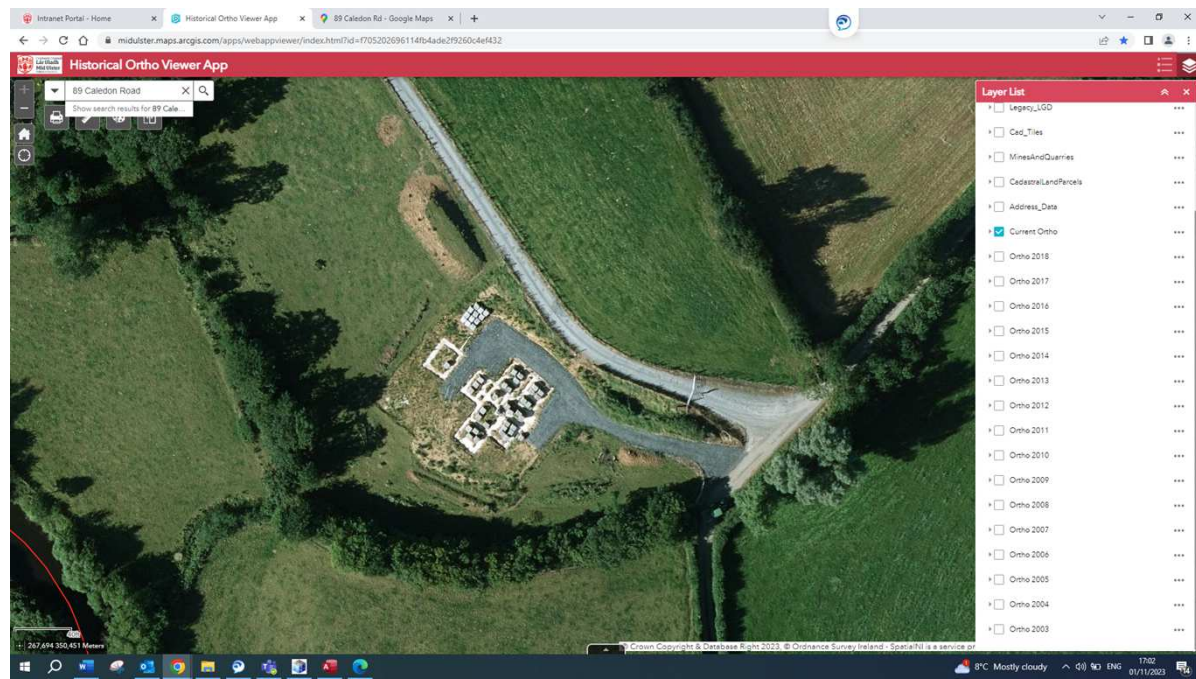
Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. A new access has been created and DFI Roads development control offer no objection to the above-mentioned proposal on the condition that it is constructed and maintained to that detailed on Drawing No. 02 rev. 01 (plan nr 002 rev C) dated 2nd November 2023. This shows visibility splays of 2.4m x 33m in both directions.

CTY1 of PPS 21 – Development in the Countryside.

CTY 1 states that planning permission will be granted for an individual dwelling house in the countryside in the following cases:

- a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;
- a replacement dwelling in accordance with Policy CTY 3;
- a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;
- a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;
- the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or
- a dwelling on a farm in accordance with Policy CTY 10.

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. This development does not meet with any of the specified criteria above however, it is acknowledged that the principle of development was agreed under the previous application LA09/2015/0530/O and a full application was subsequently granted for a farm dwelling on this site on 7th July 2017 under LA09/2017/0507/F.



Orthophotography taken 8th October 2022 shows building works significantly commenced on site at this time. This accords with the time condition set down under LA09/2017/0507/F which stated development was to commence within 5 years from the date of the decision therefore the critical date for commencement was 7th July 2022. A letter from Building Control has been submitted which confirms that an application for Building Regulation Approval was received for the above scheme on 18th June 2018 and that the following inspections have been carried out:-
Foundations - 16/03/22
Hardcore - 21/09/23.

This confirms that development was commenced in time and due to this I am content that the previous planning permission was implemented in time and there is a legitimate fallback position that would allow that dwelling to be constructed as approved. The main policy considerations therefore lie within Policy CTY 13 of PPS 21.

CTY 13 Design and Integration of PPS 21

This full application for a change in house type has been received as a previously submitted non-material change application under LA09/2023/0803/NMC was returned as it was felt the increase in ridge height constituted a material change to the design of the dwelling.



Figure 1 - Proposed dwelling

The proposed dwelling has the same footprint as the previously approved dwelling, with the principal difference being the increase in the ridge height. The dwelling now has a ridge height of 7.7m (see Fig. 1 above) whereas the previously approved dwelling had a ridge height of 6.7m and the appearance of a bungalow (see Fig. 2 below).





Figure 2 - previously approved dwelling

The only change is the increase in ridge height to the dwelling as the concrete floor to the originally approved dwelling is already in place and this dwelling will be sited on the footprint of the dwelling already commenced. The finishes of smooth white render with natural limestone to the front and side projections are considered acceptable. I am content that the size and scale of this dwelling is acceptable and can be accommodated comfortably within this site without appearing prominent or out of keeping with the surrounding area, given the fact the road is so lightly trafficked as it is a dead-end road.

The strong southern and western boundaries ensure there are no long-term critical views of the site when travelling north along the public road. When travelling south the curvature of the road prevents any long-term critical views of the site. I am confident the minor nature of the road and its curvature ensures that the increase in height of the dwelling will not be overtly conspicuous in the landscape. The existing vegetation is shown to be retained augmented by additional planting and shall be conditioned to be retained as part of any planning approval. Levels have also been provided and I consider these are acceptable. The new garage is acceptable and is sited to the north of the dwelling, closer to the existing laneway to the east.

Other Material Considerations

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.

Consultation with Rivers Agency

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) it is indicated that significant portions of the site lie within the predicted 1 in 100 year strategic fluvial flood plain. Rivers Agency were subsequently consulted and have advised that the applicant should undertake a River Model for their consideration that will verify the more accurate extent of the floodplain.

I spoke with the agent about this response and advised that as a result of Rivers Agency

concerns, we are willing to allow for a dwelling on the opposite side of the existing laneway to the east, in substitution of this site as this will alleviate any flooding concerns or the need for a FRA. This was not considered a satisfactory solution given the amount of money that has already been spent to date on commencing the original dwelling on this site, as considerable works have already been completed here.

In response to the Rivers Agency concerns, the agent has provided Fluvial Flood Plain Modelling drawings (see below) in support of the existing development. The agent also highlighted that this application was submitted in direct relation to a previous permission granted under LA09/2017/0507/F on 10th April 2017, with the site groundworks commencing the following year and suitable natural flood defences erected on the land. They believe that the site (as it currently sits) has been adequately prepared to mitigate against risk of flooding as a result of climate change; and would ask DFI Rivers to review the accompanying maps which have been derived from the strategic flood maps directive 2nd Cycle. They have also highlighted the inclusion of a new 5 metre maintenance working strip along the sites southern boundary with the watercourse, as requested by the department.



Figure 3 - Existing topographical model



Figure 4 - Proposed topographical model

Rivers Agency response to these models on 22nd January 2024 is that their previous comments remain the same, and they confirm that significant infilling of the strategic flood plain will occur as a result of development. They advise that development within the above-mentioned flood plain would require Planning Authority to deem the application an exception or overriding regional importance. Then to allow proper consideration of flood risk to the site the applicant would be required to undertake a Flood Risk Assessment (FRA) appropriate to the scale of development. Alternatively as this is the strategic flood map and not our detailed modelled Flood Hazard map, the applicant has the option to undertake a River Model for their consideration that will verify the more accurate extent of the floodplain.

This response was relayed to the agent however they still do not feel this is a reasonable expense for them to be asked to undertake, as this application is only concerned with the change in house type which involves an increase in ridge height, and not the principle of planning at this site. A fall-back position remains as development has commenced on site. They reiterate that they are content that the site will not be affected by flooding.

As this application is for a change of house type, with the existing footprint remaining the same, I do not feel it will have an impact on flooding at the site. The only change is to the height of the dwelling and the addition of a garage to the rear of the site, further away from the watercourse. The principle of a dwelling on this site has been accepted under the previous approvals LA09/2015/0530/O and LA09/2017/0507/F, and this report should primarily be concerned with assessing the amended design for the proposed dwelling under CTY 13 of PPS 21.

I am of the opinion that as the original dwelling could be completed as approved without the need for a FRA, it is not reasonable for us to insist on one at this stage of the planning process. A flood risk has been identified at the site and the applicant and his professional advisers have been fully advised of the flooding concerns and are willing to proceed on the basis of this knowledge. An alternative site has been offered but not accepted. There is no change to the footprint of the dwelling and a legitimate fall back position remains whereby the original dwelling could be built at any time. The increase in ridge height is considered acceptable therefore I recommend approval of the change of house type and new garage.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

All hard and soft landscape works as detailed on drawing No. 02 rev. 01 date received 02 November 2023 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

Condition 2

The vehicular access including visibility splays of 2.4m x 33m in both directions and any forward sight distance shall be provided in accordance with drawing No. 02 rev. 01 date received 02 November 2023 prior to the occupation of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

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

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

Condition 4

Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

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

Signature(s): Deirdre Laverty

Date: 20 February 2024

ANNEX	
Date Valid	14 September 2023
Date First Advertised	25 September 2023
Date Last Advertised	25 September 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<p><u>Planning History</u></p> <p>Ref: M/2013/0509/DETEIA Proposals: Eir Grid scoping request in relation to North-South interconnector project Decision: EOLI Decision Date: 08-NOV-13</p> <p>Ref: LA09/2017/0507/F Proposals: Proposed dwelling and garage Decision: PG Decision Date: 07-JUL-17</p> <p>Ref: LA09/2015/0530/O Proposals: Proposed dwelling and garage Decision: PG Decision Date: 08-MAR-16</p> <p>Ref: LA09/2023/0959/F Proposals: Change of House Type from that previously approved under LA09/2017/0507/F; to Proposed Two-Storey Design with Footprint retained and the Addition of a Detached Garage. Decision: Decision Date:</p>	

Ref: M/2012/0057/F

Proposals: Proposed 2 no. select farm poultry sheds with 4 no. feed bins and an office, changing and standby generator building. (Each poultry shed will contain 25,850 chickens).

Decision: PG

Decision Date: 16-MAR-12

Ref: LA09/2023/0803/NMC

Proposals: Amended roof structure with overall rise in height of approx. 0.9m Attached carport and garage positions revised; and rooflights omitted in lieu of first floor windows.

Decision:

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-DC Checklist 1.doc Roads Consultation - response.docx

Rivers Agency-864660 - Final Response.pdf

Rivers Agency-

DFI Roads - Enniskillen Office-Roads Consultation - Approval.docx

Rivers Agency-39272 - Final Response.pdf

Drawing Numbers and Title

Proposed Floor Plans

Proposed Floor Plans

Proposed Elevations

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

Garage Plans Plan Ref: 06

Site Location Plan Plan Ref: 01 rev. 01

Site Layout or Block Plan Plan Ref: 02 rev. 01

Proposed Floor Plans Plan Ref: 03 rev. 01

Proposed Floor Plans Plan Ref: 04 rev. 01

Proposed Elevations Plan Ref: 05 rev. 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.16
Application ID: LA09/2023/1052/O	Target Date: 17 January 2024
Proposal: Dwelling & garage	Location: 60M NE of 17 Edendoit Road Pomeroy
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Michael Donnelly 37-39 Main Street Pomeroy BT70 2QH	Agent Name and Address: C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
Executive Summary: <p>This outline application is for a proposed farm dwelling and is brought to the planning committee with a recommendation for refusal. The proposal fails to comply with the following planning policy for the reasons provided:</p> <ul style="list-style-type: none">- Policy CTY 10 of PPS 21 - in that there is only 1 building on the farm for the proposed dwelling to visually link with.- Policy CTY 14 of PPS 21 - in that it would result in a suburban style build-up of development when viewed with existing and approved buildings and would create / add to a ribbon of development.- Policy CTY 8 of PPS 21 - in that it would create / add to a ribbon of development.- Policy CTY 15 of PPS 21 - in that it would mar the distinction between the settlement and the surrounding countryside. <p>The proposal complies with Policy CTY 13 of PPS 21 and Policy AMP 2 of PPS 3 at this outline stage.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline.docx DC Checklist 1.doc FORM RS1 STANDARD.doc
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-1052-O.DOCX

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site of the proposed development is located on the northern outside edge of the

Pomeroy settlement limit as defined in the Cookstown Area Plan 2010. The site is therefore located in the rural countryside. The site is a 0.92 ha portion of a larger agricultural field. The site slopes gently upwards from the main road before flattening out. The existing access is via a field gate off the road. On the site is a large agricultural shed. The western roadside boundary consists of hedgerow which provides a degree of screening for the site when viewing it head-on from the road. The northern boundary is undefined and the southern boundary is defined by post and wire fencing and this also marks the settlement limit boundary. The eastern boundary is defined by a thick backdrop of mature coniferous trees which are part of the western boundary of Pomeroy Forest Park. The closest residential dwelling to the proposed site is number 17 Edendoit Road which is adjacent and south west to the site. Access to this neighbouring dwelling is via a laneway which runs adjacent to the site's southern boundary. Also south of the site is an approved development scheme for 57 dwelling units, which at the time of the site visit, only the southern portion of the site is complete with built dwellings.

Description of Proposal

The proposed is an outline application for a farm dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Cookstown Area Plan 2010

The site of the proposed development is located on the northern outside edge of the Pomeroy settlement limit as defined in the Cookstown Area Plan 2010. The site is therefore located in the rural countryside. Map No. 56 (Pomeroy) of the Area Plan shows the site, which is not close to any local landmarks, archaeological sites / monuments and sewage treatment works etc.

Planning Histories

I/2004/0192/O – Proposed dwelling and garage – 140 metres east of 17 Edendoit Road, Pomeroy, County Tyrone – Application Withdrawn

I/1988/0405 – Dwelling – Derryhash Pomeroy – Permission Refused

I/2006/1070/F – Housing development, site road and associated works (57 Units) – lands immediately south east of the boundaries of 9, 15 & 17 Edendoit Road, Pomeroy – Permission Granted 03/01/2008

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 located outside of the Pomeroy Forest historic gardens. Given the proposed site is outside of this designated area and there is a separation distance of at least 500 metres to the closest buildings within the forest, I am content that this proposal will not impact the historic park.

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 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 ID was allocated on 06/06/2023. The farm business has not claimed payments through the Basic Payment Scheme or Agri Environment scheme in each of the last 6 years and the application site is not on land for which payments are currently being claimed by the farm

business. In light of this, the agent has submitted receipts and financial statements in the applicant's name from as far back as 2011 relating to farming and maintenance works carried out on the farm holding. This includes slurring, hedge cutting, mowing and raking, as well as works to the farm shed. With this, I am satisfied that there is an established farm business and the receipts prove there has been farming activity for at least 6 years.

A check on planning portal of the farm lands 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. In terms of visual linkage / clustering, there is only one farm building with which a new dwelling at this site could cluster with. The policy asks that the new building is visually linked or sited to cluster with established group of buildings on the farm. Because there is only one farm building identified at this site, the proposed fails to meet this aspect of the policy. There is no demonstrable evidence provided from a competent authority such as the Health and Safety Executive or Environmental Health and also no evidence relating to the future expansion of the farm business (i.e. valid planning permissions, building control approvals etc) that would support a dwelling at this site as an exception. Given the proposed fails to visually link / cluster with an established group of farm buildings, the proposed fails to comply with Policy CTY 10.

Policy CTY 13 states planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This is an outline application and therefore such details 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 out of site when driving out of Pomeroy. Approaching Pomeroy from the north east, the natural topography of the wider agricultural field to the north of the site helps to limit views. Roadside hedgerow also limit views to the site. A backdrop of mature trees to the rear of the site provide an element of enclosure and integration for a dwelling at this site and thus I am content that the proposal would not rely entirely on the use of new landscaping for integration. It is my view that the proposed development complies with Policy 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. Immediately south of the site is the approved site for 57 dwelling units within the settlement limit (planning ref I/2006/1070/F). It is my view that a dwelling at the proposed location will result in a suburban style build-up of development when viewed with existing and approved buildings. The proposal would also create / add to a ribbon of development The proposed development fails to comply with Policy CTY 14.

CTY 15 states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. It is considered that a dwelling at the proposed site will mar the distinction between settlement and the surrounding countryside and therefore the proposal fails to comply with Policy CTY 15.

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 at this outline stage.

Recommendation

Having assessed the application against planning policy and all other material considerations, it is considered there are a number of reasons why this application should be refused. The proposal fails to meet CTY 10 in that there is only one building on the farm for the dwelling to visually link / cluster with. The proposal fails to meet CTY 14 in that it would result in a suburban style build-up of development when viewed with existing and approved buildings and would create / add to a ribbon of development. The proposal therefore fails on Policy CTY 8 (ribbon development). Finally the proposal fails on Policy CTY 15 in that it mars the distinction between the settlement of Pomeroy and the surrounding countryside.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal fails to meet Policy CTY 10 of PPS 21 in that there is only 1 building on the farm for the proposed dwelling to visually link with.

Reason 2

The proposal fails to comply with Policy CTY 14 of PPS 21 in that it would result in a suburban style build-up of development when viewed with existing and approved buildings and would create / add to a ribbon of development.

Reason 3

The proposal fails to comply with Policy CTY 8 of PPS 21 in that it would create / add to a ribbon of development.

Reason 4

The proposal fails to comply with Policy CTY 15 of PPS 21 in that it would mar the distinction between the settlement and the surrounding countryside.

Signature(s): Benjamin Porter

Date: 12 February 2024

ANNEX	
Date Valid	4 October 2023
Date First Advertised	17 October 2023
Date Last Advertised	17 October 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 17 Edendoit Road Pomeroy Tyrone BT70 2RW	
Date of Last Neighbour Notification	15 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Roads outline.docxDC Checklist 1.docFORM RS1 STANDARD.doc DAERA - Coleraine-Consultee Response LA09-2023-1052-O.DOCX	
Drawing Numbers and Title Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02 Site Layout or Block Plan Plan Ref: 02 Rev A	
Notification to Department (if relevant) Not Applicable	

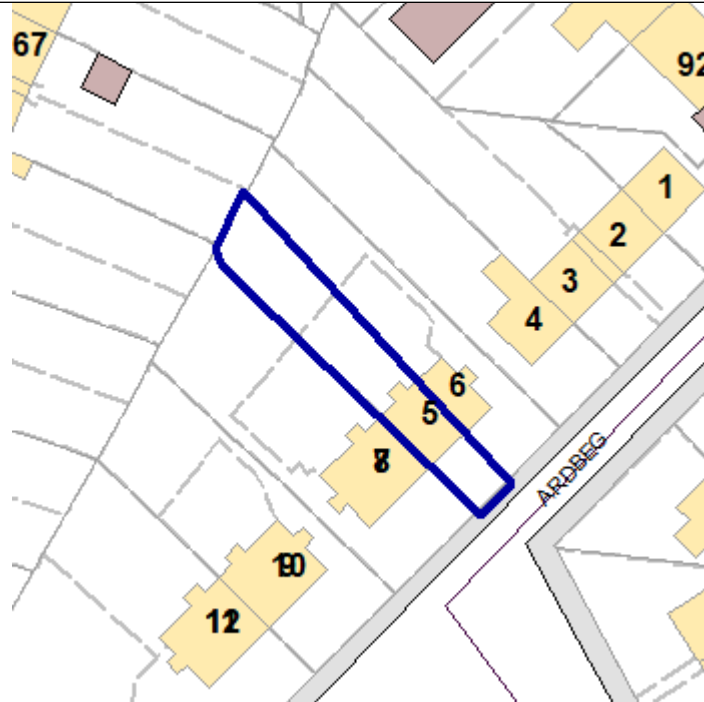


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.17
Application ID: LA09/2023/1053/F	Target Date: 16 January 2024
Proposal: Proposed self contained granny flat within the curtilage of the existing property for the benefit of the occupants of the existing dwelling	Location: To The rear of 5 Ardbeg Donaghmore Road Dungannon
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Brian Cassidy 5 Ardbeg Donaghmore Road Dungannon	Agent Name and Address: McKeown and Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
Executive Summary: No third party representations have been received. The proposal is overdevelopment of the site and there will be a detrimental impact on neighbouring amenity.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NI Water - Single Units West	LA09-2023-1053-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 application site is within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is residential in character as the predominant land use is newer housing development and cul-de-sacs of older housing.

The site comprises of a dwelling which has been split into two flats at No.5 and 6. To the front of No.6 is a small lawn area and driveway. To the side of the dwelling is a doorway to No.5 and a concrete driveway. The front boundary treatment is a low wooden fence and black metal gates. To the rear of the dwelling is a long-grassed area which serves as the lawn and along the southern boundary with the neighboring property is a metal wired fence.

Description of Proposal

This is a full application for proposed self-contained granny flat within the curtilage of the existing property for the benefit of the occupants of the existing dwelling at to the rear of 5 Ardbeg, Donaghmore 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 has been carried out in line with the Council's statutory duty. At the time of writing, no third-party objections were received.

Planning History

There are no 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 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

The site is within the settlement limit of Dungannon as defined in the Dungannon and

South Tyrone Area Plan 2010, so SETT 1 is the relevant policy which applies. I consider as the proposal does not meet all the criteria in QD 1 in PPS 7 and PPS 7 Addendum it does also not meet all the criteria in SETT 1 in the Plan.

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 favour of the provisions of the SPPS. No conflict arises between the provisions of the SPPS and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided by the Addendum to Planning Policy Statement 7 - Residential Extensions and Alterations (The Addendum).

Addendum to PPS 7 - Residential Extensions and Alterations: sets out planning policy and guidance for achieving quality in relation to proposals for residential extensions and alterations.

Policy EXT 1 – Residential Extensions and Alterations

Ancillary Accommodation

Planning Policy EXT 1 of PPS7 details that planning permission will be granted for a proposal to extend or alter a residential property where several criteria are met. Contained within this policy is the provision for ancillary accommodation, whereby it is acknowledged that there may be occasions when people wish to provide ancillary accommodation to provide additional living space for elderly relatives or to meet a variety of other personal and domestic circumstances.

To be considered as ancillary, accommodation must be subordinate to the main dwelling and its function supplementary to the use of the existing residence. This proposal has a kitchen, living room, two bedrooms and a shower room. The granny flat is situated in the rear garden of the dwelling at No. 5 Ardbeg but will share the same driveway and electricity connection. I am not satisfied that the proposal is ancillary to the main residential property as there are kitchen facilities, a bathroom and two bedrooms and the building could function as a standalone dwelling. Paragraph 2.9 of APPS7 states that additional accommodation should be attached to the existing dwelling and a separate doorway is acceptable. Paragraph 2.10 states that's the construction of a separate building as self-contained accommodation within the curtilage of an existing dwelling will not be acceptable unless a dwelling could be granted in its own right. I consider a stand-alone dwelling would not meet the policy within QD1 in PPS 7 due to the impact on neighbouring amenity and overdevelopment.

The agent submitted a supporting statement on the 7th February 2024 and the proposed use of the dwelling is for the applicant's parents who are both pensioners. The applicant is their son who has stated on the application form his address is No.5 Ardbeg and the

purpose of the dwelling is that he can be located nearby for assisted care to his parents. No justification has been provided as to why the ancillary accommodation cannot be accommodated by an extension to the existing dwelling at No. 5.

Scale, Massing, Design and Appearance

In initial plans submitted the proposed granny flat was located immediately beside the rear wall of No.5 in the garden. In discussions with the principal planner, it was agreed this siting was unacceptable and would have a negative impact on neighbouring amenities through loss of light, privacy, and overshadowing. In revised drawings submitted the building has been moved to the rear boundary of the site.

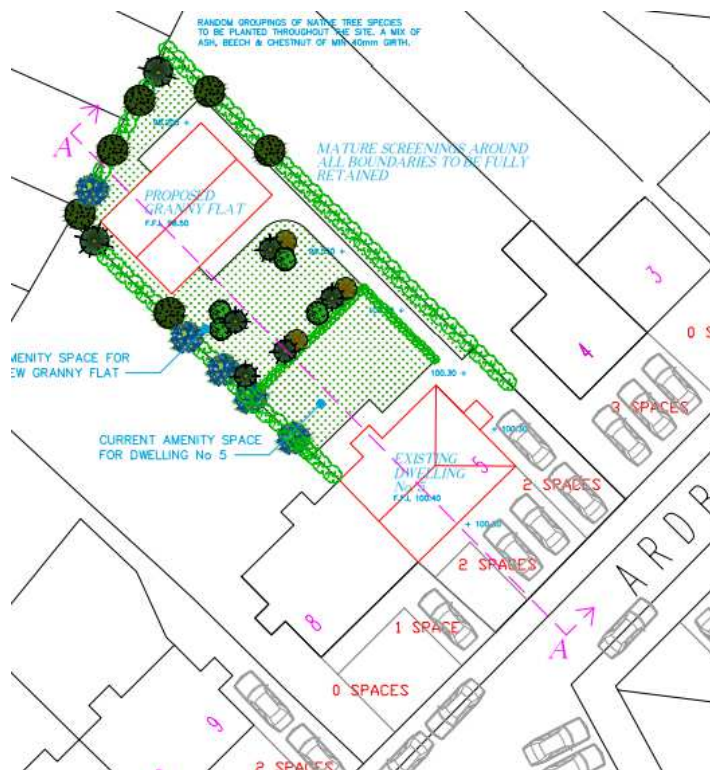


Figure 1 – Image of block plan submitted.

The proposed granny flat measures 8.8m width x 6.3m depth x 3.5m in height, with a height to the eaves of 2.5m. The finishes are black roof tiles, red brick external walls and upvc windows and doors. I have no concerns about the finishes of the granny flat as they will match the existing dwelling. The design and external materials are sympathetic with the built form and appearance of the existing property. I consider the scale and massing of the building is not excessive. There are no critical views of the building from the public road.

Paragraph A7 in PPS 7 Addendum states that proposals in an urban context should not overdevelop the site in terms of massing, plot size, and proximity to boundaries. I consider the proposed dwelling is overdeveloping the plot and is not an acceptable location for another dwelling. The site is located within a built-up residential area where

there are other terraced and semi-detached dwellings surrounding all boundaries of the site. I consider the proposal will detract from the character of the property.

Neighbour Amenity

In terms of privacy there are no windows on the side elevations of the granny flat. On the rear elevation there are three windows i.e. bedroom, shower room and kitchen window. As shown in figure 3 below No.65 and No.67 Newell Road to the rear are at a lower level than the site. The rear garden slopes downwards from the rear boundary fence to the rear wall of the dwellings at No.65 and No.67. I consider the proposed dwelling will create unacceptable loss of privacy to these neighbouring dwellings. In terms of mitigation against loss of privacy new planting along the rear boundary has been shown on the block plan which should assist in the protection of neighbouring amenity. However, this planting will take time to grow up to a sufficient height so in the immediate period there will still be overlooking in No.65 and No.67's rear amenity space.





Figure 2 - Images of the rear garden area at the site.



Figure 3 – Images of the rear garden area at the site.

I consider the building will be dominant when viewed from the rear dwellings as it is 3.5m in height and the garden of No.65 and No.67 sits at a lower ground level, I The rear wall of the proposed building is 2.2m from the rear boundary fence and 4.5m at the northern boundary. consider the building will not appear dominant in their garden areas.

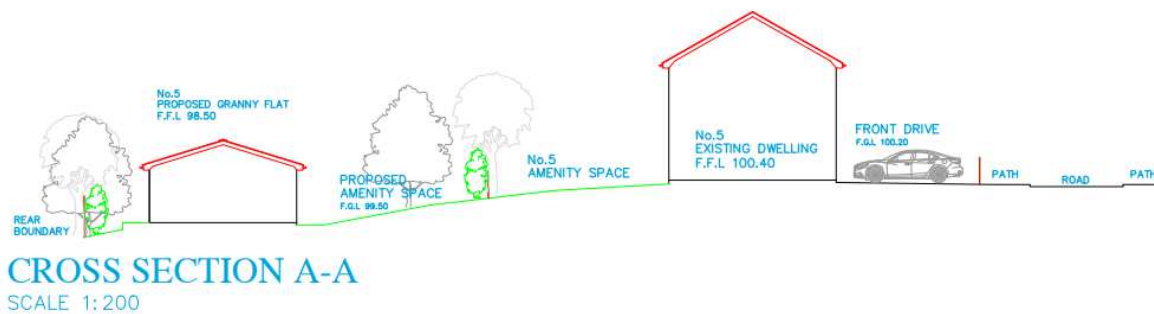


Figure 4 – Cross section submitted to show the levels through the application site.

I believe the proposed dwelling will create unacceptable overshadowing and loss of light to No.65 and No.67. The path of sun will hit the proposed dwelling in midday leading to afternoon and create overshadowing in the rear gardens of No.65 and No.67. However, this overshadowing will be along the rear boundary of these properties and not within their main amenity space immediately to the rear of the dwellings.

Having assessed all the evidence, I am content the proposal will create unacceptable neighbour amenity.

Impact on Trees and Environmental Quality of this Area

There are no trees being removed as part of this proposal and I am content the building will not detract from the environmental quality of the area.

Amenity Space, Parking and Manoeuvring

Parking Standards Guidance states that a further two car parking spaces would be required for an additional dwelling at the site. It has been shown on the block plan existing space for 2 in-curtilage spaces for No.6 and 2 spaces for No.5 to the side of the dwelling. In addition, there is a communal car parking area within the estate. I am content there is sufficient car parking spaces to accommodate the proposal.

In terms of amenity space, the rear garden will be sub-divided into two gardens areas with hedging to separate each space. The amenity space for No.5 and No.6 measures 88sqm and the garden area for the proposed dwelling measures 98sqm. The Department's guidance, Creating Places, at paragraph 5.19 states that for any individual house, private open space of less than around 40 square metres will generally be unacceptable. but for flat or apartment developments a minimum of 30sqm would be acceptable. I have no concerns about the proposed amenity space for the proposal is acceptable as it is within these parameters.

Overall, I consider the proposal does not meet all the criteria in PPS 7 Addendum.

Addendum to PPS 7 – Safeguarding the Character of Established Residential Areas

Policy LC 1 – Protecting Local Character, Environmental Quality and Residential Amenity.

The proposal is for a single storey dwelling in the rear garden of an existing dwelling which has been sub-divided into apartments. It is stated in the description the building will serve as a granny flat, but I do not consider the dwelling is ancillary accommodation as assessed in APPS7. The footprint of the proposed dwelling is 62sqm which is like the existing dwellings at No.5, 6 and 8 at 67sqm. All the dwellings along this row in Arbeg have long generously sized gardens at 24m in length. This proposal will halve the garden size of No.5 I consider the plot size and rear amenity space does not reflect the pattern of settlement within the area. I consider the proposed density is higher than the established area and will detract from the overall character of the area. Annex A in the policy states a two-bedroom dwelling should have a floorspace of at least 60sqm and I am content this criterion has been met. Overall, I consider the proposal does not meet all the criteria in LC1.

Policy QD1 – Quality in New Residential Development

The application site comprises of No.5 and No.6 Ardbeg which are flats. The site is within the settlement limit of Dungannon in an area which is predominantly residential. The proposal is to site a building which will serve as a granny flat in the rear garden of the flats. I am of the opinion the proposed dwelling does not respect the constraints of the site itself. The plot size is significantly smaller than adjoining dwellings and does not respect the character of the area and is overdevelopment.

There are no archaeological or landscape features at the site.

The Department's guidance, Creating Places, at paragraph 5.19 states that for any individual house, private open space of less than around 40 square metres will generally be unacceptable. There is a small amount of space to the rear of the granny flat and as stated earlier in the assessment I am content this is over 40sqm.

As this is a proposal for a single dwelling there is no requirement to provide neighbourhood facilities.

There are no alterations to the existing access, so DFI Roads were consulted.

The site is about a 10–15-minute walk to the nearby retail park where there is Sainsburys, Home Bargains and other shops and there are footpaths from the site to the town centre in Dungannon.

The proposal is for a single storey dwelling which will serve as a granny flat for the applicant's parents. I have no concerns about the scale and massing of the building as it is approximately the same footprint and size as the dwellings in the immediate area.

I consider there is potential for loss of neighbouring amenity particularly to No. 65 and No.67 to the rear of the site.

Overall, I consider the proposal does not meet all the criteria in QD1 in PPS 7.

Other Considerations

I completed a check on the statutory map viewers and there are no other ecological, built

heritage or flooding considerations at the site.

NI Water were consulted as the proposal is for an additional dwelling within the settlement limit of Dungannon. NI Water responded stating there is no wastewater capacity at present for the dwelling and there are ongoing capacity issues with the Dungannon wastewater treatment works. However, this issue could be negatively conditioned and discharged by the Council at a later stage.

Summary of Recommendation:

Refuse is recommended

The proposal is recommended for refusal as it does not meet all the criteria in QD1 in PPS 7, SETT 1 in the Plan and EXT1 in PPS 7 Addendum.

Refusal Reasons

Reason 1

Contrary to QD1 in PPS 7 - Quality Residential Environments and Plan Policy SETT 1 - Settlement Limits in the Dungannon and South Tyrone Plan 2010 in that the development if permitted would be overdevelopment as the plot size is smaller than adjoining sites.

Reason 2

Contrary to LC1 in Addendum to PPS 7 - Safeguarding the Character of Residential Areas in that the density of the development is higher than in the surrounding residential area and the pattern of development is not in keeping with the overall character of the area.

Reason 3

Contrary to EXT 1 in PPS 7 Addendum in that the development if permitted is not ancillary accommodation.

Signature(s): Gillian Beattie

Date: 20 February 2024

ANNEX	
Date Valid	3 October 2023
Date First Advertised	16 October 2023
Date Last Advertised	16 October 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 6 Ardbeg Dungannon Tyrone BT70 1HF</p> <p>The Owner / Occupier 4 Ardbeg Dungannon Tyrone BT70 1HF</p> <p>The Owner / Occupier 63 Newell Road Dungannon Tyrone BT70 1EG</p> <p>The Owner / Occupier 65 Newell Road Dungannon Tyrone BT70 1EG</p> <p>The Owner / Occupier 7 Ardbeg Dungannon Tyrone BT70 1HF</p> <p>The Owner / Occupier 67 Newell Road Dungannon Tyrone BT70 1EG</p> <p>The Owner / Occupier 5 Ardbeg Dungannon Tyrone BT70 1HF</p> <p>The Owner / Occupier 8 Ardbeg Dungannon Tyrone BT70 1HF</p> <p>The Owner / Occupier 25 Ardbeg Dungannon Tyrone BT70 1HF</p>	
Date of Last Neighbour Notification	23 January 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/1992/4076 Proposals: Improvements to Dwelling Decision: PDNOAP Decision Date:</p> <p>Ref: LA09/2023/1053/F Proposals: Proposed self contained granny flat within the curtilage of the existing property for the benefit of the occupants of the existing dwelling Decision:</p>	

Decision Date:

Ref: M/1993/0342

Proposals: Erection of 3 temporary mobile homes and stores

Decision: WITHDR

Decision Date:

Summary of Consultee Responses

NI Water - Single Units West-LA09-2023-1053-F.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.18
Application ID: LA09/2023/1069/F	Target Date: 25 January 2024
Proposal: Erection of 7 no. dwellings and 8 no. apartments with associated car parking, private and communal amenity space, landscaping, site works and access arrangements from Chapel Road	Location: Lands to The South of Nos 14-44 Fortview Terrace, North of Nos 19-33 Dunleath Avenue, East of Nos 11-17 Drumcree and West of Nos 85-101 Church Street Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Kelly Brothers Ltd Milltown East Industrial Estate Upper Dromore Road Warrenpoint BT34 3PN	Agent Name and Address: Turley Hamilton House 3 Joy Street Belfast BT2 8LE
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 1069 F Residential development Fortview Cookstown.doc
Statutory Consultee	Rivers Agency	792260 - Final reply.pdf
Statutory Consultee	NIEA	PRT - LA09-2023-1069-F.PDF
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2023-1069-F.pdf
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2023-1069-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template - Feb 2024.docx
Statutory Consultee	DFI Roads - Enniskillen Office	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 1069 F Residential development Fortview Cookstown.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template - Approval.docx
Statutory Consultee	Rivers Agency	889280 - Final reply.pdf

Representations:	
Letters of Support	0
Letters Non Committal	1
Letters of Objection	4
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
Summary of Issues	
<p>Eight letters of objection have been received in relation to this planning application and relate to the following issues:-</p> <ul style="list-style-type: none"> o The land was cleared of tree/vegetation cover without consent some time in the early 2000's; <p>As there was no Tree Preservation Order on the tree or vegetation, the owner did not require any consent to remove these. Furthermore, as the trees/vegetation was removed over five years ago, any such action would now be immune from enforcement action. Any such action which has again occurred, also require no such consent as there is still no TPO on the proposed site. As the site is located on whiteland within Cookstown settlement limit and without any designations, there is a presumption in favour of development on such land.</p> <ul style="list-style-type: none"> o The aforementioned works demonstrate the applicants lack of consideration for residents; <p>The proposed development, in my opinion, does not have a detrimental impact on existing residents. How the development will be managed, is a matter for the developer and is not a planning consideration as one cannot assume how any site will be managed.</p> <ul style="list-style-type: none"> o The land is not zoned for phase 1 or 2 housing lands and therefore is not required for housing needs. Other sites would be more sequentially suitable; <p>The lands are considered whitelands and are therefore freely available, subject to normal planning considerations. Such lands do not need to be zoned for any such use and are considered windfall sites which are additional to any anticipated housing needs.</p> <ul style="list-style-type: none"> o The area of communal parking should be relocated as it presents a potential source of noise disturbance; <p>Neither EHD nor Dfl roads have raised any such issues with the proposed location of the parking area. The proposed layout clearly indicates a proposed 1.8m high vertical close boarded timber fence between the parking area and the rear boundary to the dwellings at Dunleath Avenue. The proposed site plan also indicates a number of proposed trees</p>	

along the same boundary which is considered acceptable in this urban location.

- o The need for a legal agreement to secure the long term future of landscaping, trees and hedges;

Any condition relating to the management and or retention of landscaping and/or trees/hedges is not required to have a legal agreement. Such conditions can be enforced without the need for a legal agreement.

- o The neighbour at No.44 Fortview Terrace has contested that they have a Right-of-Way along the side of their dwelling and this will be impacted upon by the provision of the access road into the site;

The issue of the private right-of-way is a civil matter between the parties concerned and is not for Council to adjudicate on. It is acknowledged that the proposed access to the site will close off the alleged right-of-way along the side and into the rear of No.44, however this is a civil matter.

- o Reduced privacy;

The proposed development will not have a detrimental impact on privacy. A 1.8m high vertical close boarded fence is to be provided along the rear of all the proposed dwellings.

- o Street light pollution;

Any street lights being provide will be required in this urban setting for the safety of residents. Such lights are necessary and while they will undoubtedly create some light pollution they are essential and are no more unacceptable than those already existing in the surrounding residential areas.

- o Noise pollution;

Environmental health did not raise any concerns regarding noise disturbance from the proposed development.

- o Added pressure on water/sewerage services;

NI Water advised that there is not sufficient capacity within the existing sewage network to accommodate the proposed development. However, this can be dealt with by way of a negative condition requiring the developer to agree a means of sewage disposal prior to the development commencing.

- o Flooding;

DfI Rivers did not raise any issues regarding the potential for flooding. The development will however, have adequate site drainage to ensure that any surface water is dealt with appropriately and does not run over adjoining lands.

- o Access/regress from the development via Chapel road or Dunleath Avenue and conflict with delivery vehicles;

DfI Roads advised that the access is acceptable, subject to being provided in accordance with the approved Private Streets Determination drawing. Roads did not raise any issues of concern regarding a potential conflict with delivery vehicles. The access is being proposed directly onto Chapel Road only and does not include any proposal to connect through Dunleath Avenue.

o Impact on natural environment;

The proposed development will have an impact on the surrounding environment, however, this is not to such an extent that it would justify a refusal.

o Removal of mature trees and hedges;

A biodiversity checklist was submitted with the application and included an ecological statement setting out what trees and vegetation is proposed to be removed. This is acceptable as the majority of the vegetation to be removed is scattered immature trees to the south western section of the site. The majority of mature trees along the boundaries are to be retained, however some have been lopped. One notable tree, located to the rear of No.'s 15/17 Drumcree has been lopped to a height of around 3m. However, when viewed on Google Street View, much of this lopping appears to have been done around 2021. AS there is no Tree Preservation Order on any of the trees within the site, there was no restrictions on the landowner in terms of requiring permission to remove any of those trees.

o Impact on biodiversity;

Given that the habitats on site are of relatively low ecological value, there is an opportunity to enhance the area with planting of native trees, shrubs and wildflowers in appropriate areas. Proposed planting has been indicated on the site layout plan and is considered sufficient in this urban setting.

o Surface water flooding;

DfI Rivers have not raised any concerns regarding potential flooding or surface water ponding. is not considered to be an issue.

One letter of support was also received from Francie Molloy MP stating that there is significant housing pressure in Cookstown as demand for homes cannot currently be met and that his office deals with requests for housing on a daily basis, from families and individuals in need of a home. MP Molloy therefore offers his support to this application.

Characteristics of the Site and Area

Characteristics of the site and area

The site comprised of an area of backland greenfield site with direct access onto Chapel Road.

The established built context is residential in character, defined by two storey terraced dwellings to the north, south and east and a row of bungalows to the west along Drumcree. A number of commercial and retail buildings are located in the wider surrounding area to the north along Church Street which connects to Chapel Street, Loy Street, James Street and William Street to provide a throughfare intersecting Cookstown Town Centre.

The site is bounded by the following:

- northern side by the rear of two terraces of two storey dwellings with a vehicular access in between;
- Southern boundary by a mixture of 2.0m close boarded fencing and a hedgerow rising between 2.0m and 3-4m high.
- Western boundary mainly by mature conifer hedgerows;
- Eastern boundary is undefined and borders the long rear garden spaces of dwellings fronting directly onto Church Street. This boundary is largely marked by temporary security fencing panels.
- At the south eastern corner of the site, the boundary is defined by a short row of mature conifer trees approximately 12m tall.

The site falls gently from the access point at Chapel Road towards the rear South West corner.

The site sits approximately 1m below the level of the rear of the terraced dwellings along the northern boundary and approximately 0.75m above the rear of the dwellings in Dunleath Avenue along the southern boundary.

The access to the site is via a narrow strip of land between No's 17 Drumcree and 44 Chapel Road. This area is currently fenced off by means of temporary security fencing with a pair of high metal security gates which are padlocked. There is a narrow pedestrian along the side of No.44 Chapel Road which leads to the rear of the terrace dwellings. This narrow pedestrian entrance is the area being disputed with and objector in respect of a right-of-way.

Description of Proposal

Erection of 7 no. dwellings and 8 no. apartments with associated car parking, private and communal amenity space, landscaping, site works and arrangements from Chapel Road.

The access is proposed into the site immediately adjacent to the western side of No.44 Chapel Road and to the rear of No.17 Drumcree. A pair of semi-detached two storey dwellings and six no. two storey apartments are proposed along the rear of the terraced dwellings which front onto Chapel Road. Five no. two storey dwellings and two storey apartments are proposed along the southern boundary and backing onto existing dwellings at Dunleath Avenue.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

There is no relevant planning history on the proposed site.

The relevant policies for consideration of this application are:

Cookstown Area Plan 2010

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

Creating Places

The lands in question are indicated as white land in the Cookstown Area Plan 2010 and therefore there is a presumption in favour of development on this site. The proposed layout has a density of 35.7 units per hectare.

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 it respects the surrounding context in terms of layout as the density of the surrounding areas range from 11.7 dwellings per hectare in Drumcree, 45.1 dwellings per hectare in Dunleath Avenue to 120 dwellings per hectare in Chapel Road.

(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 layout shows a layout with 7 dwellings and 8 apartments, therefore there is no requirement for the provision of public open space. This arrangement provides for all dwellings to have adequate private amenity space ranging from 69m² to 160m² for dwellings and between 58m² to 114m² for two apartments to 160m² for four apartments.

(d) The site is located within the settlement of Cookstown and within 250m of the local shop and public house and between 600m to 950m from three local schools and around 950m from the town centre. Therefore the site is close to and within walking distance of the centre of Cookstown and therefore the provision of neighbourhood facilities are not deemed necessary within the site;

(e) The site has direct access onto the Chapel Road, which in turn provides access onto Church Street and the Drum Road, 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 can be made for all sites to have car parking, with six of the seven private dwellings having in-curtilage parking whilst there is an adequate amount of communal parking provided for the remaining dwelling and the apartments. 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.

Consultee responses

DfI Roads, Environmental Health Department, Rivers, and NIEA advised that they have no objections to the proposed development. Although NI Water advised that there is no capacity within the sewage network system to accommodate the proposed dwellings, this issue can be covered by way of condition, requiring the developer to agree a method of sewage disposal with NIW prior to any development commencing on site.

Recommendation

On consideration of the above, it is my opinion that planning permission should be approved subject to the conditions listed below:-

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

Reason: Time Limit.

Condition 2

All proposed planting as indicated on the stamped approved drawing no. 02/2 uploaded to the planning portal on 12th February 2024 shall be undertaken during the first available planting season following occupation of the first dwelling 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

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 5

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 6

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 7

The visibility splays of 2.4 metres by 35 metres at the junction of the proposed access

road with the public road, shall be provided in accordance with Drawing No; 08/2 uploaded to the planning portal on 19th February 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 8

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 9

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

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

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 in consultation with DfI Rivers 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 with an additional allowance for climate change (10%) and urban creep (10%).

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

Condition11

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.

Condition12

All shrubs and trees being planted within the new housing scheme as indicated on the stamped drawing No.02/2 uploaded to the planning portal on 12th February 2024 must be native species.

Reason: To compensate for the loss of trees and hedges during the site clearance.

Condition13

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: 08/2 uploaded to the planning portal on 19th February 2024.

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

Condition14

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. 08/2 uploaded to the planning portal on 19th February 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.

Signature(s): Malachy McCrystal

Date: 20 February 2024

ANNEX	
Date Valid	12 October 2023
Date First Advertised	24 October 2023
Date Last Advertised	24 October 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 87 Church Street Cookstown Tyrone BT80 8HT</p> <p>The Owner / Occupier 91 Church Street Cookstown Tyrone BT80 8HT</p> <p>The Owner / Occupier 93 Church Street Cookstown Tyrone BT80 8HT</p> <p>The Owner / Occupier 95 Church Street Cookstown Tyrone BT80 8HT</p> <p>The Owner / Occupier 97 Church Street Cookstown Tyrone BT80 8HT</p> <p>The Owner / Occupier 99 Church Street Cookstown Tyrone BT80 8HT</p> <p>The Owner / Occupier 101 Church Street Cookstown Tyrone BT80 8HT</p> <p>The Owner / Occupier 103 Church Street Cookstown Tyrone BT80 8HT</p> <p>The Owner / Occupier 19 Dunleath Avenue Cookstown Tyrone BT80 8JA</p> <p>The Owner / Occupier 21 Dunleath Avenue Cookstown Tyrone BT80 8JA</p> <p>The Owner / Occupier 23 Dunleath Avenue Cookstown Tyrone BT80 8JA</p> <p>The Owner / Occupier 25 Dunleath Avenue Cookstown Tyrone BT80 8JA</p> <p>The Owner / Occupier 27 Dunleath Avenue Cookstown Tyrone BT80 8JA</p> <p>The Owner / Occupier 31 Dunleath Avenue Cookstown Tyrone BT80 8JA</p> <p>The Owner / Occupier 29 Dunleath Avenue Cookstown Tyrone BT80 8JA</p> <p>The Owner / Occupier 33 Dunleath Avenue Cookstown Tyrone BT80 8JA</p> <p>The Owner / Occupier 11 Drumcree Cookstown Tyrone BT80 8JB</p> <p>The Owner / Occupier 13 Drumcree Cookstown Tyrone BT80 8JB</p>	

22 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

24 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

26 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

15 Drumcree Cookstown Tyrone BT80 8JB
The Owner / Occupier

28 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

30 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

32 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

34 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

36 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

38 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

40 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

42 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

44 Fortview Terrace Cookstown Tyrone BT80 8HZ
The Owner / Occupier

17 Drumcree Cookstown Tyrone BT80 8JB
The Owner / Occupier

37 Chapel Road Cookstown Tyrone BT80 8AR
The Owner / Occupier

39 Chapel Road Cookstown Tyrone BT80 8AR
The Owner / Occupier

41 Chapel Road Cookstown Tyrone BT80 8AR
The Owner / Occupier

43 Chapel Road Cookstown Tyrone BT80 8AR
The Owner / Occupier

45 Chapel Road Cookstown Tyrone BT80 8AR
The Owner / Occupier

36 Rathmore Cookstown Tyrone BT80 8JD

Date of Last Neighbour Notification	27 October 2023
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Date of EIA Determination	
----------------------------------	--

ES Requested

<events screen>

Planning History

Ref: I/1979/0096

Proposals: PRIVATE GARAGE

Decision: PG

Decision Date:

Ref: I/1996/0377

Proposals: Extension to dwelling

Decision: PG

Decision Date:

Ref: I/2001/0574/A41

Proposals: Disabled Facilities

Decision: 205

Decision Date: 21-DEC-01

Ref: I/1976/0391

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2023/1069/F

Proposals: Erection of 7 no. dwellings and 8 no. apartments with associated car parking, private and communal amenity space, landscaping, site works and access arrangements from Chapel Road

Decision:

Decision Date:

Ref: I/1991/4015

Proposals: Improvements to 30 Dwellings Dunleath Avenue Cookstown

Decision: PDNOAP

Decision Date:

Ref: I/2007/0699/F

Proposals: Two storey extension to rear of existing dwelling

Decision: PG

Decision Date: 19-NOV-07

Ref: I/2001/0423/F

Proposals: Extension to dwelling

Decision: PG

Decision Date: 20-JUL-01

Ref: I/1990/0290
Proposals: Extension to dwelling
Decision: PG
Decision Date:

Ref: I/2004/1346/Q
Proposals: Development
Decision: 211
Decision Date: 21-FEB-06

Ref: I/2004/1426/Q
Proposals: Development
Decision: 211
Decision Date: 21-FEB-06

Ref: I/1978/0316
Proposals: CHANGE OF USE OF STORES TO MOTOR CYCLE SALES AND
SERVICING
Decision: PR
Decision Date:

Ref: I/2001/0652/F
Proposals: Proposed domestic garage
Decision: PG
Decision Date: 21-DEC-01

Ref: I/2005/1206/O
Proposals: Proposed site for dwelling to rear of 17 Drumcree, Cookstown.
Decision: PG
Decision Date: 21-JUN-06

Ref: I/1986/0392
Proposals: RENOVATION AND EXTENSION OF EXISTING DWELLING
Decision: PG
Decision Date:

Ref: I/1993/0124
Proposals: Extension and alterations to dwelling
Decision: PG
Decision Date:

Ref: I/1979/0255
Proposals: GARAGE
Decision: PG
Decision Date:

Ref: I/2004/1267/F

Proposals: Extension & alterations to dwelling

Decision: PG

Decision Date: 29-DEC-04

Ref: I/1974/037401

Proposals: ERECTION OF 66 NO DWELLINGS

Decision: PG

Decision Date:

Ref: I/1974/0374

Proposals: HOUSING DEVELOPMENT (ERECTION OF 60 DWELLINGS)

Decision: PG

Decision Date:

Ref: I/1974/037402

Proposals: ERECTION OF NON-SUBSIDY BUNGALOW (AMENDED PLAN)

Decision: PG

Decision Date:

Ref: I/1974/037404

Proposals: ERECTION OF 66 NO DWELLINGS, PRIVATE STREETS ACT (NI) 1964 ONLY

Decision: PG

Decision Date:

Ref: I/1974/0025

Proposals: ERECTION OF APPROXIMATELY 60 NO. DWELLINGS

Decision: PR

Decision Date:

Ref: I/1975/0249

Proposals: EXTENSION AND ALTERATIONS TO HOUSE

Decision: PG

Decision Date:

Ref: I/1980/0303

Proposals: IMPROVEMENTS TO TERRACE HOUSE

Decision: PG

Decision Date:

Ref: I/1980/0276

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/2005/1374/F

Proposals: Extension & alterations to dwelling

Decision: PG

Decision Date: 10-JAN-06

Ref: I/1978/0052

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: I/1993/0159

Proposals: Extension to furniture store

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Response Template.docx

Environmental Health Mid Ulster Council-LA09 2023 1069 F Residential development
Fortview Cookstown.doc

Rivers Agency-792260 - Final reply.pdf

NIEA-PRT - LA09-2023-1069-F.PDF

NI Water - Multiple Units West-LA09-2023-1069-F.pdf

NI Water - Multiple Units West-LA09-2023-1069-F.pdf

DFI Roads - Enniskillen Office-Response Template - Feb 2024.docx

DFI Roads - Enniskillen Office-

Environmental Health Mid Ulster Council-LA09 2023 1069 F Residential development
Fortview Cookstown.doc

DFI Roads - Enniskillen Office-Response Template - Approval.docx

Rivers Agency-889280 - Final reply.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Existing Plans Plan Ref: 03

Proposed Plans Plan Ref: 04

Proposed Plans Plan Ref: 05

Proposed Plans Plan Ref: 06

Proposed Plans Plan Ref: 07

Roads Details Plan Ref: 08

Site Layout or Block Plan

Roads Details

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.19
Application ID: LA09/2023/1118/F	Target Date: 2 February 2024
Proposal: Permission under section 54 (in relation to Planning Application no LA09/2016/0470/F) for the continuance of use of buildings without compliance with condition no. 5 of the previous planning permission granted ie, we are requesting that condition 5 be revoked as a consequence of changes to the site layout being recently accessed and the subsequent review of the Noise Impact Assessment now superceeded with a new up to date Noise Impact Assessment hereby submitted	Location: 111 Ballynakilly Road Coalisland BT71 6HE
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Formac Limited 22 Listamlet Road Dungannon	Agent Name and Address: McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
Executive Summary:	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1118.F.pdf

Representations:

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

Summary of Issues

Characteristics of the Site and Area

Within the red line of the site there are 4 buildings at the south west corner which are linked together and have barrel roofs, these were former agricultural buildings and have openings on the west and east sides the large shed in the middle of the site has an A line roof with grey walls and roof panels, it has 2 large roller doors that open towards the north east and one roller door to the north and south elevations, the building to the north of the site has grey cladding to the upper walls and roof, a roller door to the west and sliding doors to the south and the buildings are currently used for a variety of industrial and storage purposes.



There is a mature hedge to the north of the site, with an electricity substation, a children's play park and residential development to the north of it. To the south is a lake which is surrounded by trees. Further southeast is a spring manufacturing business and to the north west is tile and bathroom sales business.

Description of Proposal

The proposal seeks full planning permission for the continuance of use of buildings without compliance with condition no. 5 of the previous planning permission granted ie, we are requesting that condition 5 be revoked as a consequence of changes to the site layout being recently accessed and the subsequent review of the Noise Impact Assessment now superseded with a new up to date Noise Impact Assessment hereby submitted.

Condition 5 stated ;

'Within 6 weeks of the date of this decision, the enclosure of the buildings referred to in condition 2 will have panelling or a composite/metal/masonry material fitted as detailed in the Noise Impact Assessment, dated March 2016, additional submissions dated August 2016 and December 2016.

Reason: To protect the amenity of neighbouring residents.'

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

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. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any 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, there was one third party objection received. This objection was made on behalf of the residents of Ballynakilly, the objection did not go into any detail other than that they opposed the removal of the condition as they felt all conditions on this application were put in place to protect the amenity of residents and the removal of any of the conditions would be detrimental to the residents.

Consideration of representation

The objection letter does not raise any specific concerns but more a general issue with removal of any conditions due to the need to protect residential amenity. The applicant has submitted a more up to date reviews acoustic/noise assessment report. EHO has assessed both the new report and the objectors concerns and states "the conditions are still in place to protect residential amenity (2,6,7,8,9 & 10)."

History on Site

LA09/2022/0131/F - warehouse provision for the storage of metal components – GRANTED 20.02.2023

LA09/2016/1223/F - Retention of 3 hard standing areas – GRANTED 15.01.2019

LA09/2016/0470/F - Retention of change of use of existing buildings to Light Industrial, General Industrial and Storage and Distribution – GRANTED 06.06.2019

M/2014/0340/F - 500kw centralised anaerobic digestion (CAD) plant GRANTED 17.11.15

M/2010/0348/F - Rebuilding of existing commercial premises due to fire - GRANTED 24.09.2010

M/2007/1571/F - upgrade of existing access to commercial premises – GRANTED 14.08.08

M/2002/0063/F - Change of Use to provide Storage – GRANTED 19.04.02

Consultees

Environmental health were consulted on this application as the condition under question was requested by the environmental health department. In their response they concluded "... the Grainger Acoustics report demonstrates that noise mitigation measures as presented in condition 5 are not required and it is the opinion of the Environmental Health Department that the condition can be revoked."

Planning permission was granted on the 6th June 2019 for the retention of the change of use of existing buildings to Light Industrial, General Industrial and Storage and Distribution under planning application LA09/2016/0470/F, therefore the principle of development on the site is lawful and established. The application relates solely to the non-compliance with condition 5 of that permission.

Condition 5 stated "Within 6 weeks of the date of this decision, the enclosure of the buildings referred to in condition 2 will have panelling or a composite/metal/masonry material fitted as detailed in the Noise Impact Assessment, dated March 2016, additional submissions dated August 2016 and December 2016. Reason: To protect the amenity of neighbouring residents."

All other details and conditions of the previous approval remain intact. The only changes sought are the necessity to fit the sound proofing to the building enclosures as per the condition above. The agent has also submitted a reviewed acoustic report which was sent to EHO for consideration. EHO response stating there shall not be an unacceptable impact on residential amenity of the neighbouring properties was sufficient for them to allow the condition to be revoked. The council has no reason to disagree with this decision and are happy to allow non-compliance and therefore revoke condition 5 of planning approval LA09/2016/0470/F.

Recommendation approval.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

This permission hereby granted relates solely to the removal of Condition No.05 of planning permission LA09/2016/0470/F and all other conditions contained within the original approval remain applicable.

Reason: To ensure that all other conditions of the previous approval are adhered to.

Signature(s): Peter Hughes

Date: 21 February 2024

ANNEX	
Date Valid	20 October 2023
Date First Advertised	30 October 2023
Date Last Advertised	30 October 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 18 Coash Road Dungannon Tyrone BT71 6JE</p> <p>The Owner / Occupier RNN - Unit 3 20A Coash Road Dungannon Tyrone BT71 6JE</p> <p>The Owner / Occupier 26 Cranebrook Crescent Dungannon Tyrone BT71 6JH</p> <p>The Owner / Occupier RNN - Unit 2 20A Coash Road Dungannon Tyrone BT71 6JE</p> <p>The Owner / Occupier 25 Cranebrook Crescent Dungannon Tyrone BT71 6JH</p> <p>The Owner / Occupier RNN 20 Coash Road Dungannon Tyrone BT71 6JE</p> <p>The Owner / Occupier Unit 4 20A Coash Road Dungannon Tyrone BT71 6JE</p> <p>The Owner / Occupier Unit 1 20A Coash Road Dungannon Tyrone BT71 6JE</p> <p>The Owner / Occupier 121 Ballynakilly Road Coalisland Tyrone BT71 6HE</p>	
Date of Last Neighbour Notification	23 October 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
Environmental Health Mid Ulster Council-LA09.2023.1118.F.pdf	

Drawing Numbers and Title

Notification to Department (if relevant)

Not Applicable

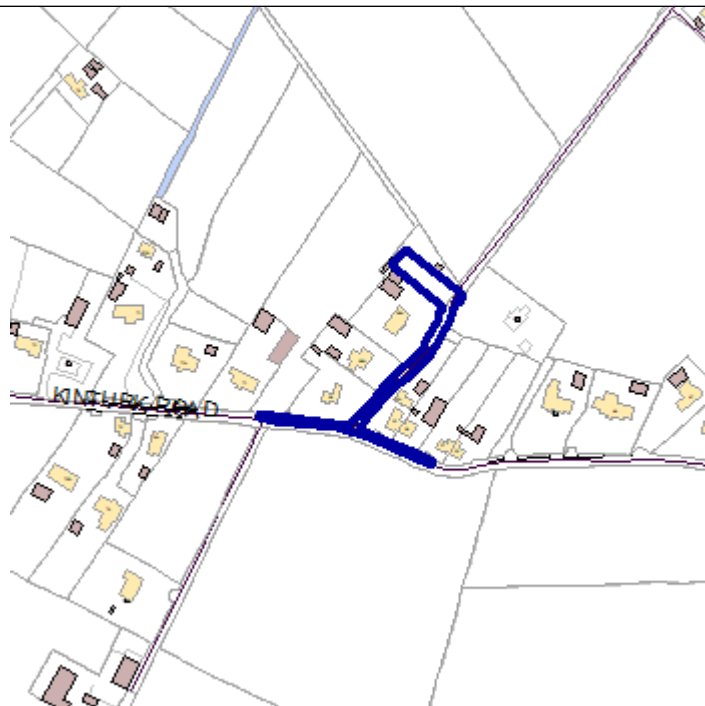


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.20
Application ID: LA09/2023/1139/F	Target Date: 8 February 2024
Proposal: Proposed site for dwelling in infill site	Location: Adjacent to 69A Kinturk Road Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Martin McVey 67A Kinturk Road Coagh Cookstown	Agent Name and Address: Gibson Design & Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
Executive Summary: <p>This application is being presented to Committee as it will be located within the vicinity of an existing Wastewater Treatment Works (WwTWs) and NI Water recommend refusal of the proposal as occupiers of the building may experience nuisance due to the operations of the WwTWs.</p> <p>However, further consultation with Environmental Health who raised no concerns, Planning is recommending the proposal be approved. That whilst there is a NI Water septic tank close by the proposal there are two houses located at a closer distance to the existing tank, one of which consists of foundations and one built. An informative making the owner / developer aware of the existing Wastewater Treatment Works (WwTWs) would be attached to any subsequent 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 Consultation - Approval response.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1139.F.pdf
Statutory Consultee	NI Water - Single Units West	LA09-2023-1139-F.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

Characteristics of the Site and Area

The site is located in the rural countryside as defined by the Cookstown Area Plan 2010, approx. 2.75km north of Moortown and 650 metres west of Lough Neagh.

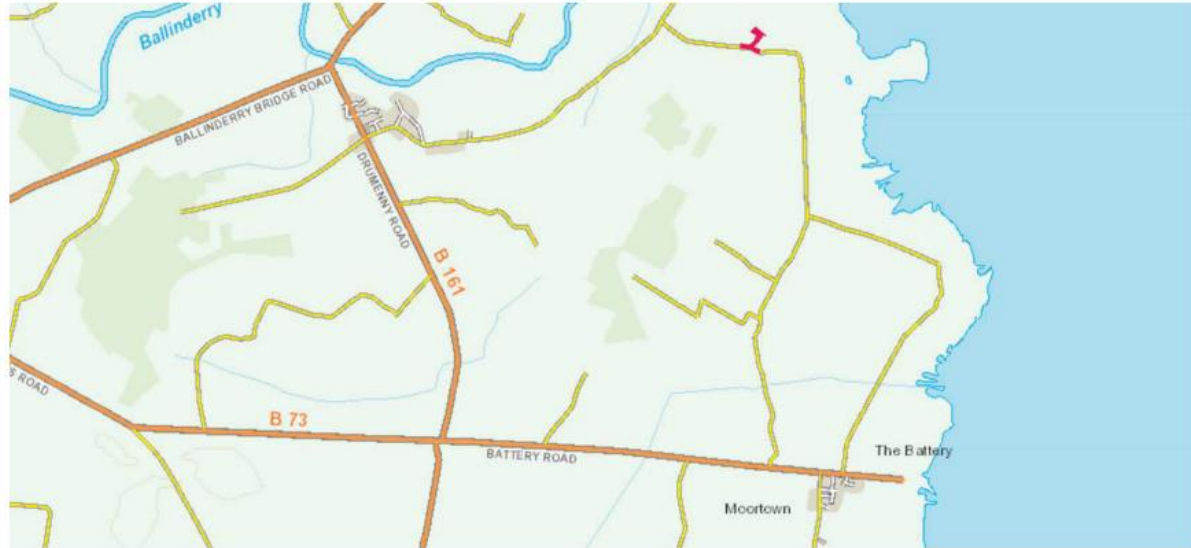


Fig 1: Site outlined red.



Fig 2: Site outlined red.

The site is a small rectangular shaped plot cut from the curtilage of no. 69a Kinturk Road, an existing single storey dwelling with ancillary buildings, set back approx. 100m from and accessed off the Kinturk Road via a lane serving approx. 9 additional dwellings

and the Lough.

The site sits on the curtilage of no. 69a Kinturk Road between the dwelling located immediately to its southwest and a recently approved single storey ancillary general-purpose garage/stable located immediately to its northeast. The site contains a general-purpose shed located in its most western corner. (see Fig: 3, below).

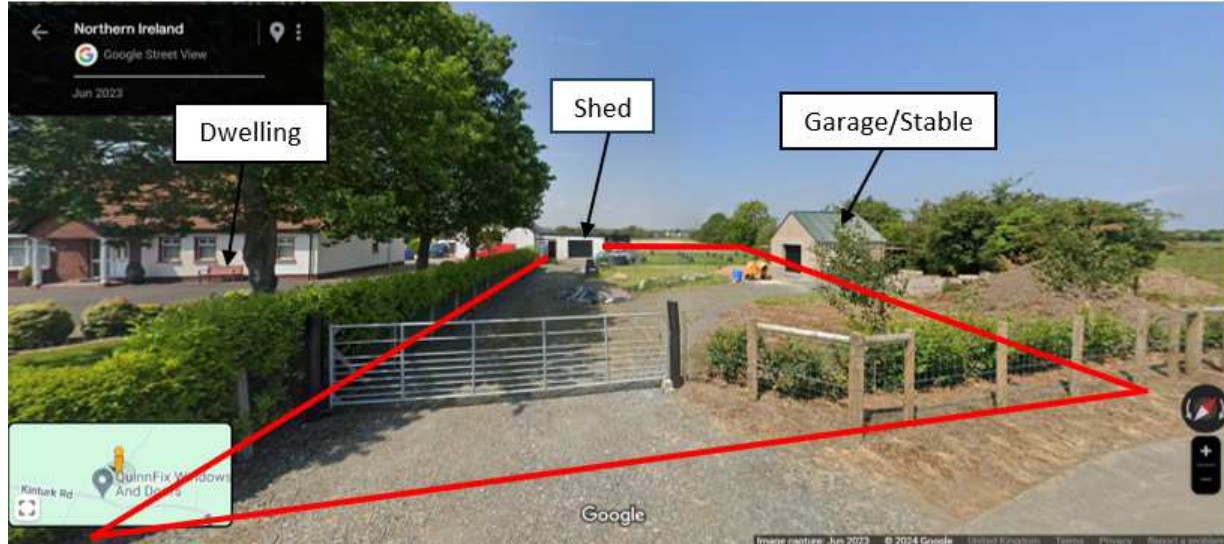


Fig 3: Site containing shed identified red between dwelling and ancillary general-purpose garage/stable.

The southwest boundary of the site is defined by post and wire fencing and mature hedge with a few trees interspersed through; the front lane side / southeast boundary by a post and wire fence and relatively new hedge; the rear northwest boundary by post and wire fencing; and the northeast boundary is undefined.



Fig 4: Views into the site screened from the Kinturk Road located to the south by vegetation along its southwest boundary.



Figs: 5 & 6: Views into the site screened from the lane serving it on both approaches by vegetation along its southwest boundary on the southwest approach; and by vegetation bounding the wider curtilage of the host property, no 69a Kinturk Road, on the northeast approach.

Views into the site are screened from the Kinturk Road located to its south by vegetation along its southwest boundary (see Fig: 4, above). Views into the site are also limited from the lane serving it until passing along its lane side frontage (see Figs: 5 & 6, above).

The wider area surrounding the site is characterised primarily by agricultural lands interspersed with detached dwellings, ancillary buildings and farm groups however the immediate area has come under some development pressure in recent times with a small cluster of development forming to the south of the site around the junction of the Kinturk Road and lane serving the site. Development in this small cluster includes no. 69b Kinturk Road, a 1 ½ storey dormer dwelling; and no. 69 Kinturk Road a bungalow, both located in that order running in a line immediately southwest of no. 69a Kinturk Road. A sewage works exists on lands just south, and to the opposite side of the lane, to the site.

Description of Proposal

This is a full planning application for a dwelling based on Policy CTY8 of PPS21 to be located on lands adjacent to 69A Kinturk Road Cookstown.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 11: Planning and Waste Management

Planning Policy Statement 15: Planning and Flood Risk

Planning Policy Statement 21: Sustainable Development in the Countryside in particular:
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.

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

On site

- LA09/2020/0982/F - Proposed new general purpose garage/stable and retention of lean-to extension to existing general purpose shed/stable to facilitate existing dwelling and extension to curtilage - 69A Kinturk Road Coagh Cookstown - Granted 17th August 2021

Whilst a condition of the above proposal was that the use of the buildings granted were limited to general purpose shed/stable ancillary to no. 69A Kinturk Road and the site shall not be subdivided, I am content that although this proposal will sub divide said lands as is also the case here as detailed further below if the proposal meets with policy it overrides the condition.

Adjacent site

- I/2003/0288/O - Proposed 2 storey dwelling and garage - To the rear of 55 - 61 Kinturk Road Coagh - Granted 14th May 2003
- I/2006/0716/RM - Proposed 2 storey dwelling and domestic garage - To the rear of 55 - 61 Kinturk Road Coagh - Granted 10th January 2007

The above applications relate to lands containing foundations of a dwelling located immediately east of the site to the opposite side of the lane serving the site.

Consultees

1. Dfi Roads - were consulted in relation to access arrangements and have raised

no objections to this proposal. Roads have advised where the lane meets the private road the access is in-situ and doesn't require any improvements as such I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

2. NI Water - whilst the proposal will utilise a septic tank NI Water were consulted as it will be located within the vicinity of an existing Wastewater Treatment Works (WwTWs) located on lands just south, and to the opposite side of the lane. NI Water responded to recommend the proposal be refused as it may experience nuisance due to its proximity to the operations of the existing WwTWs. They advised before they would be prepared to recommend approval, they would require confirmation it met the requirements of Planning Policy Strategy 11, particularly Policy WM5. That as the proposal is located wholly or partially within the WwTWs odour consultation zone boundary an Odour Encroachment Assessment is required to determine its compatibility with the existing operation of the WwTWs. Depending on circumstances this may also require the procurement of an Odour Dispersion Model to NI Water specification.

Further to NI Water's consultation response above I consulted internally with Environmental Health who advised that whilst there is a NI Water septic tank close by the proposal there are two houses located at a closer distance to the existing tank, one of which consists of foundations and one built. That what NI Water are asking for is an application for an odour assessment to be made to NI Water before they can commence the odour assessment procedure. In relation to single dwellings that propose a treatment package or septic tanks the Environmental Health Department would recommend that the tank is located at least 7m from any proposed residential dwelling.



Fig 7: Showing WwTw's in relation to proposed dwelling (red box on site); and two houses located at a closer distance to the existing tank, one of which consists

of foundations and one built.

Having consulted with Environmental Health I am content a dwelling on this site at approx. 40.9m would be greater than 7m from the tank and should not be impacted to any greater unreasonable degree by nuisance due to its proximity to the operations of the tank than two houses located at a closer distance to the existing tank, one of which consists of foundations (32.9m) and one built (32.5m) and as such consider it would be unreasonable to seek additional information. I consider it reasonable to attach an informative to any subsequent decision to make any future purchaser / developer aware that that the proposal may experience nuisance due to its proximity to the operations of the Wwtw's.

3. Environmental Health were consulted in relation to the nearby existing septic tank (WwTw's) and proposed treatment plant. Environmental Health responded to advise that the site of the proposal is located at a similar distance to the existing septic tank than two existing dwellings; and as the proposal it to dispose of foul effluent via a treatment plant they recommended the following comments be brought to the attention of the applicant via informative on any subsequent decision notice:

- The applicant/agent should satisfy themselves 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 Service would recommend a separation distance of 15 metres 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.

I am content that Environmental Health have raised no concerns with this proposal and their advice can be referred to via an informative attached to any subsequent decision notice.

Consideration

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

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside and all other policies relevant to this proposal have been retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside 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.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside 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 - Development in the Countryside. It is my opinion the current proposal falls under one of these instances, the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

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

I consider this application in principle acceptable under CTY8. It is my opinion that the current site constitutes a small gap site within an otherwise substantial and continuously built up frontage as it is located within a line of 4 buildings on similar sized plots running along the west side of the access lane serving the site as detailed above in ‘Characteristics of the Site and Area’. The buildings running northeast to southwest include (1) a recently approved single storey general-purpose garage/stable ancillary to no. 69a Kinturk Road, located immediately to the northeast of the site; and (2, 3 & 4) nos. 69a, 69b and 69 Kinturk Road located immediately to its southwest, comprising three detached dwellings.

I believe the extremely modest dwelling proposed is of an appropriate siting, orientation, size, scale and design for the site and locality. That it will respect the existing development pattern along the lane and integrate onto the site in accordance with Policy CTY13 and with minimal disruption to the rural character of the area in accordance with CTY14. From the limited views of the site as noted above (see ‘Characteristics of the Site and Area’) the dwelling will benefit from the backdrop and sense of enclosure provided to it by the topography of the area; and the existing development and mature vegetation both bounding the site and within the wider vicinity.

The design (including finishes) of the proposed dwelling is generally simplistic and reflective of traditional rural design and in keeping with the rural design principles set out in ‘Building on Tradition’ A Sustainable Design Guide for the Northern Ireland Countryside.

The dwelling, which is 1 ½ storey of bungalow appearance, has a small rectangular-shaped floor plan and a pitched roof construction (approx. 7.3m above FFL) with a chimney expressed along the ridge line adjacent its south gable; and a small, front and rear porch. Finishes to the dwelling have not been included as such in the interests of visual amenity I consider it reasonable to attach a condition to any subsequent decision notice that prior to the commencement of the development hereby approved the applicant shall submit details of the colour and texture of all external finishes to the Council for agreement and this condition has been full discharged.

I am content the proposed dwelling should not impact the amenity of neighbouring properties, with particular attention given to no. 69a Kinturk Road located immediately to the southwest of the site to any unreasonable degree in terms of overlooking or overshadowing due to its size, scale, siting, orientation and design; the separation distances that will be retained; and the existing vegetation bounding the site to the southwest. I am reasonably content any unreasonable overlooking from the ground floor living room of the proposal towards no. 69A Kinturk Road should be prevented by the existing vegetation along the party boundary in the form of a hedgerow interspersed with trees and the first-floor windows in the proposal are bedroom windows considered non main serving. The aforementioned said existing and proposed ground levels and finished floor levels have not been included as such to ensure the dwelling is not raised significantly above existing ground level in the interests of residential amenity I consider it reasonable to attach a condition to any subsequent decision notice that prior to the commencement of the development hereby approved the applicant shall submit details of the existing and proposed ground levels and finished floor levels to the Council for agreement and this condition has been full discharged.

Additional Considerations

In additional to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked. NED map viewer identified the site is not located within Lough Neagh and Beg Ramsar site, Special Protected Area (SPA), an Area of Scientific Interest (ASI), Special Area of Scientific Interest (ASSI) located approx. 650 metres to the east of the site. HED map viewer identified no built heritage assets of interest on or in close proximity to the site.

Flood Maps NI does not indicate flooding on site and whilst a watercourse exists along the northeast boundary of the wider host site / curtilage of no. 69a Kinturk Road I am content that a 10m maintenance strip in accordance with Policy FLD 2 of PPS 15 should be able to be retained to the opposite side of the watercourse to the site. I am also content due to the small-scale nature of this proposed development, in combination with the small watercourse, low gradient and the dilution factor of Lough Neagh, there would be no likely significant effect to any European site from this proposal.

Case Officer recommendation

Approve

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 existing mature trees and vegetation as detailed on Drawing No. 02 received 26 OCT 2023, shall be retained except where it is required to provide access and / or sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual and residential amenity.

Condition 3

Prior to the commencement of the development hereby approved the applicant shall submit details of the colour and texture of all external finishes to the Council for agreement and this condition has been full discharged.

Reason: Reason: In the interests of visual amenity.

Condition 4

Prior to the commencement of the development hereby approved the applicant shall submit details of the existing and proposed ground levels and finished floor levels to the Council for agreement and this condition has been full discharged.

Reason: Reason: In the interests of residential amenity.

Informative 1

This proposal will be located on lands in close proximity to a Waste Water Treatment Works as such any future purchaser / developer should be aware that that the proposal may experience nuisance related to the operations of the Waste Water Treatment Works.

Signature(s): Emma Richardson

Date: 22 February 2024

ANNEX	
Date Valid	26 October 2023
Date First Advertised	7 November 2023
Date Last Advertised	7 November 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 57 Kinturk Road Cookstown Tyrone BT80 0JD</p> <p>The Owner / Occupier 69 Kinturk Road Cookstown Tyrone BT80 0JD</p> <p>The Owner / Occupier 61 Kinturk Road Cookstown Tyrone BT80 0JD</p> <p>The Owner / Occupier 69A Kinturk Road Cookstown Tyrone BT80 0JD</p> <p>The Owner / Occupier 61A Kinturk Road Cookstown Tyrone BT80 0JD</p> <p>The Owner / Occupier 59 Kinturk Road Cookstown Tyrone BT80 0JD</p> <p>The Owner / Occupier 69B Kinturk Road Cookstown Tyrone BT80 0JD</p> <p>The Owner / Occupier RNN - 61B Kinturk Road Cookstown Tyrone BT80 0JD</p>	
Date of Last Neighbour Notification	27 October 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: I/1979/0137 Proposals: EXTENSION AND IMPROVEMENTS TO DWELLING Decision: PG Decision Date:</p> <p>Ref: I/1995/0392 Proposals: Extension to Dwelling Decision: PG Decision Date:</p> <p>Ref: LA09/2020/0692/O</p>	

Proposals: Proposed Dwelling in an infill site

Decision: WDN

Decision Date: 06-DEC-21

Ref: I/1989/0259

Proposals: Improvements to dwelling

Decision: PG

Decision Date:

Ref: I/2003/0027/O

Proposals: Proposed site for 2 storey dwelling and garage

Decision:

Decision Date:

Ref: I/1990/0372

Proposals: 11 KV Rural Spur

Decision: PG

Decision Date:

Ref: I/1994/0015

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: LA09/2020/0982/F

Proposals: Proposed new general purpose garage/stable and retention of lean-to extension to existing general purpose shed/stable to facilitate existing dwelling at no 69a Kinturk Road, Coagh and extension to curtilage to no 69a Kinturk Road, Coagh.

Decision: PG

Decision Date: 17-AUG-21

Ref: I/2003/0139/O

Proposals: Proposed replacement dwelling

Decision:

Decision Date:

Ref: LA09/2021/0035/F

Proposals: Proposed extensions , alterations to dwelling to include rear extension, front porch, conversion of roofspace

Decision: PG

Decision Date: 14-APR-21

Ref: I/1996/0038B

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: I/1987/0183
Proposals: PROPOSED DWELLING
Decision: PR
Decision Date:

Ref: I/1990/0514
Proposals: Dwelling
Decision: PR
Decision Date:

Ref: I/1996/0038
Proposals: Site for Dwelling
Decision: PG
Decision Date:

Ref: I/2002/0333/O
Proposals: 1 No. Dwelling House
Decision: PG
Decision Date: 14-APR-03

Ref: LA09/2015/0299/O
Proposals: Proposed site for new dwelling in infill site
Decision: PG
Decision Date: 18-SEP-15

Ref: LA09/2015/0892/RM
Proposals: Proposed new dwelling and garage/domestic store in infill site
Decision: PG
Decision Date: 08-FEB-16

Ref: I/2003/0896/F
Proposals: Dwelling & Garage
Decision: PG
Decision Date: 03-MAR-04

Ref: I/1992/0255
Proposals: Improvements and extension to dwelling
Decision: PG
Decision Date:

Ref: I/2003/0140/O
Proposals: Proposed dwelling
Decision: PG
Decision Date: 21-MAY-03

Ref: I/1990/0344

Proposals: Sewage Treatment Works (Underground)

Decision: PG

Decision Date: 06-SEP-90

Ref: I/2005/1146/F

Proposals: Proposed disabled extension to dwelling

Decision: PG

Decision Date: 28-OCT-05

Ref: I/2013/0160/F

Proposals: Proposed garage conversion and extension to rear. Linkage provided to contact both structures.

Decision:

Decision Date:

Ref: LA09/2023/1139/F

Proposals: Proposed site for dwelling in infill site

Decision:

Decision Date:

Ref: I/1979/0402

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/1991/0010

Proposals: Improvements to Dwelling

Decision: PG

Decision Date:

Ref: I/2004/0441/O

Proposals: Site of Dwelling & Garage

Decision: PG

Decision Date: 30-OCT-04

Ref: I/2008/0036/F

Proposals: New storey and a half dwelling with detached garage

Decision: PG

Decision Date: 22-MAY-08

Ref: I/2007/0334/F

Proposals: New dwelling and garage (intergrated), removal of condition 5 - ridge height of 5.5m, removal of conditional 6 - maximum frontage of 12m, removal of condition 7 - depth of under building not to exceed 0.45m

Decision:

Decision Date:

Ref: I/2004/0670/O

Proposals: Proposed Dwelling & Garage

Decision: PG

Decision Date: 23-JUL-04

Ref: I/2002/0645/O

Proposals: Proposed site for dwelling and domestic garage

Decision: PG

Decision Date: 19-NOV-02

Ref: I/2005/1409/RM

Proposals: Proposed 2 storey dwelling & domestic garage

Decision: PG

Decision Date: 08-MAR-06

Ref: I/2006/0666

Proposals: New dwelling

Decision: 461

Decision Date: 07-MAR-07

Ref: I/2007/0469/F

Proposals: Proposed dwelling.

Decision: PG

Decision Date: 19-OCT-07

Ref: I/2004/0440/O

Proposals: Site of Dwelling & Garage

Decision: PG

Decision Date: 30-OCT-04

Ref: I/2009/0073/F

Proposals: Dwelling and garage

Decision: PG

Decision Date: 28-APR-09

Ref: I/1979/0136

Proposals: EXTENSION AND IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/2013/0172/F

Proposals: Proposed garage conversion and extension to provide granny flat/ancillary accommodation.

Decision: PG

Decision Date: 05-NOV-13

Ref: I/2009/0028/F

Proposals: Extension to Existing Ground Floor Bedroom to provide disabled facilities

Decision: PG

Decision Date: 24-FEB-09

Ref: I/2005/1002/O

Proposals: Proposed dwelling

Decision: PR

Decision Date: 10-MAR-06

Ref: I/2003/0288/O

Proposals: Proposed site for a 2 storey dwelling and garage.

Decision: PG

Decision Date: 19-MAY-03

Ref: I/2006/0716/RM

Proposals: Proposed 2 storey dwelling & domestic garage

Decision: PG

Decision Date: 12-JAN-07

Summary of Consultee Responses

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

Environmental Health Mid Ulster Council-LA09.2023.1139.F.pdf

NI Water - Single Units West-LA09-2023-1139-F.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 Plans Plan Ref: 03

Notification to Department (if relevant)

Not Applicable

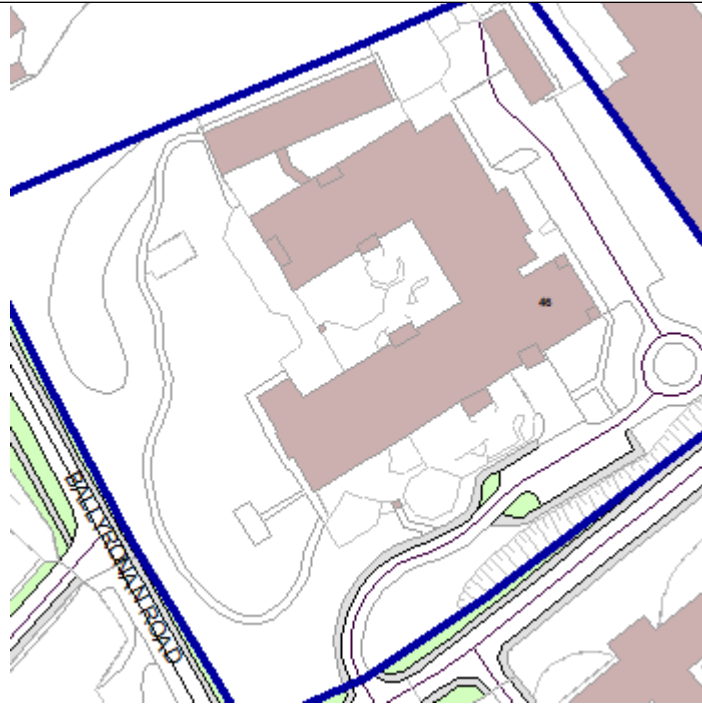


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.21
Application ID: LA09/2023/1166/F	Target Date: 29 May 2024
Proposal: Extension to existing school	Location: Kilronan Special School Ballyronan Road Magherafelt
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Education Authority 40 Academy Street Belfast BT1 2NQ	Agent Name and Address: Gravis Planning 1 Pavilions Office Park Kinnegar Drive Holywood BT18 9JQ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	883347 - Final reply.pdf
Statutory Consultee	NIEA	
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	NIEA	
Statutory Consultee	DFI Roads - Enniskillen Office	No vehicle intensification as per supporting information. Dfl Roads do not offer an objection. Conditions not required
Statutory Consultee	NI Water - Strategic Applications	LA09-2023-1166-F.pdf
Statutory Consultee	Rivers Agency	816701 - Final reply.pdf
Statutory Consultee	NIEA	PRT - LA09-2023-1166-F.PDF
Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1166.F.pdf
Statutory Consultee	NIEA	PRT LA09-2023-1166-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	
<p>The application site measures c.2.2 hectares and is located off the Ballyronan Road at the southeastern end of Magherafelt.</p> <p>The subject site is currently occupied by Kilronan Special School which comprises the school buildings, car parking, access and green amenity space around the periphery. Access to the site is from a public road which runs directly off the Ballyronan Road to the west and which also serves some commercial units to the east of the school.</p> <p>There is undeveloped land to the north, commercial buildings to the east, offices and a residential property to the south and Ballyronan Road to the west. The surrounding area is a mix of residential, and commercial properties along with a large, outdoor, sporting facility.</p> <p>The school site is flat and is virtually completely screened from its main public viewpoint, the Ballyronan Road, as a result of a continuous line of tall trees (approx. 4 – 5m in height) along its western boundary. The northern and eastern boundaries are defined by further vegetation whilst further vegetation and a road form the southern boundary.</p>	
Description of Proposal	
Extension to existing school.	
<p>The proposed extension provides the following accommodation:</p> <ul style="list-style-type: none"> • Classrooms (2 senior PMLD, 2 transition of which 1 is PMLD, a shared Art/ Technology classroom, a shared Drama/ Music classroom and a shared HE/ Science classroom), • ASD support suite • Rebound, sensory total immersion therapy rooms. • Nurture and life skills rooms • Central shared classroom resource area 	

- Shared Post 16/ IT Space

The extension will cater mostly for the older pupils and will become a dedicated senior/ transition 'wing' of the school.

A PAD was submitted under ref LA09/2022/1355/PAD and subsequently LA09/2023/0471/PAN.

A pre-community consultation event was carried out at Kilronan School on 22nd June 2023 and feedback was very positive. No objections have been received to the application.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Strategic Planning Policy Statement (SPPS)

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration in determining this application. The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Under the SPPS, the guiding principle for planning authorities in determining applications is that sustainable development, should be permitted having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Section 45 of the Planning Act (NI) 2011 states that 'where an application is made for planning permission, the council in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations'.

Magherafelt Area Plan 2015 (MAP)

Settlement development limits are designated for each town, village and small settlement in the district, as set out in Part 4 of the Area Plan. The settlement development limit is designated to take account of the town's role as a local hub while protecting its natural setting.

This site lies within the settlement limits of Magherafelt as defined in MAP MT01 Map No 5 and set out in Policy SETT1 – Designation of Settlements. In MAP, the site is not zoned for any particular use. Given the un-zoned nature of the subject site, any future development associated with the existing school would be considered acceptable, in

principle (subject to other design-related considerations).



. 6 – Excerpt from MAP 2015 (indicative site location added in red)

Policy SETT 2 – Development within settlement limits

As the proposed development is located within the settlement limit, favourable consideration will be given providing a range of criteria are met, in accordance with Policy SETT2;

- **It should be sensitive to the size and character of the settlement in terms of scale, form, design and use of materials.**

The proposed scheme provides 7no. classrooms to address deficient accommodation identified through analysis of the existing school. The layout provides post primary accommodation only, which maximises the flexibility of space to serve as senior/ transition age group teaching, breakout and social space. The accommodation provided focuses on providing PMLD/ SLD teaching accommodation with adjoining sensory, and equipment stores along with hoisted hygiene rooms where possible.

A dedicated sensory garden is proposed as part of the works to overcome this loss of external space which is fundamental to the wellbeing and learning of both pupils and staff.

As the 7no classrooms are the key deliverable of the proposal, these take precedence within the proposed plan and have been arranged around the perimeter with traditional low-level glazing. This, combined with the potential of high-level glazing to the corridor maximises potential for natural light and ventilation through all classrooms with reduced reliance on artificial lighting and mechanical ventilation which can present unique challenges to pupils with SEN.

The building has been designed using a simple, robust palette of materials in keeping to the rural context of the building. These have been specified and detailed to a high level

to achieve a quality architectural aesthetic along with maximising the performance of the building envelope to reduce ongoing maintenance and to achieve a maximum lifespan of the building.

I am satisfied the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and materials.

- **Where applicable it is in accordance with any key site requirements contained in part 4 of the Plan.**

There are no key site requirements identified in Part 4 of the plan, therefore the proposal complies with SETT 2.

Education and Community

Policy COY 1 - Community Uses

Favourable consideration will also be given to community uses provided a range of criteria are met, in accordance with policy COY 1.

Policy COY 1 states that planning permission will be granted for community uses within settlement limits provided all the following criteria are met:

- **There is no significant detrimental effect on amenity;**

I am content that the proposal will have no significant effect on amenity of any neighbouring properties due to existing significant vegetation and its location remote from any residential properties.

- **The proposal does not prejudice the comprehensive development of surrounding lands, particularly on zoned sites;**

I am content that this development will not prejudice any surrounding lands in developing but note that there are no zoned sites in close proximity. Any surrounding zonings are not considered to adversely impact upon the school site.

- **The proposals are in keeping with the size and character of the settlement and its surroundings;**

Furthermore, I am content that the proposed size and scale of the proposal is in keeping with the existing school buildings. This will be carried out on a phased basis in 4 phases. Phase 1- enabling works, Phase 2 – extension construction, Phase 3 – interventions within existing building and Phase 4 – landscaping work/mobile removal. This will ensure minimal disruption on site and ensure all work carried out as shown in each phase.

- **Where necessary, additional infrastructure is provided by the developer; and, there are satisfactory access, parking and sewage disposal arrangements.**

Additional infrastructure is not required, and the proposal is to accommodate existing numbers, there will be no increase in numbers of pupils or staff accessing the school. DFI Roads & NI Water were consulted and have offered no objections. I am content there is satisfactory access, parking and sewage disposal arrangements existing at the site.

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

Other policy and material considerations

Kilronan Special School has the vision to provide a happy, safe and stimulating learning environment where pupils are motivated to achieve and feel valued and respected. At present, due to increasing numbers, the school is not adequately fit to meet the various needs of the pupils. This extension will provide much needed accommodation at a location the pupils are familiar with, rather than having to be relocated as the pupils here needs routine, structure and familiarity.

PPS2 – Natural Heritage

A Biodiversity checklist and Preliminary ecology assessment was completed and submitted with the application and NIEA; Natural Heritage Division (NED) and Water Management Unit (WMU) consulted.

Water Management Unit considered the impacts of the proposal on the water environment and have taken account of the NI Water response stating that there is capacity at the wastewater treatment works at the site and that associated sewer network can take the loads for the development with no adverse effect on the WWTW if they comply with all relevant water consents.

The site contains buildings, grassland, hardstanding, scrub and trees. NED are content there are no concerns regarding, badgers, newts, red squirrels, common lizards and otters. There is no Bat Roosting Potential (BRP) at the main school where demolition is to take place, or at the site of the 2 mobiles to be removed and the one mobile to be relocated. NED have no issues relating to protected sites, habitats and species.

PPS3 – Access, Movement and Parking

The existing site access will remain and the proposal will continue to be served by the existing access of Ballyronan Road which is not a protected route. This will therefore not prejudice road safety or significantly inconvenience the flow of traffic and so is in line with policy AMP2.

In line with AMP6 & AMP7 a Transport Assessment form was submitted in terms of traffic implications and car parking. The proposal does not result in an increase in staff or pupils arriving at the school, as this is an extension to serve existing pupils and will provide much needed additional accommodation for the school .

DFI Roads were consulted and offer no objection, based on the information submitted there will be no vehicle intensification therefore no conditions are required.

PPS 8 – Open Space

Development will not be permitted which would result in a loss of existing open space, however an exception will be permitted where it is clearly shown that redevelopment of the area will bring substantial community benefits that outweigh the loss of the open space.

Whilst the proposal will be located in part on existing grassed areas, sufficient amenities and open space areas will be created within the site for the use and enjoyment of the pupils. The existing play equipment and walking trail around the perimeter of the site will also remain. To help mitigate the loss of some of the green area to the front of the site, a dedicated sensory area has been proposed as part of the works, which is fundamental to the wellbeing and learning of the pupils in the school. They will find this a highly valuable space which they don't have now in order to help with their regulation, this gain would be considered as outweighing the loss of the existing green space.

In addition, the loss of green space will not result in a significantly detrimental impact on amenity or character of the school but will actually enhance it.

PPS15 – Planning & Flood risk

A flood risk assessment and drainage assessment (DA) have been submitted and DFI Rivers were consulted for comments.

FLD1 – Development in Fluvial Flood Plains

Flood Maps (NI) indicate that the site lies outside the 1 in 100-year fluvial flood plain, however a small portion on the southern boundary of the site lies within the 1 in 100-year climate change fluvial flood plain. The proposed built development as indicated on the submitted plans lies outside of this, a section of the existing access to and from the school.

FLD2 – Protection of Flood defence and drainage assessment

The proposal will not affect the operational effectiveness or accessibility of the designated culvert on Ballyronan Road and so FLD2 has been satisfied.

FLD3 – Development and surface water

The DA has provided detailed drainage design that demonstrates the issues of sewer flooding will be managed by attenuating the 1 in 100-year event within the proposed drainage network and safely disposed of at limited rate supported by relevant correspondence provided by NI Water. The requirements of FLD3 have been met to provide adequate measures to mitigate flood risk from the development to elsewhere.

FDL4 – Artificial modification of watercourses

Not applicable to this site.

FLD5 – Development in proximity to reservoirs.

Not applicable to this site.

DFI Rivers have therefore no objections if the submitted DA is complied with and this can be conditioned. The proposal complies with the criteria of PPS15.

Overall, I am content the proposed development satisfies the relevant planning requirements and planning policy tests and therefore should be recommended for planning approval, subject to relevant conditions

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

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

Condition 3

If measures are required as per Condition 2 it shall be necessary for the applicant to demonstrate through a verification report that the site is now fit for end use. It must demonstrate that the identified pollutant linkages are effectively broken. The Verification Report methodology shall be in accordance with current best practice as outlined by the Environment Agency. The Verification Report methodology shall be agreed in advance with the Planning Service, in consultation with the Issued on behalf of Environmental Health Service

Reason: To Protect Human Health

Condition 4

Construction works, 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 -13:00 hours on Saturday with no works being undertaken on Public/Bank Holidays. Outside of these hours, work at the site shall be limited to construction work that is not audible at any noise sensitive property.

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

Condition 5

The applicant should comply fully with the submitted Drainage Assessment received on 18th October 2023.

Reason: To prevent any potential flood risk on the site.

Condition 6

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 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): Emma McCullagh

Date: 14 February 2024

ANNEX	
Date Valid	1 November 2023
Date First Advertised	14 November 2023
Date Last Advertised	14 November 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 48 Ballyronan Road Magherafelt BT45 6JQ The Owner / Occupier 52 Ballyronan Road Magherafelt BT45 6EW The Owner / Occupier MUDC 50 Ballyronan Road Magherafelt BT45 6EW The Owner / Occupier 49 Ballyronan Road Magherafelt BT45 6EW The Owner / Occupier 47 Ballyronan Road Magherafelt BT45 6EW The Owner / Occupier 24 Meadowbank Road Magherafelt BT45 6EQ The Owner / Occupier 40 Ballyronan Road Magherafelt BT45 6EW</p>	
Date of Last Neighbour Notification	8 November 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>Rivers Agency-883347 - Final reply.pdf NIEA- Environmental Health Mid Ulster Council- NIEA- DFI Roads - Enniskillen Office-No vehicle intensification as per supporting information.</p> <p>Dfi Roads do not offer an objection. Conditions not required</p>	

NI Water - Strategic Applications-LA09-2023-1166-F.pdf
Rivers Agency-816701 - Final reply.pdf
NIEA-PRT - LA09-2023-1166-F.PDF
Environmental Health Mid Ulster Council-LA09.2023.1166.F.pdf
NIEA-PRT LA09-2023-1166-F.PDF

Drawing Numbers and Title

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

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.22
Application ID: LA09/2023/1217/O	Target Date: 26 February 2024
Proposal: Proposed dwelling and garage on a farm	Location: Land adjacent to No 30 Killyfaddy Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Ian Brown 95 Ballyronan Road Magherafelt BT45 6EW	Agent Name and Address: Vision Design 31 Rainey Street Magherafelt BT45 5DA
Executive Summary: <p>This outline application for a dwelling and detached garage is being presented before members as refusal.</p> <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 1,8, 10, 13 and 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 10 - criteria (C), as it is my view that the proposed site does not visually link or cluster with an established group of farm buildings. CTY 13 in that the proposed dwelling on this site would not cluster or visually link with buildings on the farm. CTY 14 particularly criteria (d) which directs refusal of a development if it would extend a ribbon development along the Public Road. No objections have been received to date. DFI Roads, NIW and DAERA have been consulted and raised no objection subject to conditions and informatives.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2023-1217-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	NI Water - Single Units West	LA09-2023-1217-O.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 open countryside, approximately 1.2km from the settlement limits of Magherafelt as per the Magherafelt Area Plan 2015. The site is identified as land

adjacent to No.30 Killyfaddy Road, Magherafelt, in which the red line covers an undulating agricultural field that sits on the roadside. I note that the red line covers a large agricultural field. The sites boundaries comprise of a small hedgerow surrounding the site, with mature trees to north and south boundaries resulting in the site being somewhat open. The proposed site is currently accessed via an existing agricultural gate to the northwest where the proposal seeks to create a new access onto the public road closer to the southwest boundary. I note that the immediate surrounding area has several dwellings and associated outbuildings alongside a scattering of agricultural fields.

Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Three (3) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date, no third party representation have been received to date.

Relevant Planning History

Reference: LA09/2018/0635/O

Proposal: Infill development, involving the erection of chalet type bungalow with detached garage

Location: Adjacent To 28 Killyfaddy Road, Magherafelt, BT45 6EX.

Decision and Date: Permission Granted 05.12.2018

Planning Assessment of Policy and Other Material Considerations

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside
 - CTY 1: Development in the Countryside
 - CTY 10: Dwellings on Farms
 - CTY 13: Integration and Design of Buildings in the Countryside; and
 - CTY 14: Rural Character
 - CTY 8: Ribbon Development

Magherafelt Area Plan 2015

The Magherafelt Area Plan 2015 identifies the site as being in the rural countryside, approximately 1.2km south of Magherafelt. 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 3 – Access, Movement and Parking

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 will result in the construction of a new access onto a public road therefore, DFI Roads were consulted and provided no objection to the proposed subject to standard conditions.

Planning Policy Statement 21 – Sustainable Development in the Countryside

Development in the countryside is controlled under the provisions of PPS 21 sustainable development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is proposed for a dwelling and garage on a farm therefore this application will be considered mainly under CTY 10 (Dwellings on Farms) of PPS21. CTY 13 and 14 will also be considered in terms of integration and rural character.

CTY10: Dwellings on Farms

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 where practicable, access to the dwelling should be obtained from an existing lane.*

With respect to (a) DAERA were consulted and responded to state that the farm business number is an active and establish farm holding for more than 6 years and is claiming payments.

With respect to (b) having carried out a check on previous approvals, I am content that there are no records indicating that any 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. Nor has the applicant had an approval under this Business Number in the last 10 years.

With respect to (c) there are no buildings on or adjacent to the site for the proposed dwelling to cluster or visually link with however the agent stated that he has chosen the best site on the farm holding in terms of amenity due to intense poultry which can generate odours. His farm buildings are poultry sheds located over 500m to the NE of the site. An informal consultation email was sent to Environmental Health with regards this, to which they responded stating 'It is recommended that new poultry developments are kept a minimum of 150m away from non-associated residential dwellings. This distance may be reduced to a minimum of 100m for free-range methods.' The proposed site is over 500m from the poultry sheds and I am of the opinion that the visual linkage is so limited that a dwelling on the site will in no way be associated with the poultry buildings. As a result of the application fails under CTY 10.

Figure 1: Photo taken from site visit on 09.02.2024- photo taken from existing farm buildings laneway.



CTY 13: Integration and Design of Buildings in the Countryside

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. The proposed site is agricultural field which offers minimal integration. I do however note that there is a small degree of existing screening along all boundaries and mature trees on the north and south boundary which may help integrate a modest dwelling with a low ridge. The application however fails CTY 13 in that a dwelling on this site will not cluster or visually link with buildings on the farm which would itself aid the integration of a dwelling.

Figure 2: snip of site taken from google maps dated 'Sept 2022'



CTY 14- Rural Character

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. This application is contrary to criteria (d) of CTY 14 as well as CTY 8 in that if approved it will result in the extension of ribbon development along this section of the public road. This ribbon includes existing dwellings No.28 and No.30 which front directly onto the public road. There is also an outline approval (LA09/2018/0635/O) for a small gap site between these No. 28 and No.30 which, overtime will result in 4 road fronting buildings. If this application is approved, it will also create a development opportunity in the field to the south, which could be developed with 2 dwellings under policy CTY 8 of PPS21. This would further erode the rural character of this area and should be avoided.

Figure 3: No.28 Killyfaddy Road, LA09/2018/0635/O previously approved outline (blue), No.30 Killyfaddy Road and LA09/2023/1217/O current application site (red)



Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, refusal is recommended on the basis the proposal fails CTY 1,10,13 and 14 of PPS 21 respectively.

Other Considerations

Northern Ireland Water were consulted on the application and recommended no objection subject to standard conditions which can be viewed on the consultation response (06.12.2023) via public access portal.

Habitats Regulations Assessment

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

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

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

Signature(s): Ciara Carson

Date: 19 February 2024

ANNEX	
Date Valid	13 November 2023
Date First Advertised	28 November 2023
Date Last Advertised	28 November 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 32 Killyfaddy Road Magherafelt Londonderry BT45 6EX The Owner / Occupier 33 Killyfaddy Road Magherafelt Londonderry BT45 6EX The Owner / Occupier 30 Killyfaddy Road Magherafelt Londonderry BT45 6EX	
Date of Last Neighbour Notification	21 November 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2021/0322/F Proposals: Erection of replacement dwelling & detached garage. Decision: PG Decision Date: 19-JAN-22</p> <p>Ref: H/2009/0389/F Proposals: New dwelling and garage Decision: PG Decision Date: 19-OCT-09</p> <p>Ref: H/2012/0286/F Proposals: New site access and change of house type and garage from that approved under application ref H/2009/0389/F Decision: PG Decision Date: 08-OCT-12</p> <p>Ref: H/2011/0412/F Proposals: 1 No 2 Storey Dwelling on a Farm with Detached Domestic Double Garage with Roof in Roofspace Decision: PG</p>	

Decision Date: 18-JAN-12

Ref: LA09/2015/0871/F

Proposals: Single storey side and rear extension to dwelling.

Decision: PG

Decision Date: 04-JAN-16

Ref: H/2004/1544/O

Proposals: Site of Dwelling and Detached Garage.

Decision: PR

Decision Date: 11-JAN-06

Ref: LA09/2018/0635/O

Proposals: Infill development , involving the erection of chalet type bungalow with detached garage.

Decision: PG

Decision Date: 11-DEC-18

Ref: LA09/2023/1217/O

Proposals: Proposed dwelling and garage on a farm

Decision:

Decision Date:

Ref: H/2008/0167/F

Proposals: Retrospective application for garage for storing boat and trailer plus retrospective approval for reducing ground level to form hard standing area.

Decision: PG

Decision Date: 18-AUG-08

Ref: H/2007/0439/F

Proposals: Extension to a Dwelling

Decision: PG

Decision Date: 15-APR-08

Ref: H/2011/0042/F

Proposals: Alteration of access to dwelling as previously approved through H/2009/0389/F

Decision: PG

Decision Date: 31-MAR-11

Ref: H/1989/0077

Proposals: CONVERSION OF DWELLINGS INTO LICENSED RESTAURANT

Decision: WITHDR

Decision Date:

Ref: LA09/2017/1087/F

Proposals: Sun lounge extension to rear of dwelling
Decision: PG
Decision Date: 22-SEP-17

Summary of Consultee Responses

DAERA - Coleraine-Consultee Response - LA09-2023-1217-O.DOCX
DFI Roads - Enniskillen Office-Outline resp.docx
NI Water - Single Units West-LA09-2023-1217-O.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

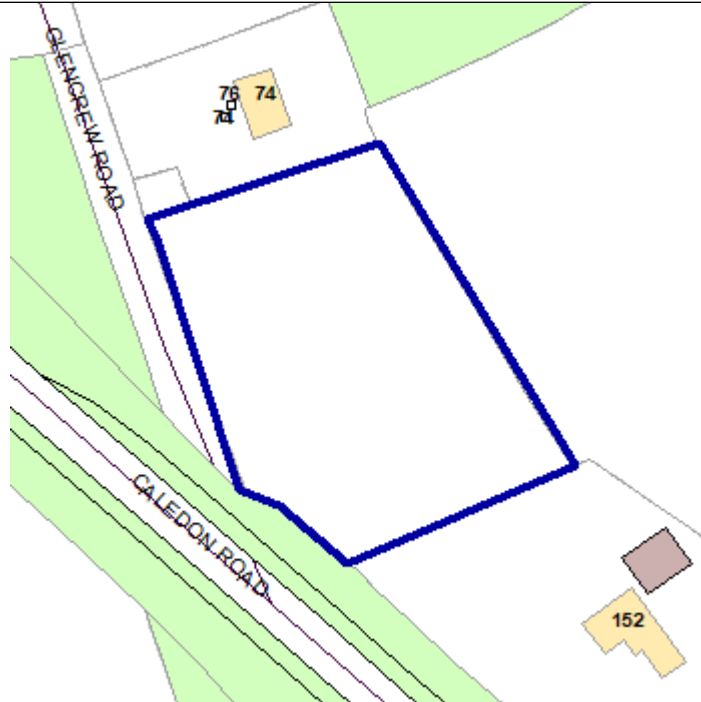


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.23
Application ID: LA09/2023/1323/O	Target Date: 21 March 2024
Proposal: Proposed infill dwelling and garage	Location: Adjacent to and NW of 152 Caledon Road Aughnacloy
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Lloyd Crawford 55 Kingston Manor Craigavon BT66 7HR	Agent Name and Address: Mr Raymond Gillespie 1 Lismore Road Ballygawley Ballygawley BT70 2ND
Executive Summary: This proposal does not fully comply with the provisions of CTY 8 in that there is not a common frontage onto the one road and Members are asked to consider if this proposal would be deemed an exception to this policy.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
	Rivers Agency	911404 - Final Response.pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	NI Water - Single Units West	LA09-2023-1323-O.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

This application site is a rectangular shaped field which is adjacent to and north west of No 152 Caledon Road, Aughnacloy. It sits approximately 3 kilometres south of Aughnacloy village and is whiteland in the Dungannon and South Tyrone Area Plan (DSTAP). Although the site is located within the rural countryside, there are a variety of uses in close proximity to the site. Approximately 200 metres to the west of the site and along the Dunmacmay Road sits Ballymagrane Presbyterian Church and St Georges Church of Ireland Church and their associated burial grounds, with a Trout Fishery located 1 kilometre to the south.



The site is flat with the land to the rear of the site rising steeply. The northern boundary is defined by a D-rail fence which marks the curtilage of No 78 Glencrew Road. The rear eastern boundary and southern boundaries are defined by post and wire fencing and hedgerow with some trees along the rear. The south western corner of the site is parallel to the A28 however the edge of that main road would be over 10 metres from the site boundary, separated by a unused vegetated parcel of land. The western boundary which is along the roadside at the dead end is hedged and has a grassed verge. Directly opposite the site is a small triangular grassed area which provides relief from the A 23 main road.

Planning History

M/2006/1393/RM - Proposed dwelling and garage - South Of No. 78 Glencrew Road, Aughnacloy - Approval - 28.06.2006

M/2002/0010/O - Proposed dwelling and garage - South Of No.78 Glencrew Road, Aughnacloy – Approval - 24.05.2002

Description of Proposal

This application seeks full planning permission for an infill dwelling on land adjacent to and NW of 152 Caledon Road, 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.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received have been subject to a Counter Representation period. In light of this the Draft Plan cannot currently be given any determining weight.

The Strategic Planning Policy Statement (SPPS) published in September 2015 does not have much impact on this proposal, as PPS 21 is retained and it is this policy which this application will be assessed under. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and that 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'.

As can be seen above, planning permission was previously granted initially on this site for a dwelling under the old Rural Strategy policy.

Policy CTY1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8.

Policy CTY 8 - Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up

frontage and provided it respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of 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 satisfied there are a number of buildings to the north of this site as below;

- No 74 Glencrew Road is a bungalow with 3 rooflights and a porch projection on the front elevation and a side projection on the southern gable. This property appears to have increased their curtilage to the rear of the property as well as to the south when it was constructing the replacement dwelling.
- No 76 Glencrew Road is a small single storey dwelling with a low-pitched roof with outbuildings either side of the house to the rear. A front garden area is enclosed by a picket fence and Royal Mail Postbox is located on the kerbed grass verge to the front of this curtilage along the roadside.
- No 70 is an Orange Hall which is single storey and has a hipped roof. The building is set back a bit from the road with the front area seemingly utilized for parking. A low stone wall and pillars enclose this property from the road and a gravel verge with kerbing separates it from the public road.

However, this application site is the plot of land along this part of the Glencrew Road. The Glencrew Road is a semi-circular route which is approximately 3.7 kilometres in length which sits to the north of the A28 Augher – Newry Road. This site is at the eastern end of this road and this particular section of the Glencrew Road is a dead end along the roadside boundary of the site. In the past, along the frontage of the site is originally where the Glencrew Road connected to the A28, however in the interests of road safety, this access point was permanently closed off and a safer access point was created at a 90-degree angle to the A28 where it is positioned now, adjacent to No 76 Glencrew Road.

To the south of this application site is a single storey dwelling at No 152 Caledon Road. The only planning history for this property was for an extension to it which was granted planning permission in 1976. I am not wholly satisfied this application site would meet the policy requirements of CTY 8 as the site does not have a common frontage with the dwellings that it proposes to be a gap within. The site is the last parcel of land at this part of the Glencrew Road and it is a dead end here, thereby not sharing the required common frontage as No 152 fronts onto the Caledon Road and not the Glencrew Road. It is my opinion that when travelling along the A28 towards Aughnacloy, a dwelling on this application site would read with that at No 152 Caledon Road and this would be the most travelled route where the development would be visible from. However, the large garden area of No 152 to the north along with the fact the Glencrew Road terminates in front of this site, a dwelling on this application site may not necessarily read with that which is existing.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The rising agricultural land to the rear of this application site and the existing vegetation would provide a good backdrop to development on this site, however the existing boundaries should be augmented.

If this proposal were to be deemed an exception to the policy, I feel in order to assimilate into the surrounding area it would be important that a ridge height restriction is imposed to allow satisfactory integration with existing development either side of the site and it should have a frontage in line with the dwellings to the north. A dual frontage aspect to the proposed dwelling would be beneficial in that it would also help the proposal to read with No 152 and would link it to this dwelling more. When taking the house types in the immediate environs into consideration by specifying the building line and ridge height as conditions to any permission, I am content development on this site would integrate into the surrounding area unobtrusively in compliance with CTY 13.

In terms of Policy CTY14 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. Through the processing of this application, it has been determined what type and design of dwelling would not cause a detrimental change to the rural character of the area. With the implementation of conditions restricting the position and ridge height of any potential dwelling, I am content it would not result in a detrimental change to the area and thereby meeting the policy requirements of CTY 14.

Representations and Consultations

DfI Roads were consulted and have no objection to this application subject to the provision of visibility splays of 2.4 metres by 33 metres in both directions and a Forward Sight Distance of 33 metres.

DfI Rivers have stated this application site is located partially within a predicted flooded area. As this is an outline application, any permission granted will have a Condition to ensure no development occurs within this area.

This application site sits approximately less than 70 metres to the south of the Orange Hall at No 70 Glencrew Road which was previously known as Crilly School. This is a Grade B1 listed building which is of special architectural or historic interest and is protected. The Archaeology and Built Heritage section of HED have no issues regarding development on this application site, subject to conditions relating to the height and type of roof proposed.

NI Water have said there is no public watermain within 20 metres of the proposed development boundary however access is available via an extension of the existing water supply network. They have no objections to this proposal, subject to a condition regarding Article 76 being inserted to any permission granted.

In line with the Council's statutory duty, 2 neighbouring residents were notified about this application and it was advertised in the local press. There were no objections to this proposal.

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

Summary of Recommendation:

Approve is recommended

Members are asked to consider if this development for a residential property would be considered an exception to CTY 8 of PPS 21. Development on this site would access onto the Glencrew Road and the end dwelling to potentially create an infill opportunity accesses onto the Caledon Road – A28. Although it does not fit neatly into the policy requirements in terms of a common road frontage in that the “substantial line of building” do not access onto the one road, it is the Case Officer's interpretation that when travelling along the A28 (which would be the most Critical View) the site could be visually linked together with No 152 bookending this potential line of residential development. If the Members do agree this application as an exception to Policy CTY 8, it is the Case Officer's opinion that the proposal is in compliance with CTY 13 and CTY 14 of PPS 21 and therefore would recommend permission is granted, subject to conditions.

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

Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

Condition 4

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4 metres by 33 metres in each direction and a forward sight distance of 33 metres, shall be provided in accordance with a 1:500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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 proposed dwelling shall have a ridge height of no more than 5.7 metres from Finished Ground Level and shall have a traditional pitched or hipped roof profile.

Reason: To ensure that the detailed design respects the Listed Building in terms of height and massing.

Condition 6

The front elevation of the dwelling shall be in line with dwellings No 76 and 78 Glencrew Road with a dual frontage design on the south eastern gable.

Reason: In order to respect the pattern of development in the vicinity.

Condition 7

All buildings must be constructed outside of the predicted flooded area as indicated on the DfI Rivers' Surface Water Flood Maps (NI).

Reason: In order to lessen potential impact of flooding.

Condition 8

No development shall be commenced until a requisition for a water main extension has been made to NI Water in accordance with Article 76 of the Water and Sewerage

Services (Northern Ireland) Order 2006 to serve the proposed development. No part of the development shall proceed beyond sub-floor construction until such water main extension to serve the development has been provided.

Reason: To ensure a practical solution for the delivery of a public water supply

Condition 9

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

Reason: In the interests of visual amenity.

Signature(s): Cathy Hughes

Date: 20 February 2024

ANNEX	
Date Valid	7 December 2023
Date First Advertised	8 January 2024
Date Last Advertised	18 December 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 152 Caledon Road Aughnacloy Tyrone BT69 6JD The Owner / Occupier 78 Glencrew Road, Aughnacloy Co Tyrone	
Date of Last Neighbour Notification	12 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/1975/0485 Proposals: EXTENSION TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/1979/0774 Proposals: IMPROVEMENTS TO NIHE COTTAGES Decision: PG Decision Date:</p> <p>Ref: M/2002/0010/O Proposals: Proposed dwelling and garage Decision: PG Decision Date: 24-MAY-02</p> <p>Ref: LA09/2023/1323/O Proposals: Proposed infill dwelling and garage Decision: Decision Date:</p> <p>Ref: M/2009/0942/F Proposals: Replacement dwelling and domestic garage</p>	

Decision: PG
Decision Date: 25-JUN-10

Ref: M/2006/1393/RM
Proposals: proposed dwelling and garage
Decision: PG
Decision Date: 05-SEP-06

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx
Rivers Agency-911404 - Final Response.pdf
Historic Environment Division (HED)-
NI Water - Single Units West-LA09-2023-1323-O.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01
Site Location Plan Plan Ref: 01 Rev 1

Notification to Department (if relevant)

Not Applicable

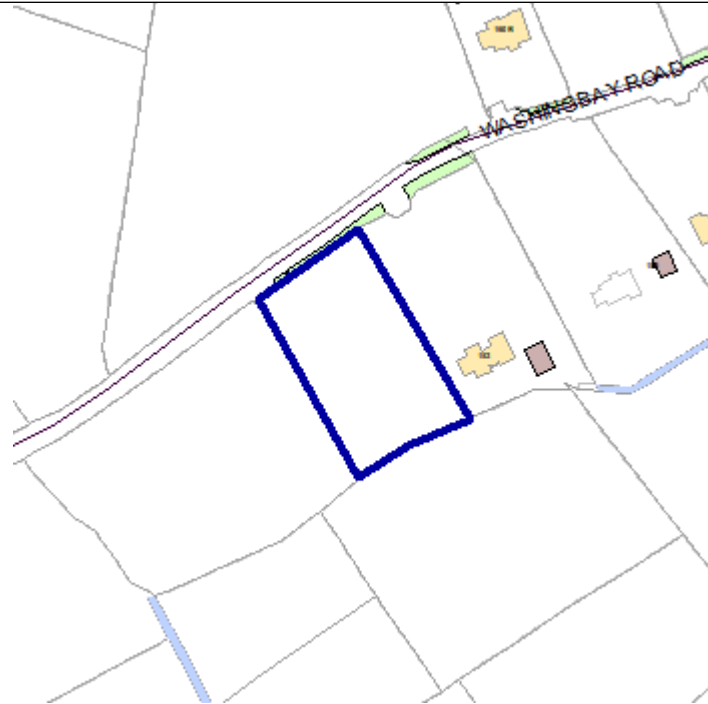


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 5 March 2024	Item Number: 5.24
Application ID: LA09/2023/1377/O	Target Date: 1 April 2024
Proposal: Dwelling and garage under Policy CTY 2a of PPS 21	Location: 30M West of 153 Washingbay Road, Coalisland
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Philip Brady 27 Ballynakilly Road Coalisland BT71 6JJ	Agent Name and Address: Mr Dan Mc Nulty 4 Dergmoney Court Omagh BT78 1HA
Executive Summary: Contrary to CTY 2a New Dwellings in Existing Clusters in PPS 21 as the site is not bounded on two sides by development and the development cannot be easily absorbed into the existing cluster. Contrary to CTY 14 Rural Character in PPS 21 as the proposal will add to a ribbon of development.	

Case Officer Report

Site Location Plan



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Consultations:

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

Representations:

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

Summary of Issues

Characteristics of the Site and Area

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

character and the predominant land uses are agricultural fields, detached dwellings on single plots and groups of agricultural buildings. To the east of the site there are several detached dwellings with a frontage to the public road. Approximately 430m to the southeast of the site is Derrytresk GAA playing pitch.

The site is an agricultural field with a flat topography and a roadside frontage to the public road. To the rear of the site there is a row of established trees and the boundary treatment at the roadside and to the east is a wooden timber fence. The southwest boundary is undefined.

Description of Proposal

This is an outline application for dwelling and garage under Policy CTY 2a of PPS 21 at 30M West of 153 Washingbay Road, Coalisland.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

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

Planning History

No planning history at the site.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

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 cluster dwelling opportunities. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

Planning Policy Statement 21

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for one dwelling in a cluster CTY 2a is the relevant policy in the assessment.

CTY 2a – Dwellings in existing clusters

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings, and open sided structures) of which at least three are dwellings. This proposal site lies outside of a farm and consists of more than four buildings thus adhering to this criterion. There are dwellings at No.153, 160B, 160C, 162B and 161. The cluster appears easily as a visual entity in the local landscape as shown in figure 1 below. Derrytresk Football fields is located approximately 430m southeast of the application site and although not directly associated with the site, it is my view that the application site is in line with the spirit of the policy. There is a dwelling to the east and abutting the site at No.153. There is a planning approval LA09/2022/1692/O across the road to the northeast, but no development has commenced at the site. The agent has argued in discussions there is development across the road and has shown on a block plan an entrance formed for LA09/2015/0828/O. Figure 2 shows there is an access across the road, but I am of the opinion the site is not bounded by development on two sides and the site does not provide a degree of enclosure. I do not consider the proposal will round off an existing cluster and I consider the development would add to a ribbon of development which is detrimental to rural character. I am content the proposal would not have an unacceptable impact on neighbouring amenity.



Figure 1 – Orthophotography image of the application site in the context of the wider area.



Figure 2 – Image of across from the road at the application site.

Having accessed all the evidence, I do not consider the proposal meets all the criteria for a dwelling in a cluster.

Other policies within PPS 21

I have assessed the proposal against other policies within PPS 21 for a dwelling in the countryside.

I consider the proposal does not meet the case within CTY 3 – Replacement Dwellings as there is no dwelling at the site to be replaced.

I consider the proposal does not meet the case within CTY 8 – Infill Dwellings as the development would add to a ribbon of development.

I consider the proposal does not meet the case within CTY 10 – Dwelling on a farm as there are no buildings at the site and the applicant has shown no other land in blue on the site location plan.

CTY 13 – Integration and Design of Buildings in the Countryside

The site is an agricultural field with a flat topography and a roadside frontage to the public road. There are other dwellings to the northeast of the site so I am content the proposal will not be a prominent feature in the landscape. There are minimal natural boundaries at the site and only established trees to the rear. There are other dwellings in the immediate vicinity which will provide a backdrop in long distance critical views in both directions.

CTY 14 – Rural Character

As stated earlier in the assessment I am content the proposal will not be a prominent feature in the landscape. There are already several dwellings in the immediate area to the northeast of the site so another dwelling will not lead to a suburbanised build-up of development. As there are no buildings to the southwest of the site and three dwellings to the northeast, I consider the proposal will add to a ribbon of development which is detrimental to rural character.

PPS 3 – Access, Movement and Parking

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

The applicant is proposing a new access onto the public road, so DFI Roads were consulted. Roads were content with the proposal subject to visibility splays.

Other Considerations

I checked 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 proposal is recommended for refusal as the application does not meet all the criteria in CTY 2a and CTY 14 in PPS 21 Sustainable Development 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 bounded on at least two sides with other development in the cluster and the development will not round off the existing cluster.

Reason 3

Contrary to CTY 14 Rural Character in PPS 21 as the development if permitted will add to a ribbon of development which is detrimental to rural character.

Signature(s): Gillian Beattie

Date: 19 February 2024

ANNEX	
Date Valid	18 December 2023
Date First Advertised	9 January 2024
Date Last Advertised	9 January 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier 153 Washingbay Road Coalisland BT71 4QE The Owner / Occupier 159 Washingbay Road Coalisland BT71 4QE	
Date of Last Neighbour Notification	19 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2023/1377/O Proposals: Dwelling and garage under Policy CTY 2a of PPS 21 Decision: Decision Date:</p> <p>Ref: M/2004/2191/O Proposals: Proposed dwelling Decision: PG Decision Date: 05-APR-05</p> <p>Ref: M/1994/0504 Proposals: Site for dwelling and garage Decision: WITHDR Decision Date:</p> <p>Ref: LA09/2023/1374/F Proposals: Farm Shed for Feeding & Shelter Area, Storage Area & Underground Slurry Tanks Decision: Decision Date:</p> <p>Ref: M/2006/2001/RM</p>	

Proposals: Proposed Private Dwelling and Detached Garage

Decision: PG

Decision Date: 04-APR-07

Summary of Consultee Responses

DFI Roads - Enniskillen Office-DC Checklist 1.doc

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

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02 Rev 1

Site Layout or Block Plan Plan Ref: 03

Notification to Department (if relevant)

Not Applicable