



06 February 2024

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Dungannon and by virtual means at Council Offices, Circular Road, Dungannon, BT71 6DT on Tuesday, 06 February 2024 at 17:00 to transact the business noted below.

A link to join the meeting through the Council's remote meeting platform will follow.

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

#### Development Management Decisions

5. Receive Planning Applications 9 - 414

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2018/0873/LBC	Alteration and extension of existing listed building (The	APPROVE

		Corner House)to include; demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises. at 6-8 St Patrick's Street, Draperstown, Magherafelt for Heron Brothers Ltd	
5.2.	LA09/2018/0887/F	Alterations an extensions of existing listed building (the Corner House) to include: demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises. at 6-8 St Patricks Street, Draperstown, Magherafelt, for Heron Brothers Ltd	APPROVE
5.3.	LA09/2019/0331/F	4 span portal framed building to be used for sub-assembly and research/design formation of concrete areas throughout remainder of the site for storage and access and upgrade top parking and associated works (amended description) at Unit 3 Granville Road, Dungannon for MC Closkey International Ltd	APPROVE
5.4.	LA09/2019/0854/F	New spur road from Greers Road to lands approved (M/2014/0572/O) for outline residential development for maximum of 210 units with access onto Greers Road, Donaghmore Road and Quarry Lane. The right of way road will also provide access to the	APPROVE

		existing car park (Amended Description) at lands 37m W of 6 Union Place, Dungannon for The Mallon Family	
5.5.	LA09/2019/1011/O	Housing development at lands to the E & NE of 89 Loup Road, Loup, Moneymore. for Mr K Scullion	APPROVE
5.6.	LA09/2021/0837/F	Assembly factory buildings and increased hardstanding to the rear of existing manufacturing premises on existing site at 200 Annagher Road, Coalisland, Dungannon for Mc Grath Engineering Ltd	APPROVE
5.7.	LA09/2022/0607/F	Housing development consisting of 12 dwellings, 10 semi detached and 2 detached including access road at site immediately E of Ashbrook Nursing Home, 50 Moor Road, Coalisland for D M Investments	APPROVE
5.8.	LA09/2022/1117/F	Retention of shed ancillary to existing business and domestic dwelling and associated works, including extension of domestic and commercial curtilage, landscaping works, garden wall estate fencing and widening of access. at 14 Tullydraw Road, Dungannon, for Paul McCaul	REFUSE
5.9.	LA09/2022/1638/F	Alteration and extension to existing supermarket including change of use. Additional change of use to provide new off licence with first floor store at 53, 55, 57 and 59 Church Street, Cookstown for Mr Pearse Kelly	APPROVE
5.10.	LA09/2022/1728/F	Widening of an established business access to facilitate safe access for HGV vehicles to the Moy Park Hatchery at 16 Main Street, Donaghmore for Mr Michael Quail	APPROVE
5.11.	LA09/2023/0290/O	Dwelling and garage at lands approximately 93m NE of 19 Coal Pit Road, Dungannon for Mr & Mrs Peter and Carmel Mc Brien	REFUSE
5.12.	LA09/2023/0304/F	Retrospective Farm Diversification Agricultural	REFUSE

		Storage Shed / Office / Car Valet / Showroom at 47 Crancussy Road, Cookstown, for Mr Karl Heron	
5.13.	LA09/2023/0356/F	Veterinary Clinic and animal rehabilitation centre, access, landscaping and ancillary site works at lands S of 165 Aughrim Road, Toome for Taurus Hold Co Ltd.	APPROVE
5.14.	LA09/2023/0425/F	Farm building at 200m SW of 31 Camaghy Road South, Galbally, Dungannon for Mr Seamus McGlinchey	REFUSE
5.15.	LA09/2023/0426/F	Farm shed to replace existing farm buildings for storage of farm machinery and fodder at 78 Moneygran Road, Kilrea, for Mr Damian Shields	REFUSE
5.16.	LA09/2023/0509/O	Site for dwelling and garage at 30m SE of 35 Kilrea Road, Upperlands for Mr Darren Mc Guckin	APPROVE
5.17.	LA09/2023/0518/O	Site for dwelling and garage at 40m N of 24 Killywoolaghan Road, Ardboe for Christopher Scullion	APPROVE
5.18.	LA09/2023/0595/F	Conversion of rear yard to beer garden to Public House at The Cosy Corner Bar, 68 Gulladuff Road, Gulladuff for Seamus Boyle	APPROVE
5.19.	LA09/2023/0635/F	Industrial unit and site office in existing industrial park at lands immediately N of Junction of Pomeroy Road & Kilcronagh Road, Cookstown for Mr PJ Mc Gee	APPROVE
5.20.	LA09/2023/0652/O	Dwelling on a Farm at Site at 150m W of 18A Ballynacross Road, Maghera for Mr David Fulton	REFUSE
5.21.	LA09/2023/0733/RM	Dwelling between 66 and 66A Derryoghill Road, Dungannon for Jacinta Hughes	APPROVE
5.22.	LA09/2023/0790/F	Garage at 73 Favour Royal Road , Aghnacloy for Mr Stuart Henderson	REFUSE



5.23.	LA09/2023/0874/F	Farm shed at lands approx 53m E of 17A Corvanaghan Road, Cookstown for Mr Charles Quinn	REFUSE
5.24.	LA09/2023/0899/F	Replacement of existing wind turbine as approved (H/2011/0329/F) with a new wind turbine to a hub height of 53m and a rotar diameter of 52m along with associated development at lands approx 320m SE of 6 Brackaghislea Road, Draperstown for Mr Austin Kelly	APPROVE
5.25.	LA09/2023/0906/O	Dwelling and domestic garage at 20m S of 3 Coal Pit Road, Dungannon for Mr Shaun Kelly	REFUSE
5.26.	LA09/2023/0916/F	Off site replacement dwelling and garage at 180m W of 16 Carncoise Road, Cranny, Money more for Mr Gregory McGovern	REFUSE
5.27.	LA09/2023/1064/O	Dwelling and garage at lands opposite 20 Moor Road, Corr, Dungannon for Mr Sean O' Brien	REFUSE
5.28.	LA09/2023/1070/O	Dwelling and garage adjacent to 59 and 24m SE of 55 Killary Lane, Killary, Stewartstown, Dungannon for Mr Brian Corr	REFUSE
5.29.	LA09/2023/1071/O	Dwelling and garage at approx 50m NE of 2 Cullenramer Road, Dungannon for Mr Michael Walls	REFUSE
5.30.	LA09/2023/1114/F	Office extension and alterations to existing offices. at 30 Farlough Road, Dungannon, for Mr Darragh Cullen	APPROVE
5.31.	LA09/2023/1159/F	2no. Infill dwellings and domestic garages at 50m W of 56 Tobermore Road, Draperstown for Mr Adrian Mclvor	REFUSE
5.32.	LA09/2023/1286/F	Extension and alterations to dwelling at 22 Ballynagowan Road, Stewartstown, for Mr and Mrs Enda and Nuala Devlin	REFUSE
5.33.	LA09/2023/1296/F	Car port and first floor extension to side of dwelling at 22 Ferny Ridge, Castlecaulfield, for Gareth Hetherington	REFUSE
5.34.	LA09/2023/1297/F	Temporary planning permission for the retention of a mobile	REFUSE

		caravan unit for living accommodation at Site 50m W of 10 Aghnahoe Road, Killeeshill, Dungannon for Trevor Hurst	
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6. Receive Deferred Applications

415 - 630

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2020/1046/F	Retention of and relocation of partially constructed farm shed for farm machinery storage, and animal shelter and amendments to the design of approved LA09/2017/0977/F at 40m NE of 28A Toomog, Galbally, Dungannon for Noel Mc Elduff	APPROVE
6.2.	LA09/2021/0317/O	Infill dwelling & garage between 23 & 27A Macknagh Lane, Upperlands, Maghera for Mr Paddy McEldowney	REFUSE
6.3.	LA09/2021/0480/F	Dwelling and domestic garage within existing cluster at 75m W of 11 Grange Road, Cookstown for Mr Paddy Donnelly	REFUSE
6.4.	LA09/2021/0676/O	Relocation of approved site LA09/2018/1646/O to opposite side of road at 70m SW of 11 Motalee Road, Magherafelt for Mrs Gillian Montgomery	REFUSE
6.5.	LA09/2021/1657/F	General purpose storage unit & associated works in association with an established business at 25m NE of 9 Farlough Road, Dungannon for Terramac Fabrication Ltd	REFUSE
6.6.	LA09/2022/0234/O	Site for dwelling and garage at lands Approx. 100m SW of 111 Dunnamore Road, Cookstown for Mr Noel Corey	REFUSE
6.7.	LA09/2022/0437/F	Farm dwelling at 59 Derryvaren Road, Coalisland for Mr James Campbell	REFUSE
6.8.	LA09/2022/0541/F	Farm shed for the storage of hay at 210m E of 91 Ballynakilly Road, Coalisland for Mr Gavin Quinn	REFUSE
6.9.	LA09/2022/1095/F	Relocation of previously approved dwelling and domestic double garage due to ground	APPROVE

		conditions at approx. 75m NW of 42 Cloghogmoss Road, Coalisland, for Mr Declan McShane	
6.10.	LA09/2022/1582/O	Dwelling and garage on a farm. at 60m NE of 28 Cloughfin Road, Killeenan, Cookstown for Mr Patrick Hegarty	REFUSE
6.11.	LA09/2023/0105/O	Site for dwelling and domestic garage at 60m E of 32 Drummuck Road , Maghera for Grainne and Tommy Quigley	REFUSE
6.12.	LA09/2023/0206/O	Dwelling and Garage at 30m S of 15 Craigs Road, Cookstown for Mrs Marissa McTeague	REFUSE
6.13.	LA09/2023/0268/O	Dwelling and Garage at lands 40m N of 182 Brackaville Road, Coalisland for Mr James Girvin	REFUSE
6.14.	LA09/2023/0328/F	Renewal of approved planning application (extension to rear and side of dwelling to accommodate siting area and bedroom) at 5 Coolmount Drive, Cookstown, for Emma McAleer	REFUSE
6.15.	LA09/2023/0580/F	Removal of Conditions 7 & 8 from approved LA09/2023/0022/O at 25m NW of 56 Cavey Road, Ballygawley for Mr Niall McCartan	APPROVE

7. Receive Report on Response to the Northern Ireland Public Service's Ombudsman Report "Strengthening Our Roots" 631 - 688

Matters for Information

8. Minutes of Planning Committee held on 9 January 2024 689 - 708
9. Receive Findings from the Planning Customer Survey 709 - 756

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

Matters for Decision

Matters for Information

10. Confidential Minutes of Planning Committee held on 9 January 2024

11. Enforcement Cases Opened

12. Enforcement Cases Closed

**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.1
<b>Application ID:</b> LA09/2018/0873/LBC	<b>Target Date:</b> 15 August 2018
<b>Proposal:</b> Alteration and extension of existing listed building (The Corner House) to include; demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises.	<b>Location:</b> 6-8 St Patrick's Street Draperstown Magherafelt
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Heron Brothers Ltd 2 St Patrick's Street Draperstown BT45 7AL	<b>Agent Name and Address:</b> MC Gurk's Architect's 33 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b>  This proposal is a Listed Building application for the Alteration and extension of existing listed building (The Corner House) to include; demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises.  The rear extension is to be connected to the Listed Building by means of a glazed link. The proposal also involves the creation of a pedestrian link under the public road to connect the proposed extension to the applicant's existing office accommodation on the	

opposite side of Cahore Terrace. The site is located within Draperstown Conservation Area.

Historic Environment Division (Historic Buildings) requested that the glazed link be extended to provide more of a separation between the proposed extension and the Listed Building and also proposed other amendments to the layout of the extension.

These issues were discussed at an office meeting between the Planning Department and the applicant and it was the Planning Departments opinion that the proposal was acceptable as it stands without the need for the amendments requested by HED.

The applicant, who is a major employer in the local area, commenced the development, which has now been completed and is fully occupied, in an effort to retain the company's headquarters in Draperstown as opposed to relocating these elsewhere outside Mid Ulster District.

The proposed development is also subject to a full planning application (LA09/2018/0887/F) which is also being presented to Committee and an application for consent to demolish within a conservation area (LA09/2018/0872/DCA).

As the Planning Department are recommending the application for approval against the advice received from HED, the application must also be referred to the Department for consideration.

**Case Officer Report**

**Site Location Plan**



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**Consultations:**

Consultation Type	Consultee	Response
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: TBC
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: TBC

**Representations:**

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

**Summary of Issues**

No representations were received in respect of the proposed development.

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

The site is currently occupied by a two storey, five bay former public house (Grade B1 Listed Building) with a prime street frontage on a corner site at the junction of St. Patrick's Street and Cahore Terrace. The site extends back from the St. Patrick's street frontage to include a rear yard which site below the level of the adjacent Cahore Terrace. There are a number of out-buildings within the rear yard and which can be accessed via a vehicular gateway at the rear of the building. The boundary along the Cahore Terrace is defined by a rubble stone wall which forms part of the curtilage of the Listed Building. The southern boundary is defined by steel posts with steel sheeting which acts as a retaining structure along the difference in ground levels of approximately 5-6m between the site and the adjacent car park, which is also within the applicants ownership. The western part of the site extends to the rear of an adjacent café 'Slim's which abuts the vacant public house.

The applicant's joinery workshops are located to the south of the adjacent car park and has a separate access onto Cahore Terrace.

The existing property at 6-8 St. Patrick's Street is an early Victorian corn store, erected C.1841 to designs by W J Booth on behalf of the drapers as part of the regeneration of the town at that time. It is one of a few buildings of special historical significance remaining today within Draperstown Conservation Area.

The site is located within the settlement development limits of Draperstown in an area of whiteland which abuts an area identified as a major area of existing industry. The site occupies a prominent location on the St. Patrick's Street frontage and within the Draperstown Conservation Area, with the majority of the site located to the rear of the Listed Building. Whilst the site sits on the main street frontage of St. Patrick Street which contain a mixture of residential and commercial premises, the area immediately to the south of the site is predominantly industrial. However, the adjacent industrial area is within the ownership of the applicant.

### **Description of Proposal**

The proposal is a Listed Building application for alteration and extension of existing listed building (The Corner House) to include; demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises.

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

#### **Policy Consideration**



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

Magherafelt Area Plan 2015

The Strategic Planning Policy Statement for Northern Ireland (SPPS)

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

Planning Strategy for Rural Northern Ireland

Draperstown Conservation Area Design Guide

PPS 6 - Planning, Archaeology and the Built Environment

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

The 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 proposal seeks Listed Building Consent to refurbish the existing listed building and to extend the building to the rear to facilitate the change of use to provide offices, board/meeting rooms, training room, canteen, courtyard, ancillary facilities, such as WC's and storage areas. Etc. and a link tunnel to the existing offices.

Heron Bros. currently occupy the buildings directly opposite the site on Cahore Terrace. These buildings are at full capacity and therefore limit the company's ability to expand their operations at this location. Therefore there is a clear need for more office space to allow further expansion in Draperstown. Whilst there are temporary modular office units within Heron Bros. existing site, these are unsuitable for long term use and are not adaptable to the changes in climate. The demand on the existing building infrastructure cannot be sustained without a major renovation which would impact on Heron Bros. ability to operate. Heron Bros, have offices located in Belfast, Glasgow, Manchester and London. Heron Bros. is a local family run business and they would prefer to keep the head offices in Draperstown, where the business originated.

The new extension will create office space for 55 desks with 3 meeting rooms. The listed building will also accommodate a reception/waiting area, 4 meeting rooms and storage/archive areas.

The concept for the design of the new office development is to treat the proposal as

three distinct elements;

1. Existing building;
2. Glazed link;
3. New office development to the rear.

The existing building will be treated with complete sensitivity to ensure all of its architectural qualities and character are retained. The use of the transparent glazed link to the rear of the property, set back from the Corner House, will ensure that the listed building remains the dominant feature. The glazed link provides a required physical connection to the new offices but enables the original structure to be viewed as a separate entity, thereby maintaining its character. The new build office block is then designed to be a contrasting element to the listed property and whilst it is a new element in the streetscape, it also compliments the listed building and the Conservation Area. This provides a clear differentiation between the original building and the new extension thereby reinforcing the significance of the historic building.

The Corner House is in reasonably good condition thereby requiring minimal intervention to enable it to be incorporated into the proposed development. It is proposed to demolish the ancillary unlisted outbuildings to the rear of the Corner House as these are unsympathetic to the listed building and detract from the historic and architectural quality of the Corner House building.

Externally, additional works are proposed as follows;

Modern signage, cigarette bins, signage boards etc. to be removed from the front elevation;

Damaged slates to be removed and replaced with Welsh slate to match existing;

Roof surface to be cleaned down;

Existing building to be cleaned and repainted with heritage paint colours;

New replacement cast aluminium gutters to be provided;

Plaster repairs to be carried out to all affected areas;

New flashing to be provided above fascia.

The existing entrance will be retained as the primary entrance to the building onto St. Patrick's Street. The existing stairs are to be retained in their current location. The new reception desk will be positioned to mimic the current bar with the current floor plans being on display in the reception area. All internal structural walls are to be retained with any new walls to be constructed in studwork which is easily reversed to its original state.

The new glazed link, which will extend back just in excess of 7.5m from the rear façade of the listed building, on the Cahore Terrace elevation, will replace the unsympathetic extension to the rear of the Corner House. This glazed link will allow for full integration between the existing listed building and the new extension.

The link will be largely glazed, with the addition of some vertical timber to provide shading. The glazed link will appear as a separate entity and also subordinate to the listed building and in doing so will provide passers by with a view of the rear of the existing building. The creation of the rear extension will be viewed as a complimentary addition, whilst also being a modern contrast. In doing so, the extension will both enhance and emphasise the setting and character of the listed building within the

Conservation Area. This concept is similar to that used on Union Road Presbyterian Church Hall Magherafelt. Notwithstanding this, there will only be transient views of the proposed extension on approach along Derrynoyd Road (55m stretch), St. Patrick's street (20m stretch) or when approaching along Cahore Terrace from the south where the extension will be largely associated with the existing industrial buildings.

The proposed development also includes a link tunnel under the Cahore Terrace, which will connect the new modern extension to the existing offices on the opposite side of road. This tunnel will facilitate staff moving between both buildings, without the need to cross the public road enabling integration between both office buildings thereby ensuring there is no separation in the day-to-day operations of the business. As the pedestrian link is underground, it will have little impact on the Listed Building.

The site is located adjacent to an area identified as a major area of existing industry. The proposed extension will create additional office floor space for an existing business to expand and thereby create security for the business. The proposed extension and alterations will alter the silhouette of the existing structure against the elevated landscape to the south of the site. Views into and out of Draperstown Conservation Area provide an important evidential link to the town's original form and layout.

Public views from St. Patrick's Street Draperstown are an important material consideration in relation to the Conservation Area designation, specifically the proposed Cahore Terrace elevation. The proposed extension will be the dominant feature in the streetscape, as one travels along Cahore Terrace from the junction with St. Patrick's Street in a southerly direction or indeed along Cahore Terrace in the opposite direction. Whilst the extension will tie in with the neighbouring skyline and be viewed mainly from Cahore Terrace it is important to establish whether this will cause harm to the setting of important listed buildings and to ensure that the character of the conservation area is protected. Accordingly the views of historic buildings division and Councils Conservation Area officer have been taken into account in assessing the application. The rear of the Listed Building is currently largely hidden from public viewpoints from the historic core of Draperstown and only becomes visible as one travels along Cahore Terrace. The elevated topographic nature of the existing landscape as one travels out of Draperstown, limits potential height, massing and form of any proposed extension in terms of its integration into the original historic layout, pattern massing, form and height of the authentic historic built fabric.

Notwithstanding the above, consideration must also be given to the proposal in proximity to the recent application LA09/2022/0032/F. That application proposed a second floor extension to an existing office block on Cahore Terrace directly opposite the proposed extension and is now also complete. That site extends back in a southerly direction further than the proposed site on the opposite side of Cahore Terrace and can be seen from St. Patricks Street. where it projects above the two storey building at 2A Cahore Terrace. The LA09/2022/0032/F planning application is a material consideration and the impact of the proposed extension as submitted, in my opinion, is no more detrimental to Draperstown Conservation Area than second floor extension now used as associated office accommodation.

A full planning application (LA09/2018/0887/F) and an application for consent to

demolish within the Conservation Area (LA09/2018/0872/DCA) have also been submitted and are material considerations in the assessment of this application.

Policy BH7 Change of use of a Listed Building allows for the use of a Listed Building to be changed provided this secures its upkeep and survival and the character and architectural or historic interest of the building is preserved or enhanced. The proposed change of use of the Listed Building from a public house to offices will be in keeping with the aims of this policy. HED HB have no objections in respect of the proposed use or the alterations being made to accommodate the proposed use.

Policy BH8 allows for extensions or alterations to a Listed Building where the proposal retains the character of the building and its features of special interest remain intact and unimpaired, the proposed works make use of traditional and/or sympathetic building materials which are in keeping with those found on the building, and the architectural details are in keeping with the building. The proposal retains the building both externally and internally with the majority of features such as the stairs are to be retained in their current positions. The new reception desk will mimic the current bar, thereby allowing users to understand the former use of the building and its previous layout. HED (Historic Buildings) advised that it does not have concerns with regards to the alterations to the interior of this building from its current arrangement.

Policy BH11 Development affecting the Setting of a Listed Building allows development where this does not have an adverse affect on the setting. Developments will normally only be considered acceptable where, the detailed design respects the listed building in terms of scale, height, massing and alignment; the proposed works make use of traditional or sympathetic materials and techniques which respect those found on the building; and the nature of the proposed use respect the character of the setting of the building.

HED (Historic Buildings) advised that they consider the proposal fails to retain the essential character of the building and its setting and that the works proposed do not make use of traditional/sympathetic materials in keeping with those found on the building as none are specified. HB also considers the scale, height, massing and alignment does not respect the listed building. HB justified the above by the following explanation;

- o The juxtaposition between the glazed link and the listed building is awkward - the link should ideally be lower than the existing eaves.

I disagree with this analysis as the glazed link will only be visible when standing beside the entrance to the link. Due to the footprint of the link being set back 1.0m behind the building line of the extension, it is largely screened from view both from Cahore Terrace and St. Patrick's Street. A suggested sketch was provided by Historic Buildings and noted that the rear link should be, at maximum, equal eaves height with traditional roof form. Therefore, the fact that the glazed link ties in with the eaves level of the existing building may not be ideal but this does not make it unacceptable.

- o It is appreciated that the solid to void ratio is designed to relate to a terrace rhythm. However, this expression is more appropriate to a city centre or greenfield site and does not take its cues from how a building such as 6-8 St. Patrick's Street might have developed. It is suggested that the back of the site is maximised to give breathing space

to the rear of the listed building.

The proposed extension is not attempting to replicate the existing building, rather it is designed to be a modern extension which will not compete with the existing listed building. In that sense, the proposal is, in my opinion, acceptable as it stands as a modern day extension separated from the listed building by the glazed link.

o the overall three-storey height appears overbearing in the context of predominantly two storey buildings, which are domestic in scale. The Corner House forms an end to a row of similarly scaled terraced buildings and although the others are not listed, they comprise a visually harmonious group. In addition, the junction of St Patrick Street and Cahore Terrace is an important viewpoint - HED consider that a three storey development would have a visually disruptive impact from this aspect.

In order to appear more sympathetic with the built form that characterises the wider setting, HED therefore offer the following suggestions:

a. reduce link height

b. increase footprint at southern end of site. Further articulation of the north and east elevations is also suggested to be more in keeping with the existing grain - the proposal appears monolithic from these aspects. Existing context illustrated below from N (left) and NW (right), which is largely single and two storey in scale:

I disagree with the comments above with regards to the three storey extension to the rear being disruptive. The development, which by now has been completed, can be viewed on site and as discussed above, is relatively well screened from view when travelling along St. Patrick's Street, Tobermore Road, High Street or the Derrynoyd Road. It is also well screened from view from Cahore Terrace on approach from the south due to the proximity of the associated industrial buildings and given the lower ground levels of the site, the building nestles well into the streetscape. Although the extension is a three storey building it is not visible over the top of the two storey buildings along the St. Patrick's Street frontage and therefore does not disrupt the streetscape. In this context, therefore I do not consider there is a need to seek amended plans or to seek a reduction in the height of the building.

o The roof plan on drawing No.2 (agent's ref: PLo4-D) appears to show solar panels - please confirm.

The solar panels have been removed from the proposed plans.

o Retention of the existing stone wall to the west elevation is welcomed. And the alignment of new additions with Cahore Terrace, as illustrated in the agent's historical street analysis, is considered appropriate.

I agree with the assessment in terms of the retention of the stone wall as it contributes to the character of the streetscape and is part of the historic setting of the Listed Building. Although parts of the stone wall have been lowered and a section has been removed to enable the construction of the associated retaining wall to the rear and the tunnel which is constructed under the road, the stone wall should be reinstated to retain the character of the setting of the Listed Building.

Given the above it is my opinion that the application should now be progressed to Committee with a recommendation to approve subject to the conditions listed below:-

Consultations

Historic Environment Division (Historic Buildings) and (Historic Monuments) advised as above.

Recommendation - Approve subject to the conditions listed below:-

**Summary of Recommendation:**

Approve is recommended

Approval Conditions

Condition 1

This Consent is effective from the date of this decision notice and is issued under Article 94 of the Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

Condition 2

The external finishes used on the building shall be as annotated on drawing no. 09/3 uploaded to the planning portal on 19th December 2023 and drawing no. 11/2 uploaded to the planning portal on 27th September 2019.

Reason: To ensure the extension hereby approved is in keeping with the character of Draperstown Conservation Area and protects the setting of the Listed Building.

Condition 3

All proposed works shall be carried out in accordance with stamped approved drawing no. 01 uploaded to the planning portal on 22nd June 2018, 02/1, 05/1, 06/1, 07/1, 08/1, 10/1, 11/2 uploaded to the planning portal on 27th September 2019, 09/3 uploaded to the planning portal on 19th December 2023 and 12 uploaded to the planning portal on 26th September 2018.

Reason: To protect, conserve and enhance the historic fabric and special architectural character and appearance and heritage values of Draperstown Conservation Area.

Condition 4

The existing random rubble stone wall along the eastern boundary of the site on Cahore Terrace shall be lowered to a height as identified on drawing no. 07/1 uploaded to the planning portal on 27th September 2019. Any stone removed from the wall shall be reused to reinstate the sections identified on drawing 07/1 uploaded to the planning portal on 27th September 2019, within six months of the date of this decision.

Reason: To protect, conserve and enhance the historic fabric and special architectural character and appearance and heritage values of Draperstown Conservation Area.

**Case Officer:** Malachy McCrystal

**Date:** 5 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	20 June 2018
<b>Date First Advertised</b>	5 July 2018
<b>Date Last Advertised</b>	4 July 2018
<b>Details of Neighbour Notification (all addresses)</b>	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p>Historic Environment Division (HED)-Substantive: YResponseType: FR  Historic Environment Division (HED)-Substantive: TBC  Historic Environment Division (HED)-Substantive: YResponseType: FR  Historic Environment Division (HED)-Substantive: YResponseType: FR  Historic Environment Division (HED)-Substantive: TBC</p>	



**Drawing Numbers and Title**

Proposed Plans Plan Ref: 08/1  
Proposed Plans Plan Ref: 02/1  
Proposed Floor Plans Plan Ref: 05/1  
Proposed Floor Plans Plan Ref: 06/1  
Proposed Elevations Plan Ref: 07/1  
Further Particulars Plan Ref: 11/2  
Proposed Plans Plan Ref: 09/1  
Proposed Plans Plan Ref: 10/1  
Further Particulars Plan Ref: 13  
Further Particulars Plan Ref: 12  
Further Particulars Plan Ref: 11/1  
Proposed Plans Plan Ref: 11  
Proposed Plans Plan Ref: 10  
Proposed Plans Plan Ref: 09  
Proposed Plans Plan Ref: 08  
Proposed Elevations Plan Ref: 07  
Proposed Floor Plans Plan Ref: 06  
Proposed Floor Plans Plan Ref: 05  
Existing Elevations Plan Ref: 04  
Existing Site Survey Plan Ref: 03  
Proposed Plans Plan Ref: 02  
Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.2
<b>Application ID:</b> LA09/2018/0887/F	<b>Target Date:</b> 17 August 2018
<b>Proposal:</b> Alterations and extensions of existing listed building (the Corner House) to include: demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises.	<b>Location:</b> 6-8 St Patricks Street Draperstown Magherafelt BT45 7AL.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Heron Brothers Ltd 2 St Patricks Street Draperstown BT45 7AL	<b>Agent Name and Address:</b> McGurks Architects 33 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b>  This proposal is for the change of use of a vacant public house (Grade B2 Listed Building) to office accommodation with a large three storey extension to the rear. The rear extension is to be connected to the Listed Building by means of a glazed link. The proposal also involves the creation of a pedestrian link under the public road to connect the proposed extension to the applicant's existing office accommodation on the opposite side of Cahore Terrace. The site is located within Draperstown Conservation Area.  Historic Environment Division (Historic Buildings) requested that the glazed link be extended to provide more of a separation between the proposed extension and the Listed Building and also proposed other amendments to the layout of the extension.	

These issues were discussed at an office meeting between the Planning Department and the applicant and it was the Planning Departments opinion that the proposal was acceptable as it stands without the need for the amendments requested by HED.

The provision of the pedestrian link under the public road required consultation with DfI Roads. Although DfI Roads provided some advice early in the process advising that the provision of the pedestrian link under the public road required Agreement in Principle, which was to be dealt with by Roads Headquarters, Roads have continually failed to respond to the consultation of 19th October 2021 despite a further consultation and eight reminders over the course of the past two years.

The applicant, who is a major employer in the local area, consequently commenced the development, which has now been completed and is fully occupied, in an effort to retain the company's headquarters in Draperstown as opposed to relocating these elsewhere outside Mid Ulster District.

The proposed development is subject to a Listed Building Consent application (LA09/2018/0873/LBC) which is also being presented to Committee. A further application for consent to demolish within a conservation area (LA09/2018/0872/DCA) is also currently being considered. As the full planning application, which includes the redevelopment of the area to be demolished, is being recommended to Committee for approval, if that recommendation is accepted by Committee, then the principle of demolition is also accepted and the demolition consent application can also issue.

As the Planning Department are recommending the application for approval against the advice received from HED, the application must also be referred to the Department for consideration.

**Case Officer Report**

**Site Location Plan**



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**Consultations:**

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

	NI Water - Strategic Applications	Substantive: TBC
	Historic Environment Division (HED)	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: TBC
	Historic Environment Division (HED)	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	
<b>Representations:</b>		
Letters of Support		0
Letters of Objection		0
Letters Non Committal		0
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
No representations were received in respect of the proposed development.		
<b>Characteristics of the Site and Area</b>		
<p>The site is located within the settlement development limits of Draperstown in an area of whiteland which abuts an area identified as a major area of existing industry. The site occupies a prominent location on the St. Patrick's Street frontage and within the Draperstown Conservation Area, with the majority of the site located to the rear of the Listed Building. Whilst the site sits on the main street frontage of St. Patrick Street which contain a mixture of residential and commercial premises, the area immediately to the south of the site is predominantly industrial. However, the adjacent industrial area is within the ownership of the applicant.</p> <p>The site is currently occupied by a two storey, five bay former public house (Grade B1 Listed Building) with a prime street frontage on a corner site at the junction of St. Patrick's Street and Cahore Terrace. The site extends back from the St. Patrick's street</p>		

frontage to include a rear yard which site below the level of the adjacent Cahore Terrace. There are a number of out-buildings within the rear yard and which can be accessed via a vehicular gateway at the rear of the building. The boundary along the Cahore Terrace is defined by a rubble stone wall which forms part of the curtilage of the Listed Building. The southern boundary is defined by steel posts with steel sheeting which acts as a retaining structure along the difference in ground levels of approximately 5-6m between the site and the adjacent car park, which is also within the applicants ownership. The western part of the site extends to the rear of an adjacent café 'Slim's which abuts the vacant public house.

The existing property at 6-8 St. Patrick's Street is an early Victorian corn store, erected C.1841 to designs by W J Booth on behalf of the drapers as part of the regeneration of the town at that time. It is one of a few buildings of special historical significance remaining today within Draperstown Conservation Area.

The applicant's joinery workshops are located to the south of the adjacent car park and has a separate access onto Cahore Terrace.

### **Description of Proposal**

The proposal is for alterations an extensions of existing listed building (the Corner House) to include: demolition of ancillary unlisted spaces to the rear of the building, internal alterations and fit out to provide office and meeting space, original ground floor windows to be reinstated and provision of three storey rear extension to provide office and meeting space, canteen and pedestrian link to adjoining premises.

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

#### **Policy Consideration**

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

Magherafelt Area Plan 2015

The Strategic Planning Policy Statement for Northern Ireland (SPPS)

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

Planning Strategy for Rural Northern Ireland

Draperstown Conservation Area Design Guide

PPS 3 - Access, Movement and Parking

PPS 4 - Planning and Economic Development.

PPS 6 - Planning, Archaeology and the Built Environment

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 Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan

Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

The 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 proposal seeks full planning approval to refurbish the existing listed building and to extend the building to the rear to facilitate the change of use to provide offices, board/meeting rooms, training room, canteen, courtyard, ancillary facilities, such as WC's and storage areas. Etc. and a link tunnel to the existing offices.

Heron Bros. currently occupy the buildings directly opposite the site on Cahore Terrace. These buildings are at full capacity and therefore limit the company's ability to expand their operations at this location. Therefore there is a clear need for more office space to allow further expansion in Draperstown. Whilst there are temporary modular office units within Heron Bros. existing site, these are unsuitable for long term use and are not adaptable to the changes in climate. The demand on the existing building infrastructure cannot be sustained without a major renovation which would impact on Heron Bros. ability to operate. Heron Bros, have offices located in Belfast, Glasgow, Manchester and London. Heron Bros. is a local family run business and they would prefer to keep the head offices in Draperstown, where the business originated.

The new extension will create office space for 55 desks with 3 meeting rooms. The listed building will also accommodate a reception/waiting area, 4 meeting rooms and storage/archive areas.

The concept for the design of the new office development is to treat the proposal as three distinct elements;

1. Existing building;
2. Glazed link;
3. New office development to the rear.

The existing building will be treated with complete sensitivity to ensure all of its architectural qualities and character are retained. The use of the transparent glazed link to the rear of the property, set back from the Corner House, will ensure that the listed building remains the dominant feature. The glazed link provides a required physical connection to the new offices but enables the original structure to be viewed as a separate entity, thereby maintaining its character. The new build office block is then designed to be a contrasting element to the listed property and whilst it is a new element in the streetscape, it also compliments the listed building and the Conservation Area. This provides a clear differentiation between the original building and the new extension thereby reinforcing the significance of the historic building.

The Corner House is in reasonably good condition thereby requiring minimal intervention to enable it to be incorporated into the proposed development. It is proposed to demolish the ancillary unlisted outbuildings to the rear of the Corner House as these are unsympathetic to the listed building and detract from the historic and architectural quality of the Corner House building.

Externally, additional works are proposed as follows;  
Modern signage, cigarette bins, signage boards etc. to be removed from the front elevation;  
Damaged slates to be removed and replaced with Welsh slate to match existing;  
Roof surface to be cleaned down;  
Existing building to be cleaned and repainted with heritage paint colours;  
New replacement cast aluminium gutters to be provided;  
Plaster repairs to be carried out to all affected areas;  
New flashing to be provided above fascia.

The existing entrance will be retained as the primary entrance to the building onto St. Patrick's Street. The existing stairs are to be retained in their current location. The new reception desk will be positioned to mimic the current bar with the current floor plans being on display in the reception area. All internal structural walls are to be retained with any new walls to be constructed in studwork which is easily reversed to its original state.

The new glazed link, which will be set back just in excess of 7.5m from the rear façade of the listed building, on the Cahore Terrace elevation, will replace the unsympathetic extension to the rear of the Corner House. This glazed link will allow for full integration between the existing listed building and the new extension.

The glazed link will be largely glazed, with the addition of some vertical timber to provide shading. The glazed link will appear as a separate entity and also subordinate to the listed building and in doing so will provide passers by with a view of the rear of the existing building. The creation of the rear extension will be viewed as a complimentary addition, whilst also being a modern contrast. In doing so, the extension will both enhance and emphasise the setting and character of the listed building within the Conservation Area. This concept is similar to that used on Union Road Presbyterian Church Hall Magherafelt. Notwithstanding this, there will be transient views of the proposed extension on approach along Derrynoyd Road (55m stretch), St. Patrick's street (20m stretch) or when approaching along Cahore Terrace from the south where the extension will be largely associated with the existing industrial buildings.

The proposed development also includes a link tunnel under the Cahore Terrace, which will connect the new modern extension to the existing offices on the opposite side of road. This tunnel will facilitate staff moving between both buildings, without the need to cross the public road enabling integration between both office buildings thereby ensuring there is no separation in the day-to-day operations of the business.

The site is located adjacent to an area identified as a major area of existing industry. The proposed extension will create additional office floor space for an existing business to expand and thereby create security for the business. The proposed extension and



alterations will alter the silhouette of the existing structure against the elevated landscape to the south of the site. Views into and out of Draperstown Conservation Area provide an important evidential link to the town's original form and layout.

Public views from St. Patrick's Street Draperstown are an important material consideration in relation to the Conservation Area designation, specifically the proposed Cahore Terrace elevation. The proposed extension will be the dominant feature in the streetscape, as one travels along Cahore Terrace from the junction with St. Patrick's Street in a southerly direction or indeed along Cahore Terrace in the opposite direction. Whilst the extension will tie in with the neighbouring skyline and be viewed mainly from Cahore Terrace it is important to establish whether this will cause harm to the setting of important listed buildings and to ensure that the character of the conservation area is protected. Accordingly the views of historic buildings division and Councils Conservation Area officer have been taken into account in assessing the application. The rear of the Listed Building is currently largely hidden from public viewpoints from the historic core of Draperstown and only becomes visible as one travels along Cahore Terrace. The elevated topographic nature of the existing landscape as one travels out of Draperstown, limits potential height, massing and form of any proposed extension in terms of its integration into the original historic layout, pattern massing, form and height of the authentic historic built fabric.

Notwithstanding the above, consideration must also be given to the proposal in proximity to the recent application LA09/2022/0032/F. That application proposed a second floor extension to an existing office block on Cahore Terrace directly opposite the proposed extension and is now also complete. That site extends back in a southerly direction further than the proposed site on the opposite side of Cahore Terrace and can be seen from St. Patricks Street. where it projects above the two storey building at 2A Cahore Terrace. The LA09/2022/0032/F planning application is a material consideration and the impact of the proposed extension as submitted, in my opinion, is no more detrimental to Draperstown Conservation Area than second floor extension now used as associated office accommodation.

A Listed Building application (LA09/2018/0873/LBC) and an application for consent to demolish within the Conservation Area (LA09/2018/0872/DCA) have also been submitted and are material considerations in the assessment of this application.

#### PPS 6 - Planning, Archaeology and the Built Environment

The site is located within Draperstown Conservation Area and in an area with the potential to have undiscovered archaeological remains, in addition to having an impact on existing Listed Buildings and the setting of the Conservation Area.

Policy BH7 Change of use of a Listed Building allows for the use of a Listed Building to be changed provided this secures its upkeep and survival and the character and architectural or historic interest of the building is preserved or enhanced. The proposed change of use of the Listed Building from a public house to offices will be in keeping with the aims of this policy. HED HB have no objections in respect of the proposed use or the alterations being made to accommodate the proposed use.

Policy BH8 allows for extensions or alterations to a Listed Building where the proposal

retains the character of the building and its features of special interest remain intact and unimpaired, the proposed works make use of traditional and/or sympathetic building materials which are in keeping with those found on the building, and the architectural details are in keeping with the building. The proposal retains the building both externally and internally with the majority of features such as the stairs are to be retained in their current positions. The new reception desk will mimic the current bar, thereby allowing users to understand the former use of the building and its previous layout. HED (Historic Buildings) advised that it does not have concerns with regards to the alterations to the interior of this building from its current arrangement.

Policy BH11 Development affecting the Setting of a Listed Building allows development where this does not have an adverse affect on the setting. Developments will normally only be considered acceptable where, the detailed design respects the listed building in terms of scale, height, massing and alignment; the proposed works make use of traditional or sympathetic materials and techniques which respect those found on the building; and the nature of the proposed use respect the character of the setting of the building.

HED (Historic Buildings) advised that they consider the proposal fails to retain the essential character of the building and its setting and that the works proposed do not make use of traditional/sympathetic materials in keeping with those found on the building as none are specified. HB also considers the scale, height, massing and alignment does not respect the listed building. HB justified the above by the following explanation;

- o The juxtaposition between the glazed link and the listed building is awkward - the link

should ideally be lower than the existing eaves.

I disagree with this analysis as the glazed link will only be visible when standing beside the entrance to the link. Due to the footprint of the link being set back 1.0m behind the building line of the extension, it is largely screened from view both from Cahore Terrace and St. Patrick's Street. A suggested sketch was provided by Historic Buildings and noted that the rear link should be, at maximum, equal eaves height with traditional roof form. Therefore, the fact that the glazed link ties in with the eaves level of the existing building may not be ideal but this does not make it unacceptable.

- o It is appreciated that the solid to void ratio is designed to relate to a terrace rhythm.

However, this expression is more appropriate to a city centre or greenfield site and does not take its cues from how a building such as 6-8 St. Patrick's Street might have developed. It is suggested that the back of the site is maximised to give breathing space to the rear of the listed building.

The proposed extension is not attempting to replicate the existing building, rather it is designed to be a modern extension which will not compete with the existing listed building. In that sense, the proposal is, in my opinion, acceptable as it stands as a modern day extension separated from the listed building by the glazed link.

- o the overall three-storey height appears overbearing in the context of predominantly two storey buildings, which are domestic in scale. The Corner House forms an end to a row of similarly scaled terraced buildings and although the others are

not listed, they comprise a visually harmonious group. In addition, the junction of St Patrick Street and Cahore Terrace is an important viewpoint - HED consider that a three storey development would have a visually disruptive impact from this aspect.

In order to appear more sympathetic with the built form that characterises the wider setting, HED therefore offer the following suggestions:

- a. reduce link height
- b. increase footprint at southern end of site. Further articulation of the north and east elevations is also suggested to be more in keeping with the existing grain - the proposal appears monolithic from these aspects. Existing context illustrated below from N (left) and NW (right), which is largely single and two storey in scale:

I disagree with the comments above with regards to the three storey extension to the rear being disruptive. The development, which by now has been completed, can be viewed on site and as discussed above, is relatively well screened from view when travelling along St. Patrick's Street, Tobermore Road, High Street or the Derrynoyd Road. It is also well screened from view from Cahore Terrace on approach from the south due to the proximity of the associated industrial buildings and given the lower ground levels of the site, the building nestles well into the streetscape. Although the extension is a three storey building it is not visible over the top of the two storey buildings along the St. Patrick's Street frontage and therefore does not disrupt the streetscape. In this context, therefore I do not consider there is a need to seek amended plans or to seek a reduction in the height of the building.

- o The roof plan on drawing No.2 (agent's ref: PLo4-D) appears to show solar panels - please confirm.

The solar panels have been removed from the proposed plans.

- o Retention of the existing stone wall to the west elevation is welcomed. And the alignment of new additions with Cahore Terrace, as illustrated in the agent's historical street analysis, is considered appropriate.

I agree with the assessment in terms of the retention of the stone wall as it adds to the character of the streetscape and is part of the historic setting of the Listed Building. Although parts of the stone wall have been lowered and a section has been removed to enable the construction of the associated retaining wall to the rear and the tunnel which is constructed under the road, the stone wall should be reinstated to retain the character of the setting of the Listed Building.

Policy BH12 Historic Environment Division (Historic Buildings) and (Historic Monuments) were consulted and advised that they considered the effects of the proposal on the listed buildings and on the basis of the additional information provided give the following advice:

- o HED (Historic Monuments) has now received the archaeological monitoring report submitted with this application and based on the results of this work archaeological mitigation is no longer required. On the basis of the information provided HED (HM) is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
- o Historic Environment Division (Historic Buildings) does not have concerns with regard to the alterations to the interior of this building from its current arrangement;
- o HED (HB) considers that the proposal fails to retain the essential character of the

building and its setting, and that the works proposed do not make use of traditional /sympathetic materials in keeping with those found on the building (none specified). It also considers that the detailed design does not respect the listed building in terms of scale, height, massing and alignment.

As advised by Council's Conservation Officer, Policy BH12 allows for modern designs which are sympathetic and complimentary to the existing character of the area and in their opinion, based on the maps submitted and evidence is that the overall design of the new build office extension is acceptable in terms of scale, massing, layout, height and materials.

I agree with the Conservation Officers opinion in that the extension is acceptable as currently proposed.

Other issues raised by HED have been discussed under policy BH11 above.

#### DES2 Townscape

This proposal is considered not to have such a detrimental impact on the streetscape of the town in accordance with DES 2 as to justify a refusal. Given the location of the building and the associated extensions to the rear of the Corner Bar Public House, I believe it will not have an adverse effect on the setting of Draperstown Conservation Area.

Policy PED9 of PPS4 - Planning and Economic Development, is also relevant in terms of general criteria for economic development.

All following criteria laid out in this policy has been met and in my opinion, the proposed development is acceptable in this respect.

- a) it is compatible with surrounding land uses;
- b) it does not harm the amenities of nearby residents;
- c) it does not adversely affect features of the natural or built heritage;
- d) it is not located in an area at flood risk and will not cause or exacerbate flooding;
- e) it does not create a noise nuisance;
- f) it is capable of dealing 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;
- 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;
- j) the site layout, building design, associated infrastructure and landscaping arrangements are acceptable and assist the promotion of sustainability and biodiversity;
- k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;
- l) is designed to deter crime and promote personal safety; and
- m) is not applicable as it relates to proposals in the countryside.

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

A proposal for an extension to office floorspace falls to be assessed under this policy. The proposal states that there will be a slight increase in employee numbers as the proposed development has been designed to accommodate an increase in staff numbers of up to 10% ie. 9 staff. Therefore there is a slight intensification of the use of the existing road leading to the car park on Cahore Terrace.

Dfl Roads were consulted in respect of this intensification in addition to the proposal to construct an underground tunnel extending from the existing premises on the eastern side of Cahore Terrace to the new premises on the western side. This tunnel is being proposed to enable staff to move between the existing and proposed premises without the need to cross the public road. It will also ensure there is no separation in the day to day operations of the business.

Due to the complexity of constructing such a tunnel under the public road, Dfl Roads advised that the structure would be subject to Technical Approval Procedures for Highway Structures. That process has been initiated by the developer and is currently being processed by Dfl roads HQ. Technical Approval will be required prior to planning permission and the department will be unable to provide a recommendation to approve until this process has been granted. The pedestrian underpass link is also fundamental to the operation and delivery of the proposed development. In conjunction with Technical Approval a Legal Agreement will be required between roads and the developer in terms of construction, maintenance and future liabilities. The submitted car parking statement addresses the issue of car parking and potential justification for the provision of a reduced level parking capacity.

Dfl Roads were initially consulted on 6th July 2018 and again on 31st July 2018 and responded to both consultations on 10th August 2018. A third consultation was issued on 30th September 2019 and was responded to on 21st October 2019. Following that response, further consultations were issued to Dfl Roads on 19th October 2021 and 15th November 2021. Neither of those consultations were responded to and despite seven reminders being issued between 10th January 2022 and 6th November 2023, Dfl Roads have failed to provide any comment or advice on the acceptability of the proposed development. A further e-mail was sent to Dfl Roads on 28th November 2023 advising Dfl Roads that unless a response was received to the outstanding consultations no later than 19th November 2023, it was Council's intention to recommend the application to the Planning Committee as an approval on 9th January 2024 without Dfl Roads conditions. No response has been received from Dfl roads.

It should be noted that Dfl Roads failure to respond to the consultations is the only issue delaying the progression of this application. It should also be noted that due to the length of time the application has been in the planning system, the applicant has progressed with the development to the extent that it is now fully operational and occupied, including the use of the pedestrian underpass.

Therefore, given the undue delay and repeated failure from Dfl in responding, it is my opinion that the application should now be progressed to Committee with a recommendation to approve subject to the conditions listed below:-

#### Consultations

Historic Environment Division (Historic Buildings) and (Historic Monuments) advised as

above.

DfI Roads as discussed above.

Environmental Health advised that they have no issues of concern arising.

NI Water advised that they have no issues of concern.

DfI Rivers advised that they have no issues of concern.

Recommendation - Approve subject to the conditions listed below:-

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

This approval is effective from the date of this decision notice and is issued under Article 55 of the Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

**Condition 2**

The premises hereby approved shall be used only for Use Class B1 - Business, and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order and to protect residential amenity from Noise and Odour.

**Condition 3**

The external finishes used on the building shall be as annotated on drawing no. 09/3 uploaded to the planning portal on 19th December 2023.

Reason: To ensure the extension hereby approved is in keeping with the character of Draperstown Conservation Area and protects the setting of the Listed Building.

**Condition 4**

All proposed works shall be carried out in accordance with stamped approved drawing no. 01 uploaded to the planning portal on 20th June 2018, 04/1, 05/1, 06/1, 07/1, 08/1, 10/1, 12/1 uploaded to the planning portal on 24th September 2019, 09/3 uploaded to the planning portal on 19th December 2023, 11 uploaded to the planning portal on 19th September 2018 and associated documents, namely Archaeological Monitoring by Gahan and Long Archaeological Services and design and Access Statement by McGurk Architects both uploaded to the planning portal on 27th June 2018.

Reason: To protect, conserve and enhance the historic fabric and special architectural character and appearance and heritage values of Draperstown Conservation Area.

**Condition 5**

The existing random rubble stone wall along the eastern boundary of the site on Cahore Terrace shall be lowered to a height as identified on drawing no. 07/1 uploaded to the planning portal on 24th September 2019 within six months of the date of this decision. Any stone removed from the wall shall be reused to reinstate the sections identified on drawing 07/1 uploaded to the planning portal on 24th September 2019.

Reason: To protect, conserve and enhance the historic fabric and special architectural character and appearance and heritage values of Draperstown Conservation Area.

**Case Officer:** Malachy McCrystal

**Date:** 20 December 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 June 2018
<b>Date First Advertised</b>	5 July 2018
<b>Date Last Advertised</b>	4 July 2018
<p><b>Details of Neighbour Notification (all addresses)</b></p> <p>The Owner / Occupier Slims Cafe 10 St. Patricks Street Draperstown Londonderry BT45 7AL</p> <p>The Owner / Occupier 12A St. Patricks Street Draperstown Londonderry BT45 7AL</p> <p>The Owner / Occupier Saddlery Shop 12B St. Patricks Street Draperstown Londonderry BT45 7AL</p> <p>The Owner / Occupier 10A St. Patricks Street Draperstown Londonderry BT45 7AL</p> <p>The Owner / Occupier 1 High Street Draperstown Londonderry BT45 7AB</p> <p>The Owner / Occupier 12 St. Patricks Street Draperstown Londonderry BT45 7AL</p> <p>The Owner / Occupier Heron Bros Ltd 2 St. Patricks Street Draperstown Londonderry BT45 7AL</p> <p>The Owner / Occupier 3 High Street, Draperstown, Londonderry, BT45 7AB,</p> <p>The Owner / Occupier Heron Bros Ltd 2A St. Patricks Street Draperstown Londonderry BT45 7AL</p> <p>The Owner / Occupier Heron Bros Ltd 2B St. Patricks Street Draperstown Londonderry BT45 7AL</p> <p>The Owner / Occupier 14 St. Patricks Street, Draperstown, Londonderry, BT45 7AL,</p> <p>The Owner / Occupier 16 St. Patricks Street, Draperstown, Londonderry, BT45 7AL,</p>	
<b>Date of Last Neighbour Notification</b>	9 July 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	



## Summary of Consultee Responses

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

**Drawing Numbers and Title**

Further Particulars Plan Ref: 12/1  
Proposed Plans Plan Ref: 10/1  
Proposed Plans Plan Ref: 09/1  
Proposed Plans Plan Ref: 08/1  
Proposed Plans Plan Ref: 07/1  
Proposed Plans Plan Ref: 06/1  
Proposed Plans Plan Ref: 05/1  
Proposed Plans Plan Ref: 04/1  
Further Particulars Plan Ref: 13  
Further Particulars Plan Ref: 12  
Further Particulars Plan Ref: 11  
Site Location Plan Plan Ref: 01  
Proposed Plans Plan Ref: 10  
Proposed Plans Plan Ref: 09  
Proposed Plans Plan Ref: 08  
Proposed Plans Plan Ref: 07  
Proposed Plans Plan Ref: 06  
Proposed Plans Plan Ref: 05  
Proposed Plans Plan Ref: 04  
Existing Site Survey Plan Ref: 03  
Existing Plans Plan Ref: 02

**Notification to Department (if relevant)**

Not ApplicableNot Applicable



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2019/0331/F	<b>Target Date:</b> 6 May 2019
<b>Proposal:</b> Construction of a new 4 span portal framed building to be used for sub-assembly and research/design formation of concrete areas throughout remainder of the site for storage and access and upgrade top parking and associated works (amended description)	<b>Location:</b> Unit 3 Granville Road Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> MC Closkey International Ltd 47 Moor Road Dungannon	<b>Agent Name and Address:</b> Teague And Sally Ltd 3A Killycolp Road Cookstown BT80 9AD
<b>Executive Summary:</b>  <b>Approve with conditions</b>	

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

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Strategic Applications	Substantive: TBCResponseType: FR
	Health & Safety Executive For NI	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
	NI Water - Strategic Applications	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBC

	Rivers Agency	Substantive: TBC
	NI Water - Strategic Applications	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
Statutory Consultee	DFI Roads - Enniskillen Office	21-11-2022.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Response 2.pdfsee attached comment
Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2019.0331.F.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	LA09-19-0331 F Unit 3 Granville Road Dungannon.doc
Statutory Consultee	Rivers Agency	11230 - Final Response.pdf
Statutory Consultee	NIEA	PRT LA09-2019-0331-F.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	06-04-2023.docx
<b>Representations:</b>		
Letters of Support		0
Letters of Objection		3
Letters Non Committal		0
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>		
<p>The site is located within an existing brownfield site, within Zoned industrial land D1 01 as identified at Granville Industrial Estate in Dungannon Area Plan.</p> <p>Planning history:</p> <p>M/2007/1574/F- Proposed 14m high (approx ridge height) workshops for assembly of machinery and ancillary 2 storey office building, siteworks, car parking and landscaping. Approved 13.05.2008.</p> <p>M/2012/0519/F - Proposed 14.7M high (approx. ridge height) workshops for assembly of machinery and siteworks.</p>		

## **Description of Proposal**

Construction of a new 4 span portal framed building to be used for sub-assembly and research/design formation of concrete areas throughout remainder of the site for storage and access and upgrade top parking and associated works (amended description)  
Following concerns raised by Env Health the original proposal below was reduced from its previous description as detailed below;

'Construction of a 7-bay extension to existing manufacturing factory building incorporating a testing area and a covered drop off area to the side of the existing building (0.405 Hectares) construction of a new 3 span portal framed building to be used for sub-assembly and research/ design (0.2 hectares) formation of concrete areas throughout remainder of the site for storage and access'.

The applicant has reduced the scheme to remove the contentious 'noise generating' testing elements and included a new noise report and reduced the 7-bay extension to a new 4 span portal framed building comprises of 2183m<sup>2</sup>. Env Health are now content and have provided conditions which is detailed further in the planning report.

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

### **Policy Consideration**

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

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being located within the development limits of Dungannon which, under policy SETT1 gives favourable consideration to proposals, subject to criteria outlined within the plan policies. The site is located within the Granville Industrial Centre which is existing industry and businesses. There are no other specific designations or zonings. SETT1 criteria is generally similar to those in PED9 and as such I consider if the proposal accords with PED9 it will also accord with SETT1.

Plan Policy IND 1 - Industry and Business states that within existing 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 in 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. In this case the proposed use would be appropriate for the site.

#### **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy**

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

Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS encourages a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction from Policy PED 1 and PED 9 of PPS 4 - Planning and Economic Development therefore existing policy applies.

### **PPS4 – Planning & Economic Development**

**Policy PED 1** - Economic Development in Settlements of PPS 4 states that a development proposal of a Class B2 light industrial use or Class B3 general industrial use will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial/employment area provided it is of a scale, nature and form appropriate to the location on Granville Road.

In line with PED1, the proposal is acceptable in terms of scale, nature and form and it is an appropriate type of development in this location. In this case the site is well established as being industrial and the existing applicant, McCloskey's, manufacturing factory, has been on site a significant period of time.

**Policy PED 9** - General Criteria for Economic Development sets out the criteria which a proposal for economic development will be required to meet and I will address each of these in turn.

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

The application is for construction of 4 span portal framed building to the existing manufacturing factory building. The site is located within an existing industrial estate with similar uses and previous approvals on the site show this use is well established. M/2012/0519/F was approved for machinery assembly workshops on the site.

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

The amenities will not be harmed and it will be located a sufficient distance from them to not cause demonstrable harm. The main neighbouring properties consist of industrial/commercial units.

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

It does not adversely affect features of natural or built heritage. This site is not in an area of archaeological importance nor is it adjacent to any Listed Buildings.

NIEA were consulted and Water Management Unit considered the impacts of the proposal on the surface water and are content with the proposal subject to conditions.

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

The relevant policy being PPS15, FLD1 – FLD5. DFI Rivers Agency (RA) were consulted and indicated the site does not lie within the 1 in 100 year fluvial flood plain and it is unaffected by a designated watercourse. A drainage assessment was reviewed by RA and they state they cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

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

Initially with the original scheme Env Health had raised concerns. As previously stated, the proposal has been significantly reduced, removing the testing building and reducing the scale of the extension, as well as a revised noise report and baseline noise surveys being carried out in terms of receptors nearby and cumulative effects. This has alleviated noise concerns and neighbours and objectors were re-consulted. EH have made comment based on the most recent information submitted and the reduced scheme and provided conditions to be attached to any approval.

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

The development is capable of dealing satisfactorily with any emission or effluent. The proposal does not involve the production of any emissions. Foul sewage and surface water will be disposed via mains.

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

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

**(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;**

In terms of criteria (g) – (j) and traffic and roads issues DFI Roads were consulted on the basis of the initial application which included the 7-bay extension and testing area.



DFI Roads advised Council Planning in all their consultation responses (latest of 6th March 2023) that parking / servicing requirements are based on floor areas as set out in the various Class Uses in the Parking Standards document, whether a reduction for parking and servicing area due to the way the site operates is acceptable, is a matter for Council Planning to consider and advise Dfl Roads accordingly.

History on the site under permission M/2012/0519/F (Proposed 14.7M high approx. ridge height workshops for assembly of machinery and siteworks), permitted the phased implementation of the total parking provisions. This permission allowed for a total of 202 spaces, of which 124 were to be provided initially (to service the existing building) and 78 spaces were only required if/when a further 6988m<sup>2</sup> of floor space was to be created as part of the 2012 application.

Currently on site there are 126 spaces (net increase of 2) which are laid out slightly differently from that approved so LA09/2021/0541/F has been submitted to modify the surface layout of the 126 spaces to reflect the actual on ground parking arrangement. The additional floor space for the application for the 7-bay extension and R&D testing building is 6780m<sup>2</sup>, which fell below the 6988m<sup>2</sup> of the previous approval for a similar use, workshops for the assembly of machinery which required 78 spaces. Therefore, a further 76 spaces (78 minus 2 surplus in place) remains appropriate. Accordingly, the proposal now has additional 76 spaces, bringing the total to be created is 202 spaces in total and plans now reflect this.

As Planning are now content with the reasoning, the section 54 (LA09/2021/0541/F) application to amend the hard surfacing would no longer be required and the agent has indicated it would be withdrawn if this current application was granted as parking needs would be met.

Following the amended plans to address EH concerns, the current application has been significantly reduced by around 4000m<sup>2</sup> (due to reduction of the 7-bay extension) and the 4-bay building comprises 2183m<sup>2</sup>, there is an over provision of parking, however as Planning had accepted this for the larger proposal, the applicant is content to leave this rather than amend it at this stage.

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

Finishes and materials are of those typical for this type of proposal and are acceptable within this industrial park and match those existing. Walls will be painted white, steel double doors and Kingspan cladded panels. These will be of a high quality and adequate for purpose. Mature established trees and landscaping surrounding the site boundaries.

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

The extension will be well enclosed and protected from public views. As there are buildings currently on-site sufficient screening is currently in place, with mature

landscaping/trees and secure fencing enclosing the site.

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

The existing site is well secured with security fencing and barriers to ensure this is the case and that the property remains adequately secure.

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

The site is located within settlement limits within an existing industrial estate. Having considered the information above I am satisfied the proposed development fulfils the requirements of PPS 4.

• **Representations**

2 objections have been received.

**One relating to additional traffic on the site which will add the already congested area and the cumulative effect of existing and new traffic, lack of car parking within the site.**

These issues have been dealt with in detail in the assessment under PPS4 and parking and traffic have been fully considered and DFI Roads conditions will be applied.

**The other objection related to noise pollution, adding to the current noise coming from the site. Issues with non-compliance of conditions 2 & 5 of M/2012/0519/F (relating to parking and noise issues).**

Env Health were consulted in relation to noise and following amendments and a reduction in the scheme, they are now content to approve with conditions to protect the amenity of neighbouring properties.

In terms of the non-compliance with conditions, the related enforcement case is LA09/2019/0021/CA. Conditions 2,5, 6 & 7 were investigated and condition 5 (relating to noise) was discharged in the opinion of the enforcement team. This application was then submitted in relation to condition 2 in relation to hard surfacing areas to be used only for parking. This objection was received in Nov 2020, and since that amended plans and reports relating to the noise and parking issues have both been resolved as part of the current application these issues have been resolved. Re-notification letters were sent, and no further objections received since 2020.

**In conclusion**, after considering all the consultation responses, objections and the assessment against relevant planning policy, I recommended approval with 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**

Operational works associated with the hereby permitted development shall only take place between 07:00hours -18:00hours Monday to Thursday, 07:00hours - 14:00hours Friday & 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 3**

The cumulative noise level from the proposal shall not exceed the limits outlined in the table below during the permitted hours of operation when measured at a distance of 3m from the façade of the appropriate residential property as predicted in the Layde Consulting report titled "Revised Noise Impact Assessment, Proposed construction of portal framed sub-assembly building, Unit 3 Granville Road, Dungannon," dated October 2023 and referenced P749-1.

ID Address dBLAeq1hr

R1 69 Eskragh Road 37.3

R2 128 Ballygawley Road 22.7

R3 126 Ballygawley Road 24.0

R4 120 Ballygawley Road 27.0

R5 122 Ballygawley Road 28.2

R6 71 Eskragh Road 29.9

R7 77 Eskragh Road 26.5

Reason: To protect amenity of nearby residential dwellings.

### **Condition 4**

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

Reason: To protect amenity of nearby residential dwellings.

#### Condition 5

Following completion of the noise survey and where noise monitoring demonstrates exceedances of the noise limit stipulated in condition 2 the applicant shall provide details of additional noise mitigation measures that will be incorporated into the proposal to ensure compliance with condition 3.

Reason: To protect amenity of nearby residential dwellings.

#### Condition 6

No testing of finished plant shall take place within the depicted red line of the site as shown on the Teague & Sally drawing number 3680, dated Jan 2019.

Reason: To protect amenity of nearby residential dwellings.

#### Condition 7

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.

#### Condition 8

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 dwellings.

#### Condition 9

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

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

#### Condition 10

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

Reason: In the interests of visual amenity.

#### Condition 11

If any retained tree is removed, uprooted or destroyed or dies within 5 years from the

date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

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

**Case Officer:** Emma McCullagh

**Date:** 18 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	11 March 2019
<b>Date First Advertised</b>	28 March 2019
<b>Date Last Advertised</b>	27 March 2019
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier            Linergy Limited, Granville Industrial Estate, Dungannon, BT70 1NJ</p> <p>The Owner / Occupier            Granville Ecopark Ltd, Granville Road, Granville Industrial Estate, Dungannon, BT70 1NJ</p> <p>The Owner / Occupier            Westland Horticulture, Unit 14, Granville Industrial Estate, Dungannon, BT70 1NJ</p> <p>The Owner / Occupier            20 Granville Road, Granville Industrial Estate, Dungannon, Tyrone, BT70 1NJ</p> <p>The Owner / Occupier            14 Granville Industrial Estate, Dungannon, Tyrone, BT70 1NJ</p> <p>The Owner / Occupier            RNN 69 Eskragh Road, Dungannon, BT70 1NN</p>	
<b>Date of Last Neighbour Notification</b>	12 January 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR</p> <p>NI Water - Strategic Applications-Substantive: TBCResponseType: FR</p> <p>Health &amp; Safety Executive For NI-Substantive: YResponseType: FR</p> <p>NIEA-Substantive: YResponseType: FR</p> <p>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR</p> <p>Environmental Health Mid Ulster Council-Substantive: TBC</p> <p>Environmental Health Mid Ulster Council-Substantive: TBC</p>	

NI Water - Strategic Applications-Substantive: TBC  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
Rivers Agency-Substantive: TBCResponseType: FR  
Rivers Agency-Substantive: TBC  
Rivers Agency-Substantive: TBC  
NI Water - Strategic Applications-Substantive: TBC  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBC  
Environmental Health Mid Ulster Council-Substantive: TBC  
DFI Roads - Enniskillen Office-21-11-2022.docx  
Environmental Health Mid Ulster Council-Response 2.pdfsee attached comment  
Environmental Health Mid Ulster Council-LA09.2019.0331.F.pdf  
Environmental Health Mid Ulster Council-LA09-19-0331 F Unit 3 Granville Road  
Dungannon.doc  
Rivers Agency-11230 - Final Response.pdf  
NIEA-PRT LA09-2019-0331-F.PDF  
DFI Roads - Enniskillen Office-06-04-2023.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Existing Plans Plan Ref: 11  
Existing Plans Plan Ref: 10  
Proposed Elevations Plan Ref: 09  
Cross Sections Plan Ref: 08  
Site Layout or Block Plan Plan Ref: 07  
Site Layout or Block Plan Plan Ref: 06  
Cross Sections Plan Ref: 05  
Proposed Floor Plans Plan Ref: 04  
Proposed Floor Plans Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02  
Site Layout or Block Plan  
Proposed Plans  
Proposed Floor Plans  
Proposed Elevations  
Proposed Elevations  
Cross Sections  
Site Layout or Block Plan Plan Ref: 06 Rev 1  
Site Layout or Block Plan Plan Ref: 02 Rev 1  
Site Layout or Block Plan Plan Ref: 12

**Notification to Department (if relevant)**

Not Applicable





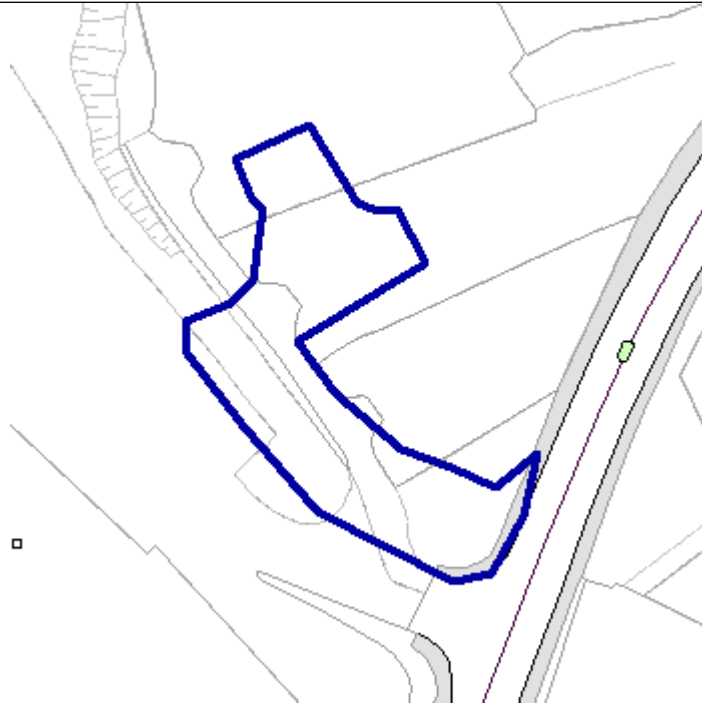


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2019/0854/F	<b>Target Date:</b> 14 August 2019
<b>Proposal:</b> Proposed new spur road from Greers Road to lands approved (M/2014/0572/O) for outline residential development for maximum of 210 units with access onto Greers Road, Donaghmore Road and Quarry Lane. The right of way road will also provide access to the existing car park (Amended Description)	<b>Location:</b> Lands 37M West Of 6 Union Place Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> The Mallon Family C/O 2ND Floor Corner House 64-66A Main Street Coalisland BT71 4NB	<b>Agent Name and Address:</b> Michael Herron Architects 2ND Floor Corner House 64-66A Main Street Coalisland BT71 4NB
<b>Executive Summary:</b>  This application is for an amendment to access to lands that are zoned as a development opportunity site and housing lands. DFI Roads had issued in relation to the provision of access to the existing car park and development lands, other land owners have also had concerns and these have now been addressed. Access to other lands has also been retained.	

## 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: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
Amendments Received	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	LA09 19 0854 F Greers rd dungannon 2.docx
Statutory Consultee	DFI Roads - Enniskillen Office	LA09 19 0854 F Greers rd dungannon.docx
Statutory Consultee	DFI Roads - Enniskillen Office	LA09 19 0854 F Greers rd dungannon 4.docx
Statutory Consultee	DFI Roads - Enniskillen Office	LA09 19 0854 F Greers rd

		dungannon 4.docx
Statutory Consultee	DFI Roads - Enniskillen Office	LA09 19 0854 F Greers rd dungannon 6.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**

Ownership of the lands, retention of provision of access to lands, design of the proposed road and access is excessive, issues with the developed this is to serve (no service yard),.

**Characteristics of the Site and Area**

The application site includes part of an existing public car park, private access road and junction onto Greers Road. The entrance here has bollards to separate the private access from the car park and there is a height restriction barrier and gates erected. (see figure 1 below). The site generally slopes away from Greers Road towards the north east.



Fig 1 - Site view from Greers Road

The site is located inside the identified Town Centre and as a Development Opportunity site in the Dungannon and South Tyrone Area Plan. The surrounding area is relatively

undeveloped with a vacant site owned by the Council to the southwest, fronting Anne Street. This is enclosed by a high palisade fence and walls. Other green fields are located to the north and these area accessed off the private access and also enclosed by palisade fences. Housing lands are zoned to the north east which extend to Quarry Lane and areas of protected housing zones close by. There are areas of retained car parking to the north west and south east and a mixture of commercial properties and public houses.

### **Description of Proposal**

Proposed new spur road from Greers Road to lands approved (M/2014/0572/O) for outline residential development for maximum of 210 units with access onto Greers Road, Donaghmore Road and Quarry Lane. The right of way road will also provide access to the existing car park (Amended Description)

### **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. 4 letters have been received raising issues in relation to Ownership of the lands, retention of provision of access to lands, design of the proposed road and access excessive and detail of what this is proposed to access. Members are advised planning permission does not bestow title on any land and should the developer require additional, lands not within their control, it is a matter for them to obtain this prior to carrying out development. The objector has been notified about the proposal and has had opportunity to view the plans and make comments on them. Access rights have been maintained to private lands and to the public car park and DFI Roads are content with the design of the layout. I consider the concerns raised have been addressed.

##### Planning History

See end of report for details of applications in and around the site, applications to note relate to retail and hotel development on the site and close by as well as housing lands to the north west which are the subject of a recently approve outline planning application ref LA09/2022/1489/O.

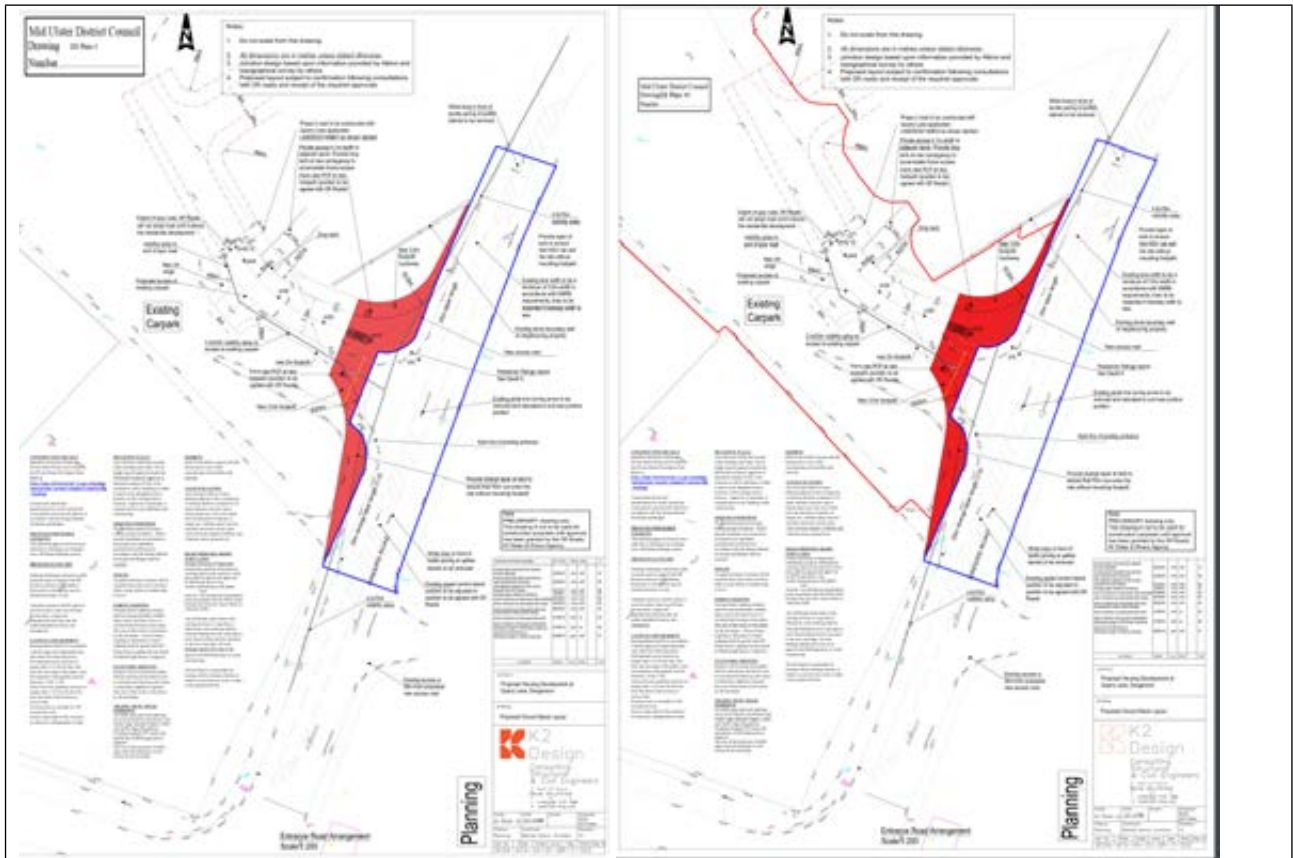
Members attention is also drawn to the Councils ownership of lands in close proximity to

this site and the affects on access to it and other adjoining lands.

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

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

The application site is located inside the settlement limits for Dungannon as designated through SETT1, Dungannon Town Centre as designated through Policy RSO1 and a Development Opportunity Site DOS 05 designated by Policy RSO3 of the DSTAP. These policies are generally permissive as they advocate for favourable consideration of development proposal if they meet the stated criteria and other regional policies. This proposal is essentially a relocation of and improvements to the access position onto Greers Road to ensure access can be provided for the existing retained car parking areas, the Development Opportunity Sites, zoned housing lands and other lands that are not identified as any particular use (white lands) and currently enjoy access off Greers Road at this location. The proposal will not result in the introduction of any new uses or buildings in this previously developed area. There are no sites of historic or conservation interest affected by the scheme. There have been significant discussions and revisions to the scheme to produce the amended layout shown on drawing No 03 Rev I received on 28 November 2023. It is noted this was a minor revision of Drawing No 03 Rev H received 23 November 2023 and removed some red lines that were not required (see below for comparison). The application that is being considered is as detailed on Drawing No 03 Rev I. Members are advised neighbour notification was carried out on 24 November 2023 and the period for commenting has passed without any additional comments being received.



DFI Roads have had extensive involvement with the overall design and discussions with this application. This scheme will provide a pedestrian crossing point on Greens Road, 3m wide footpath/cycle path connecting into the existing network, retained access widths to the adjoining lands and access into the existing car park. DFI Roads have advised that any works to the bell mouth will require separate consent from them, they have offered no objections to the proposal as shown on drawing No 03 Rev I and have not suggested any conditions should be attached to any planning decision.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development and promotes high standards in design. The SPPS also retains the Policies contained in Planning Policy Statement 3 – Access, Movement and Parking to ensure an accessible environment. It is my opinion, given DFI Roads comments, this proposal meets these requirements.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan

Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

This proposal is one way that could accommodate access to the lands here and adjoining this, without any undue detriment to the other interests raised. I acknowledge there may be alternatives to this scheme and these may be presented for consideration in future planning applications. I do not consider this permission would limit the potential for any alternative schemes or adversely impact on other areas of acknowledge interests and as such I recommend this application for approval.

**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.

**Informative 1**

Not withstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Main Street, Moygashel Road, Dungannon. A monetary deposit will be required to cover works on the public road.

The applicant should upon completion of the Bellmouth Works arrange for the transfer of that additional Bell mouth area coloured red to be transferred through Land Registry to DfI Roads.

**Signature(s):** Phelim Marrion

**Date:** 20 December 2023





<b>ANNEX</b>	
<b>Date Valid</b>	19 June 2019
<b>Date First Advertised</b>	21 August 2023
<b>Date Last Advertised</b>	3 July 2019
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 30 Union Place, Drumcoo, Dungannon, Co Tyrone, BT701DL</p> <p>The Owner / Occupier RNN -63 Irish Street, Drumcoo, Dungannon, Co Tyrone, BT701DQ</p> <p>The Owner / Occupier 65 Irish Street, Drumcoo, Dungannon, Co Tyrone, BT701DQ</p>	
<b>Date of Last Neighbour Notification</b>	24 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/1368/PAN Proposals: Erection of discount supermarket and cafe, provision of accesses, car parking, public realm works, hard and soft landscaping and associated site works. Decision: Decision Date:</p> <p>Ref: M/2005/2069/F Proposals: Renewal of M/1999/0232 (Retail Development and Associated Carparking). Decision: PG Decision Date: 10-MAY-06</p> <p>Ref: M/1997/0792 Proposals: Retail Warehousing and Associated Carparking, Housing and New Access Road Decision: WITHDR</p>	

Decision Date:

Ref: LA09/2021/1505/PAN

Proposals: Renewal of residential development- M/2014.0572/O- maximum 210 units

Decision: PANACC

Decision Date: 02-NOV-21

Ref: LA09/2020/1105/PAD

Proposals: Option 3 - Proposed works to include development of new school accommodation, 2no. grass football pitches, 1no. synthetic hockey pitch, 5no. tennis courts, long jump area, hard play area and car parking areas (124no. spaces), one way internal road layout including car and bus drop off arrangements, entrance from the vehicular and pedestrian access vis Greers Road public car park, retaining walls and proposed landscaping.

Decision: PAD

Decision Date: 01-FEB-21

Ref: M/1999/0016

Proposals: Retail Warehousing and associated car parking, housing and new access road ( amended scheme)

Decision: PG

Decision Date: 19-APR-00

Ref: M/2007/0787/O

Proposals: Residential development - maximum 210 units at 15m N.E. of 67a Donaghmore Road, Dungannon with access roads onto Greers Road, Donaghmore Road and Quarry Lane.

Decision: PG

Decision Date: 06-JAN-12

Ref: LA09/2022/1489/O

Proposals: Residential development - maximum 210 units at 15m NE of 67a Donaghmore Road, Dungannon access onto Greers Road, Donaghmore Road and Quarry Lane (previously approved under M/2014/0572/O)

Decision: APP

Decision Date:

Ref: LA09/2018/1121/PAD

Proposals: Application to vary or replace Roads Conditions imposed on Outline Planning Permission M/2014/0572/O approved 24th October 2016.

Decision: PAD

Decision Date: 08-APR-19

Ref: M/2005/0081/F

Proposals: Retail warehousing & associated car parking, housing and new access road  
Renewal of M/1999/0016

Decision: PG  
Decision Date: 12-APR-05

Ref: M/2006/1442/Q  
Proposals: Housing Development  
Decision: 211  
Decision Date: 27-JUL-06

Ref: M/2014/0572/O  
Proposals: Renewal of residential development (M/2007/0787/O), maximum of 210 units with access onto Greers Road, Donaghmore Road and Quarry Lane, Dungannon  
Decision: PG  
Decision Date: 25-OCT-16

Ref: LA09/2018/1277/PAN  
Proposals: Redevelopment of existing brownfield site and car park to provide a mixed-use development including hotel, retail units, car parking, public realm and all associated site and access works  
Decision: PANACC  
Decision Date: 19-DEC-18

Ref: LA09/2018/1274/PAD  
Proposals: Redevelopment of existing brownfield site and car park to provide a mixed-use development including hotel, retail units, car parking, public realm and all associated site and access works  
Decision: PAD  
Decision Date: 01-JAN-19

Ref: M/1976/0110  
Proposals: PLANNING APPLICATION FOR CAR PARK  
Decision: CROWN  
Decision Date:

Ref: LA09/2017/0390/PAD  
Proposals: Redevelopment Of Site  
Decision: PAD  
Decision Date: 08-JUN-17

Ref: M/1976/0427  
Proposals: ERECTION OF HOTEL  
Decision: PG  
Decision Date:

Ref: LA09/2019/0854/F  
Proposals: Proposed new spur road from Greers Road to lands approved (M/2014/0572/O) for outline residential development for maximum of 210 units with

access onto Greers Road, Donaghmore Road and Quarry Lane. The right of way road will also provide access to the existing car park (Amended Description)

Decision:

Decision Date:

Ref: M/1999/0068

Proposals: Retail Development

Decision: PG

Decision Date:

Ref: M/1999/0232

Proposals: Proposed Retail Development including associated car parking (Amended Site)

Decision: PG

Decision Date: 31-OCT-00

Ref: M/2007/0831/F

Proposals: Mixed use development, including retail space in 12 no. retail units, kiosk/cafe, 84no. apartments, associated landscaping, access, associated infrastructure and car parking.

Decision: PG

Decision Date: 22-DEC-09

Ref: M/2011/0322/F

Proposals: Renewal of planning approval M/2005/2069/F (Retail Development and Associated Carparking).

Decision: PG

Decision Date: 21-DEC-11

Ref: M/1973/0032

Proposals: HOTEL

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-

DFI Roads - Enniskillen Office-LA09 19 0854 F Greers rd dungannon 2.docx

DFI Roads - Enniskillen Office-LA09 19 0854 F Greers rd dungannon.docx

DFI Roads - Enniskillen Office-LA09 19 0854 F Greers rd dungannon 4.docx  
DFI Roads - Enniskillen Office-LA09 19 0854 F Greers rd dungannon 4.docx  
DFI Roads - Enniskillen Office-LA09 19 0854 F Greers rd dungannon 6.docx

## Drawing Numbers and Title

Roads Details      Plan Ref: 04  
Site Layout or Block Plan   Plan Ref: 02  
Road Access Plan   Plan Ref: 03  
Site Location Plan   Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.5
<b>Application ID:</b> LA09/2019/1011/O	<b>Target Date:</b> 19 September 2019
<b>Proposal:</b> Proposed housing development.	<b>Location:</b> Lands To The East & North East Of 89 Loup Road Loup Moneymore.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr K Scullion 106 Loup Road Loup Moneymore BT45 7TD	<b>Agent Name and Address:</b> Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
<b>Executive Summary:</b>	



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

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NI Water - Strategic Applications	Substantive: TBCResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	NIE Belfast	Substantive: TBCResponseType: FR
	NI Water - Multiple Units West	Substantive: TBC
	NIE Belfast	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NIE Belfast	Substantive:

		TBCResponseType: FR
	NI Water - Multiple Units West	Substantive: TBC
	NI Water - Multiple Units West	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
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	.Reply DFI La19 2019 1011 Loup Rd.docx
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2019-1011-O.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	NI Water - Multiple Units West	LA09-2019-1011-O.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	23-01-2023.docx.Reply DFI La19 2019 1011 Loup Rd - feb 2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	
<b>Representations:</b>		
Letters of Support		0
Letters of Objection		2
Letters Non Committal		0
Number of Support Petitions and signatures		
Number of Petitions of Objection		

and signatures

### **Summary of Issues**

Two letters of objection has been received in relation to this planning application and raised the following issues;

- o Visibility splays extending across third party lands without consent.

The issue of visibility splays crossing third party lands are a civil matter for consideration between the applicant and landowner.

- o Visibility splays at an adjacent access were required to be 2.04m x 120m, but the splays for the proposed development are only 2.4m x 78.6m.

The issue of visibility splays have been considered by Dfl roads service who have advised that visibility splays of 2.4 metres by 90 metres together with forward sight distance of 90 meters at the junction of the proposed access road from "site A" with the public road and visibility splays of 2.4 metres by 78.6 metres together with forward sight distance of 78.6 meters at the junction of the proposed access road from "site B" with the public road, shall be provided.

Dfl Roads did not advise as to why a reduction in the required visibility splays were accepted as referred to by the objector. However, each application is assessed on its own merits and as Dfl roads have advised that the proposed visibility splays are sufficient, therefore the proposal is being recommended for approval on that basis.

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

The site comprises two separate fields on opposite sides of the Loup Road. The smaller field on the northern side of the Loup Road extends to around 0.4ha whilst the larger field to the southern side of the Loup Road extends to around 0.6ha.

The northern most part of the site is bounded along the road by a 1.2m wide grass verge with a dry ditch and a post and wire fence to the rear. The eastern and western boundaries are defined by a 1.5m high hedge and a mature hedgerow respectively. The northern boundary is defined by a 2.5m-3.0m high hedgerow. The field rises steeply from the road towards the northern boundary and also from the eastern side towards the north west corner. A high voltage overhead electricity line traverses the site in a north to south direction and continues across the road into the southern field. The public road rises up gently from the front of no.92 to a point approximately 40m from the western boundary before levelling out.

The southern field is bounded along the site frontage by a low cut thorn hedge with ground levels sitting slightly lower than and following those of the public road. The eastern boundary is undefined and traverses through the middle the open field, as does the southern boundary. The western boundary is defined by a mature hedgerow along the northern section with an agricultural laneway extending outside the site boundary and providing access to the adjacent fields to the south. The western boundary also contains a single storey stone shed with a number of mature trees and hedges to the north and south and which also extend trough the middle of the site. This section of the site falls gently from the road towards the south.

## **Description of Proposal**

This is an outline application for a proposed housing development on a split site which extends across two separate parcels of land on opposite sides of the Loup Road. The notional concept plan indicates the provision of a total of ten dwellings split between the two parts of the site, four dwellings on the northern portion and six on the southern portion.

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

### **Policy Consideration**

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 contained within two separate parcels on opposite sides of the public road. Both parcels of land are indicated as white land in the Cookstown Area Plan.

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

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.

As this is an outline application the concept plan is being treated as a proposed block plan 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 proposed site is for ten dwellings, four on the northern portion and six on the southern portion. This extends to a total of 10 dwellings on a site of approximately 1.0ha. This density sits comfortably within the surrounding developments where the nearby development of Nenagh Place has five dwellings on a site of 0.4ha, giving a density of 12.5 per hectare.

(b) Historic 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; Historic Environment Division were consulted in respect of three features of archaeological and built heritage and advised that on the basis of the information provided are content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

(c) This layout shows a notional layout for 10 dwellings, therefore there is no requirement for the provision of public open space. This arrangement has the potential to provide for all dwellings to have adequate private amenity space.

(d) As the site is close to and within walking distance of the centre of The Loup, the provision of neighbourhood facilities are not deemed necessary within the site;

(e) When developed, the site will have good access along the Loup Road, where the public footpath has recently been extended and which will connect through to the site, thereby providing 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 in-curtilage parking, as indicated on the concept plan.

(g) As this is an outline application, the design of the development in terms of form, materials and detailing has not been considered in detail. However, this can be conditioned and considered at Reserved Matters stage.

(h) The proposed housing layout should not create a conflict with adjacent land uses which are predominantly agricultural fields or existing dwellings. The separation distances from the existing dwellings are such that the proposed layout should not have a detrimental impact on those.

(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

Historic Environment Division (Historic Monuments) assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Roads requested the submission of revised access plans. Amendments were duly

submitted which satisfied all DfI Roads concerns as the cross-section, drawing No. 09 uploaded to the planning portal on 12th December 2022, demonstrates that the two accesses can safely achieve the necessary visibility splays and forward sight distances. Therefore the proposed accesses are acceptable subject to the suggested conditions.

Environmental Health considered the noise impact assessment submitted and advised that they have no objections to the proposal subject to the suggested conditions.

DfI Rivers advised that they have no objection to the proposed development.

NI Water advised that the planning application has not identified the intention to connect to the public wastewater system as a means of disposal. The applicant has identified their intention to use an on-site wastewater treatment facility. On that basis, NI Water had no objection to the proposed development.

NI Electricity advised that subject to the amendments provided to the layout, they have no objection to the proposed development.

#### Recommendation

On consideration of the above, it is my opinion that planning permission should be approved subject to the conditions as listed below:-

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

Approve is recommended

#### Approval Conditions

##### Condition 1

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

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

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

##### Condition 2

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

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

### Condition 3

The layout shall be in general conformity with the stamped approved concept plan drawing no. 10 uploaded to the planning portal on 6th November 2023 and shall be designed in accordance with Policy QD1 of Planning Policy Statement 7 "Quality Residential Environments" and the associated supplementary guidance "Creating Places".

Reason: To ensure the provision of a quality residential development.

### Condition 4

The reserved matters submission shall include a plan of the site indicating the finished floor level(s) of the proposed building(s), existing and proposed ground levels in relation to a fixed point on the Loup Road and the position, height and materials of any retaining walls.

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

### Condition 5

A landscape management plan shall be submitted at reserved matters stage to include details of all existing vegetation within the site indicating those trees and hedgerows to be retained or removed and methods for their protection during construction works, all proposed hard and soft landscape works, planting plans; written planting specifications; schedules of plants and trees indicating site preparation, planting methods, the species, the size at time of planting, location, spacing and numbers and an implementation and maintenance programme. The landscape management plan should include adequate compensatory planting for the loss of the hedgerows along the Loup Road frontage.

Reason: To ensure the provision of a quality residential development.

### Condition 6

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 7

The existing natural screenings along the northern and western boundaries of this site, shall be permanently retained at a minimum height of 4m, 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 provision of a quality residential development.

#### Condition 8

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

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

#### Condition 9

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

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

#### Condition 10

The 2m wide footway from entrance A should extend to the end of the radii with a PCP to the footway on the Northern side of the road. This will provide a safe crossing position for pedestrians. The remainder of the verge across site A shall be levelled to provide a 2.5m verge with side slope which will be adopted as part of the roads network. A new 2m wide footway should be provided across the frontage of site B to connect with the existing footway network.

Reason: to provide a safe environment for road users.

#### Condition 11

The visibility splays of 2.4 metres by 90 metres together with forward sight distance of 90 meters at the junction of the proposed access road from "site A" with the public road, shall be provided. The visibility splays of 2.4 metres by 78.6 metres together with forward sight distance of 78.6 meters at the junction of the proposed access road from "site B" with the public road, shall be provided.

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

#### Condition 12

The wastewater package treatment plant shall be located as shown on drawing 10 uploaded to the planning portal on 6th November 2023 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved.

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

#### Condition 13

The odour concentration associated with the wastewater package treatment plant in condition 12 shall not exceed 5 ouE/m<sup>3</sup> directly above the unit and not more than 3



ouE/m<sup>3</sup> at 5 metres from the unit.

Reason: To protect nearby residential amenity from odour.

#### Condition 14

The noise level associated with the wastewater package treatment plant in condition 12 shall not exceed 5dB (A) below any background level measured at the nearest sensitive dwelling.

Reason: To protect nearby residential amenity from noise.

#### Condition 15

An adequate maintenance programme for the wastewater package treatment plant, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out for the lifetime of the wastewater package treatment plant, unless otherwise agreed in writing with Mid Ulster District Council.

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

#### Condition 16

Within 4 weeks of a written request by Mid Ulster District Council, following odour or noise complaint from the occupant of a dwelling, which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of emissions from the wastewater package treatment plant.

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

#### Condition 17

Any works required to resolve noise or odour issues shall be carried out by an approved operator of the wastewater package treatment plant and shall comply with the requirements of condition 15 and/or 16. The works shall be completed within a reasonable timeframe to the agreement of Mid Ulster District Council on identification of a nuisance. On completion of the works, the operator shall provide details of a monitoring survey to Mid Ulster District Council for written approval.

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

#### Condition 18

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

The development shall be in accordance with the requirements of the Department's Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the Department shall determine the width, position and arrangement of the streets associated with the development and the land to be regarded as comprised in those streets.

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

**Case Officer:** Malachy McCrystal

**Date:** 19 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	25 July 2019
<b>Date First Advertised</b>	8 August 2019
<b>Date Last Advertised</b>	7 August 2019
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 87 Loup Road, Moneymore, Londonderry, BT45 7ST</p> <p>The Owner / Occupier 94 Loup Road, Moneymore, Londonderry, BT45 7ST</p> <p>The Owner / Occupier 89 Loup Road, Moneymore, Londonderry, BT45 7ST</p> <p>The Owner / Occupier 92 Loup Road, Moneymore, Londonderry, BT45 7ST</p> <p>The Owner / Occupier 88 Loup Road, Moneymore, Londonderry, BT45 7ST</p> <p>The Owner / Occupier 91 Loup Road, Moneymore, Londonderry, BT45 7ST</p>	
<b>Date of Last Neighbour Notification</b>	1 July 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p>NI Water - Multiple Units West-Substantive: TBCResponseType: FR</p> <p>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR</p> <p>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR</p> <p>NI Water - Strategic Applications-Substantive: TBCResponseType: FR</p> <p>Historic Environment Division (HED)-Substantive: YResponseType: FR</p> <p>Rivers Agency-Substantive: YResponseType: FR</p> <p>NIE Belfast-Substantive: TBCResponseType: FR</p> <p>NI Water - Multiple Units West-Substantive: TBC</p> <p>NIE Belfast-Substantive: TBCResponseType: FR</p>	

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
NIE Belfast-Substantive: TBCResponseType: FR  
NI Water - Multiple Units West-Substantive: TBC  
NI Water - Multiple Units West-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  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
NI Water - Multiple Units West-Substantive: TBCResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
Rivers Agency-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: TBC  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: TBC  
DFI Roads - Enniskillen Office-Substantive: TBC  
DFI Roads - Enniskillen Office-  
DFI Roads - Enniskillen Office-  
DFI Roads - Enniskillen Office-.Reply DFI La19 2019 1011 Loup Rd.docx  
NI Water - Multiple Units West-LA09-2019-1011-O.pdf  
DFI Roads - Enniskillen Office-  
NI Water - Multiple Units West-LA09-2019-1011-O.pdf  
DFI Roads - Enniskillen Office-23-01-2023.docx.Reply DFI La19 2019 1011 Loup Rd -  
feb 2023.docx  
DFI Roads - Enniskillen Office-

**Drawing Numbers and Title**

Housing Concept Plan Plan Ref: 05/8  
Housing Concept Plan Plan Ref: 05/6  
Housing Concept Plan Plan Ref: 05/5  
Housing Concept Plan Plan Ref: 06/1  
Housing Concept Plan Plan Ref: 05/4  
Site Location Plan Plan Ref: 01/1  
Roads Details Plan Ref: 06  
Housing Concept Plan Plan Ref: 05/3  
Housing Concept Plan Plan Ref: 05/2  
Housing Concept Plan Plan Ref: 05/1  
Further Particulars Plan Ref: 03/1  
Housing Concept Plan Plan Ref: 05  
Further Particulars Plan Ref: 03  
Housing Concept Plan Plan Ref: 04  
Housing Concept Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01  
Further Particulars Plan Ref: 07  
Housing Concept Plan Plan Ref: 05/7  
Housing Concept Plan  
Cross Sections  
Housing Concept Plan  
Cross Sections Plan Ref: 07/1

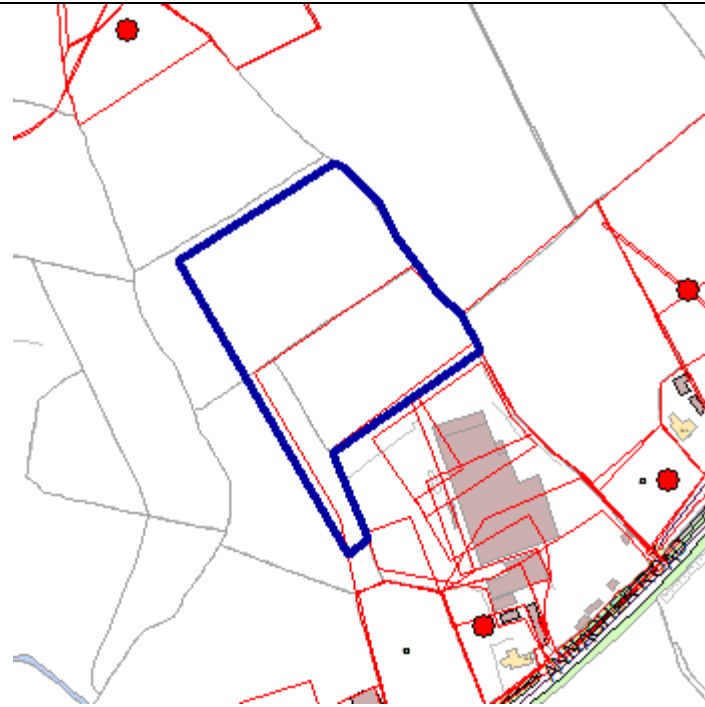
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/0837/F	<b>Target Date:</b> 28 July 2021
<b>Proposal:</b> Provision of assembly factory buildings and increased hardstanding to the rear of existing manufacturing premises in order to accommodate business expansion on existing site	<b>Location:</b> 200 Annagher Road Coalisland Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> MC Grath Engineering Ltd 200 Annagher Road Coalisland	<b>Agent Name and Address:</b> Consulting Civil Engineers 15 Derrytresk Road Coalisland Dungannon BT71 4QL
<b>Executive Summary:</b> Approval recommended	

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

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DETI - Geological Survey (NI)	Substantive: YResponseType: FR
	NI Water - Strategic Applications	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-22-0837 F 200 Annagher Road Coalisland Dungannon.doc
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Rivers Agency	389251- Final

		Response.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2021.0837.F.pdf
Statutory Consultee	Rivers Agency	312019- Final Response.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Rivers Agency	203203- Final Response.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response 4.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
<b>Representations:</b>		
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		
<b>Characteristics of the Site and Area</b>		
<p>The site is located at 200 Annagher Road, Dungannon. It is located in open countryside outside the development limits of Coalisland.</p> <p>The site is currently agricultural land used for grazing. It is rectangular in shape and is located to the rear of existing industrial buildings and the applicants large, detached dwelling which occupies a generous plot.</p> <p>There are residential properties located along the Annagher Road in both directions, as well as a number of agricultural fields.</p>		
<b>Description of Proposal</b>		
<p>Provision of assembly factory buildings and increased hardstanding to the rear of existing manufacturing premises in order to accommodate business expansion on existing site</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<b><u>Policy Consideration</u></b>		
<b>Dungannon and South Tyrone Area Plan 2010</b>		
<p>The site is located as being in the open countryside, outside of the settlement limits of Coalisland, as defined by DSTAP 2010.</p>		



## **Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy**

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

### **PPS21 - Policy CTY 1 – Development in the Countryside**

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.

However, planning permission will be granted for non-residential development in the countryside in certain cases, the relevant criteria in this case would be ‘industry and business uses in accordance with PPS 4’.

### **PPS4 – Planning & Economic Development’-**

#### **PED3 - expansion of an established economic development use in the countryside.**

The expansion of an established economic development use in the countryside 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 of the enterprise.

Proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated this is not possible, new buildings may be approved provided they are in proportion to the existing buildings and will integrate as part of the overall development.

Any extension or new building should respect the scale, design and materials of the original building.

If a proposal would not meet the above policy provisions, the major expansion of an existing industrial premises would only be permitted in exceptional circumstances where the following 3 points are demonstrated;

#### **1. Relocation of the enterprise is not possible for particular operational or employment reasons;**

McGrath Eng Ltd is a well-established engineering family business and a major employers in Dungannon. They manufacture materials handling equipment for the quarrying, construction and recycling industries. Demand for their equipment has grown and in response to this they have increased their manufacturing facilities. The proposal will enhance the existing factory which is currently on site and they will require to be

close and so a relocation of the enterprise would not be a viable option.

**2. The proposal would make a significant contribution to the local economy;**

The creation of jobs is a principle motivator for the company and in order to create and protect jobs this proposal is necessary to continue to expand the business.

**3. The development would not undermine rural character;**

Currently existing adjacent to the site are stores, canteen, office and assembly and prep areas, and an outside testing area, and area for finished products. This type of development is established in this particular location. It will have roller shutter grey doors, concrete walls and corrugated metal sheeting, all typical finishes and materials for this type of development.

Measures to aid integration will be required in all cases, and with this proposal the existing thorn hedges to the rear of the site will be conditioned to be retained and augmented when necessary. This will provide screening and limit the visual impact of the building into the rural landscape. The closest dwelling (not within the applicant's ownership) is No.206 Annagher Road, approx. 200m from the proposal and 80m from existing buildings.

Rural character will not be undermined due to this building, because of its location, screening provided and the existing development which currently existing adjacent to the site.

**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 use.**

The proposed site lies within an area that has similar uses in the open countryside. The nearby approvals show the site has industrial uses approved like this one.

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

There is no significant detrimental impact on any neighbouring residential properties. It is set a sufficient distance from existing dwellings which will remain relatively unaffected.

**(c) It does not adversely affect features of the natural or built heritage.**

There are no listed buildings nearby the site or any archaeological features that could be affected.

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

DFI Rivers were consulted from a drainage and flood risk aspect. The drainage assessment was reviewed, and it has demonstrated the design and construction of a suitable drainage network is feasible and a condition has been provided to safeguard against flood risk to the development.

**(e) It does not create a noise nuisance.**

Conditions have been provided from Env Health including those relating to operating hours and provision of a 5m berm, to protect residential properties amenity from noise.

**(f) It is capable of dealing satisfactorily with any emission or effluent.**

**(g) The existing road network can safely handle any extra vehicular traffic.**

DFI Roads have been consulted on submitted plans and offer no objections subject to conditions provided.

**(h) Adequate access arrangements, parking and manoeuvring areas are provided.**

Access, movement and parking have been assessed by DFI Roads and conditions have been 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.**

In line with PPS3, DFI Roads have been consulted and have no objections, providing conditions.

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

Finishes and materials of the building are typical for this type of development, and are acceptable in this location. The layout of the built form and the landscaping scheme are in keeping with the surrounding area and are of a high standard. These will also be conditioned.

**(k) Appropriate boundary treatment and means of enclosure have been provided and any areas of outside storage proposed are adequately screened from public view.**

The existing planting, which will be conditioned to be retained and the 5m berm proposed aids with this, while still providing the enclosure that a proposal of this type requires.

**(l) It has been designed to deter crime and promote personal safety; and**

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

The landscaping provides adequate screening for the site aiding with the integration of this rural open site as per the requirements of PED3. Conditions will be attached to ensure this.

Overall the proposal meets with the criteria of PED9 of PPS4 and the above criteria has been satisfactorily met.

**PPS15 - Planning and Flood Risk**

FLD3 - DFI Rivers have reviewed the Drainage Assessment (DA), which demonstrates that the design and construction of a suitable drainage network is feasible. It indicates the 1 in 100 year event with an additional allowance for climate change (10%) could be contained within the attenuation system, when discharging at existing green field runoff rate and therefore there will be no exceedance flows during this event.

The DA states that the drainage system could be subject to change at detailed drainage design therefore DFI Rivers requests a condition is added as part of planning approval to safeguard against any flood risk to and from the development.

**Representations**

Objections have been received from a neighbouring property, No 63 Lisnastrane Road (image 1). To note, this dwelling has approval for an off-site replacement under LA09/2017/0750/F and Renewal of LA09/2017/0750/F- Proposed replacement dwelling and outbuildings. The proposed location is some 20m forward of the current house and I am content the potential new location has also been taken into consideration in terms of noise issues and any impacts visually (see image 2 below)

The objector has no issue with business in principle, but has raised concerns which I will address in turn;

**- Env Health issues in relation to noise, - increase in emissions, negative impact on Env and air quality.**

EH were consulted and were made aware of the objectors' issues, an odour assessment and noise impact assessment were also considered. EH requested additional information which was submitted by the agent's Acoustic experts. It was noted the report advises the existing processes undertaken on site will be relocated to the proposal site, and the existing sheds will be converted to warehousing to provide better office and canteen facilities. Noise modelling was submitted, which includes the location of a 5m high noise berm to the northern and western boundaries of the site (as shown in image 1) Based on the information submitted EH would recommend approval with conditions.



**Image 1**

Following Env Health consultation response on 5th Jan 2024, the objectors raised number of points which I will address following discussion with the EH officer.

\* In relation to the 5m Noise Berm – why is this only shown on the Northern and western sides and not on the eastern and southern sides?

The highest predicted noise level at 208 Annagher Road has been predicted with no noise berm in place along the eastern side of the proposal. The predicted noise level is based on all equipment and activities associated with the proposal operating simultaneously to capture a worst-case scenario.

With regards to the eastern boundary, although this was originally mentioned by the noise consultation in correspondence and that there has been issues with space, there is an existing bank and planting along here and through discussions with EH it was deemed acceptable that the proposed berms would enclose the sides of the building and integrate with that existing along the east.

\* If planning had been sought before construction began rather than applied for retrospectively these issues would have been ‘properly reviewed’ at that time?

EH are content all noise issues have been taken into account and full consideration has been given to the objectors comments. The applicant’s noise consultant has provided noise data and modelling which has allowed EH to provide a robust response and provide conditions which will protect the amenity of all nearby receptors.

\* EH refer to drawing 486-016 in their condition and not the section drawing 486-014.

Following discussion with EH, they have no issue in my adding this drawing number to their condition to include the levels and cross sections of the 5m berms.

**- Size and scale of the proposal.**

The shed is 13.7m to the highest point. It is considered acceptable in this location with the screening provided and the distance from other properties.

**- Mitigation measures are required.**

Amended plans show the location of a 5m high noise berm to the northern and western boundaries of the site. These noise mitigation measures are considered adequate to protect the amenity of neighbouring properties.

**- Access is dangerous.**

DFI Roads were consulted on the access and have provided relevant conditions.

**- Out of character and will set a precedent for the area.**

The proposed development will integrate into the area due the set back nature of the site, planting scheme and the planning conditions to be attached, which will ensure retention and augmentation of vegetation.

Each application that is submitted in future will be assessed against relevant policy and current applications will be taken into consideration.

**- Business has other premises elsewhere - other sites are more suitable.**

The proposal has been assessed against PPS4 and is felt to have met the criteria as detailed above in the planning assessment.

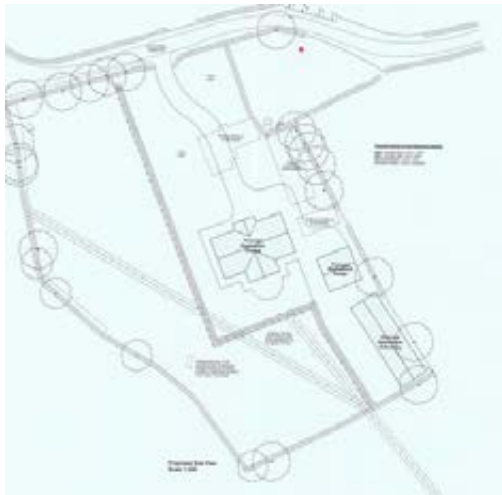
- **NN letter issue**, in that due to the 90m rule a number of properties who should have been notified were not sent letters, and felt should have been due to the scale and size of this proposal.

This point is noted, however the Statutory Neighbour notification process was carried out correctly in accordance with our guidance and those neighbours notified. A press advertisement was also carried out to notify the public.



**Image 2**

- \* Blue circle indicates the site
- \* Yellow Circle indicated objectors property.



**Image 3**

- \* Above map indicates position of approved replacement dwelling in relation to the existing buildings on site.

In conclusion, after considering all the consultation responses, objections and the assessment against relevant planning policy, I recommended approval with 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

The noise level from the proposal shall not exceed the limits outlined in the table below during the permitted hours of operation when measured at a distance of 3 metre from the façade of the appropriate residential property as predicted in the Acoustic Designs email dated 18th December 2023

Name Address X-Y coordinates dBA

Rec 1	198 Annagher Road	285,603 367,131	56.0
Rec 2	196 Annagher Road	285,554 367,082	51.2
Rec 3	180 Annagher Road	285,039 367,192	41.6
Rec 4	47 Lisnastrane Road	285,217 367,390	37.5
Rec 5	49 Lisnastrane Road	285,240 367,551	35.2
Rec 6	55 Lisnastrane Road	285,346 367,524	36.9
Rec 7	63 Lisnastrane Road	285,492 367,522	41.6
Rec 8	24 Dernagh Drive	285,877 367,537	45.5
Rec 9	212 Annagher Road	285,782 367,352	50.4
Rec 10	208 Annagher Road	285,748 367,254	52.4
Rec 11	86 Moor Road	285,887 367,178	47.2
Rec 12	82 Moor Road	285,865 367,020	38.3

Reason: To protect amenity of nearby residential dwellings.

### Condition 3

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

Reason: To protect amenity of nearby residential dwellings.

### Condition 4

Following completion of the noise survey and where noise monitoring demonstrates exceedances of noise limits stipulated in condition 1 the applicant shall provide details of additional noise mitigation measures that will be incorporated into the proposal to ensure compliance with condition 2.



Reason: To protect amenity of nearby residential dwellings.

Condition 5

Prior to the commencement of any work on site the applicant shall ensure that a 5m high noise berm as depicted on the PG Quinn Ltd drawing no 486-016m and 486-014 both dated 01.10.23 is erected along the northern and western sides of the proposal. The berm shall be permanently maintained and retained thereafter.

Reason: To protect amenity of nearby residential dwellings.

Condition 6

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 dwellings.

Condition 7

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

Condition 8

No activities or processes associated with this proposal (apart from those modelled within the Acoustic Design reports) shall take place within the external yard area associated with this development, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect amenity of nearby residential dwellings.

Condition 9

The proposal shall not operate outside the hours of 08:00 hours and 18:30 hours Monday to Friday and 08:00 hours to 13:00 hours on Saturdays, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect amenity of nearby residential dwellings.

Condition 10

There shall be no deliveries and/or external activity outside the hours of 08:00 hours and 18:30 hours Monday to Friday and 08:00 hours to 13:00 hours on Saturdays. There shall be no site activity on Sundays or public/bank holidays.

Reason: To protect amenity of nearby residential dwellings.

Condition11

The use class of all existing buildings within the blue line as determined by the 'Planning (Use Classes) Order (Northern Ireland) 2015,' shall be restricted to Class B4: Storage or distribution.

Reason: To protect amenity of nearby residential properties.

Condition12

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

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

Condition13

The vehicular access (es), including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 02 REV1 bearing the date stamp 22 FEB 2022, prior to the (commencement/occupation/operation) of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the 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.

Condition14

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.

Condition15

Upon operation of the building hereby approved, the existing uses of the buildings as shown in green on Plan2 Rev 01 stamped 25 Feb 2002 should revert to storage/office use only.

Reason: To protect the amenity of nearby residential properties.

Condition16

The existing natural screenings of this site as shown on Plan 02 Rev01 date stamped 25 Feb 2022 shall be retained unless necessary to prevent danger to the public in which

case a full explanation shall be given to the Council in writing prior to their removal.

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

**Condition17**

If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

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

**Case Officer:** Emma McCullagh

**Date:** 18 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	2 June 2021
<b>Date First Advertised</b>	8 November 2022
<b>Date Last Advertised</b>	15 June 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier Con O'Neill 63 Lisnastrane Road Upper Dernagh Clonoe BT71 5DE	
<b>Date of Last Neighbour Notification</b>	21 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  DETI - Geological Survey (NI)-Substantive: YResponseType: FR  NI Water - Strategic Applications-Substantive: YResponseType: FR  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  Environmental Health Mid Ulster Council-Substantive: TBC  Environmental Health Mid Ulster Council-Substantive: TBC  Environmental Health Mid Ulster Council-LA09-22-0837 F 200 Annagher Road  Coalisland Dungannon.doc  Environmental Health Mid Ulster Council-  Rivers Agency-389251- Final Response.pdf  Environmental Health Mid Ulster Council-LA09.2021.0837.F.pdf  Rivers Agency-312019- Final Response.pdf  Environmental Health Mid Ulster Council-  Rivers Agency-203203- Final Response.pdf  Environmental Health Mid Ulster Council-Planning Response 4.pdf  Environmental Health Mid Ulster Council-</p>	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2022/0607/F	<b>Target Date:</b> 4 July 2022
<b>Proposal:</b> Proposed housing development consisting of 12 dwellings, 10 semi detached and 2 detached including access road	<b>Location:</b> Site Immediately East Of Ashbrook Nursing Home 50 Moor Road Coalisland
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> D M Investments	<b>Agent Name and Address:</b> MC Keown And Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Rivers Agency	858249 final.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	LA09-2022-0607-F Check List.docx LA09-2022-0607-F.docx
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2022-0607-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-22-0607.pdf
Statutory Consultee	Rivers Agency Craigavon	
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	23-10-2023 Consulted in error.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response3 LA09-22-0607.doc
Statutory Consultee	DFI Roads - Enniskillen Office	22-05-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	27-07-23.docx
Statutory Consultee	DFI Roads - Enniskillen Office	28-07-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Conditions 01-08-2023.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response2 LA09-22-0607.pdf
Statutory Consultee	Rivers Agency	286310 final.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	05-05-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	07-03-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	03-03-2023.docx

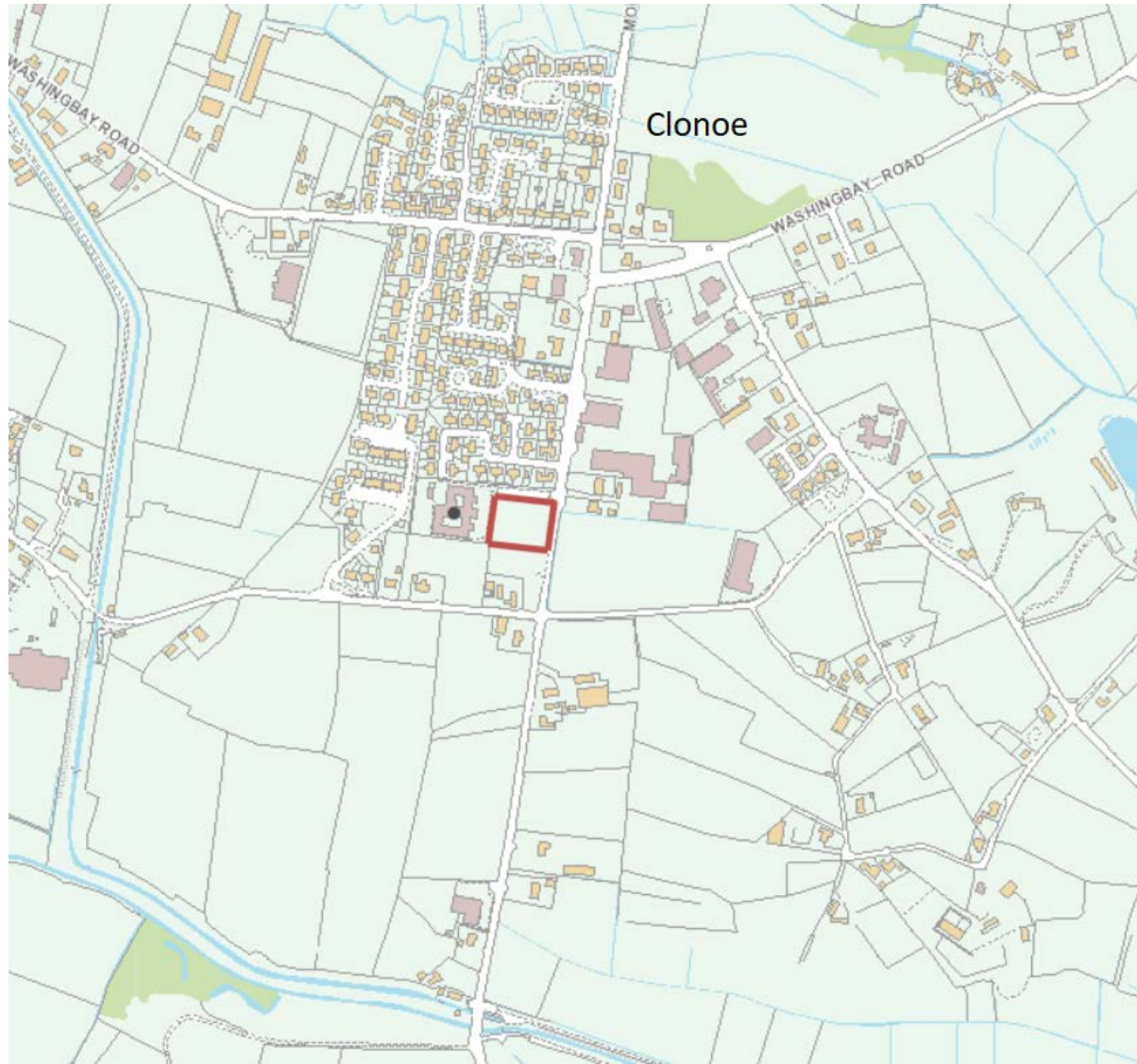
### Representations:

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

### Summary of Issues

## Characteristics of the Site and Area

The site lies within the settlement limits of Clonoe/Annaghmore and outside all other areas of constraint as depicted by the Dungannon and South Tyrone Area plan 2010.



The site is bounded by Ashbrooke Nursing home to the West, Moorlands housing to the North and the main Moor Road to the East and an open field to the South. The land is relatively flat and currently in good agricultural grazing condition.





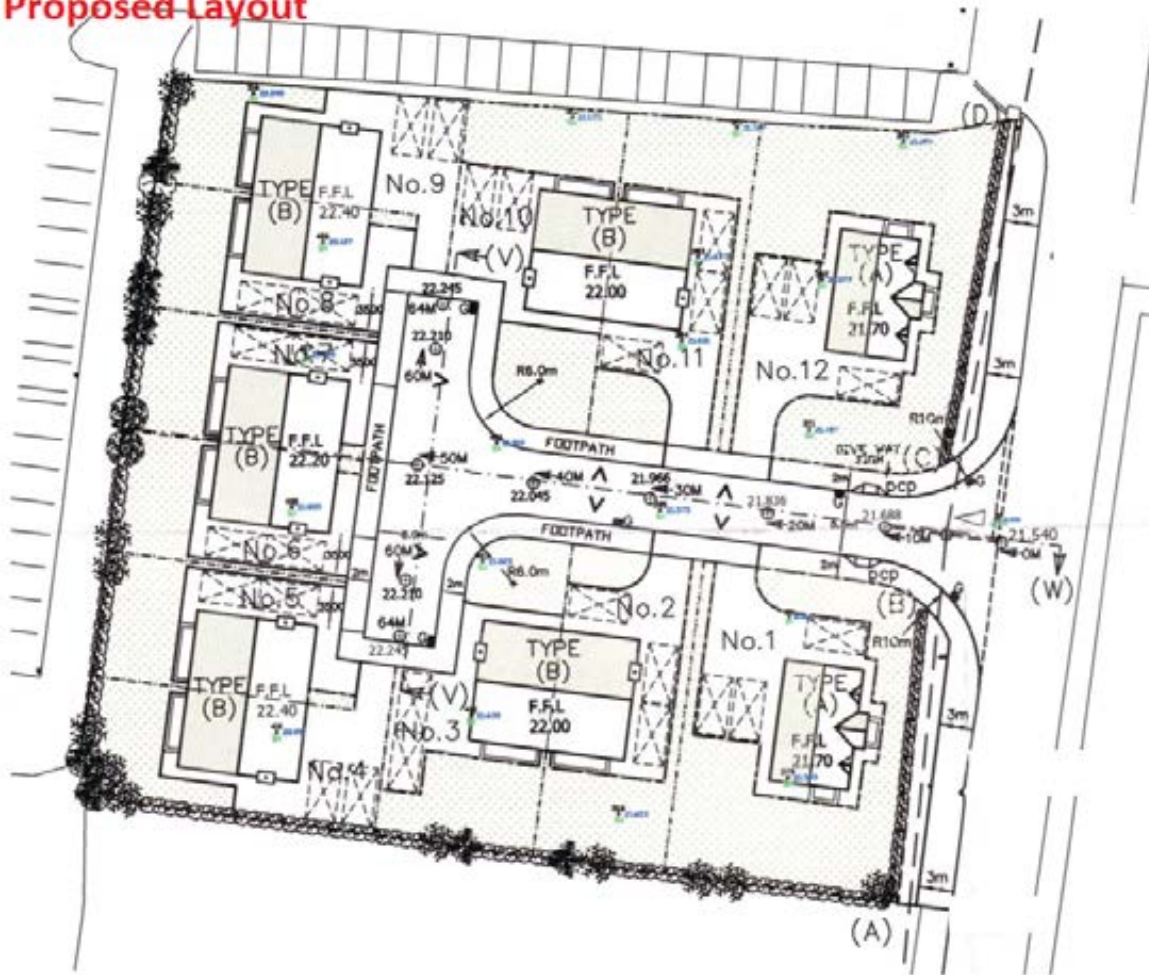
The northern boundary along the access to the nursing home is defined by a low brick wall and a fence, the same for the west along the nursing home frontage, the roadside east boundary is defined by a concrete post and wire fence and the southern boundary is undefined on the ground.



## Description of Proposal

The proposal seeks full planning permission for a housing development consisting of 12 dwellings. (10 semidetached and 2 detached) including access road.

### Proposed Layout



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### **Planning Act 2011**

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

#### **Area Plan**

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

District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is located within the development limits of Annaghmore/Clonoe as defined in the plan. No part of the site is zoned.

Policy SETT1 allows for favourable consideration of development within the limits of development provided it meets a number of criteria.

### **Relevant Policy**

SPPS Strategic Planning Policy Statement  
PPS7 Quality Residential Environments  
PPS21 Sustainable Development in the Countryside  
PPS3 Access, Movement and Parking

### **Third Party Representations**

At the time of writing one objection has been received from a concerned neighbour of Moorlands. The objections main concerns are;

Loss of property value  
Loss of privacy/sunlight  
Road safety concerns

### **Consideration of objections**

With regards to the first concerns the loss of a property value is not a material consideration for planning.

With regards to Loss of sunlight or privacy, the back to back separation distance between the proposed dwellings and the closest house in Moorlands is approx. 30 metres. This also includes an existing fence, existing row of car parking spaces, a grass verge and a further existing fence. It is clear there will be no loss of sunlight or impact on privacy given all of the above factors.

With regards to Road safety concerns, it is acknowledged that the proposal will create 12 new houses and therefore increased traffic flow. However, the site proposes its own access onto the main road with clear visibility splays of 4.5 x 90 metres in both directions as well as a 3 metre wide footpath along the whole of the site frontage. In addition DFI Roads have been consulted and have raised no concerns about road safety.

### **Relevant Planning History**

There is no relevant planning history on this site.

### **Recommendation**

This proposal seeks permission for a total of 12 units of accommodation. The proposed dwellings are comprised of 2 detached houses at either side of the site entrance and 10 semidetached houses.

The Strategic Planning Policy Statement which was published in September 2015 has retained PPS 7

which was the policy the original application was assessed under and thus applicable for this application.

The principle of development for housing on this site is considered acceptable given the land zoning.

Policy QD1 - Quality in New Residential Development 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;

To the North of the site is the housing development of Moorlands, which is a mix of semi detached and detached dwellings and has a similar density and dwelling size as the proposed. The proposed layout would be largely similar to the majority of the settlements other housing in terms of layout, scale, massing, and the general appearance. There is a proposal for a new native species hedgerow to be planted along the South east and western boundaries with some trees included along the frontage of the nursing home.

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 features in the immediate vicinity of this site.

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

There is sufficient private amenity space provided for each dwelling in this application. A public area of open space has not been indicated within the development, however, it is not a must for a development of this size. A native species hedgerow is proposed along three sides with a scattering of trees along the boundary facing the existing nursing home, this will soften the visual impact of the development and assist in its integration with the surrounding area. I consider this to be acceptable for a development of this size.

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

There is no requirement to provide local neighbourhood facilities, given the proximity to local services and shops within the settlement.

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;

There is also a footpath provision provided for pedestrians which would link into an existing footpath network that would lead into the heart of the village and to public transport nodes.

f) adequate and appropriate provision is made for parking;



There is adequate in-curtilage space for parking provided for each dwelling proposed. DfI Roads do not raise any concern in this regard.

g) the design of the development draws upon the best local traditions of form, materials and detailing; Proposed building materials are acceptable for this site and locality.

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;

In terms of design the dwellings are all similar to the new dwellings in the surrounding housing developments, the main designs of both the detached and semis are shown below. They are finished in a cream dash with a dark tiled roof and uPvc windows and doors. There are no issues of overlooking or overshadowing and I find the layout to be acceptable when viewed in the context of existing surrounding development.



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

The site has streetlights located along it which will provide a lit area. Rear gardens are protected by boundary fencing. Overall, the proposal is of a good layout to deter crime, while providing good connectivity to surrounding footpath and road networks.

Policy LC 1 - Protecting Local Character, Environmental Quality and Residential Amenity of the Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas states planning permission will only be granted 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 of PPS 7, and all the additional criteria set out below are met:

(a) the proposed density is not significantly higher than that found in the established residential area; The density is similar to the existing surrounding area ie Moorlands, therefore it is my opinion that it is acceptable.

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

The layout and design of residential development within this development are two storey detached and semi detached. I do not think this proposal is conflicting with the character of the existing residential area.

(c) all dwelling units and apartments are built to a size not less than those set out in Annex A  
The sizes of the dwellings proposed exceed the minimum recommended standards.

**Other considerations**

The site is not subject to flooding and there is no open watercourses being culverted.  
DfI Roads, environmental health and EHO have also been consulted and responded with no objections subject to conditions and informatives. NIW was consulted and have responded that there is sufficient capacity at the WWTW, however there are potential network capacity issues. It is the councils position that we can negatively condition WWTWs to be agreed.

Recommendation Approval.

An Environmental Impact Assessment was also undertaken as this application falls under Schedule 2 Part 10 b Urban Development projects.

Form this it was determined no Environmental Assessment was required as any issues would be dealt with through the normal development management process in the determining of this application.

**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 visibility splays of 4.5 metres by 90 metres to the north and 4.5 metres by 120 metres to the south at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 06C published on the Council Planning portal on the 27th of July 2023, prior to the commencement of any other works or other development.

**REASON:** To ensure there is a satisfactory means of access in the interests of road

safety and the convenience of road users.

#### Condition 3

No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on 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 4

All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.02D dated 02 JUN 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 5

An acoustic ventilation system shall be incorporated into the east facing façades of dwellings annotated as sites 1 and 12, on approved drawing No 2D bearing the stamp dated 2 June 2023, prior to the occupation of these dwellings. Each fitted acoustic ventilation system shall have a sound reduction index of 30dB Rw.

Reason: To protect the amenity of residents

#### Condition 6

Prior to the occupation of any of the dwellings hereby permitted a 1.7m high acoustic barrier shall be erected between points (A) - (B) and (C) - (D) as indicated on approved drawing 2D bearing the stamp dated 2 June 2023. The barrier shall be constructed of either masonry or timber panelling (Close lapped with no gaps).

Reason: To protect the amenity of residents

#### 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 development hereby permitted shall not commence until such time as the developer has provided adequate evidence to the Council that NI Water will allow connection to the public sewer, this condition has been discharged and the developer has received written confirmation that the Council has agreed to discharge this condition.

Reason: In the interests of public health.

**Condition 9**

PSD01 - The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Department for Infrastructure has determined that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 06C published on the Council Planning portal on the 27th of July 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 10**

PSDF02 - 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 Number. 06C published on the Council Planning portal on the 27th of July 2023. The Department for Infrastructure has attached to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

**Signature(s):** Peter Hughes

**Date:** 19 December 2023



<b>ANNEX</b>	
<b>Date Valid</b>	9 May 2022
<b>Date First Advertised</b>	24 May 2022
<b>Date Last Advertised</b>	24 May 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 46 Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 90 Gortgonis Road Coalisland Tyrone BT71 4QG</p> <p>The Owner / Occupier 10 Moorlands Coalisland Tyrone BT71 4SJ</p> <p>The Owner / Occupier 8 Moorlands Coalisland Tyrone BT71 4SJ</p> <p>The Owner / Occupier 6 Moorlands Coalisland Tyrone BT71 4SJ</p> <p>The Owner / Occupier 4 Moorlands Coalisland Tyrone BT71 4SJ</p> <p>The Owner / Occupier 2 Moorlands Coalisland Tyrone BT71 4SJ</p> <p>The Owner / Occupier 47B Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 45 Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 47A Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 47 Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 5 Moorlands Coalisland Tyrone BT71 4SJ</p> <p>The Owner / Occupier Ashbrook Nursing Home 50 Moor Road Coalisland Tyrone BT71 4QB</p>	
<b>Date of Last Neighbour Notification</b>	4 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>

## **Planning History**

Ref: M/1993/0621

Type: O

Status: PCO

Ref: LA09/2021/0650/F

Type: F

Status: APPRET

Ref: M/2010/0061/F

Type: F

Status: PG

Ref: LA09/2017/1394/F

Type: F

Status: PG

Ref: M/2002/0821/F

Type: F

Status: PG

Ref: M/2011/0068/F

Type: F

Status: PG

Ref: M/1997/0171

Type: F

Status: PCO

Ref: M/2005/1073/F

Type: F

Status: PG

Ref: M/2007/0496/F

Type: F

Status: PG

Ref: M/1996/0479

Type: F

Status: PCO

Ref: M/1996/0743

Type: F

Status: PCO

Ref: LA09/2022/0607/F

Type: F

Status: PCO

Ref: M/1984/041001

Type: H13

Status: PG

Ref: M/1984/0410

Type: H13

Status: PG

Ref: M/1996/0021

Type: F

Status: PCO

Ref: M/1993/6033

Type: PREAPP

Status: PCO

Ref: M/1979/0766

Type: H13

Status: PG

Ref: M/1975/0269

Type: H13

Status: PG

Ref: M/2003/1274/F

Type: F

Status: PG

Ref: M/2015/0089/F

Type: F

Status: PG

Ref: M/2004/1371/F

Type: F

Status: PG

Ref: M/2000/1077/F

Type: F

Status: PG

Ref: M/1988/0774

Type: F

Status: PCO

Ref: M/2011/0600/F

Type: F

Status: PG

Ref: M/1983/050501

Type: H13

Status: PG

Ref: M/1983/0505

Type: H13

Status: PG

Ref: M/2014/0371/F

Type: F

Status: PG

Ref: M/1993/6017

Type: PREAPP

Status: PCO

Ref: M/2004/1942/LDE

Type: LDE

Status: PG

Ref: M/2006/1772/F

Type: F

Status: PG

Ref: M/1999/0987

Type: A41

Status: 205

Ref: M/2004/0702/F

Type: F

Status: PG

Ref: M/2012/0388/F

Type: F

Status: PG

Ref: M/2006/1523/F

Type: F

Status: PG

Ref: M/2002/0217/O

Type: O

Status: PG

Ref: M/2010/0641/F

Type: F

Status: PG

Ref: M/1977/0011

Type: H13

Status: PG

Ref: M/1977/001101

Type: H13

Status: WITHDR

Ref: M/1982/0105

Type: H13

Status: PG

Ref: M/1977/0470

Type: H13

Status: PG

Ref: M/1996/0271

Type: F

Status: PCO

Ref: M/1997/0009

Type: F

Status: PCO

Ref: M/1999/0818/F

Type: F

Status: APPRET

Ref: LA09/2019/1031/F

Type: F

Status: PG

Ref: M/1993/4037

Type: P

Status: PCO

Ref: M/1994/0283

Type: F

Status: PCO

Ref: LA09/2021/0671/F

Type: F

Status: PG

Ref: M/1993/0621C

Type: RM

Status: PCO

Ref: M/1993/0621B

Type: RM

Status: PCO

Ref: M/2011/0198/F

Type: F

Status: PG

Ref: M/1993/0620

Type: F

Status: PCO

### **Summary of Consultee Responses**

Environmental Health Mid Ulster Council-

Rivers Agency-858249 final.pdf

DFI Roads - Enniskillen Office-LA09-2022-0607-F Check List.docxLA09-2022-0607-F.docx

NI Water - Multiple Units West-LA09-2022-0607-F.pdf

Environmental Health Mid Ulster Council-Planning Response LA09-22-0607.pdf

Rivers Agency Craigavon-

DFI Roads - Enniskillen Office-

DFI Roads - Enniskillen Office-23-10-2023 Consulted in error.docx

Environmental Health Mid Ulster Council-Planning Response3 LA09-22-0607.doc

DFI Roads - Enniskillen Office-22-05-2023.docx

DFI Roads - Enniskillen Office-27-07-23.docx

DFI Roads - Enniskillen Office-28-07-2023.docx

DFI Roads - Enniskillen Office-Conditions 01-08-2023.docx

Environmental Health Mid Ulster Council-Planning Response2 LA09-22-0607.pdf

Rivers Agency-286310 final.pdf

DFI Roads - Enniskillen Office-05-05-2023.docx

DFI Roads - Enniskillen Office-07-03-2023.docx

DFI Roads - Enniskillen Office-03-03-2023.docx

**Drawing Numbers and Title**

Site Layout or Block Plan  
Proposed Plans  
Site Location Plan  
Site Layout or Block Plan  
Proposed Plans  
Proposed Plans  
Cross Sections      Plan Ref: 05  
Proposed Plans      Plan Ref: 04  
Proposed Plans      Plan Ref: 03  
Site Layout or Block Plan  
Site Location Plan  
Site Location Plan   Plan Ref: 01B  
Site Layout or Block Plan   Plan Ref: 02D  
Proposed Plans      Plan Ref: 06C  
Proposed Plans      Plan Ref: 07A  
Roads Details

**Notification to Department (if relevant)**

Not ApplicableNot Applicable

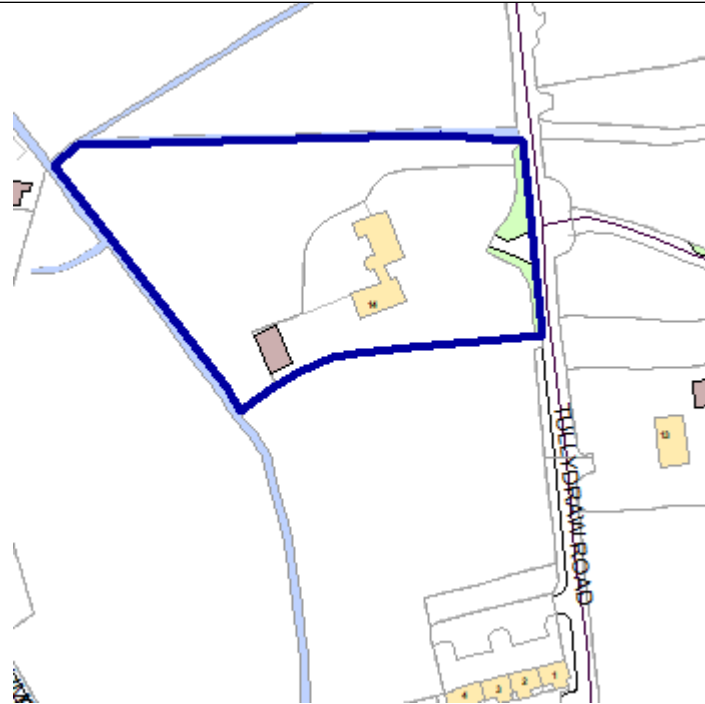
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2022/1117/F	<b>Target Date:</b> 18 October 2022
<b>Proposal:</b> Retention of shed ancillary to existing business and domestic dwelling and associated works, including extension of domestic and commercial curtilage, landscaping works, garden wall estate fencing and widening of access.	<b>Location:</b> 14 Tullydraw Road Dungannon BT70 1RE
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Paul McCaul 14 Tullydraw Road Dungannon BT70 1RE	<b>Agent Name and Address:</b> 2Plan NI 47 Lough Fea Road Cookstown BT80 9QL
<p><b>Executive Summary:</b></p> <p>1no. third party representations has been received from the nearest notifiable neighbour to the rear of the application site. The main issues raised in the objection letter were infilling at the site and potential for flooding.</p> <p>The whole of the application site is within a 1 in 100 year fluvial flood plain.</p> <p>The shed to be retained has been shown as 149sqm commercial floor space and the remaining space domestic but this has just been shown as a line on the floor plan. FLD 1 in PPS 15 does allow for minor development of commercial floor space under 150sqm but this is subject to a satisfactory flood risk assessment. Rivers Agency consultation response stated that infilling had occurred at the site which would have an impact on the function of the flood plain. The applicant has proposed flood storage measures in the adjacent field but this is contrary to mitigation measures stated in FLD 1.</p>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	650986 - Final Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Statutory Consultee	Geological Survey NI (DfE)	3140 MUDC Planning. 14 Tullydraw Road Dungannon BT70 1RE.doc 3140 MUDC Planning. 14 Tullydraw Road Dungannon BT70 1RE.doc
Statutory Consultee	Rivers Agency	698098 - Final Response.pdf
Statutory Consultee	Rivers Agency	

### 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	
<b>Summary of Issues</b>	
<p><b>Characteristics of the Site and Area</b></p> <p>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 larger plots and groups of farm buildings. Across the road from the site are a row of single dwellings set back from the road and there are no dwellings abutting the north and south boundaries. The application site is a large plot with a flat topography and there is a sweeping driveway to an existing dwelling which is single storey. To the rear of the dwelling are 2no. commercial sheds with separate commercial access.</p>	
<p><b>Description of Proposal</b></p> <p>This is a full application for retention of shed ancillary to existing business and domestic dwelling and associated works, including extension of domestic and commercial curtilage, landscaping works, garden wall estate fencing and widening of access at 14 Tullydraw Road, Dungannon.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b><u>Policy Consideration</u></b></p> <p>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.</p> <p><b>Representations</b></p> <p>Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one third-party objection has been received.</p> <p>The objection was received by letter on the 7<sup>th</sup> November 2022 from the owner/occupants of 147 Mullaghmore Road which is a dwelling to the rear of the site. The occupants stated they had no objection to the proposal but have some concerns about recent work carried out to increase the elevation of the application site. It is stated</p>	

that surface levels have been increased by several feet in some areas. The objector states the area has been subject to regular flooding and has a Flood Risk Assessment been completed. The objector is concerned there are any impacts on her property. The flooding issues will be considered in the assessment of planning policy but Rivers Agency confirmed in their latest consultation response that infilling in the flood plain had occurred and they had concerns about the impact of this infilling on the functioning of the flood plain.

### **Planning History**

No planning history at the application site.

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

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

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010, so SETT 1 does not apply. The site is not within any other zonings or designations within 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.

### **PPS 21 Sustainable Development in the Countryside**

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

The proposal is for the retention of a shed used for both domestic and commercial storage in association with a business called Canadian Spa Ireland. In addition, there is an extension of the curtilage, landscaping works, garden wall, fencing and widening of the access.

### **Policy PED 4 – Redevelopment of an Established Economic Development Use in the Countryside**

As the proposal is for the retention of a shed which is used in conjunction with an established commercial business PED 4 of PPS 4 is the relevant policy which applies.

As shown in figure 1 below the shed is a single-storey with a long rectangular form and metal sheeting on the roof and walls. The shed is located to the rear of the existing dwelling and there are no critical views of the shed in either direction along the Tullydraw Road. Blockwork rendered walls have been constructed behind the dwelling which also shield any critical views of the shed. In addition, as shown in figures 2 and 3 below the curtilage of the dwelling and business has been extended into a neighbouring field to the north. The extended area will serve as a domestic garden and new access to the commercial shed. I am content that the scale and nature of the proposal will not harm the rural character of the area.



Figure 1 – Image of shed to be retained.



Figure 2 – Image from orthophotography of the site in 2016.



Figure 3 – Image from orthophotography of the site in 2022.

I do not consider the proposal will bring environmental benefits to the site as infilling has occurred, the levels have been raised up and the site is within a flood plain. Rivers Agency confirmed in their consultation response on the 14<sup>th</sup> November 2023 that infilling undermines the flood plain's natural function so the works may exacerbate flooding into neighbouring third party properties and fields.

Overall, I consider the proposal does not meet all the criteria in PED 4.

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

The proposal is for the retention of a commercial and domestic shed to the rear of the existing dwelling. There is already another shed which has been on site for several years and is associated with a spa business called Canadian Spa Ireland. This business fits swimming pools, spas and hot tubs so the majority of works are at customer's dwellings or businesses. The shed to be retained is for the storage of goods that were previously stored outside. I consider as there is no manufacturing of goods at the site and the shed is for the storage of parts, the use is compatible with the nearby land uses which are mainly residential. I am content there will not be excessive noise or smells from the site which could create unacceptable neighbour amenity.

The site is not within any areas zoned or designated for natural or built heritage.

The application site is wholly within the 1 in 100-year flood plain and Rivers Agency confirmed the applicant has completed infilling to raise up levels at the site. In Rivers Agency latest response it is stated that the infilling undermines the natural function of the flood plain.

I am content that the use of the proposed shed will not create a noise nuisance as the shed is used for storage by the existing business. There will not be high volumes of customers visiting the application site which may create excessive traffic movements.

I consider due to the nature of the business there will be no issues with emissions or effluent.

The applicant has stated on the P1 form there will be no increase in customers or

vehicular movements to the site so I am content there will not be any extra pressure on the road network.

DFI Roads were consulted in relation to the widened access and had no objection to the proposal. There is a concrete yard to the rear of the dwelling beside the sheds which I am content is sufficient for parking and turning of cars associated with the business.

The applicant has extended the curtilage to the north of the existing dwelling which was previously agricultural land. A landscaping scheme has been provided which demonstrates further planting in this area to promote biodiversity.

I am content the proposal will integrate into the landscape as the shed to be retained is to the rear and there are minimal critical views.

Overall, I consider the proposal does not meet all the criteria in PED 9.

### **Annex A – Homeworking**

Within the application site there is an existing dwelling but to the rear are two sheds which are used in conjunction with a spa business. I consider the established business is homeworking as the applicant and owner of the spa business is living in the associated dwelling. The business use is primarily located in two sheds to the rear of the dwelling but the main use at the site is residential. The applicant has stated the main uses for the buildings at the site are storage and the applicant installs hot tubs at customers premises or dwellings so there are limited visitors to the site. I am content that due to the nature of the business and the use of the shed for storage there will not be unacceptable neighbour amenity. I consider the proposal can be considered homeworking as there is not a significant increase in the volume of traffic or visitors to the site or an increase in noise or fumes and no specialist equipment has been installed on site.

As a portion of the shed to be retained will be used for domestic purposes I consider PPS 7 Addendum is a relevant policy to be considered.

**Addendum to PPS 7 - Residential Extensions and Alterations:** sets out planning policy and guidance for achieving quality in relation to proposals for residential extensions and alterations.

No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided by the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (The Addendum). Policy EXT1 of APPS7 indicates that planning permission will be granted for a proposal to extend or alter a residential property where four specific criteria are met.

### **Scale, Massing, Design and Appearance**

I have no concerns about the scale and massing of the shed to be retained as it is located to the rear of an existing dwelling. The finishes are characteristic of a rural building so I am content the building will not have an unacceptable impact on the

character of the property or the surrounding area.

### Neighbour Amenity

There are no dwellings abutting the site to the north, south and west so I am content there will not be unacceptable loss of light, privacy, or overshadowing. I am content there will be no unacceptable loss of neighbouring 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 shed will not detract from the environmental quality of the area.

### Amenity Space, Parking and Manoeuvring

The proposal will use a portion of amenity space to the rear of the dwelling, but I am content there is still sufficient space for recreation and the storage of bins at the site. There is in-curtilage car parking to the front of the dwelling and the proposal will not impact on this parking, so I have no concerns.

### PPS 15 – Planning and Flood Risk

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

The application site is fully within the 1 in 100 fluvial floodplain and development is not allowed within a flood plain unless the proposal meets a criterion within the exception test.

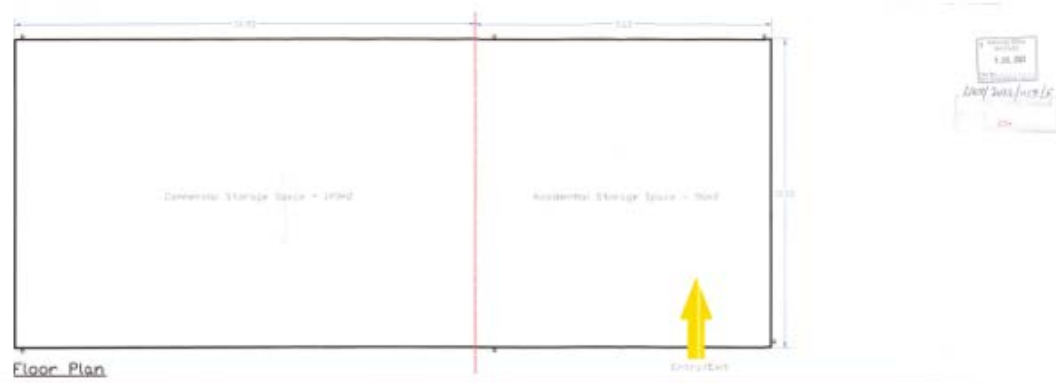


Figure 4 – Image of the floorplan of the shed to be retained.

As shown in figure 4 above the applicant has shown the shed is to have split use with 149sqm of commercial space and 96sqm of domestic space. FLD 1 states that minor development is acceptable within the floodplain subject to a satisfactory flood risk assessment. Minor development is defined as non-residential extensions for commercial use with a footprint of less than 150sqm and householder development such as sheds and garages within the curtilage of the existing dwelling. As a line has just been shown down the middle of the floorplan of the shed, I cannot state that less than 150sqm of the shed is being used for commercial floor space and I consider this would not be unenforceable. The proposal does not meet any other criteria in the exceptions test so if

the commercial space in the shed was over 150qm the proposal would not be an exception within FLD 1.

A Flood Risk Assessment was submitted and Rivers Agency as the statutory authority were consulted. Rivers responded on the 14<sup>th</sup> November 2023 stating that infilling had occurred at the site to raise the level of ground above the flood plain. In Rivers Agency opinion the proposal is contrary to FLD 1 as infilling undermines the natural function of the flood plain. This is stated in FLD 1 where it is stated the following flood protection measures are not acceptable –

- Flood compensation storage works.
- Infilling to elevate a site above the flood level within the undefended flood plain.

Following Rivers Response, it was discussed by the agent to amend the red line of the site to include land to the south and adjacent which is outside the flood plain and use this field as a flood storage area. As stated in FLD 1, this is an unacceptable method of flood mitigation as it would create flooding elsewhere and this was one of the concerns in the objector letter.

Overall, I consider the proposal does not meet the criteria in FLD 1 to be considered an exception.

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

The site does not access onto a protected route, so I have no concerns in this regard.

There was existing access to the dwelling and the applicant has widened the access to include a new commercial access to the shed to be retained. DFI roads were consulted as the statutory authority and had no objections.

### **Other Considerations**

I completed checks on the statutory map viewers and I am content there are no ecological or built heritage issues at the application site.

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it is not considered an exception within FLD 1 as the application is not subject to a satisfactory flood risk assessment. Flood storage compensation works have been proposed as mitigation which is unacceptable in FLD 1. Infilling within the flood plain at the application site has occurred which is contrary to FLD 1 in PPS 15.



Refusal Reasons

Reason 1

Proposal is contrary to FLD 1 - Development in Fluvial (River) and Coastal Plains in PPS 15 Planning and Flood Risk in that the proposal does not meet any criteria in the exception test for development within a flood plain.

**Signature(s):** Gillian Beattie

**Date:** 11 December 2023

<b>ANNEX</b>	
<b>Date Valid</b>	5 July 2022
<b>Date First Advertised</b>	21 July 2022
<b>Date Last Advertised</b>	21 July 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 147 Mullaghmore Road Dungannon BT70 1RD	
<b>Date of Last Neighbour Notification</b>	25 September 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  Rivers Agency-650986 - Final Response.pdf DFI Roads - Enniskillen Office-Roads Consultation full approval.docx Geological Survey NI (DfE)-3140 MUDC Planning. 14 Tullydraw Road Dungannon BT70 1RE.doc 3140 MUDC Planning. 14 Tullydraw Road Dungannon BT70 1RE.doc Rivers Agency-698098 - Final Response.pdf Rivers Agency-	
<b>Drawing Numbers and Title</b>	

**Notification to Department (if relevant)**

Not ApplicableNot ApplicableNot Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2022/1638/F	<b>Target Date:</b> 9 March 2023
<b>Proposal:</b> Alteration and extension to existing supermarket including change of use. Additional change of use to provide new off licence with first floor store	<b>Location:</b> 53, 55, 57 and 59 Church Street Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr PEARCE KELLY 57-59 CHURCH STREET COOKSTOWN BT80 8HT	<b>Agent Name and Address:</b> Mr JOE DIAMOND 77 MAIN STREET MAGHERA BT46 5AB
<b>Executive Summary:</b> <p>This application relates to a terrace of 2 no. two storey dwellings and one single storey supermarket on a site which lies outside of Cookstown town centre. The application is for a change of use of one dwelling into additional retail floor space as an extension to the adjoining supermarket with the further adjacent dwelling being converted into an off-licence. There is a modest two storey extension proposed towards the rear of the second dwelling. One objection has been received and is detailed in the case officers report. The application and related objection has been assessed under the SPPS and considered by DfI Roads and MUDC Environmental Health Department, both of who have no objection to the proposed development subject to the suggested conditions.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DFI require application forms  gerry
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Non Statutory Consultee	NI Water - Multiple Units West	Consulted in error. Please resend to NI Water - Strategic Applications.
Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1638-F.pdf
Non Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1638-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response 2.pdf
Non Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1638-F.pdf

Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Statutory Consultee		DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Consultee	Statutory	Ni Water - Strategic Applications	LA09-2022-1638-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

One representation has been received in respect of this proposed development and relates to the following issues:-

o Car parking and traffic;

Dfi Roads considered the proposed development and did not raise any issues concerning car parking or traffic.

o Noise and odour;

Environmental Health requested that the submission of a noise impact assessment and an odour report as the proposed development included the creation of residential units on the first floor. However, the residential element was duly removed from the proposal and Environmental Health subsequently advised that they have no further concerns.

o Residential amenity and design.

The objection raised concerns regarding the layout of the site which requires customers to walk from the rear car park along the vehicular alleyway with trolleys/shopping, thereby creating a potential conflict with vehicles. The lack of trolley storage was also raised. The layout has been amended to include a rear pedestrian entrance directly from the car park and also provides for trolley storage.

### Characteristics of the Site and Area

The site is located within the settlement development limit of Cookstown but outside the town centre and in an area not zoned for any particular use. The surrounding area is urban in character and is a mixture of residential and commercial properties.

## **Description of Proposal**

This application is for the 'Alteration and extension to existing supermarket including change of use. Additional change of use to provide new off licence with first floor store.'

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

### **Policy Consideration**

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

The 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 requires that all applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts so as to ensure safe, high quality and otherwise satisfactory forms of development.

The SPPS seeks to encourage development at an appropriate scale in order to enhance the attractiveness of town centres, helping to reduce travel demand. The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS. Although the proposed site is outside the town centre it is located at existing retail premises thereby increasing the choice available to customers and helping to secure the future of the retail premises and will help to reduce the need for travel.

PPS 5 has been superseded and replaced by the SPPS and therefore the prevailing policy for retail development is that contained within the SPPS.

The SPPS (6.281) states that planning authorities must adopt a town centre first approach for town centre uses (such as retail) retail development. It states that, planning authorities will require applications for main town centre uses to be considered in the following order of preference (and consider all of the proposal's catchment):

- 1) primary retail core;
- 2) town centres;
- 3) edge of centre; and
- 4) out of centre locations, only where sites are accessible by a choice of good public transport

modes.

This application is removed from the town centre and insofar as it relates to the retail element would appear to be contrary to this policy direction. However, it is clear that the retail element of this proposal is intended to compliment and expand the existing shop and therefore I am content that the requirement to direct the retail element of this development towards the Town Centre has been diluted in this instance.

The proposal is to change the use of the dwelling house, No.55, into an extension to the adjoining retail unit with first floor storage facilities, in addition to changing the use of the adjacent dwelling No.53, into a separate retail unit (off-licence) with a rear extension to provide additional retail floorspace and storage facilities.

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

DfI Roads assessed the proposal and the issues raised in the objection. Their consideration is that the proposal is acceptable subject to the suggested condition.

Whilst the Environmental Health Department initially requested the submission of a noise impact assessment which considers the noise impact from the proposed development on the 3 proposed apartments and an odour impact assessment to assess odour from kitchen extraction equipment associated with the supermarket, the first floor apartments have consequently been removed in favour of first floor storage space. Therefore Environmental Health have advised that they have no further objections to the proposed development.

It is my opinion that from a visual perspective, the development of this site as has been proposed, will not have a detrimental impact on the character of the area. This area is located on the main approach to Cookstown from Dungannon and is not within the fabric of the main town centre which has its own distinctive character of historical buildings and linear street pattern. This site is removed from that part of the town and in my opinion the redevelopment, as proposed will maintain, if not improve, the aesthetic appeal of this site.

NI Water highlighted that there are foul network constraints downstream of the proposed development and duly requested the submission of a Waste Water Impact Assessment. However, as the proposal involves the change of use from one dwelling to an extension to a shop and the change of use of a second dwelling to a separate retail unit, has not been demonstrated that there is any additional loading on the existing network. Therefore in my opinion, there is no need for the WWIA as requested.

Therefore it is my opinion that the application is acceptable and should be approved 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**

No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No. 02/1 uploaded to the planning portal on 25th September 2023 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 3**

The development hereby permitted shall only operate between 06:30 hours - 22:00 hours Monday to Friday, 07:00 hours - 22:00 hours on Saturday, and 08:00 - 22:00 hours on Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise.

**Condition 4**

There shall be no deliveries of goods to the proposed development outside 07:00 hours - 18:00 hours Monday to Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise.

**Condition 5**

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

Reason: To protect nearby residential amenity from noise.

**Signature(s):** Malachy McCrystal

**Date:** 24 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	24 November 2022
<b>Date First Advertised</b>	6 December 2022
<b>Date Last Advertised</b>	6 December 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  51 Church Street Cookstown Tyrone BT80 8HT  The Owner / Occupier  71 Church Street Cookstown Tyrone BT80 8HT  The Owner / Occupier  73 Church Street Cookstown Tyrone BT80 8HT  The Owner / Occupier  42 Church Street Cookstown Tyrone BT80 8HY  The Owner / Occupier  44 Church Street Cookstown Tyrone BT80 8HY  The Owner / Occupier  46 Church Street Cookstown Tyrone BT80 8HY  The Owner / Occupier  48 Church Street Cookstown Tyrone BT80 8HY  The Owner / Occupier  50 Church Street Cookstown Tyrone BT80 8HY</p>	
<b>Date of Last Neighbour Notification</b>	7 December 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1996/0116  Proposals: Alterations and extension to shop  Decision: PG  Decision Date:</p> <p>Ref: LA09/2015/0112/F  Proposals: Change of house type from 6No. apartments previously approved (block G) to  4No. town houses as a continuation to block F previously approved  Decision: PG  Decision Date: 19-JUN-15</p>	

Ref: I/1976/0176  
Proposals: MANUFACTURE OF CLOTHING  
Decision: PG  
Decision Date:

Ref: I/1985/0455  
Proposals: CHANGE OF USE OF EXISTING FACTORY TO CLUBROOMS  
Decision: PR  
Decision Date:

Ref: LA09/2022/1638/F  
Proposals: ALTERATION AND EXTENSION TO EXISTING SUPERMARKET INCLUDING CHANGE OF USE. ADDITIONAL CHANGE OF USE TO PROVIDE NEW OFF LICENCE WITH FIRST FLOOR STORE AND THE PROVISION OF 3 NO. FIRST FLOOR APARTMENTS  
Decision:  
Decision Date:

Ref: I/1993/0159  
Proposals: Extension to furniture store  
Decision: PG  
Decision Date:

Ref: I/1996/0117  
Proposals: Extension and Alterations to Factory Shop  
Decision: PG  
Decision Date:

Ref: LA09/2016/0318/F  
Proposals: Change of house type's to retain 19 and 21 Church Street and provide 10no new 2 and 3 bedroom apartments  
Decision: PG  
Decision Date: 31-JAN-17

Ref: LA09/2017/1344/A  
Proposals: Shop sign to replace existing  
Decision: CG  
Decision Date: 05-DEC-17

Ref: LA09/2017/0397/F  
Proposals: Proposed extensions and alterations to existing shop  
Decision: PG  
Decision Date: 22-MAY-17

Ref: LA09/2017/1547/A

Proposals: Shop sign  
Decision: CG  
Decision Date: 26-JAN-18

Ref: I/2006/1284/F  
Proposals: Demolition of No's 19, 21 & 59a Church Street, Cookstown. Proposed two and a half-three storey infill apartment block to Church Street consisting of 10 no2 bed appartments with associated parking&amenity spaces,also proposed 14 no.2 bed two and a half storey - three storey apartments and 9 No. 2 and a half storey townhouses with associated parking,access roads&amenity spaces to rear of existing development.Total no.of proposed units=33  
Decision: PG  
Decision Date: 01-AUG-08

Ref: I/2002/0071/F  
Proposals: Proposed extension to provide additional storage & new office accomodatio  
Decision: PG  
Decision Date: 14-JUN-02

Ref: I/2010/0429/F  
Proposals: Proposed extension to store to replace existing portal frame building with ancillary offices over and alteration to front elevation  
Decision: PG  
Decision Date: 26-JAN-11

Ref: I/2010/0428/A  
Proposals: Shop Sign  
Decision: CG  
Decision Date: 09-NOV-10

Ref: I/2005/0459/Q  
Proposals: Apartment Block & New Buildings to Rear of Site  
Decision: ELR  
Decision Date: 30-JUN-05

Ref: I/2012/0270/F  
Proposals: New street elevation comprising the demolition of existing entrance porch to 65 Church Street and build up to create a new two storey facade. Form new archway lin between 65 and 73 Church Street and render over 73 Church Street.  
Decision: PG  
Decision Date: 19-SEP-12

Ref: I/2013/0253/A  
Proposals: Projecting sign (3D Lettering) and shop signs  
Decision: CG  
Decision Date: 13-SEP-13

Ref: I/1994/6155

Proposals: Shop sign 73 Church Street

Decision: QL

Decision Date:

Ref: I/1986/0409

Proposals: CHANGE OF USE TO FURNITURE STORE AND SHOWROOM

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DFI require application forms

gerry

Environmental Health Mid Ulster Council-Planning response.pdf

NI Water - Multiple Units West-Consulted in error. Please resend to NI Water - Strategic Applications.

NI Water - Strategic Applications-LA09-2022-1638-F.pdf

NI Water - Strategic Applications-LA09-2022-1638-F.pdf

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-Planning response 2.pdf

NI Water - Strategic Applications-LA09-2022-1638-F.pdf

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-

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

NI Water - Strategic Applications-LA09-2022-1638-F.pdf

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Floor Plans Plan Ref: 03

Existing Floor Plans Plan Ref: 04

Site Layout or Block Plan Plan Ref: 02/1

Proposed Floor Plans Plan Ref: 03/1

Existing Floor Plans Plan Ref: 04/1

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

Not Applicable

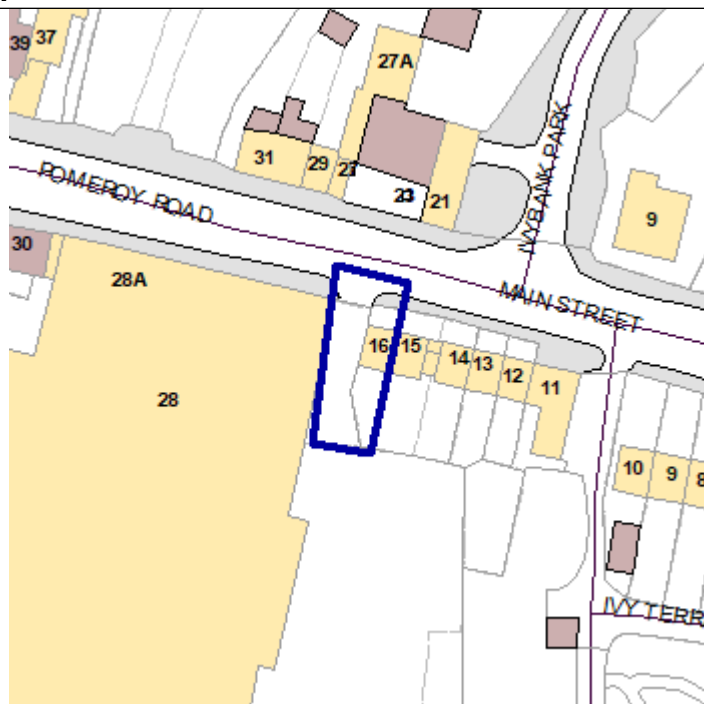


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.10
<b>Application ID:</b> LA09/2022/1728/F	<b>Target Date:</b> 30 March 2023
<b>Proposal:</b> Widening of an established business access to facilitate safe access for HGV vehicles to the Moy Park Hatchery	<b>Location:</b> 16 Main Street Donaghmore
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Michael Quail 28 Main Street Donaghmore, Dungannon BT70 3HA	<b>Agent Name and Address:</b> Dr Tony Quinn 5 Windsor Avenue North Malone Road Belfast BT9 6EL
<b>Executive Summary:</b>  Objection received	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	24-11-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	03-04-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	26-09-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	02-06-2023.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the centre of Donaghmore village on the southern side of the main street at No. 16 Main Street. It is within Donaghmore Settlement as defined in the Dungannon and South Tyrone Area Plan 2010. It is adjacent to, but outside the Area of Townscape Character.



The surrounding area is predominantly residential and commercial with housing and retail premises along Main Street as well as a primary school. The site is rectangular in shape, comprising of an end of terrace two storey dwelling and the entrance and access lane to the adjacent hatchery. The dwelling is part red brick, part dash finish with dark slate roof. The boundary at the front of the dwelling is a low red brick wall enclosing a small, paved yard. The low red brick wall continues down the side of the dwelling and is topped with metal palisade fencing. This leads to a lawned garden at the rear of the dwelling. The access road with security gates, between the dwelling and the hatchery is tarmac surface leading to the concrete yard and parking areas to the side and rear of the hatchery.

## **Description of Proposal**

This is a full application for the widening of an established business access to facilitate safe access for HGV vehicles to the Moy Park Hatchery, Main Street, Donaghmore.

## **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.

### **Planning History**

A planning search returned seven applications at the site. Five of these (M/1990/0030; M/2000/1016/F; M/2001/0511/F; M/2005/1711/F; M/2009/0612/F) all related to extensions to the hatchery, and all were granted. The other two applications, M/1999/0087 for re-structuring & improvements to existing vehicular entrance, and M/2003/0303/F for a replacement building to accommodate incubator units were both also granted.

### **Consultees**

Dfi Roads were consulted in relation to the proposed widening of the established entrance and had no objections subject to standard conditions and informatives.

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

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

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

The site is within the Plan Area Settlement for Donaghmore as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other designations or zonings within the Plan.

### **Plan Policy SETT1 – Settlement Limits**

Favourable consideration will be given to development proposals within settlement limits including zoned sites provided the following criteria are met:

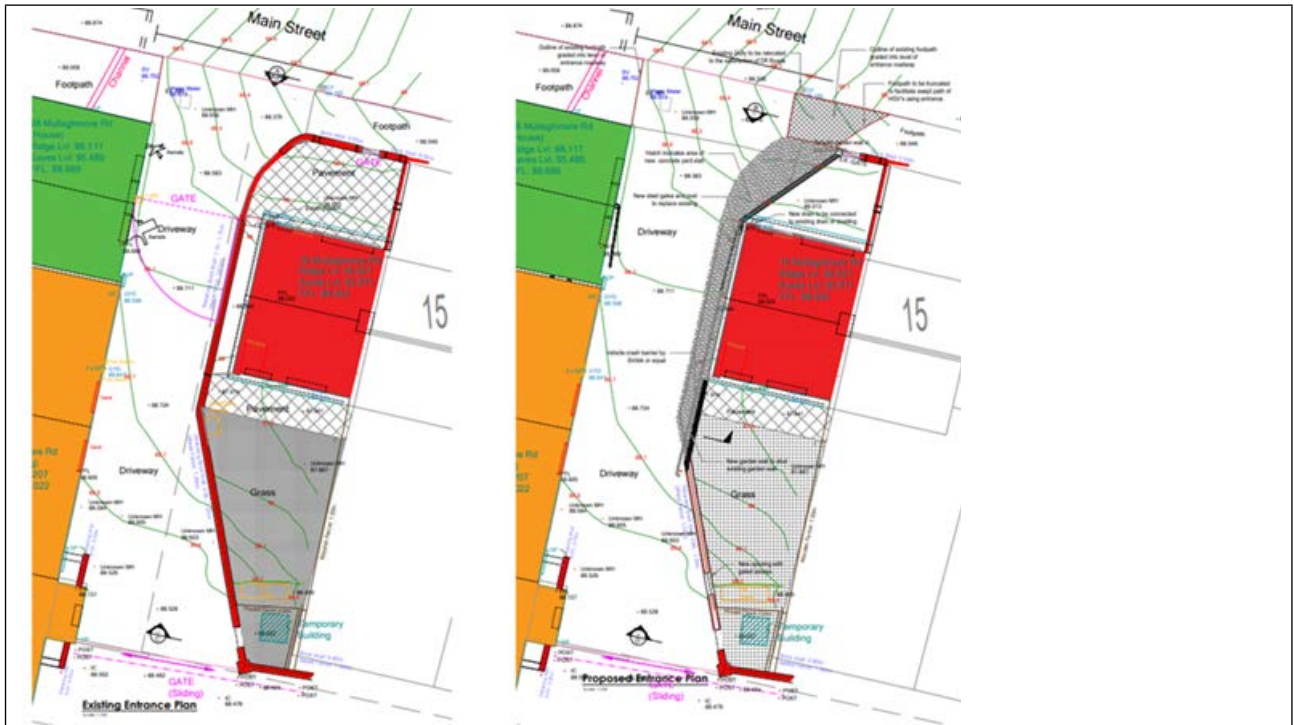
- the proposal is sensitive to the size, character and function of the settlement in terms of scale, form, design and use of materials;
- the proposal respects the opportunities and constraints of the specific site and its surroundings and, where appropriate, considers the potential for the creation of a new sense of place through sensitive design;
- there is no significant detrimental affect on amenities;
- there is no significant conflict with recognised conservation interests;
- there are satisfactory arrangements for access, parking and sewage disposal;
- where appropriate, any additional infrastructure necessary to accommodate the proposal is provided by the developer; and
- the proposal is in accordance with prevailing regional planning policy and the policies, requirements and guidance contained in Part 3 of the Plan.

It is considered that the proposal to widen the existing access meets the above criteria in SETT1 and favourable consideration should be given to the proposal.

The proposal is to improve access for HGV movement into and out of the established business.



It involves: repositioning and part removal of the front boundary wall at No. 16 Main Street; installation of crash barrier along the access lane; extension of wall and gated fencing for No. 16 along the access lane; replacement of existing security gates; tanking and lead flashing of side gable of No. 16 where infill concreting is proposed; and alterations to public footpath including loss of single on-street parking space to front of No. 16.



Existing and proposed entrance plan showing repositioning of front boundary wall and widening of entrance lane.

As a result of the above measures, the existing access width will be increased by 74cm from 4.46m to 5.20m, and the swept path for HGVs will be significantly enhanced.



The proposed works are sensitive in terms of scale, form and design, and respects the opportunities and constraints of the site, given that it will enable vehicles to enter and exit the premises more easily, reducing delays in through traffic along the Main Street.

The widening of the existing access is unlikely to adversely impact neighbouring properties. The access is between the hatchery and a residential dwelling, both owned by the applicant with the residential dwelling occupied by an employee of Moy Park and will be retained for residential purposes. The occupier currently parks their vehicle in the yard of Moy Park, as opposed to the on-street parking space to the front of the dwelling. The gate to the rear of the residential building is to facilitate the transfer of refuse bins down the widened access, and the occupant has keys for the security gates. The loss of the single on-street parking may have an impact on wider neighbours and users of the shop opposite the application site. However, it is considered

that the wider entrance and enhanced vehicle path enabling HGVs to enter and exit the hatchery with less disruption to parked vehicles and flow of through traffic will outweigh this loss.

There is no conflict with recognised conservation interests. The widening of the access will limit the damage currently incurred by HGV vehicles on the corner gable wall of the hatchery which forms part of the Area of Townscape character, so preventing further damage to this building. No additional infrastructure is necessary to accommodate the proposal.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application.

#### Planning Policy Statement 3 - Access, Movement and Parking

This PPS sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning. It embodies commitments to the provision of a modern, safe, sustainable transport system, the improvement of mobility for those who are socially excluded or whose mobility is impaired, the promotion of healthier living and improved road safety.

#### PPS 3 - Policy AMP 2 - Access to Public Roads

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors:

- the nature and scale of the development;
- the character of existing development;
- the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement;
- the location and number of existing accesses; and
- the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

The proposal is to widen the existing established access which in the supporting information with the application states is "...currently substandard in facilitating the movements of large HGV vehicles for a key employer in Donaghmore".

Given the proposal is to widen the existing access by 74cm to 5.2m, it could be assessed that this does not conflict with considerations to be given to the nature, character and scale of the proposal.

The widening of the entrance will result in the loss of a single on-street parking space to the front of No. 16 Main Street. However, it is considered that the wider public safety benefits that will accrue from this proposal will outweigh this loss.

Dfi Roads have been consulted and have no objections to the proposal.

It is considered that the proposal complies with Policy AMP2 of PPS3.

#### **Other Considerations**

Checks have been completed on the statutory NED, HED and flooding map viewers. There are no issues relating to this site.

## Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one third-party objection has been received, from Mr Martin Hurson, joint owner of 15 Ivy Terrace, Main Street, Donaghmore (the adjacent property to the east). Concerns raised include:

- The hatchery is considered by many in the main street as a nuisance with HGV vehicles already endangering pedestrians, elderly residents, shoppers and school children.
- How the reduction of the pedestrian footpath to increase the entrance to the hatchery and enable a longer turning curve for HGVs could be interpreted as improvement of safety for villagers? Lorries would cut across at a more acute angle when entering and leaving the hatchery, at an increased speed, only serves to impact the safety of pedestrians by increasing the distance from pavement to pavement across the entrance.
- The main issue is the location of the hatchery, and the growth of the hatchery with no restrictions placed on it being incompatible with the adjoining residential receptors. The site being operational 24/7, impacts on the residential amenity of village residents through: vehicle movements, HGVs and staff vehicles constantly entering and leaving the site giving rise to noise and air pollution to unacceptable levels; the ventilation systems and generators are operational 24/7 with associated noise and air pollution; light pollution from the site also impacts on adjoining residents, with large spot lamps lighting up the yard at night creating light spill onto residents bedrooms, restricting people's ability to have a peaceful sleep.
- That the property owner has modern industrial buildings in the Dungannon area that would be more suitable for this use. If permission is granted for the widened access it will encourage the applicant to continue to run and potentially expand the business on the site, that will further impact the amenity of local residents.

Having taken into consideration Mr Hurson's objection, the opinion remains to approve the application. It is recognised that the existing entrance to the hatchery does not adequately cater for the swept path of larger HGV vehicles, particularly given the presence of on-street parking on both sides of the road, and a busy convenience store opposite. The supporting information submitted with the application states that it is often the case that people parked on the street are requested to move their vehicles in order to allow lorries to access and leave the Moy Park premises. Widening the access will provide a more suitable pathway for HGVs reducing the need for owners of parked cars to move their vehicles, and reducing delays in the flow of through traffic on the Main Street.

As detailed in the main body of this report, it is considered that the proposal meets with the most relevant planning policies; SETT1 and PPS 3 - AMP 2. DfI Roads have been consulted and have no objections with regard to road safety.

The objections relating to the location and use as a hatchery of the building in the Main Street, Donaghmore are not relevant to this application which is only in relation to the existing access of an already established business.

The proposal is recommended for approval as it complies with Policy SETT1 and with Policy AMP 2 in PPS 3.

## 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.

**Signature(s):** Mark Edgar

**Date:** 25 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	15 December 2022
<b>Date First Advertised</b>	3 January 2023
<b>Date Last Advertised</b>	3 January 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  27 Main Street Donaghmore Tyrone BT70 3ES  The Owner / Occupier  23 Main Street Donaghmore Tyrone BT70 3ES  The Owner / Occupier  21 Main Street Donaghmore Tyrone BT70 3ES  The Owner / Occupier  28A Main Street Donaghmore Tyrone BT70 3EZ  The Owner / Occupier  28 Main Street Donaghmore Tyrone BT70 3HA  The Owner / Occupier  16 Ivy Terrace Donaghmore Tyrone BT70 3ET  The Owner / Occupier  15 Ivy Terrace Donaghmore Tyrone BT70 3ET</p>	
<b>Date of Last Neighbour Notification</b>	4 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1980/0048  Proposals: CONVERSION OF EXISTING OFFICES TO DOMESTIC FLAT  Decision: PG  Decision Date:</p> <p>Ref: LA09/2022/1728/F  Proposals: Widening of an established business access to facilitate safe access for HGV vehicles to the Moy Park Hatchery  Decision:  Decision Date:</p> <p>Ref: M/2009/0612/F</p>	

Proposals: Proposed extension to existing factory

Decision: PG

Decision Date: 18-SEP-09

Ref: M/1990/0030

Proposals: Extension to hatchery

Decision: PG

Decision Date:

Ref: M/2003/0303/F

Proposals: Proposed replacement building to accommodate 15 new incubator units

Decision: PG

Decision Date: 27-JUN-03

Ref: M/2001/0511/F

Proposals: Proposed extension to hatchery buildings and provision of additional parking accommodation

Decision: PG

Decision Date: 28-JUN-01

Ref: M/1999/0087

Proposals: Proposed Re-Structuring & improvements to existing vehicular entrance

Decision: PG

Decision Date:

Ref: M/2005/1771/F

Proposals: Proposed extension to Hatchery Premises.

Decision: PG

Decision Date: 15-NOV-05

Ref: M/2000/1016/F

Proposals: Extension to hatchery

Decision: PG

Decision Date: 19-JAN-01

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-24-11-2023.docx

DFI Roads - Enniskillen Office-03-04-2023.docx

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

DFI Roads - Enniskillen Office-02-06-2023.docx



**Drawing Numbers and Title**

Site Location Plan    Plan Ref: 01  
Cross Sections        Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2023/0290/O	<b>Target Date:</b> 29 June 2023
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Lands approximately 93M NE of 19 Coal Pit Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr & Mrs Peter and Carmel Mc Brien 19 Coalpit Road Killybrackey Dungannon BT71 4BW	<b>Agent Name and Address:</b> Mr Seamus Donnelly 80a Mountjoy Road, Aughrimderg Coalisland BT71 5EF
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	DC Checklist 1.doc Roads outline.docx 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

No issues. No representations received.

### Characteristics of the Site and Area

The site is in the open countryside just a short distance to the North of the settlement limits of Dungannon and outside all other areas of constraint as depicted by the DSTAP 2010. It is located along the Coalpit road which is just off the main Coalisland Dungannon link road. The red line of the site includes a portion of lands set back slightly from the roadside and the proposed access arrangement onto Coal Pit Road. The lands are sloping, and rise gently from the roadside towards the site and beyond. The surrounding area is predominantly rural in nature with a scattering of dwellings or farm holdings located along the roadside.

### Description of Proposal

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

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

#### Planning History

LA09/2020/1674/O - Proposed replacement dwelling and garage - 185M North East Of

19 Coalpit Road, Killybrackey, Dungannon – PERMISSION GRANTED

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were no neighbours notified under this application. At the time of writing, no third party representations have been received.

### Planning Assessment of Policy and Other Material Considerations

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

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being in the rural countryside. 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 for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

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

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

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

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

buildings on the farm or out-farm, and where there are either:

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

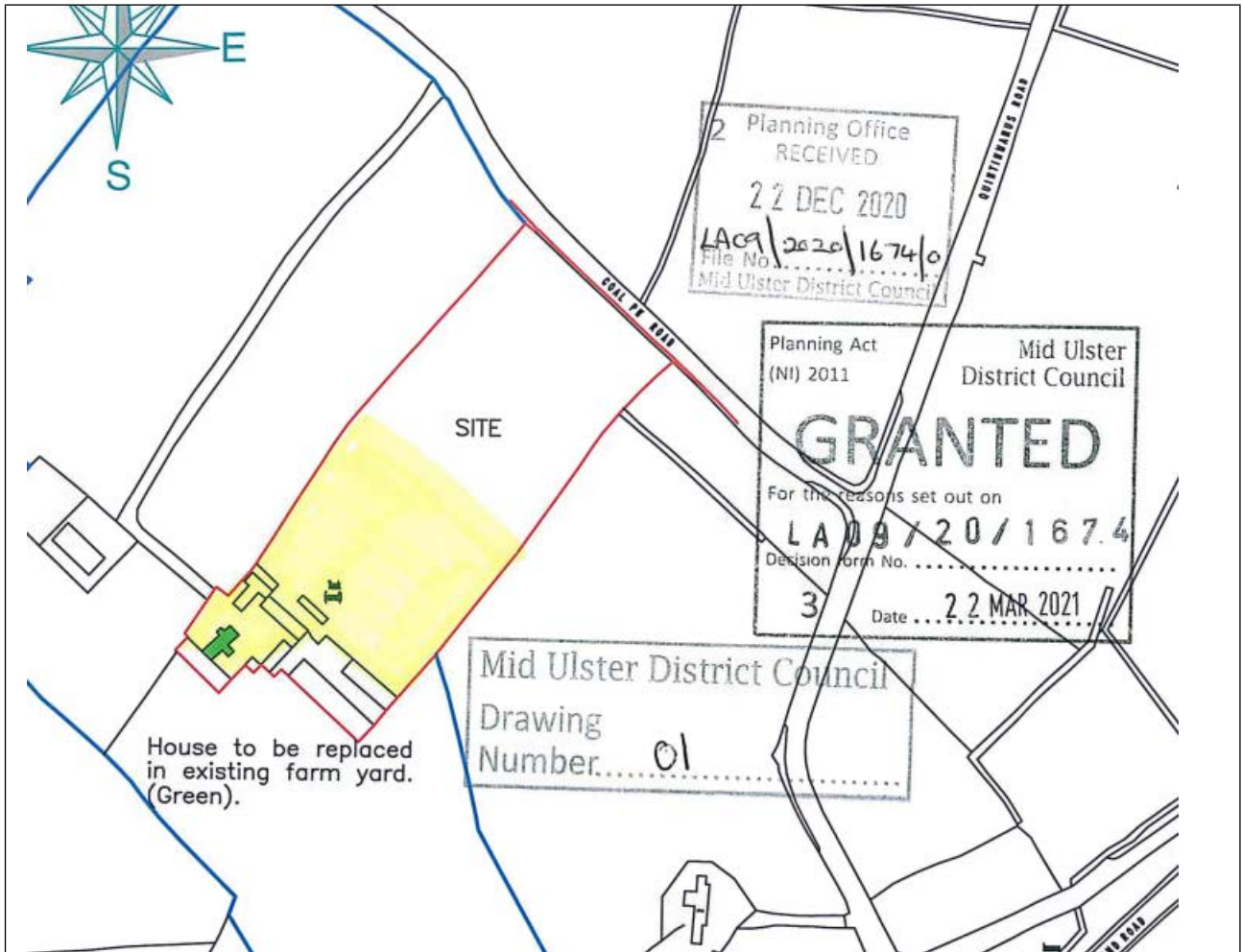
With respect to (a) the applicant has provided details surrounding their farm business ID and associated mapping. The agent did not provide a business ID and thus DAERA were not consulted. They provided farming receipts and invoices, which details how the applicant was investing in the land and making an income by letting out the lands. The receipts date from 2016-2022, thus I am content that the farm business is active and established.

With respect to (b) 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 this application. There was a recent approval for a replacement, approved under LA09/2020/1674/O, however a land registry check was carried out and the lands have not been sold off or transferred.

With respect to (c), there is considered to be appreciable distance between the site and buildings on the farm. The agent was asked for justification for the proposed siting and noted a range of reasons why this site was chosen. The justification given includes health and safety reasons, with an existing slurry tank which the agent notes poses some health and safety risks, particularly to potential kids at the site. The justification adds that if a new dwelling were built in situ and was repossessed it would clearly be very difficult to sell, given that the buyer would be in a working farm yard over which he/she had no control. I am not satisfied that the reasons given would justify a siting away from the farm buildings as there appears to be a number of alternative fields which would be deemed more suitable in terms of siting to visually linking with farm buildings. There are no verifiable plans that the farm business is to be expanded and as such the proposal fails on this criterion. The site is open and exposed and would not be clustered with the existing farm building, thus it is considered it fails on this criterion.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, as we feel that the proposal fails on criterion (g) of CTY 13 where in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. If approval were to be forthcoming, the design and size of the dwelling should be carefully considered to ensure that it is not unduly prominent at this site. The site has good boundaries which should be conditioned to be retained if approval were forthcoming as they would help soften the impact of a dwelling at this site.

With reference to the history of this site, it is considered there was a generous approval under LA09/2020/1674/F for a replacement dwelling. The siting which was approved is shown below in figure 1 (highlighted yellow). It was noted to the agent that if this were to be built, it may change the consideration of this current application.



**Figure 1 – Approved replacement dwelling (LA09/2020/1674/O with siting condition highlighted yellow)**

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new building is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):** Sarah Duggan

**Date:** 23 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	16 March 2023
<b>Date First Advertised</b>	27 March 2023
<b>Date Last Advertised</b>	27 March 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/0290/O Proposals: Proposed dwelling and garage Decision: Decision Date:</p> <p>Ref: M/2008/0997/F Proposals: 39.5km of pipeline to transfer drinking water from Ballydougan Service Reservoir, near Bleary, Co Down to Carland Service Reservoir, near Newmills, Co Tyrone via a water pumping station at Moy. Decision: PG Decision Date: 07-DEC-09</p> <p>Ref: M/2006/0251/Q Proposals: Proposed infilling of land for agricultural proposes. Decision: 207 Decision Date:</p> <p>Ref: M/2004/1636/O Proposals: Replacement dwelling house Decision: Decision Date:</p>	



Ref: LA09/2020/1674/O

Proposals: Proposed replacement dwelling and garage

Decision: PG

Decision Date: 22-MAR-21

Ref: M/2007/0257/RM

Proposals: Replacment dwelling and garage.

Decision: PG

Decision Date: 05-JUN-07

Ref: M/2010/0723/F

Proposals: Re-use of existing farm buildings for storage and distribution of farm building products and new access laneway

Decision: PG

Decision Date: 17-OCT-11

Ref: M/2005/0673/O

Proposals: Replacement dwelling house

Decision: PG

Decision Date: 13-JUN-05

Ref: M/2009/0126/F

Proposals: 33kv O/H Line

Decision: PG

Decision Date: 13-MAR-09

### **Summary of Consultee Responses**

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

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable



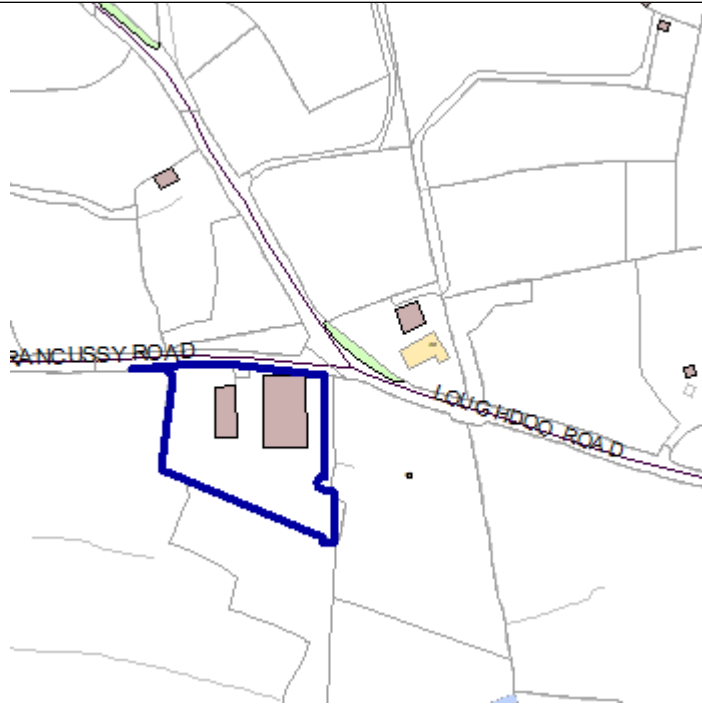
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2023/0304/F	<b>Target Date:</b> 5 July 2023
<b>Proposal:</b> Retrospective Farm Diversification Agricultural Storage Shed / Office / Car Valet / Showroom	<b>Location:</b> 47 Crancussy Road Cookstown BT80 9PW
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Karl Heron 47 Crancussy Road Cookstown BT80 9JG	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>  Retrospective Application for for agricultural storage shed / office / car valet / showroom. The site is in use by Bear Competitions as a showroom, office, storage building. This application has arisen off the back of an enforcement case on site - LA09/2021/0092CA which relates to unauthorised buildings on the site.  The application has been submitted as farm diversification scheme under CTY 11  Presented to committee because it is recommended for refusal.  Applicant has failed to provide information to prove the farm business has been established for 6 years. Farm business ID has only been in existence since 2021.  Applicant has also failed to provide ecological information to address concerns of NIEA.  Env Health have concerns over location of third party dwellings less than 75m away.  No objections received	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Omagh	LA09-2023-0304-F.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
	NI Water - Single Units West	Consulted in Error. Resend to Strategic Applications.
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	NIEA	PRT LA09-2023-0304-F.PDF
Statutory Consultee	Shared Environmental Services	LA09-2023-0304-F - Further info required 30.06.23.pdf
Statutory Consultee	NI Water - Strategic Applications	LA09-2023-0304-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	
<b>Summary of Issues</b>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site in question is located in the countryside as per the Cookstown Area Plan (CAP).</p> <p>The site is located immediately adjacent to the junction of the Loughdoo Road and the Crancussy Road and consists of a quadrilateral shaped yard which houses two buildings. One of the buildings (the smaller building) appears to house an office although I was unable to gain access to this part of the building as well as a larger space with what appears to be a TV style studio complete with desk, green screen and back drop.</p> <p>The second building is larger consisting of three separate bays and appears to be a store for various kinds of items such as agricultural machinery and other types of equipment.</p> <p>The site is located in an area which is remote and rural but there is a concentrated small nucleus of development focussing on this road junction, with the development in question, a house and garage and a larger house under construction all located immediately adjacent to the site.</p> <p>The area immediately to the south and west is an area of peatland.</p>	
<p><b>Description of Proposal</b></p> <p>Retrospective permission for agricultural storage shed / office / car valet / showroom. The site is in use by Bear Competitions as a showroom, office, storage building.</p> <p>This application has arisen off the back of an enforcement case on site – LA09/2021/0092CA which relates to unauthorised buildings on the site.</p> <p>The application has been submitted as farm diversification scheme under CTY 11.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b><u>Policy Consideration</u></b></p> <p>The relevant policy considerations are;</p> <ul style="list-style-type: none"> <li>• Cookstown Area Plan (CAP)</li> </ul>	

- Strategic Planning Policy Statement (SPPS)
- PPS 21 – Sustainable Development in the Countryside
- PPS 2 – Natural Heritage

#### Cookstown Area Plan

The CAP shows that the site is within the countryside but also located within the Area of Constraint on Mineral Development designation. However, given the nature of this development which is not linked to mineral development, this designation is not relevant in this instance.

The site is approximately 700m south east of the Loughdoo ASSI which is a National designation.

Given the location of the site in the countryside, the default policy is therefore the prevailing rural.

#### Strategic Planning Policy Statement (SPPS)

The SPPS states at para. 6.73 that provision should be made for a farm diversification scheme where the farm business is currently active and established (for a minimum 6 years) and the proposal is to be run in conjunction with the agricultural operations of the farm. Proposals must involve the re-use or adaptation of existing buildings, with new buildings only being acceptable in exceptional circumstances.

#### PPS 21 – Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 sets out the range of development in the countryside which will be acceptable in a number of scenarios, one of which is a farm diversification proposal in accordance with CTY 11.

CTY 11 states that permission will be granted for a farm diversification scheme it will be ran in conjunction with the existing farm operations and that where;

- a) The farm or forestry business is currently active or established
- b) In terms of character and scale it is appropriate for its location
- c) It will not have an adverse impact on the natural and built heritage
- d) It will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

Therefore, in order to assess this proposal as a farm diversification scheme, the policy considerations above need to be worked through in turn. Before considering points a)-d) as set out above, it is necessary to assess whether this operation will be ran in conjunction with the existing farm business.

From my site visit, I could see no evidence of existing agricultural operations ongoing from this site. There was no evidence of farming activity taking place at the yard, in the sheds or on the land immediately surrounding. Neither was there any evidence of livestock being housed at the site or on nearby lands. The only activity during my site

visit was the storage of equipment in the larger building. There was no one available to speak to during my visit.

**a) The farm or forestry business is currently active or established**

For the purposes of this criterion, the J&A of CTY 11 at para. 5.49 defines an active and established farm business as being that set out under CTY 10. This means therefore that the farm in question will need to be active and established for at least 6 years.

The applicant has submitted farm maps associated with a farm business ID as justification for the farm diversification rationale. DAERA have been consulted in relation to this and have responded to say that the farm business was established in 21/04/2021. It has not been established for more than 6 years therefore and has only been claiming relevant agricultural payments since 2022.

The farm business ID is therefore not active and established for more than 6 years but this does not however automatically infer that a farm has not been active and established. The PAC have set a precedent whereby a farm can still be active and established without a farm business ID. I have therefore requested from the agent on 5<sup>th</sup> June 2023 that they provide information to prove that the farm business at this site has been active and established for 6 years. There has been no response to this request.

I am therefore left with no option but to assume that the farm business has not been active for more than 6 years.

**b) In terms of character and scale it is appropriate for its location**

There are no long term views of this site from the public perspective. On approach from the south east along the Loughdoo Road, the view of the sheds are short term and they appear agricultural in nature and therefore in keeping with the character of the rural area. On approach from the NW along Loughdoo Road, the views into the site are screened by a small rise in the road prior to the junction with Crancussy Road. When approach from the west along the Crancussy Road, the land rises towards the west and is screened by mature road side hedging.

The result of this as well as the design of the buildings, which appear to be agricultural in nature is that the buildings are not out of keeping with the character of the area in terms of scale and location.

**c) It will not have an adverse impact on the natural and built heritage**

There are no features of the historic environment which will be impacted by this proposal.

In terms of natural environment, there is, as mentioned earlier, an area of peatland immediately adjacent to the site to the south and west. Loughdoo ASSI also exists

approx. 700m away from the site boundary to the west.

In relation to the peatland, I have requested preliminary ecological information via the agent on 30/3/23. The agent has responded by submitting a PEA which relates to a separate application LA09/2022/0696/F. NIEA do not accept this PEA as relating to this site and have requested a specific PEA for this site. I have forwarded this request to the agent (17/4/23) but they have not supplied the required ecological information.

NIEA have stated that they have concerns about this proposal as it is in an area which supports priority habitat and given the potential discharge of surface water into the drainage system they require further information to assess the impact on the priority habitat and other designated sites in the wider area.

Shared Environment Service (SES) are normally only consulted on SAC, SPA and / or RAMSAR designations but due to the agricultural nature of the application I sent an informal query to SES on 30/3/23 and they responded to say that they call in all agricultural applications and therefore wish to be formally consulted. Formal consultation was issued to them and they have responded to say that clarification is needed on whether vehicle washing will take place. This clarification was requested from the agent on 21/11/23 but this has as yet, not been submitted.

Given the lack of information provided by the agent, I am therefore unable to say with any degree of certainty that this proposal will not have an adverse impact on the natural heritage.

**d) It will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.**

Environmental Health have been consulted as part of the application and have responded to say that they have concerns with agricultural sheds less than 75m from residential properties. There is a residential property within 45m of this proposal and therefore Environmental Health have stated that "it's likely that the occupants of the existing third party sensitive dwelling may experience loss of amenity due to noise, odour and pests from this proposed development."

Given all of the above, I am of the view that the proposal does not meet policy CTY 11 because of the following;

- Farm business has not been established for more than 6 years and the agent has failed to demonstrate that this is an active and established farm
- Lack of information to inform any decision on whether the proposal will impact on the priority peatland habitat
- Potential adverse impact on the nearby residential amenity at no. 30 Loughdoo Road



## PPS 2 – Natural Heritage

As has already been alluded to, the proposal is located immediately adjacent to an area of peatland. Policy NH5 of PPS 2 states that planning permission will only be granted for a proposal which is not likely to have an unacceptable adverse impact on an area of active peatland. Given that no information has been submitted in regard to this, despite having been asked for on three occasions (17/4/23, 5/6/23 and 21/11/23), I cannot therefore state with certainty that there will not be an adverse impact on the adjacent area of peatland.

## OTHER CONSIDERATIONS

There have been no objections received

Planning History – there is a significant planning history on and around this site. The two most relevant are laid out below.

1. **I/2012/0155/F** – Dwelling on a farm adjacent to site. The farm maps submitted with this application appear to be a different than those submitted to this application

OUTCOME – Permission granted

2. **I/2013/0224/F** - Part farm diversification to include the bulk storage of fuels to supply existing business, and a small office all within existing agricultural sheds and yard of active farm

OUTCOME – Refusal, appeal dismissed

Refusal reason relates to lack of evidence that proposal will be run in conjunction with an existing farm

## **Summary of Recommendation:**

Refuse is recommended

Given all of the above consideration, I recommend that this proposal be refused for the following reasons;

## Refusal Reasons

### Reason 1

The proposed development is contrary to policy CTY 11 in that it has not been demonstrated that the farm in question is currently active and established.

### Reason 2

The applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine if this proposal will have an unacceptable adverse impact on the nearby area of peatland and therefore the proposal is contrary to policy NH5 of PPS 2.

### Reason 3

The proposal is contrary to policy CTY 11 of PPS 21 in that it would if permitted, have potential to cause unacceptable impact on the amenity of nearby residential properties by virtue of noise, odour and pests

**Signature(s):** Colin McKeown

**Date:** 24 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	22 March 2023
<b>Date First Advertised</b>	4 April 2023
<b>Date Last Advertised</b>	4 April 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 30 Loughdoo Road Pomeroy Tyrone BT80 9JG	
<b>Date of Last Neighbour Notification</b>	30 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/0059/F  Proposals: Proposed sensory space, hydro pool, garden space and extension to curtilage  Decision: PG  Decision Date: 30-NOV-22</p> <p>Ref: LA09/2022/0317/F  Proposals: Proposal for new boundary wall and gates  Decision: PG  Decision Date: 20-JUL-22</p> <p>Ref: LA09/2020/1208/F  Proposals: Proposed stables / Farm shed.  Decision:  Decision Date:</p> <p>Ref: LA09/2018/1122/F  Proposals: Retention of dwelling and garage to include alterations from previously approved, (I/2012/0155/F).  Decision: PG  Decision Date: 13-FEB-19</p> <p>Ref: I/2013/0224/F</p>	

Proposals: Part farm diversification to include the bulk storage of fuels to supply existing business, and a small office all within existing agricultural sheds and yard of active farm  
Decision: PR  
Decision Date: 22-JUL-14

Ref: I/2014/0382/F  
Proposals: Proposed additional access  
Decision:  
Decision Date:

Ref: I/2012/0155/F  
Proposals: Proposed dwelling on a farm  
Decision: PG  
Decision Date: 11-SEP-12

Ref: LA09/2023/0304/F  
Proposals: Retrospective Farm Diversification Agricultural Storage Shed / Office / Car Valet / Showroom  
Decision:  
Decision Date:

Ref: LA09/2022/0696/F  
Proposals: Infilling of existing farmland with inert material (clay and topsoil) for land improvements  
Decision:  
Decision Date:

Ref: LA09/2021/1411/F  
Proposals: Retrospective application for the retention of stables, yard, paddock, horse walker and infilling of lands to raise site levels (Amended description)  
Decision: PG  
Decision Date: 05-MAY-22

Ref: LA09/2020/0156/F  
Proposals: Proposed new Access to Dwelling  
Decision: PG  
Decision Date: 02-DEC-20

Ref: LA09/2021/1162/F  
Proposals: Proposed sensory space, hydro pool and garden room.  
Decision: PG  
Decision Date: 04-OCT-21

**Summary of Consultee Responses**

DAERA - Omagh-LA09-2023-0304-F.docx  
DFI Roads - Enniskillen Office-Roads Consultation full approval.docx  
NI Water - Single Units West-Consulted in Error. Resend to Strategic Applications.  
Environmental Health Mid Ulster Council-Planning response.pdf  
NIEA-PRT LA09-2023-0304-F.PDF  
Shared Environmental Services-LA09-2023-0304-F - Further info required 30.06.23.pdf  
NI Water - Strategic Applications-LA09-2023-0304-F.pdf

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2023/0356/F	<b>Target Date:</b> 25 October 2023
<b>Proposal:</b> Proposed Veterinary Clinic and animal rehabilitation centre, access, landscaping and ancillary site works	<b>Location:</b> Lands South of 165 Aughrim Road, Toome
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Taurus Hold Co Ltd. 10 Lough Road Magherafelt BT45 6LN	<b>Agent Name and Address:</b> Clyde Shanks 2nd Floor 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NIEA	PRT LA09-2023-0356-F.PDF
	Shared Environmental Services	LA09-2023-0356-F HRA Elimination 17-01-2024.pdf
Statutory Consultee	NIEA	PRT LA09-2023-0356-F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	la09.2023.0356.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	Rivers Agency	308214 - Final reply.pdf
Statutory Consultee	Rivers Agency	732618 - Final reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

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

### Summary of Issues

No third party representations have been received. The application is being presented to committee as it is a Major application.

### Characteristics of the Site and Area

The site is located on lands south of 165 Aughrim Road, Toome and is located outside any designated settlement limits as defined in the Magherafelt Area Plan, 2015. The site is not located within any protected or designated areas; however Creagh Local Landscape Policy Area (LLPA) bounds the site to the West.

The site is 1.3 ha in total and comprises a single brick building, adjacent hardstanding ground and silage clamp at the northwest of the site. This is bounded by a hedgerow to

the west and post and wire fencing to the north, south and east. The remainder of the site comprises an agricultural field which is currently used for pastoral grazing. The agricultural field is bound by mature hedgerows and trees to the south, east and west and by post and wire fencing to the north.

The surrounding area to the east and south of the site are predominantly industrial in nature and the lands to the north and west are primarily agricultural in nature with some dispersed dwellings and farm buildings.



### **Relevant Planning History**

H/2001/0416/O – Site of Industrial Units to be used for light/general Industrial use, Airfield Road, Creagh, Toomebridge, Permission granted 10.05.2006

H/2008/0253/F - Erection of single storey steel portal framed structure with composite roof and wall cladding to house precast works and offices, Airfield Road, Creagh, Toomebridge, Permission granted 17.06.2010

LA09/2022/1446/PAN - Proposed veterinary clinic with land for animal rehabilitation, access, landscaping and ancillary site works, Lands South Of 165 Aughrim Road, Toome, BT41 3SH.

### **Description of Proposal**



This is a full application for a Proposed Veterinary Clinic and animal rehabilitation centre, access, landscaping and ancillary site works at lands South of 165 Aughrim Road, Toome.

The existing single storey will be demolished and replaced by a larger two storey building (507.2sqm gross internal floor area) for use as a veterinary clinic.

The clinic includes significant space for the examination and consultation of agricultural and equine animals to the rear of the building with access to the adjacent rehabilitation lands. Provision is also made within the clinic for:

- 2x surgery rooms;
- 2x consultation rooms;
- x-ray suite;
- pharmacy;
- lab;
- holding pens;
- office and canteen; and
- staff welfare facilities

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

### **Policy Consideration**

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

### **Policy Consideration**

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS4 : Planning and Economic Development

PPS 3 - Access, Movement and Parking

PPS15 – Planning and Flood Risk

The Strategic Planning Policy Statement for Northern Ireland (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. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).

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

The application is for a Veterinary Clinic and animal rehabilitation centre, access, landscaping and ancillary site works. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered acceptable in the countryside. Under 'Non- residential Development' the policy states that planning permission will be granted for a 'necessary community facility to serve the local rural population'. It is understood that this proposal will predominantly facilitate the veterinary needs of farm and equine animals as well as small/domestic animals. The existing agricultural field adjacent to the proposed clinic building is to be used for rehabilitation, examining and holding of these animals.

The case made here is that the particular nature of this proposed development requires a rural location which can provide space for rehabilitation of animals following treatment in close proximity to suitable care facilities. An urban location could be judged to be inappropriate and unsuitable for this type of development particularly in relation to compatibility with residential uses,, for example which may conflict with the need to facilitate agricultural animals and the movement of agricultural vehicles. I feel that it is reasonable to consider proposal as a necessary community facility and one which serves the local rural population. It is also noted that it is located on a site that is bounded by industry and benefits from a previous planning history, a history which indicates the acceptance of industrial / commercial usage in 2008.

The proposed siting is considered to be suitable given the in-situ building and hardstanding area and the agricultural field with two accesses in-situ. There is adequate separation distance from the site to the nearest receptors so as not to impact on the residential amenity. Also, given the established nature of the surrounding land uses (commercial and industrial), I believe that this site is acceptable for this proposed development.

Policy CTY 13 of PPS21 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 do not believe that the proposed building will not be unduly prominent in the landscape given the surrounding industrial land use to the south and east of the site. There is also mature landscaping to the south, east and west of the site which will assist with integration and provide a satisfactory degree of enclosure. There is also additional supplementary landscaping proposed to assist with further integrations. The proposed building will replace an existing building on the site. The scale, massing and design of the building is sympathetic to the surrounding industrial and agricultural buildings and the proposed material finishes are typical of rural settings.

Policy CTY 14 of PPS21 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. I believe that the proposal will integrated into the

existing landscape sufficiently and will not have a detrimental impact on the rural character of the area and therefore complies with policy CTY 13 and 14 of PPS 21. Whilst this is a rural area as designated in the local area plan, the immediate locality has largely a built-up feel with large scale industrial and associated storage yards and other ancillary developments tending to dominate, especially east of the site.



Proposed site plan



Existing building and silage clamp



For the purposes of Planning Policy Statement 4, economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B 'Industrial and Business Uses' of the Planning (Use Classes) Order (Northern Ireland) 2004: Class B1: Business Use –

- (a) as an office other than a use within Class A2 (Financial, professional and other services);
- (b) as a call centre;
- or (c) for research and development which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Class D1: Community and Cultural Uses

Any use (not including a residential use)—

- (a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner;

A rural veterinary clinic and rehabilitation centre can I feel be reasonably assessed therefore against Policy PED 9 of PPS 4, General Criteria for Economic Development, is also a policy consideration. It sets down 13 criteria which all economic development proposals must comply with:

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

The surrounding land use is a mix of rural/agricultural, commercial and industrial, the proposed development for a veterinary clinic with land for animal rehabilitation, is considered to be compatible with the surrounding land use.

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

The nearest receptor to the site is located approx. 143m South west of the existing building on the site. Environmental Health were consulted on the application and had no objections to the proposal. On this basis I am content that it will not harm residential amenity in this location.

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

There are no built heritage features in the immediate area. There was no evidence of any protected species on the site on the day of my site inspection.

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

The application site is located within a fluvial floodplain (PPS15 FLD1 is applicable) A flood risk assessment including hydraulic modelling to determine the extent of the predicted flooding at the site, has been prepared by Flood Risk Consulting and submitted with the application. DFI Rivers were consulted on the application and had no objection. Also, there is no development to be built within the existing agricultural field which will remain like for like for use by agricultural and equine animals. The development will be in the area where there is an existing single storey brick building insitu. This is assessed further below in relation to PPS15.

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

It is not anticipated that nuisance related noise generating activities will occur from the premises. (except during construction phase which will be temporary).

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

As indicated on the P1 form, there will be no trade effluent generated from the proposal, nor does it involve the production of any emissions.

*(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 were consulted on the application and offered no objection. The proposed development will utilise an existing access onto Airfield Road which is to be upgraded.

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

Adequate access arrangements, parking and manoeuvring areas are provided. DFI Roads were consulted on the proposal and offered no objections.

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

The site is located in the rural area and is accessed primarily by car/van and agricultural vehicles.

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

*biodiversity;*

The proposed development is acceptable in terms of the proposed finishes form, scale and massing. Additional landscaping is proposed on some boundaries to further assist with integration.

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

The application site is well screened with existing mature vegetation which will be retained where possible. New native species tree and hedgerow planting is proposed to supplement the existing boundaries.

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

The onus will be on the applicant to ensure any additional security measures are provided.

and

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

The site is well screened with existing mature vegetation and some additional new native species of trees and hedgerow planting has been proposed to further assist integration.

#### PPS 15 – Planning and Flood Risk

The application site is located within a fluvial floodplain. A flood risk assessment including hydraulic modelling to determine the extent of predicted flooding at the site, has been prepared by Flood Risk Consulting and submitted with the application for DFI Rivers consideration. The proposal does not constitute an exception to policy FLD 1 of PPS 15. The FRA concludes that the majority of the site, including the proposed building, access and car park is not located within the Q100 year floodplain. DFI Rivers were consulted on the application and responded to say that:

*‘Part of the proposed construction lies within the 1 in 100 year climate change fluvial floodplain. The predicted 1 in 100 year climate change fluvial flood level at this location is 16.00mOD. Dfi River recommend a FFL of 16.60mOD which would include the 600mm freeboard. If the recommended freeboard is not feasible flood mitigation methods, which may include flood resistant and resilient construction should be implemented up to a level of 16.60mOD.*

*In accordance with the precautionary approach, Dfi advises climate change is considered and the necessary allowances incorporated in any assessment of flood risk’*

The agent then submitted a revised Flood Risk Assessment and Drainage Assessment, and DFI Rivers were re-consulted. They responded to say that they:

*‘Dfi Rivers has reviewed the revised Flood Risk Assessment by Flood risk Consulting, dated October 2023, and comments as follows;*

*Dfi Rivers, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. The FRA shows the development is located outside the Q100 floodplain. The Q100 level at the site is 15.91m OD Belfast and the Q100 climate change level is 16.00mOD. Due to the near location to the flood*

*plain the developer should be advised that for design purposes all finished floor levels (including gardens, driveways and paths) should be placed at a minimum of 600mm above the Q100 climate change level. Infilling should not take place below the predicted Q100 fluvial flood level, as infilling of the flood plain will only serve to undermine the flood plain's natural function of accommodating and attenuating flood flows. The area of the site affected by flood plain should be kept free from future unauthorised development.*

*Therefore, provided development takes place as indicated on these drawings and finished floor levels recommended within the revised report are implemented, DfI Rivers would have no specific reason to object to this proposal from a fluvial flood risk perspective.*

*It should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the flood risk assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (Refer to paragraph 5.1 of PPS 15).'*

Based on this information, I am content that the criteria of FLD1 of PPS15 has been satisfied.

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

A Transport Assessment Form was submitted with the application and DfI Roads were consulted on the proposed development and offered no objection. They stated that the Council Planning Department should be aware that the proposed access is onto the Airfield Road and recommended a condition for inclusion in any planning approval.

#### PPS2 impacts.

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

Consultation with SES has returned the below comments:

This planning application was considered in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Mid Ulster District Council which is the competent authority responsible for authorising the project. The assessment which informed this response is attached at Annex A. Outcome: Having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site. Elimination Reason: There is no viable environmental or pollution pathway for effects from the proposal on any European site or mobile site feature. Approve is recommended.

#### **Approval Conditions**

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

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

2. The use of the building and premises hereby approved shall be restricted to a Veterinary Clinic and animal rehabilitation centre and for no other use as may be specified in the Planning Use Classes Order NI 2015.

Reason: This development is approved on the basis of a specific need requiring its location within the open countryside.

3) The development hereby approved shall take place as indicated on drawing no 02 Rev B, dated 13<sup>th</sup> October 2023 and the finished floor levels should be implemented as indicated on drawing No 02 Rev B, dated 13<sup>th</sup> October 2023. All finished floor levels (including gardens, driveways and paths) should be placed at a minimum of 600mm above the Q100climate change level.

Reason: To ensure the proposed development does not contribute to Fluvial Flood Risk due to the near location of the flood plain.

4) The vehicular access including visibility splays 2.4 x 90 metres and a 90 metre forward sight distance, shall be provided in accordance with **Drawing No 02 Rev B, bearing the date 13/1/2023** prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

5)The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be submitted to Mid Ulster District Council in writing, and agreed, prior to the commencement of any works.

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

6)The scheme of planting hereby approved shall be carried out during the first planting season after the commencement of development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replace in the next planting season with others of a similar size and species unless Mid Ulster District Council gives written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape in the interests of visual amenity and to minimise the impact of the proposal on the biodiversity value of the site



<b>Summary of Recommendation:</b> Approve is recommended
Approval Conditions
<b>Signature(s):</b> Melvin Bowman <b>Date:</b> 19 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	29 March 2023
<b>Date First Advertised</b>	11 April 2023
<b>Date Last Advertised</b>	11 April 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 165 Aughrim Road, Creagh Toome BT41 3SH The Owner / Occupier 163 Aughrim Road, Creagh Toome BT41 3SH The Owner / Occupier 70 Airfield Road Creagh Toome BT41 3SQ The Owner / Occupier 60 Creagh Road Creagh Toome BT41 3SE	
<b>Date of Last Neighbour Notification</b>	28 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2004/1406/F  Proposals: Relocation and upgrading of existing office and showroom accommodation and associated visitor parking, and proposed weighbridge.  Decision: PG  Decision Date: 27-MAY-05</p> <p>Ref: H/2001/0009/F  Proposals: Land To Be Used For Placing Of a Finished Product From Adjacent Factory Before Delivery Off Site.  Decision: PG  Decision Date: 24-AUG-01</p> <p>Ref: LA09/2023/0356/F  Proposals: Proposed Veterinary Clinic and animal rehabilitation centre, access, landscaping and ancillary site works  Decision:  Decision Date:</p>	

Ref: LA09/2022/1446/PAN

Proposals: Proposed veterinary clinic with land for animal rehabilitation, access, landscaping and ancillary site works.

Decision: PANACC

Decision Date: 27-OCT-22

Ref: H/2001/0416/O

Proposals: Site of Industrial Units to be used for light/general Industrial use

Decision: PG

Decision Date: 12-MAY-06

Ref: H/2008/0253/F

Proposals: Erection of single storey steel portal framed structure with composite roof and wall cladding to house precast works and offices

Decision: PG

Decision Date: 18-JUN-10

Ref: H/1994/0531

Proposals: ALTS AND ADDS TO EXISTING OFFICES

Decision: PG

Decision Date:

Ref: H/2000/0411/F

Proposals: Extension To Existing Factory

Decision: PG

Decision Date: 19-SEP-00

Ref: H/2003/1015/F

Proposals: Relocation and upgrading of existing office and showroom accommodation and associated visitor parking.

Decision: PG

Decision Date: 23-MAR-04

### **Summary of Consultee Responses**

NIEA-PRT LA09-2023-0356-F.PDF

Shared Environmental Services-LA09-2023-0356-F HRA Elimination 17-01-2024.pdf

NIEA-PRT LA09-2023-0356-F.PDF

Environmental Health Mid Ulster Council-la09.2023.0356.doc

DFI Roads - Enniskillen Office-Full Resp.docx

Rivers Agency-308214 - Final reply.pdf

Rivers Agency-732618 - Final reply.pdf

DFI Roads - Enniskillen Office-Full Resp.docx

**Drawing Numbers and Title**

Site Layout or Block Plan  
Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Elevations and Floor Plans Plan Ref: 03  
Cross Sections Plan Ref: 04  
Landscape Proposals Plan Ref: 05

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.14
<b>Application ID:</b> LA09/2023/0425/F	<b>Target Date:</b> 20 July 2023
<b>Proposal:</b> Proposed farm building	<b>Location:</b> 200M South West of 31 Camaghy Road South Galbally Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Seamus McGlinchey 92 Lurgylea Rd Galbally Dungannon BT70 2NL	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>  The proposal is being presented to Committee as it is contrary to Policy CTY 1, 12 and 13 of Planning Policy Statement 21 and would, if approved, be prominent in the countryside.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	23 0425 F Cover sheet.docx
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0425-F.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 rural area approximately 200m north-west of Galbally along the Camaghy Road South. The site is outwith any settlement limits as set down in the Dungannon and South Tyrone Area Plan 2010. The site is a 0.22ha roughly square parcel of land, located to the front of an elongated agricultural field along the public road. The southern and northern boundaries are defined by whin bushes and intermittent trees, with the eastern (roadside) boundary defined by hedging and whin bushes. The western boundary is undefined as it is cut out of the large agricultural field. A watercourse runs along the northern portion of the eastern boundary.

There is little recent development pressure in the immediate area, with no development between the site and the development limits of Galbally which lies 200m to the south-east of the site.

### **Description of Proposal**

Proposed farm building

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

#### **Policy Consideration**

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

#### **Relevant history**

There are no relevant histories on this site to consider however, the applicant has an

application recently approved by the Council ref: LA09/2023/0950/O for a proposed dwelling on a farm, which is sited away from the farm grouping due to health and safety reasons.

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access unto the public road. DFI Roads were consulted and require amended drawings which would need to be received prior to any approval on site. These amendments have not been requested to date as I do not feel it is reasonable to request any amendments given my opinion to refuse the application.

### **Planning Policy Statement 21 - Sustainable Development in the Countryside**

CTY 1 states that planning permission will be granted for non-residential development in the countryside, in this case where it is shown to be necessary for agricultural and



forestry development in accordance with Policy CTY 12.

CTY 12 of PPS21 states that Planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that:

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

DAERA have been consulted and advise that the applicant is a Category 1 farmer whose business ID has been in existence for more than 6 years and who has claimed payments through schemes and is therefore on an active and established agricultural forestry holding. They also advise that the proposed site is located on land that is under the control of the farm business identified on the application form. The proposal involves a new farm building. Additional information was requested relating to the necessity of this building, and the agent has stated that the proposal is required to house sick animals that cannot leave the outlying farm to travel to existing buildings on another section of the farm.

The site does not possess a great deal of mature vegetation in order to give it a sense of enclosure to aid integration, and there will be critical views when travelling in both directions along the public road. The roadside hedge will be replaced with a 1.2m high post and wire fence which will also define the proposed hardcore area surrounding the building. It is not stated that any of the existing boundaries are to be retained, and no additional landscaping is proposed. I am not satisfied that the proposal will visually integrate into the local landscape.

The proposal will not have an adverse impact on the natural or built heritage as there are no particular features of built heritage within the vicinity. I am content that there should be no adverse impact on the closest neighbouring residential property by virtue of noise smell or pollution as it lies approximately 150m from the site. I am not of the opinion that this proposal meets the tests for integration into the local landscape and I consider it will have a negative impact on the character of the locality.

Furthermore the policy requires that where a new farm building is proposed, applicants will also need to provide sufficient information to confirm all of the following:

- there are no suitable existing buildings on the holding or enterprise that can be used;
- the design and materials to be used are sympathetic to the locality and adjacent buildings; and
- the proposal is sited beside existing farm or forestry buildings.

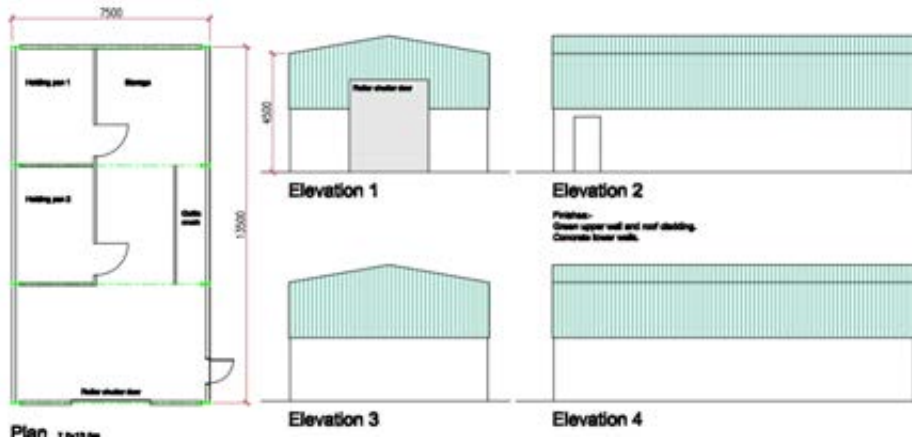
The proposed development is located approximately 900m south-east of the farm holding. The applicant was asked why none of the existing buildings would be suitable and he explained that a new farm building is required to house sick animals that cannot leave the outlying farm to travel to existing buildings on another section of the farm. I am not persuaded that a distance of 900m would be excessive to travel and that a new building would be essential and not simply desirable to necessitate the efficient use of the holding, given the short distance from the existing farm grouping as shown below.



The applicant contends that the area is characterised by agricultural development and detached single dwellings and in their opinion these sheds are typical in design and dimensions to many agricultural sheds throughout the district and will not have an adverse impact on the character of the area. I am content the design and materials of green upper wall and roof cladding and concrete lower walls are sympathetic to the locality; however, I am not convinced there is sufficient information to allow for a new building sited away from the existing farm holding. In my opinion the applicant has failed to demonstrate that the proposed development is necessary for the efficient use of the holding, and that no suitable buildings already exist. I do not feel the proposal is a viable exception to policy and it is therefore contrary to CTY 12.

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

CTY 13 of PPS21 – Integration and Design of Buildings 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 new building measures 13.5m x 7.5m x 5.1m in height and I consider the design and materials are acceptable for an agricultural building in the countryside. Nonetheless, given the fact the new building is located within an agricultural field and there are no other buildings in the immediate vicinity I am not satisfied that the proposed building can be visually integrated into the surrounding countryside.

No levels have been provided for assessment purposes, nor have I requested them given the fact I do not consider this proposal meets policy. They may need to be requested prior to any approval on site however at this point I do not consider the proposal meets policy criteria contained within policy CTY13 of PPS21.

CTY 14 of PPS21 – Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling will be unduly prominent in the landscape as it is not sited with an existing farm grouping. I do not consider it would result in build up nor would it add to a ribbon of development. The ancillary works comprising of a significant section of hardcore may damage rural character. I consider the proposal is contrary to CTY 14 as it will be unduly prominent in the landscape.

### Other Material Considerations

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

In addition to checks on the planning portal, Natural Environment Division (NED) map viewer available online has been checked and did not identify any natural heritage interests on site to raise any concerns in relation this proposal.

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) the eastern boundary of the site is affected by surface water flooding, however none of the proposed development is located within this area and consultation with Rivers Agency is not considered necessary.

As the proposal is contrary to CTY 1, 12 and 13 of PPS 21 it is not considered acceptable, and I recommend refusal.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been satisfactorily demonstrated that:- it is necessary for the efficient use of the active and established agricultural holding; there are no suitable existing buildings on the holding or enterprise that can be used; the proposal is sited beside existing farm buildings; there are no alternative sites available at another group of buildings on the holding; health and safety reasons exist to justify an alternative site away from the existing farm buildings; and that the alternative site is essential for the efficient functioning of the business.

**Reason 3**

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.

**Signature(s):** Deirdre Laverty

**Date:** 22 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	6 April 2023
<b>Date First Advertised</b>	18 April 2023
<b>Date Last Advertised</b>	18 April 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2023/0425/F Proposals: Proposed farm building Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-23 0425 F Cover sheet.docx DAERA - Omagh-LA09-2023-0425-F.docx	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	
<b>Notification to Department (if relevant)</b>  Not Applicable	





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.15
<b>Application ID:</b> LA09/2023/0426/F	<b>Target Date:</b> 20 July 2023
<b>Proposal:</b> Farm Shed to Replace Existing Farm Buildings for Storage of Farm Machinery and Fodder	<b>Location:</b> 78 Moneygran Road Kilrea, BT51 5SL
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Damian Shields 78 MONEYGRAN ROAD KILREA BT51 5SL	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Executive Summary:</b> <p>This application is being presented with the recommendation to refuse. The proposal is contrary to policies CTY 12, 13 and 14. The applicant has failed to provide evidence that the farm business has been active and established for each of the last 6 years. The proposed building is of a very large scale and no reasoning has been provided to establish the need for a building of this size, other than to say it is to replace existing buildings which are too small. The proposal is to create eight times more floor space than what is currently on site, without any justification or evidence. Due to the scale of the proposal, it would result in the building being a prominent feature in the landscape and therefore also fails to meet CTY 13 and 14 of PPS 21.</p> <p>Consultations were issued to DAERA, DfI Rivers and DfI Roads- non of which offered any objection. No third party objections were received.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0426-F.DOCX
Statutory Consultee	Rivers Agency	737925 - Final reply.pdf
Statutory Consultee	Rivers Agency	
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to CTY 1, CTY 12, CTY 13 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 or designations as per the Magherafelt Area Plan 2015. The red line of the application site includes an existing access lane from the Moneygran Road and extends East. It includes the existing dwelling at 78 Moneygran Road and includes four smaller outbuildings. The location of the proposed shed is located in an existing agricultural field to the north west of the dwelling. The site is relatively flat with the level of the lands sloping in an eastern direction. There are third party sheds located immediately north of the site adjacent to a sand pit. The site is bounded on all sides by low level hedges and post and wire fencing. Existing views of the undeveloped site are limited from public view points.

### **Representations**

No third party representations have been received.

### **Description of Proposal**

This is a full planning application for a farm shed to replace existing farm buildings for storage of farm machinery and fodder.

### **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

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy.

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

- (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;*
- (b) in terms of character and scale it is appropriate to its location;*
- (c) it visually integrates into the local landscape and additional landscaping is provided as necessary;*

*(d) it will not have an adverse impact on the natural or built heritage; and  
(e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.*

Firstly, with regards to determining if the agricultural holding is active and established as set out within Policy CTY 10, DAERA responded to a consultation response after a P1C form was submitted to confirm that the Business ID was established in April 2023. The agent contends that the farm holding was originally owned by Mr. Irwin who is now deceased, and that the applicant purchased the farm holding after Mr. Irwin passed. The agent argues that, “the proposal does not involve the erection of a new building rather it is the replacement of a number of existing buildings and he should not be required to provide a 6 year history in a replacement case.” The facts are the proposal does involve the erection of a new building and the relevant policy is CTY 12, which clearly states that planning permission will be granted for development on an active and established agricultural holding. Therefore, it is required that the applicant or agent demonstrate that the holding is active and established and the onus is on the agent or applicant to do this.

However, on the evidence provided to Mid Ulster District Council which is a farm business ID that was allocated in April 2023, the proposal fails to demonstrate that the agricultural holding has been established for the past 6 years. As such the proposal fails to meet CTY 12. For full clarity, the application will be further assessed against the remaining criteria of CTY 12.

With regards to Criteria A, the applicant has failed to demonstrate that the proposal is necessary for the efficient use of the holding. Within the statement of case submitted by the agent they stated in relation to criteria A that the existing farm sheds are dilapidated, none of which are useable. It is proposed to replace all these sheds with one general purpose farm storage shed. However, within the statement of case the agent identified buildings that are outside the applicant’s ownership as needing to be replaced by this one large shed. While I accept this argument to some degree, the existing outbuildings that the applicant owns are quite run down, there does not appear to be any farming activity taking place on site.

Furthermore, with regard to criteria B in terms of the scale of the proposal I do not believe it is necessary. The existing outbuildings measure approximately 175sqm in total whereas the proposed shed measures 1482sqm. This is a substantial size difference, and no case has been put forward to establish the need for a building of this size, other to say that the existing buildings are dilapidated and too small. In an email the agent stated that the applicant owns a tractor, several trailers and other various items of farm machinery. However, no evidence of these items have been provided and I still do not believe these items would require a shed this size. Therefore, the proposal fails to meet criteria A and B.

With regards to criteria C, I do not believe the proposed shed will visually integrate into the local landscape given the sheer scale of the proposal. While it is recognized that the scale in terms of floor space is excessive, the proposed ridge height of 10.3m above finished floor level would result in a very large building being visible in the local landscape and it will fail to integrate. No proposed planting has been shown on the block

plan.

With regards to criteria D & E I do not believe the proposal will have an adverse impact on the natural or built heritage. The existing site is a flat agricultural field and will not require the removal of any existing trees. In terms of the development resulting in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution I have no concerns. There are no third party dwellings within close proximity to the development. The development is also for storage and no animal housing is to take place. If the development was to be approved a condition could be applied to any approval to ensure that the development is used only for storage.

Furthermore, policy CTY 12 states that,

*In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:*

- *there are no suitable existing buildings on the holding or enterprise that can be used;*
- *the design and materials to be used are sympathetic to the locality and adjacent buildings; and*
- *the proposal is sited beside existing farm or forestry buildings.*

In terms of there being no suitable existing buildings on the holding that can be used, I am content that existing buildings on the holding are not suitable to be used for agricultural purposes. Having carried out a site visit, it is my view that the buildings on site are more like outbuildings rather than agricultural buildings. They have small doors to access the buildings and it is clear that storage of machinery in these buildings would not be possible. However, this does not overcome the concerns regarding the need for a new building of the size proposed.

In terms of the design and materials of the proposed building I am content that they are sympathetic to the locality and are a common finish for agricultural buildings and the proposal is sited beside existing farm buildings.

Overall, the proposal fails to meet Policy CTY 12 as it has not been demonstrated that the agricultural holding is not active and established. Furthermore, it has not been demonstrated that the proposal is necessary for the efficient use of the agricultural holding, in terms of its scale is not appropriate to its location and it fails to visually integrate into the local landscape and no additional planting has been proposed.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. As previously mentioned, I do not believe the proposal visually integrates into the local landscape. It will result in the building being a prominent feature in the landscape and lacks long established natural boundaries to provide a suitable degree of enclosure. While the scale of the proposal is not acceptable in the local area, I am satisfied that the design of the building in terms of its finishes is acceptable. The new farm building would also visually link with the established group of buildings on the farm.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously mentioned the proposal will result in the building being a prominent feature in the landscape which will erode the rural character. I have no concerns regarding suburban style build up of development or add to or create a ribbon development. The access is existing and will have no impact on the character of the area.

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

DFI Roads development control offer no objection to the above mentioned proposal as the existing access is in place with sufficient visibility splays.

#### **Other Material Considerations**

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

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

Refuse is recommended

#### Refusal Reasons

##### Reason 1

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

##### Reason 2

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that; there is an active and established farm holding, the building is necessary for the efficient use of the agricultural holding and in terms of character and scale it is not appropriate to its location and it will not visually integrate into the local landscape and no additional planting has been proposed.

##### Reason 3

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

Reason 4

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

**Signature(s):** Ciaran Devlin

**Date:** 22 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	6 April 2023
<b>Date First Advertised</b>	18 April 2023
<b>Date Last Advertised</b>	18 April 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 75 Moneygran Road Kilrea Londonderry BT51 5SL The Owner / Occupier 76 Moneygran Road Kilrea Londonderry BT51 5SL	
<b>Date of Last Neighbour Notification</b>	18 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2016/1473/DC Proposals: Discharge of conditions 8, 6, 8 for Planning Application LA09/2015/1294/F Decision: RL Decision Date: 30-APR-18</p> <p>Ref: H/1990/6040 Proposals: RETIREMENT BUNGALOW MONEYGRAN ROAD KILREA Decision: PRENC Decision Date: 31-MAY-90</p> <p>Ref: H/2010/0286/RM Proposals: Proposed dwelling and garage Decision: PG Decision Date: 17-AUG-10</p> <p>Ref: H/2005/0523/O Proposals: Site Of Dwelling &amp; Garage Decision: PG Decision Date: 04-JUL-07</p> <p>Ref: LA09/2023/0426/F Proposals: Farm Shed to Replace Existing Farm Buildings for Storage of Farm Machine</p>	

and Fodder  
Decision:  
Decision Date:

**Summary of Consultee Responses**

DAERA - Coleraine-Consultee Response LA09-2023-0426-F.DOCX  
Rivers Agency-737925 - Final reply.pdf  
Rivers Agency-  
DFI Roads - Enniskillen Office-Full Resp.docx

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2023/0509/O	<b>Target Date:</b> 22 August 2023
<b>Proposal:</b> Proposed site for dwelling and garage	<b>Location:</b> 30M S.E of 35 Kilrea Road Upperlands
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Darren Mc Guckin 73 Gorticlare Road Donemana Strabane BT82 0QD	<b>Agent Name and Address:</b> Mr Damien Kearney 2a Coleraine Road Maghera BT46 5BN
<b>Executive Summary:</b>  The current application is presented as an approval, however is being presented at Committee following receipt of an objection.	



## 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	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The objector's concerns are addressed below:

- Concerns relating to volume of traffic on the lane, and if the lane is capable of taking more users – DfI Roads were consulted initially on this application and responded that they had no objections to approval being granted to this application subject to conditions. Following receipt of this objection I reconsulted with DfI and outlined the specific concerns raised by the objector. DfI noted and

considered the objection received. In their response they stated: *“To prevent reversing movements onto the Kilrea Road from this existing access laneway DfI Roads recommend (RS1 Form) that this existing lane is widened to a minimum of 4.8 metres for the first 10 metres in from the public road.”* The applicant, through signing certificate A on the P1 Form, is in control of the laneway and that if this condition is added then it is achievable to ensure road safety. To conclude, DfI stated again that they had no objection to this proposal.

### **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 30m Southeast of No. 35 Kilrea Road, Upperlands. The site sits adjacent to a group of dwellings, outbuildings, a filling station and a recently approved site LA09/2022/0573/O. The site is an agricultural field. The northern boundary is defined by mature hedging and a large shed. The eastern and southern boundaries are enclosed with mature trees and hedging, while the western boundary fronts the existing laneway and is bound by wire and wooden fencing. The existing laneway serves the majority of the dwellings and outbuildings within this grouping.

### **Description of Proposal**

This is an outline planning application for a proposed site for dwelling and garage. The site is identified as 30m Southeast of No. 35 Kilrea Road, Upperlands.

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

#### **Policy Consideration**

#### Representations

One neighbour notification letter was issued.

One objection was received in connection with this application.

#### Relevant Planning History

LA09/2022/0573/O – Proposed site for dwelling and garage, Adjacent And South Of 35B Kilrea Road, Upperlands, Maghera. Permission Granted – 28.10.2022.

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

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

Magherafelt Area Plan 2015  
Mid Ulster Local Development Plan 2030 - Draft Strategy  
Strategic Planning Policy Statement (SPPS)  
PPS 1: General Principles  
PPS 3: Access, Movement and Parking  
PPS 21: Sustainable Development in the Countryside  
CTY 1 – Development in the Countryside  
CTY 2a – New Dwellings in Existing Clusters  
CTY 13 – Integration and Design of Buildings in the Countryside  
CTY 14 – Rural Character  
Building on Tradition – A Sustainable Design Guide for Northern Ireland Countryside

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

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

I am content that the cluster lies outside a farm in which I am content that there is four or more buildings within the cluster and at least three of these buildings are dwellings (Nos. 31, 33, 35, 35b, 37a) with the cluster appearing as a visual entity. The filling station has been identified as a focal point. I note that this grouping has been accepted as a cluster before in planning approval LA09/2022/0573/O, and the filling station was accepted as a focal point therefore this will hold material weight. In terms of enclosure I note that it bounds a large shed along the northern boundary and an existing shed and an existing

garage along the western boundary. Finally, in terms of impact on residential amenity, I am content that the proposal is unlikely to impact on residential amenity. From this I am content that the application complies with CTY 2a.

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 an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Taken into consideration the landform and the surrounding development I feel it necessary to restrict the ridge height to be no more than 7.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

An application for approval of the reserve 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 61 of the Planning Act (Northern Ireland) 2011.

##### **Condition 2**

The proposed dwelling shall have a ridge height of less than 7.5 metres above the finished floor level of the site and a low angle of roof pitch not exceeding 40 degrees.

Reason: To ensure that the development is not prominent and satisfactorily integrated into the landscape.

##### **Condition 3**

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

Reason: In the interest of visual amenity.

**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**

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

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**Condition 6**

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 7**

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 RS1 Form.

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

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

**Date:** 23 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	9 May 2023
<b>Date First Advertised</b>	23 May 2023
<b>Date Last Advertised</b>	23 May 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 37A Kilrea Road Upperlands Londonderry BT46 5SN The Owner / Occupier 33 Kilrea Road Upperlands Londonderry BT46 5SN The Owner / Occupier 35B Kilrea Road Upperlands Londonderry BT46 5SN The Owner / Occupier 37 Kilrea Road Upperlands Londonderry BT46 5SN The Owner / Occupier 35 Kilrea Road Upperlands Londonderry BT46 5SN</p>	
<b>Date of Last Neighbour Notification</b>	15 May 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/1984/0131 Proposals: BUNGALOW Decision: PG Decision Date:</p> <p>Ref: LA09/2019/1348/F Proposals: Proposed sun lounge extension and new domestic garage/games area Decision: PG Decision Date: 20-NOV-19</p> <p>Ref: H/1997/0001 Proposals: RETENTION OF BUILDING FOR THE STORAGE OF GOODS/EQUIPMENT FOR ROOFING BUSINESS AND FOR PETROL FILLING STATION SHOP Decision: PR</p>	

Decision Date:

Ref: H/1978/0380

Proposals: EXTENSION TO PETROL FILLING STATION

Decision: PG

Decision Date:

Ref: H/1988/0529

Proposals: CANOPY

Decision: PG

Decision Date:

Ref: LA09/2023/0509/O

Proposals: Proposed site for dwelling and garage

Decision:

Decision Date:

Ref: H/2002/0759/RM

Proposals: Dwelling and Garage

Decision: PG

Decision Date: 16-OCT-02

Ref: H/2002/0007/O

Proposals: Site Of Dwelling with detached garage

Decision: PG

Decision Date: 14-MAR-02

Ref: H/2007/0704/F

Proposals: Demolish existing 1½ storey dwelling and the construction of new proposed 1½ storey dwelling

Decision: PG

Decision Date: 22-JAN-08

Ref: H/2015/0058/F

Proposals: Proposed Replacement 2 Storey Dwelling and Garage

Decision: PG

Decision Date: 05-AUG-15

Ref: LA09/2015/1036/RM

Proposals: Proposed Farm Dwelling and garage

Decision:

Decision Date:

Ref: H/2014/0164/O

Proposals: Farm dwelling and garage

Decision: PG



Decision Date: 16-MAR-15

Ref: LA09/2016/1419/F

Proposals: Proposed dwelling and garage under policy CTY2a

Decision: PG

Decision Date: 26-JAN-17

Ref: H/2000/0258/F

Proposals: Dwelling and Garage

Decision: PG

Decision Date: 19-SEP-00

Ref: H/1999/0720/O

Proposals: Site of Dwelling and Garage

Decision: PG

Decision Date: 11-JUN-00

Ref: H/1995/0600

Proposals: SITE OF BUNGALOW AND GARAGE

Decision: PR

Decision Date:

Ref: H/2004/1603/O

Proposals: Site of Dwelling & Garage

Decision: PG

Decision Date: 02-AUG-06

Ref: H/2003/0398/F

Proposals: Sunroom Extension.

Decision: PG

Decision Date: 06-SEP-03

Ref: H/1994/0002

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: H/2006/0181/O

Proposals: Site of Dwelling and Domestic Garage.

Decision: PG

Decision Date: 19-MAY-06

Ref: H/2006/0182/O

Proposals: Site of Dwelling & Domestic Garage.

Decision: PR

Decision Date: 20-DEC-07

Ref: H/2001/1056/F  
Proposals: Replacement Dwelling & Garage  
Decision: PG  
Decision Date: 19-MAR-02

Ref: LA09/2022/0573/O  
Proposals: Proposed site for dwelling and garage  
Decision: PG  
Decision Date: 28-OCT-22

Ref: H/2002/1111/F  
Proposals: Extensions & Alterations to dwelling.  
Decision: PG  
Decision Date: 17-JAN-03

Ref: H/1999/0513  
Proposals: RETENTION OF BUILDING FOR STORAGE OF GOODS/EQUIPMENT FOR  
ROOFING BUSINESS AND FOR PETROL FILLING STATION SHOP  
Decision: PG  
Decision Date:

Ref: H/2006/0944/RM  
Proposals: Proposed two storey dwelling house and detached storey and half garage  
Decision: PG  
Decision Date: 20-JUN-07

Ref: H/2008/0310/RM  
Proposals: Proposed dwelling and domestic garage  
Decision: PG  
Decision Date: 21-JAN-09

### **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

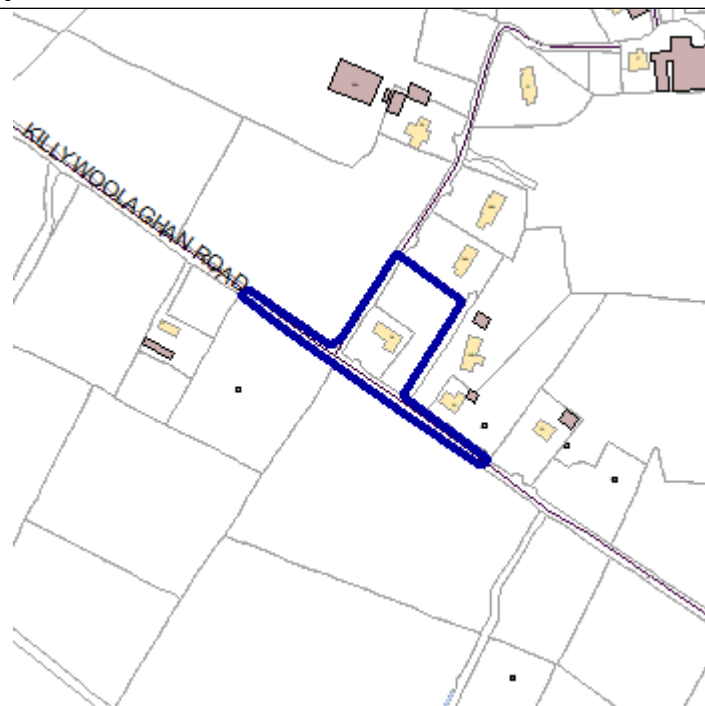


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2023/0518/O	<b>Target Date:</b> 23 August 2023
<b>Proposal:</b> Proposed site for dwelling and garage	<b>Location:</b> 40M North of 24 Killywoolaghan Road Ardboe
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Christopher Scullion 41 Mullanahoe Road Ardboe	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD - Updated.doc Roads outline - Updated.docx
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.doc DC Checklist 1.doc Roads outline.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as defined by the Cookstown Area Plan 2010, approx. 2.7km south southwest of Ardboe and 2.7km west of Lough Neagh.



Fig 1: Site outlined red.



Fig 2: Site outlined red.

The site is a relatively flat L-shaped plot comprising an agricultural field that runs to the

southeast side and rear / northeast of, no. 24 Killywoolaghan Road, a single storey roadside dwelling fronting onto and accessed off the Killywoolaghan Road. The main rectangular body of the site sits to the rear of no. 24 Killywoolaghan Road and is to be accessed off the Killywoolaghan Road through the secondary body of the site along the southeast side of no. 24 Killywoolaghan Road.

The main body of the site, to the rear of no. 24 is located within a line of existing development comprising 3 single storey detached dwellings running along the east side of a lane accessed off the Killywoolaghan Road. The 3 dwellings in this line running from southwest to northeast include no. 24 Killywoolaghan Road orientated gable end onto the lane and nos. 24a and 24b Killywoolaghan Road fronting onto, and accessed off, the lane. The main body of the site sits between nos. 24 and 24a Killywoolaghan Road. This lane appears to serve a small number of additional dwellings, business, and agricultural buildings. The secondary body of the site, through which its access will run, is also located within a substantial line of development comprising approx. 6 dwellings of mixed ridge heights running along the northeast side of the Killywoolaghan Road. The secondary body of the site sits between no. 24 Killywoolaghan Road and the curtilage of no. 26b Killywoolaghan Road, a relatively newly constructed bungalow facing west onto the site. Albeit the access lane serving no. 24a Killywoolaghan Road, the dwelling to the rear of the site, separates the site from the curtilage of no. 26b Killywoolaghan Road.



Fig 3: Google Streetview image of site including nos. 24, 24a, 26b and 26 Killywoolaghan Road, whilst captured in 2021, reflective of the site today albeit there has been some additional planting and / or matured vegetation both on site and in the wider vicinity.

The northwest boundary and northeast boundary of the site, which bound the adjacent lane and the curtilage of no. 24a Killywoolaghan Road respectively, are well defined by mature trees and hedgerow vegetation. The southeast boundary of the site, adjacent the lane serving no. 24a Killywoolaghan Road, is defined by a mix of post and wire fencing and a relatively new hedge. The party boundaries of the site with no. 24 Killywoolaghan Road are defined by post and wire fencing. The roadside frontage of the site is largely undefined.

Critical views into the site are limited on both approaches along the Killywoolaghan Road until just before and passing along its roadside frontage due to the flat topography of the area and its location within two existing lines of development that alongside existing vegetation bounding the site and in the wider vicinity helps to screen and enclose it. The

vegetation bounding the site screens views into it from the from the lane bounding it to the west.

The wider area surrounding the site is rural in nature characterised by flat agricultural land typical of the lough shores interspersed with detached dwellings, ancillary buildings, and farm groups. The immediate area however has come under considerable development pressure in recent years as detailed above with a substantial number of dwellings running largely along the north side of the Killywoolaghan Road; and along the east side of the lane off the Killywoolaghan Road that bounds the site.

### **Description of Proposal**

This is an outline planning application for a dwelling and garage to be located on lands 40m north of 24 Killywoolaghan Road Ardboe.

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

#### **Policy Consideration**

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Cookstown Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

#### **Relevant Planning History**

Non-applicable

#### **Consultees**

1. DFI Roads were consulted in relation to this proposals access, movement and parking



arrangements that were revised during the processing of this application to instead of being taken off the lane bounding the site as indicated at the outset to now be taken off the Killywoolaghan Road. DFI Road assessed the revised access arrangements to be taken directly off the Killywoolaghan Road (Drawing 01 REV.01 received 23 Oct 2023) and had no objections to the proposal subject to standard conditions and informatives, which will be applied to any subsequent decision notice to comply with the requirements of Planning Policy Statement 3: Access, Movement and Parking. Accordingly, I am content a safe access can be achieved to accommodate this proposal.

### **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 are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21. It has been submitted 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 suitable to accommodate one dwelling within an otherwise substantial and continuously built-up frontage as detailed further above in 'Characteristics of the Site and Area' it is located within a substantial line of development including 3 dwellings running along the east side of a lane accessed off the Killywoolaghan Road. It also sits within a substantial line of development comprising approx. 6 dwellings of mixed ridge heights running along the northeast side of the Killywoolaghan Road.

I believe a dwelling of an appropriate siting, size, scale, and design with a ridge height no greater than 5m above FFL similar to neighbouring properties should read within and respect the existing development pattern and integrate into this gap site with minimal disruption to the rural character of the area. From public views as detailed above in the 'Characteristics of the Site and Area' a dwelling on this site will benefit from the flat topography of the area and its location within two existing lines of development that alongside existing vegetation bounding the site and within the wider vicinity will help to screen, enclose, and provide it with a backdrop.

As this is an outline application the details of the siting, size, scale, design and orientation of the dwelling can be considered further under any subsequent reserved matter application.

I am content subject to a suitably designed scheme coming forward under any subsequent reserved matter application it should not have any unreasonable impact on neighbouring amenity

in terms of overlooking or overshadowing with particular regard being given to nos. 24, 24a, 26 and 26b Killywoolaghan Road the closest properties to the site. I consider given the dimensions of the site, as shown below in Fig 4, which are similar to those in the vicinity it should be able to accommodate a dwelling with a 5m ridge height of a suitable siting, size, scale, design and orientation with adequate separation distances to neighbouring properties. The site benefits from thick vegetation to its northeast boundary which will help prevent unreasonable overlooking to no. 24a's private amenity area. Whilst the boundary treatments between the site and nos. 26 and 26b located to its southeast and east respectively comprises relatively low fencing and hedging along the lane serving no. 24a I am content that this proposal does not offer any significantly greater potential for unreasonable overlooking to these properties than currently exists from the lane. I consider that in addition to the lane including hedging and vegetation separating the site from these properties adequate separation distances could be achieved and that any frontage of the potential property should not overlook the private amenity area located and screened to the rear of these properties. In relation to no. 24, which is identified on the site location plan submitted as being within the control of the applicant, whilst only post and wire fencing encloses the private amenity area to its rear that back onto the site, I am reasonable content given the 49.9m depth of the site a dwelling should be able to be adequately sited with the aid of an additional screen of planting to protect the no. 24's amenity.



Fig 4: Dimensions of the site.

### Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 2 third party objections were received.

1 from Mr Conor Delaney and Ms Geraldine Delaney the owner / occupiers of a property accessed via the lane bounding the site to the northwest; and 1 from Mr John Mulgrew the owner/occupier of no. 28b Killywoolaghan Road, the neighbouring property to the southeast of the site.

Mr Conor Delaney and Ms Geraldine Delaney raised a land ownership challenge in response to

the initial site location plan submitted at the outset of this proposal that showed the lane which now runs along the outside of the site's northwest boundary within the red line of the site and ownership of the applicant. As a result of this challenge the applicant was contacted and subsequently removed this lane from within the red line of the site. Accordingly, I am content this matter, which will now see the site accessed directly off the Killywoolaghan Road rather than via the lane, has been addressed.

Mr John Mulgrew raised concerns in relation to:

Highway access / safety - That there are already a number of entrances onto the Killywoolaghan Road with 50 yards of the site and if approved this proposal would increase these to an unacceptable level for safety; and

Overlooking and loss of privacy – That the dwelling would be directly in front of his property. That whilst this is only an outline application without further design details he can only assume overlooking and loss of privacy to his property.

In relation to bullet point as detailed further above (see 'Consultees') I am content that DFI Roads have assessed the access arrangements and have raised no concerns from a safety aspect subject to standard conditions and informatives, which will be applied to any subsequent decision notice. In relation to bullet point 2 also as addressed further above (see 'Consideration') I consider given the dimensions of the site, as shown below in Fig 4, which are similar to those in the vicinity it should be able to accommodate a dwelling with a 5m ridge height of a suitable siting, size, scale, design and orientation with adequate separations distances to neighbouring properties. Particularly with regards to no. 26b whilst I noted the boundary treatments between it and the site along the lane serving no. 24a comprise relatively low fencing and hedging I am content that this proposal does not offer any significantly greater potential for unreasonable overlooking than currently exists from the lane. I consider that in addition to the lane including hedging and vegetation separating the site from no. 26 adequate separation distances could be achieved and that any frontage of the potential property should not overlook the private amenity area located and screened to the rear of no. 26.

#### **Additional considerations**

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online have been checked. 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 the site comprises improved grassland within a cluster of development unlikely to support and / or have any significant impact on these species.

NI Flood Maps indicate no flooding on site.

**Recommendation:** Approve

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

Approve is recommended

#### **Approval Conditions**

Condition 1

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

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

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

#### Condition 2

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

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

#### Condition 3

Full particulars, detailed plans and elevations 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

The proposed dwelling shall have a ridge height no greater than 5 metres above finished floor level.

Reason: In the interests of visual amenity and residential amenity.

#### Condition 5

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.35 metres at any point.

Reason: In the interests of visual amenity and residential amenity.

#### Condition 6

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

Reason: In the interest of visual amenity and residential amenity.

#### Condition 7

The existing mature trees and vegetation along the boundaries of the site indicated in green on Drawing 01 REV.01 received 23 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 8**

During the first available planting season prior to 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 hedgerows and trees to be retained and measures for their protection during the course of development; and a native species hedge along the site boundaries indicated in yellow on Drawing 01 REV.01 received 23 Oct 2023. 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 and residential amenity.

**Condition 9**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 form attached to the DFI Roads comments dated 12 DEC 2023 on the Planning Portal and shall include sight splays of 2.4m x 65 in both directions onto the public road and any forward sight distance required. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

**Signature(s):** Emma Richardson

**Date:** 24 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	10 May 2023
<b>Date First Advertised</b>	23 May 2023
<b>Date Last Advertised</b>	23 May 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 19 Killywoolaghan Road Stewartstown Tyrone BT71 5AS</p> <p>The Owner / Occupier 24 Killywoolaghan Road Stewartstown BT71 5AS</p> <p>The Owner / Occupier 24A Killywoolaghan Road Stewartstown Tyrone BT71 5AS</p> <p>The Owner / Occupier 28 Killywoolaghan Road Stewartstown Tyrone BT71 5AS</p> <p>The Owner / Occupier 26B Killywoolaghan Road Stewartstown Tyrone BT71 5AS</p> <p>The Owner / Occupier 26 Killywoolaghan Road Stewartstown Tyrone BT71 5AS</p> <p>The Owner / Occupier 26A Killywoolaghan Road Stewartstown Tyrone BT71 5AS</p>	
<b>Date of Last Neighbour Notification</b>	16 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1995/0057 Proposals: Site for dwelling Decision: PG Decision Date:</p> <p>Ref: I/2005/0774/O Proposals: Proposed dwelling &amp; garge to replace previous application I/2002/0271 Decision: PG Decision Date: 14-JUL-05</p> <p>Ref: I/2002/0271/O Proposals: Site for a dwelling</p>	

Decision: PG  
Decision Date: 17-SEP-02

Ref: I/1986/0215  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:

Ref: LA09/2017/0687/RM  
Proposals: Proposed dwelling and garage  
Decision: PG  
Decision Date: 29-AUG-17

Ref: LA09/2016/1780/O  
Proposals: Site for farm dwelling and garage  
Decision: PG  
Decision Date: 31-MAR-17

Ref: I/2004/1161/O  
Proposals: Proposed Dwelling  
Decision: PG  
Decision Date: 17-DEC-04

Ref: I/2005/0248/F  
Proposals: Proposed dwelling  
Decision: PG  
Decision Date: 29-APR-05

Ref: LA09/2016/1727/LDE  
Proposals: E M Automation have used the outbuildings to the rear of their premises as a base for their business over 7 years. The buildings are used as an office, storage, assembly, servicing and dispatch of various types of automated packaging machinery and equipment  
Decision: PG  
Decision Date: 10-MAR-17

Ref: I/2004/0881/F  
Proposals: Proposed dwelling  
Decision: PG  
Decision Date: 16-OCT-04

Ref: I/2009/0280/F  
Proposals: Proposed sunroom extension to existing dwelling  
Decision: PG  
Decision Date: 07-JUL-09

Ref: I/1998/0167

Proposals: Site for Dwelling

Decision: PG

Decision Date:

Ref: LA09/2023/0518/O

Proposals: Proposed site for dwelling and garage

Decision:

Decision Date:

Ref: I/2007/0488/RM

Proposals: Proposed dwelling and garage to replace previous application I/2002/0271

Decision: PG

Decision Date: 20-SEP-07

Ref: I/2013/0126/F

Proposals: Retention of re-orientated dwelling previously approved I/2007/0488/RM and associated garage and siteworks

Decision: PG

Decision Date: 27-JUN-13

Ref: I/2002/0812/RM

Proposals: Replacement dwelling and garage

Decision: PG

Decision Date: 16-JAN-03

Ref: I/2004/0567/O

Proposals: Proposed dwelling - living accommodation

Decision: PG

Decision Date: 22-JUL-04

Ref: I/2006/1221/RM

Proposals: Proposed dwelling - living accommodation

Decision: PG

Decision Date: 18-JUN-07

Ref: I/2010/0096/F

Proposals: Proposed dwelling- infill site

Decision: PG

Decision Date: 20-JUL-10

Ref: I/1993/0067

Proposals: Dwelling

Decision: PG

Decision Date:



Ref: I/1993/0067B  
Proposals: Dwelling  
Decision: PG  
Decision Date:

Ref: I/2001/0429/F  
Proposals: Proposed Dwelling  
Decision: PG  
Decision Date: 24-JUL-01

Ref: LA09/2017/0760/F  
Proposals: Proposed storage workshop for existing approved business (ref. LA09/2016/1727/LDE)  
Decision: PG  
Decision Date: 08-MAR-18

Ref: I/2001/0290/O  
Proposals: Proposed Dwelling  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD - Updated.doc  
Roads outline - Updated.docx  
DFI Roads - Enniskillen Office-FORM RS1 STANDARD.doc  
DC Checklist 1.doc  
Roads outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2023/0595/F	<b>Target Date:</b> 7 September 2023
<b>Proposal:</b> Conversion of rear yard to beer garden to Public House	<b>Location:</b> The Cosy Corner Bar 68 Gulladuff Road Gulladuff
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Seamus Boyle 66 Gulladuff Road Gulladuff BT45 8NT	<b>Agent Name and Address:</b> McGurk Architects 33 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b> <p>This full planning application is for The Cosy Corner Bar in Gulladuff and involves the proposed conversion of the existing rear yard to a beer garden. The application is brought before the planning committee because there is a declared interest in the P1 form - the applicant's sister works for Mid Ulster District Council.</p> <p>The proposed development satisfies all relevant planning policy and therefore I recommend that planning permission be granted.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0595 F Cosy Corner.doc
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0595.F.pdf

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed is located in the Gulladuff settlement limit as defined in the Magherafelt Area Plan 2015. The application site comprises the Cosy Corner establishment. This is a single storey existing bar / off sales complete with a rear yard area. The site is located on the corner of the Gulladuff Rd / Gulladuff Hill Rd, off the roundabout. Neighbours include the Vivo shop to the west and residential dwellings to the north and east of the site.

### **Description of Proposal**

This is a full application for the conversion of rear yard to beer garden.

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

#### **Policy Consideration**

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

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

The site of the proposed is located in the Gulladuff settlement limit. Map No. 21 shows the site which is adjacent to a Protected Route. The following designation applies:

#### **Designation GF 01 Settlement Development Limit**

The settlement development limit is designated to consolidate existing development, including existing commitments, and prevent ribboning and urban sprawl encroaching into the surrounding countryside. I am content that the proposed development does not offend this designation and is in keeping with the use of the public house establishment.

#### **Relevant Planning Histories**

LA09/2019/1190/F – Internal alterations to public house to enlarge existing off sales within bar area with new shop front and external refurbishment of off sales and bar elevations – The Cosy Corner Bar 68 Gulladuff Road Gulladuff – Permission Granted 09/10/2019.

LA09/2022/1496/NMC – Proposed covered beer garden area to the rear of the existing public house – The Cosy Corner Bar 68 Gulladuff Road Gulladuff – Non Material Change Refused 21/02/2023.

LA09/2022/0250/F – Proposed covered outdoor area to rear of existing public house – The Cosy Corner Bar 68 Gulladuff Road Gulladuff – Permission Granted 09/08/2022.

#### **Representations**

No representations have been received to date.

### Mid Ulster District Council Draft Plan Strategy 2030

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

### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The proposal will not cause demonstrable harm to any interests of acknowledged importance. The proposal seeks to convert the existing rear yard area to a beer garden for the existing public house. The proposal will not impact on built heritage or sites of archaeological interest and this has been demonstrated by HED who were consulted under the LA09/2022/0250/F planning approval. Following the submission of a Noise Management Plan, Environmental Health have provided no objection to the proposed development with recommended conditions to be attached if approval is granted.

### Planning Policy Statement 3 – Access, Movement and Parking

I note that the site intends to use an existing unaltered access, with no predicted increase in patrons. I am content that the existing parking arrangements will be more than sufficient to deal with the parking requirements. Given all of the above it was not deemed necessary to consult with DfI Roads. I am content that the proposed development does not offend the policy within PPS 3.

### Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage

The site is located within an area of archaeological potential. I refer to planning approval LA09/2022/0250/F for a similar proposed development at the site. HED were consulted in this application at the time and commented that they are content that the proposal is satisfactory to SPPS and PPS 5 archaeological policy requirements. On the basis of this application being similar to the previous approval at the site, I am content to proceed without further comment from HED and I am satisfied that the proposed development does not offend the policy within PPS 6.

## A Planning Strategy for Rural Northern Ireland

Policy DES 2 Townscape of A Planning Strategy for Rural Northern Ireland requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of material. As previously stated the proposed development is considered appropriate and will not cause demonstrable harm to any interests of acknowledged importance.

### DCAN 7 – Public Houses

This development control advice note gives the planning department general guidance on the regulations of public houses. The application seeks to convert the existing rear yard area into an outdoor beer garden area. I am content that given the small scale of the proposal that there is no conflict with the guidance. Having consulted with Environmental Health, I am of the opinion that the proposed works are unlikely to cause any additional nuisance to any neighbouring amenity when the conditions are applied to the development. From such I am content that the proposal does not unduly affect the privacy or amenity of neighbouring residents. The proposed development does not result in the loss of any trees or other landscape features. The proposed development would not have an adverse impact upon the character of the area.

### Other Material Considerations

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

There are no issues pertaining to flooding at the site.

### Recommendation

Having assessed the application against the above planning policy and all other material considerations relevant to the case, I recommend that planning permission be granted.

### **Summary of Recommendation:**

Approve is recommended

### Approval Conditions

#### Condition 1

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

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

**Condition 2**

No loudspeaker(s) or amplified music (including televisions) shall be played in the beer garden area as annotated on drawing no. 03 uploaded to public access on 25th May 2023.

Reason: To protect amenity of nearby residential properties.

**Condition 3**

Within 8 weeks of a written request by the Planning Department, following a reasonable noise complaint, the 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 Mid Ulster District Council for written approval prior to any monitoring commencing.

Reason: To protect amenity of nearby residential properties.

**Signature(s):** Benjamin Porter

**Date:** 24 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	25 May 2023
<b>Date First Advertised</b>	6 June 2023
<b>Date Last Advertised</b>	6 June 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 66 Gulladuff Road Gulladuff Londonderry BT45 8NT</p> <p>The Owner / Occupier 66A Gulladuff Road Gulladuff Londonderry BT45 8NT</p> <p>The Owner / Occupier 64A Gulladuff Road Maghera Londonderry BT45 8NT</p> <p>The Owner / Occupier 12 Gulladuff Hill Gulladuff Londonderry BT45 8NU</p> <p>The Owner / Occupier 11 Gulladuff Hill Gulladuff Londonderry BT45 8NU</p> <p>The Owner / Occupier 13 Gulladuff Hill Gulladuff Londonderry BT45 8NU</p> <p>The Owner / Occupier 7 Gulladuff Hill Gulladuff Londonderry BT45 8NU</p> <p>The Owner / Occupier 76 Gulladuff Road Gulladuff Londonderry BT45 8NT</p>	
<b>Date of Last Neighbour Notification</b>	2 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/0250/F Proposals: Proposed covered outdoor area to rear of existing public house Decision: PG Decision Date: 09-AUG-22</p> <p>Ref: H/1980/0188 Proposals: CHANGE OF USE FROM GARAGE TO SHOP Decision: PG Decision Date:</p> <p>Ref: H/2012/0008/F</p>	



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

Decision: PG

Decision Date: 12-MAR-12

Ref: H/2003/0542/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 10-FEB-04

Ref: LA09/2022/1496/NMC

Proposals: Proposed covered beer garden area to the rear of the existing public house

Decision: RENMC

Decision Date: 21-FEB-23

Ref: LA09/2023/0595/F

Proposals: Conversion of rear yard to beer garden to Public House

Decision:

Decision Date:

Ref: H/1988/0049

Proposals: 33,000V INTERCONNECTOR

Decision: PG

Decision Date:

Ref: H/1985/0055

Proposals: SITE OF BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: H/1985/0441

Proposals: CONVERSION OF GARAGE TO SHOP

Decision: PG

Decision Date:

Ref: H/1980/0291

Proposals: CONVERSION OF PART OF PUBLIC HOUSE TO OFF LICENSE AND ALTERATIONS TO

Decision: PG

Decision Date:

Ref: H/1989/0333

Proposals: EXTENSION TO PUBLIC HOUSE

Decision: PG

Decision Date:

Ref: LA09/2019/1190/F

Proposals: Internal alterations to public house to enlarge existing off sales within bar area with new shop front and external refurbishment of off sales and bar elevations

Decision: PG

Decision Date: 08-OCT-19

Ref: H/1989/0494

Proposals: GARAGE AND STORE

Decision: PG

Decision Date:

Ref: H/1986/0109

Proposals: REPLACEMENT BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2019/0477/F

Proposals: Proposed domestic garage to side of existing dwelling

Decision: PG

Decision Date: 02-JUL-19

### **Summary of Consultee Responses**

Environmental Health Mid Ulster Council-LA09 2023 0595 F Cosy Corner.doc  
Historic Environment Division (HED)-  
Environmental Health Mid Ulster Council-LA09.2023.0595.F.pdf

### **Drawing Numbers and Title**

Site Location Plan    Plan Ref: 01  
Existing Plans        Plan Ref: 02  
Proposed Plans       Plan Ref: 03

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

Not Applicable

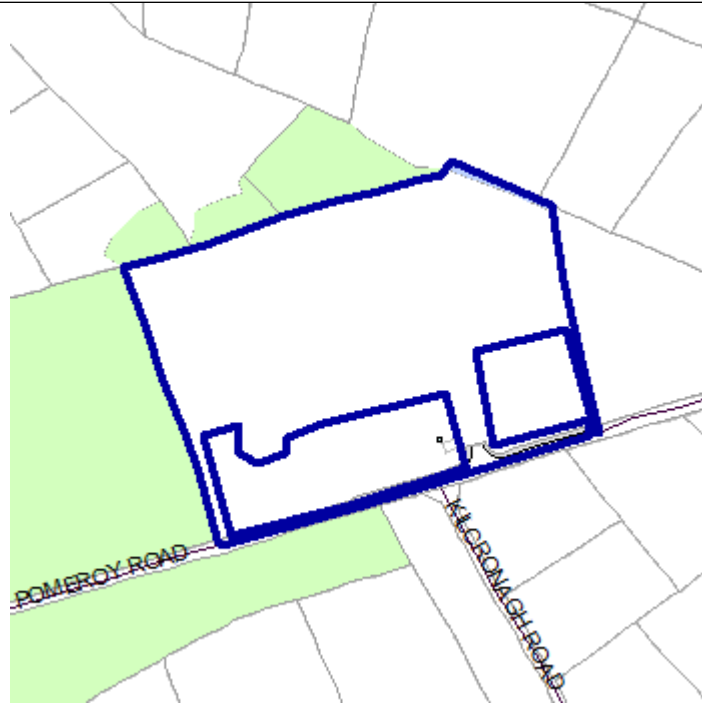


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2023/0635/F	<b>Target Date:</b> 3 January 2024
<b>Proposal:</b> Industrial unit and site office in existing industrial park	<b>Location:</b> Lands immediately North of Junction of Pomeroy Road & Kilcronagh Road, Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr PJ Mc Gee 3 Tandragee Road Pomeroy BT70 3DS	<b>Agent Name and Address:</b> Mr Paul Bradley 76 Main Street Pomeroy BT70 2QP
<b>Executive Summary:</b>  Approve with conditions	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
	Environmental Health Mid Ulster Council	Planning Response LA09-23-0635..pdf
	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Statutory Consultee	NIEA	PRT LA09-2023-0635-F.PDF
Statutory Consultee	Rivers Agency	854532 - Final reply.pdf

### Representations:

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

## Summary of Issues

### Characteristics of the Site and Area

The site is located on Pomeroy Road, across from Kilconagh Road, at Ballygrooby Park (name as assigned by Cookstown District Council in 2014). A more accurate description of 'Lands immediately North of Junction of Pomeroy Road & Kilconagh Road, Cookstown' was requested from agent so neighbours would clear where the location was and neighbours were notified on this.

The site to be comprised of two fields of rushy wet grassland that are cut for silage or grazed by sheep or cattle. The site is within an area that was mapped as peatland. The field is bounded to the north and west by deciduous woodland with birch.

The eastern boundary is a very scrappy hedge with occasional trees. The southern boundary along the main road is a post and wire fence with occasional trees. The central fence is post & wire.

### Description of Proposal

Industrial unit and site office in existing industrial park

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

The proposed site lies within a previously approved industrial park located within the open countryside. The site is being sought for an industrial building and office building within the approved Park. Works have commenced on site including a substructure for a security building and the access has been formed and kerbed.



*Site in August 2023*

### **Assessment of Policy and other material considerations**

Previous history on the site include;

History dates back as follows;

I/1985/0333- Workshop

I/1993/0437/0 - Erection of Engineering Factory

I/1995/0088/F - Engineering Factory

I/2001/01770/O- Proposed Business Park to Accommodate Light Industrial Use (Class 4) with Associated Works

I/2004/0362/F- Advanced road construction in conjunction with planning approval I/2001/0177/O.

I/2008/0416/F- Proposed light industrial unit for class 4 use, in conjunction with approved road construction Ref: I/2004/0362/F

I/2013/0379/O- Proposed security office at entrance to approved site.

There is clearly a lengthy planning history relating to this site.

The first commercial permission being in 1985. Subsequent approvals demonstrate a

continuation of industrial proposals up to 2013. Whilst there are passages of time before some of the earlier permissions, the 2001 outline approval appears to establish the site as a business park. The DOE approved a 2004 application for road works in conjunction with the 2001 permission and shortly after a 2008 permission for light industrial unit tie to the 2004 approval. In 2013 the Department also approved a security hut again linked to the approval of the site as an industrial site.

In the absence of any clear evidence to the contrary and considering the planning history of the site, along with works carried out on site it appears that an industrial use is established on the lands associated with this application.

The site entrance and the security hut substructure were installed on site prior to the expiry date of 2013 approval, 19<sup>th</sup> Feb 2019. A google street view image shows in 2016 this was in place.



Building Control confirmation has been forwarded for the security office that it was approved on 28 Feb 2014 and in inspection showed founds were in place in April 2014.

### **Consideration of LDP and Planning policy**

#### **Cookstown Area Plan (CAP) 2010**

In relation to Industry and mixed use, it is stated there a keenness to facilitate the development of new businesses and encourage appropriate future expansion of existing firms. The objectives within the CAP are to promote development within existing urban area but due to the previous history establishes this as an acceptable location for industrial development.

It directs assessment to PPS4 for the full range of industrial policies and these types of projects in the countryside.

As per the **Local Development Plan 2030 Draft Plan**, Economic Development is encouraged by Mid Ulster Council and the plan states that the council will support industrial and manufacturing development within the District. Although this is a material consideration significant weight cannot be given to the draft plan until it is adopted.

The applicant, Fabricat, has been established for over 25 years and they employ around 25 employees at their current site in Pomeroy. They have outgrown the site a number of years ago and have finally found a suitable site with an established industrial use. As

part of the new expansion with this new site Fabricat envisage employing up to 40 new full-time employees for the efficient running of the new site. In addition to the full-time employees, there will be short term employment within the construction industry to deliver the project.

Whilst the proposal will be required to meet the relevant policy tests, nonetheless, the economic benefits and job creation affected by this proposal are an additional material consideration that weigh in favour of the application.

**The SPPS** shows support for economic development of this type.

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.

In the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must however be restricted, however exceptions to this general principle may be justified. In this case, the site lies within a previously approved industrial park located where commencement of the development has begun.

### **PPS21 - Policy CTY 1 – Development in the Countryside**

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.

However, planning permission will be granted for non-residential development in the countryside in certain cases, the relevant criteria in this case would be ‘industry and business uses in accordance with PPS 4’.

### **PPS4 – Planning & Economic Development’;**

### **PED2 – Economic Dev in the Countryside ;**

Proposals for economic development uses in the countryside will be permitted in accordance with the provision of PED3.

### **PED3 -Expansion of an established economic development use in the countryside**

Under this policy, planning permission for the expansion of an established economic development use in the countryside will be granted where the scale and nature of the proposal does not harm the rural character of the area and the proposal can be accommodated within the established curtilage of the site. In my view this site is ‘established’ by virtue of the planning history works carried out to implement these provisions.

PED 3 goes on to state ‘Any new buildings should respect the scale, design and materials of the original and any historical interest they may have’. In this case the



approvals have not been erected. Design and materials of the proposal are in keeping with industrial and office buildings and would be acceptable in this location. The Industrial unit is long and narrow and will have cladding on external walls and roller shutter doors. The site office is 2 storey, with large glazed area to reception and in the boardroom, with timber cladding features and cladding to the roof. It is acknowledged the scale and size of the building is significant, however its siting to the rear of the rear coupled with the vegetation and forest drop back, ensure it meets the requirements of policies CTY13 and CTY14 in terms of integration and rural character.

The proposed site layout below shows the location of the industrial unit and site office building will be set to the rear of the site, with the approved shed to the roadside.

Plans show the existing trees bordering the site will all be retained. The western boundary will be enhanced with a double row of Birch and Alder trees. The eastern boundary will be planted with a hawthorn hedge with a double row of Birch and Alder trees. The southern boundary will have a bank planted with a double row of Birch and Alder trees. An additional hawthorn hedge will be planted across the middle of the site from west to east. Conditions can be attached to ensure this. Along the front of the site 2m trees are proposed behind a fence, these will help to soften the visual impact while still providing enclosure for the site. The landscaping provides good screening for the site aiding with the integration of this rural open site as per the requirements of PED3.

There will be no detrimental impact on any neighbouring residential properties. There is a large buffer with the existing forest area which will remain unaffected between the site and the nearest dwelling. There are no dwellings located directly adjacent to the site.



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 proposed site lies within a previously approved industrial park located within the open countryside. The extensive approvals show the site has industrial uses approved similar to this one.

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

There is no detrimental impact on any neighbouring residential properties.

There is a large buffer with the existing forest area which will remain unaffected between the site and the nearest dwelling.

(c) It does not adversely affect features of the natural or built heritage.

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

DFI Rivers were consulted from a drainage and flood risk aspect. The drainage assessment was reviewed and it has demonstrated the design and construction of a suitable drainage network is feasible and a condition has been provided to safeguard against flood risk to the development.

(e) It does not create a noise nuisance Conditions have been provided from Env Health in relation to operating hours and times of deliveries, to protect residential properties amenity from noise.

(f) It is capable of dealing satisfactorily with any emission or effluent. A septic tank has been proposed and is shown on plan 2 rev01 in an acceptable location.

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

(h) Adequate access arrangements, parking and manoeuvring areas are provided.

(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 have been consulted and have no objections, providing conditions.

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

(k) Appropriate boundary treatment and means of enclosure have been provided and any areas of outside storage proposed are adequately screened from public view. The forested area helps with this and the proposed landscaping plan.

(l) It has been designed to deter crime and promote personal safety; and

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

The landscaping provides good screening for the site aiding with the integration of this rural open site as per the requirements of PED3. Conditions can be attached to ensure this.

Overall the proposal meets with the criteria of PED9 of PPS4 and the above criteria has been met.

### **Representations**

3 objections have been received and the main issues of concern are as follows;

- **25 Pomeroy Road**

#### Impact on surrounding forestry and landscape.

NIEA Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided has no concerns. The objection letter were brought to the attention of Natural Heritage and they considered them fully in their response of no objections.

The site lies approximately 1km south of the Upper Ballinderry River ASSI/SAC. However, there does not appear to be any hydrological link to the river. NED therefore has no concerns regarding impacts to designated sites.

#### Impact on local wildlife/ecology

No Northern Ireland Priority Habitats appear to be present onsite. NED has no concerns regarding impacts to Priority Habitats or protected species.

#### Noise levels increasing

Env Health were consulted on the submitted noise impact assessment. It does not consider any night time activity as the site will only be operational during the day. Noise from the internal units will rely on the structure of the building and fully close doors to provide attenuation. Conditions have been provided in relation to operating hours and times of deliveries, to protect residential properties amenity from noise.

#### Traffic issues

DFI Roads were consulted and offer no objections and have provided conditions to be attached to any approval.

#### Increase in pollution

NIEA and Env Health have been consulted and have objections.

#### Scale of building out of keeping with the area.

We acknowledge the industrial building is of a substantial size and scale. However, it is located to the rear of the site adjacent to the heavily forested area. It is on the furthest part of the site from the main road. Its scale, location and design is appropriate for the site and will cause the least detrimental impact at this siting.

#### Other more suitable sites elsewhere.

We can only assess the application that has been submitted against the relevant policy considerations. There is a long history of industrial approval on the site.

#### **- 39 Kilcronagh Road ( 2 objections )**

#### Out of keeping with local character of the area.

Although it is acknowledged the site appears rural in nature, the industrial approvals have in principle changed the future character of the site. As a lawful start has commencement on these the site will change to a more industrial nature once further

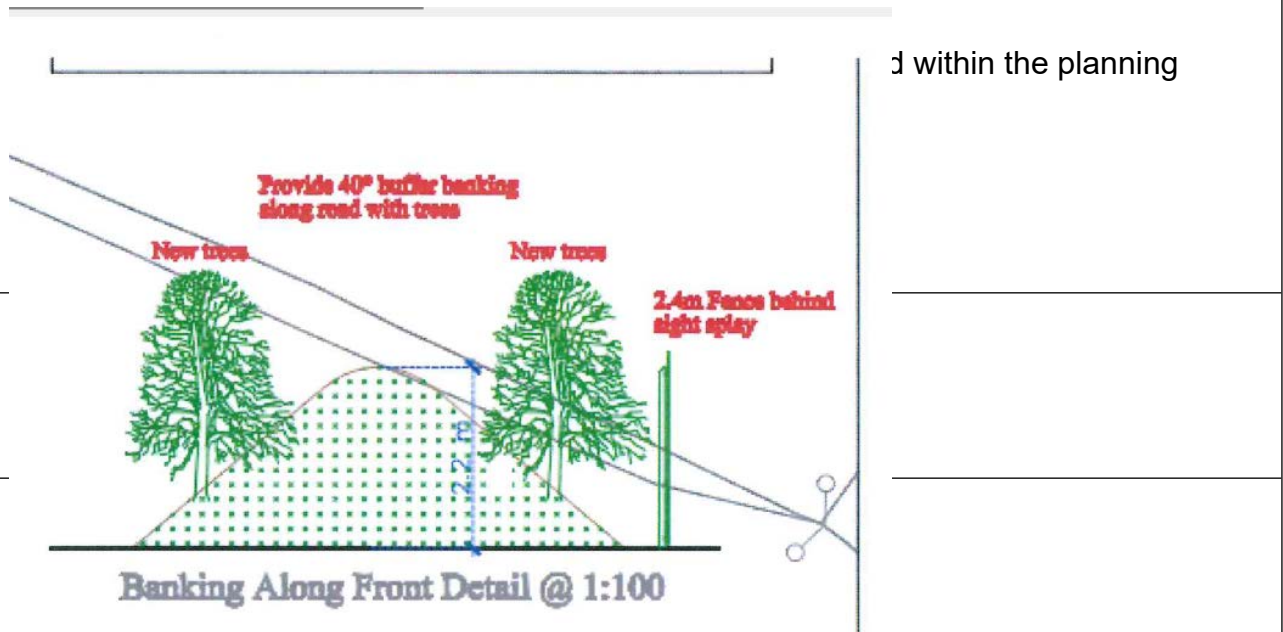
works commence.

Suggestions have been made for proposed boundary treatment, screening and alternative access details.

The proposed access has been fully considered by DFI Roads and they have no objections in terms of road safety or traffic concerns. Visually, the proposed access will not have a detrimental visual impact on existing rural character or issues with integration in line with policy CTY13 or CTY14 of PPS21.

As shown on the image below, the agent has provided details of a 2.4m fence along the front of the site behind the sight splays with 2m trees and a bund and a second row of 2m trees, these will help soften the visual impact while still providing enclosure, which would be expected for this type of this industrial nature.

I feel, the proposed planting scheme along with the existing vegetation and adjacent forested area provides adequate screening to the site and protection and will not significantly impact visually on any nearby dwellings. A condition will also be added to ensure the fence is palisade and dark in colour, which will soften views into the site along the proposed vegetation, as well as providing enclosure.



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

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

#### Condition 2

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 Rev01 uploaded 8 Dec 2023 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level

of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 3

No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing Drawing No 02 Rev 01 uploaded 8 Dec 2023 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 4

The industrial unit hereby permitted shall not operate outside 08:00 - 18:00hrs Monday to Friday, 08:00 - 13:00hrs on Saturday, and no operation on a Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect residential amenity from noise

#### Condition 5

All external doors to the proposed development shall remain closed at all times except when used for access and egress.

Reason: To protect residential amenity from noise

#### Condition 6

There shall be no storage of materials in the external areas associated with the proposed development.

Reason: To protect residential amenity from noise

#### Condition 7

Within 4 weeks of a written request by the Planning Department, following a noise complaint the site operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the site at the complainant's property following the procedures described in: BS 4142:2014 Methods for rating and assessing industrial and commercial sound. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To protect residential amenity from noise

#### Condition 8

There shall be no deliveries of goods to the industrial unit outside 08:00 - 18:00hrs Monday to Friday, 08:00 - 13:00hrs on Saturday, and no delivery of goods on a Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect residential amenity from noise

#### Condition 9

Prior to commencement of the development hereby permitted, the banking as detailed on plan 02 Rev 01 uploaded 8 Dec 2023 shall be carried out in the first available planting season unless otherwise agreed in writing with Mid Ulster District Council.

Reason: In the interests of visual amenity in this rural location.

#### Condition 10

The existing natural screenings of the site, as indicated on approved drawing Drawing No 02 Rev 01 uploaded 8 Dec 2023 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

#### Condition 11

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

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

#### Condition 12

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 13

Full details of the 2.4m fence as detailed on plan 02 Rev 01 uploaded 8 Dec 2023 showing a 2.4m palaside fence in dark green/black should be submitted to MUDC for their approval, prior to commencement of the development hereby permitted.

Reason: In the interests of visual amenity in this rural location.

**Signature(s):** Emma McCullagh

**Date:** 16 January 2024



<b>ANNEX</b>	
<b>Date Valid</b>	7 June 2023
<b>Date First Advertised</b>	19 December 2023
<b>Date Last Advertised</b>	20 June 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<b>Date of Last Neighbour Notification</b>	11 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1985/0333  Proposals: WORKSHOP  Decision: PG  Decision Date:</p> <p>Ref: LA09/2021/1285/PAN  Proposals: Proposed industrial unit and site office in existing industrial park.  Decision: PANACC  Decision Date: 07-OCT-21</p> <p>Ref: I/2004/0362/F  Proposals: Advanced road construction in conjunction with planning approval I/2001/0177/O.  Decision: PG  Decision Date: 15-OCT-04</p> <p>Ref: LA09/2023/0635/F  Proposals: Industrial unit and site office in existing industrial park  Decision:  Decision Date:</p> <p>Ref: I/2013/0379/F</p>	

Proposals: Proposed security office at entrance to approved site.

Decision: PG

Decision Date: 24-FEB-14

Ref: I/2001/0177/O

Proposals: Proposed Business Park to Accommodate Light Industrial Use (Class 4) with Associated Works

Decision: PG

Decision Date: 30-NOV-01

Ref: I/1995/0088

Proposals: Engineering Factory

Decision: PG

Decision Date:

Ref: I/2008/0416/F

Proposals: Proposed light industrial unit for class 4 use, in conjunction with approved road construction Ref: I/2004/0362/F

Decision: PG

Decision Date: 18-DEC-08

Ref: I/1993/0437

Proposals: Erection of Engineering Factory

Decision: PG

Decision Date:

Ref: I/1983/0181

Proposals: ERECTION OF DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: I/1983/018101

Proposals: ERECTION OF DWELLING AND GARAGE

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

Environmental Health Mid Ulster Council-

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

Environmental Health Mid Ulster Council-Planning Response LA09-23-0635..pdf

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

NIEA-PRT LA09-2023-0635-F.PDF

Rivers Agency-854532 - Final reply.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Elevations and Floor Plans Plan Ref: 03  
Elevations and Floor Plans Plan Ref: 04  
Elevations and Floor Plans Plan Ref: 05  
Cross Sections Plan Ref: 06  
Cross Sections Plan Ref: 07

**Notification to Department (if relevant)**

Not Applicable

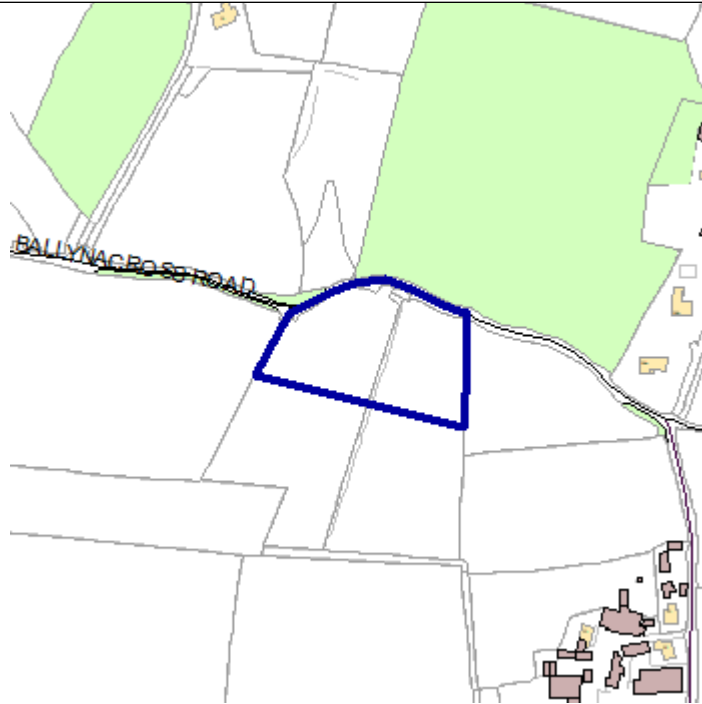


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2023/0652/O	<b>Target Date:</b> 25 September 2023
<b>Proposal:</b> Proposed Dwelling on a Farm	<b>Location:</b> Site at 150M West of 18A Ballynacross Road, Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr David Fulton 100 Carricknakielt Road Knockcloghrim Magherafelt BT45 8PU	<b>Agent Name and Address:</b> Mr Martin Kearney NEWLINE ARCHITECTS 48 Main Street Castledawson Magherafelt BT45 8AB
<b>Executive Summary:</b> <p>This application is brought to the planning committee with a recommendation for refusal. The proposal does not comply with Policy CTY 10 of PPS 21 in that the farm dwelling does not visually link or cluster with an established group of farm buildings. The proposal is also contrary to Policy CTY 13 and Policy CTY 14 of PPS 21 in that it would be unduly prominent in the landscape and the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0652-O.DOCX
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0652-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately

0.8 miles north west and outside the Knockcloghrim settlement limit as defined in the Magherafelt Area Plan 2015. The 0.92 hectare area site comprises two adjoining agricultural fields which front the Ballynacross Rd. The western field section of the site is relatively flat while the eastern portion slopes upwards to the east. The existing access to the site is that of a field gate. Field hedgerow runs down the middle of the site between the two fields, with a small scattering of trees. Site boundaries include field hedgerow along the northern roadside boundary and post and wire fencing along the southern edge of the site. There are no nearby farm buildings to the site. The wider surrounding environment consists mostly of agricultural fields with a series of farm yards, buildings and dwellings scattered all along the Ballynacross Rd.

### **Description of Proposal**

The proposed is an outline application for a proposed dwelling on a farm.

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

#### **Policy Consideration**

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

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

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

#### **Relevant Histories**

None

#### **Representations**

No third party representation have been received to date.

#### **Other Constraints**

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

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

The Flood Maps NI identify two small lines of surface water flooding on the western portion of the site which is the flatter area of land. This is a miniscule area of surface

water flooding. As a precaution, If approval is to be granted, it is recommended that a siting condition be applied so that the dwelling or any hard surfacing is located away from this area.

### Mid Ulster District Council Draft Plan Strategy 2030

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

### SPPS – Strategic Planning Policy Statement for Northern Ireland

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

### Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling on a farm and therefore must be considered against Policy CTY 10.

A consultation was made to DAERA who confirmed that the farm business is currently active and has been established for at least 6 years.

A check on planning portal of all the farm lands attached to the farm number provided confirm that no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of this application.

A new access is proposed for the dwelling at this outline stage. There are no nearby buildings on the farm that a dwelling at this site is able to visually link or cluster with. The agent was asked to consider an alternative siting with the applicant. It was suggested that a siting at lands at 100 Carricknakielt Rd (close to applicant's current address) would provide visual linkage with existing buildings on the farm, with scope to also provide a separation distance of 75m from the same group of buildings, which are used for pig farming.

Because the current siting is without visual linkage to any buildings on the farm, the

proposed development fails to satisfy Policy CTY 10.

Policy CTY 13 states planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This is an outline application and therefore such details as the design are only received at the reserved matters stage if approval is granted at this outline stage. It is considered that a dwelling at this site would be an unduly prominent feature in the environment. The site is quite open and sits close to the road. The most prominent views of the site are along the western approach of the Ballynacross Rd where both fields are in clear view. It is my view that a dwelling at this site would spoil the rural character of this area with its prominence. A dwelling at this site would also have to rely almost entirely on the use of new landscaping for its integration. It is therefore my view that the proposed development fails to satisfy Policy CTY 13.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As mentioned above, it is considered that a new dwelling at this site would be unduly prominent in the landscape and damage the rural character of the area. It is therefore my view that the proposed development fails to satisfy Policy CTY 14.

#### Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. The proposed access arrangements involve the creation of a new access onto the public road. DfI Roads were consulted in this application and provided no objection to the proposed subject to condition. It is considered that the proposed accords with Policy AMP 2 of PPS 3.

#### Recommendation

Given the proposed development does not site to visually link or cluster with any established buildings on the farm, the proposed fails to meet Policy CTY 10 and therefore I have to recommend that this application be refused. It is also considered that a dwelling at this site would be a prominent feature in the landscape and therefore it is my opinion that the proposed development fails to meet Policy CTY 13 and CTY 14 of PPS 21.

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

Refuse is recommended

#### Refusal Reasons



**Reason 1**

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

**Reason 2**

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

**Reason 3**

The proposal is contrary to Policy CTY 13 and Policy CTY 14 of PPS 21 in that it would be unduly prominent in the landscape and the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.

**Signature(s):** Benjamin Porter

**Date:** 23 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	12 June 2023
<b>Date First Advertised</b>	27 June 2023
<b>Date Last Advertised</b>	27 June 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<p><b><u>Planning History</u></b></p> <p>Ref: LA09/2023/0652/O Proposals: Proposed Dwelling on a Farm Decision: Decision Date:</p> <p>Ref: H/2003/0797/F Proposals: New 33kv Overhead Electric Line and alterations to existing lines. Decision: Decision Date:</p>	
<p><b>Summary of Consultee Responses</b></p> <p>DAERA - Coleraine-Consultee Response LA09-2023-0652-O.DOCX DAERA - Coleraine-Consultee Response LA09-2023-0652-O.DOCX DFI Roads - Enniskillen Office-Outline resp.docx</p>	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Farm Boundary Map Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable

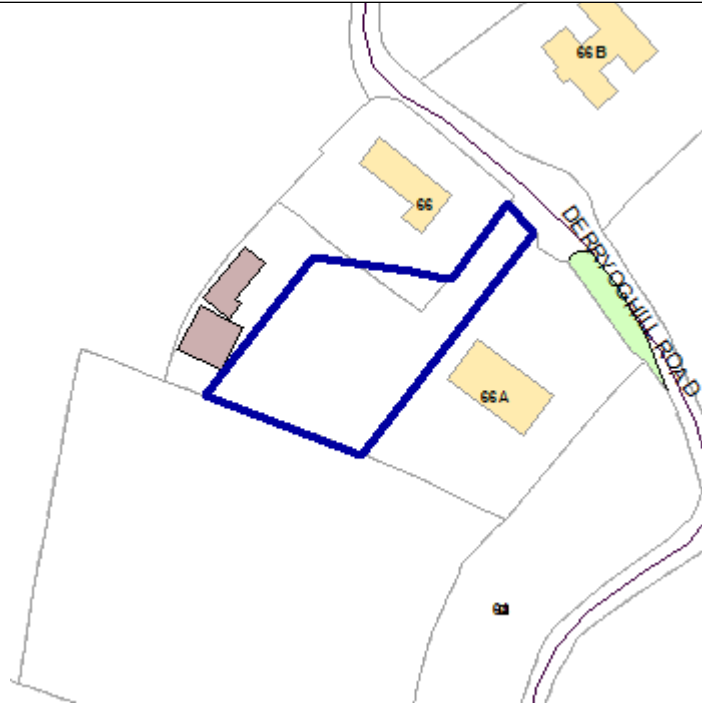


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2023/0733/RM	<b>Target Date:</b> 17 October 2023
<b>Proposal:</b> Proposed dwelling	<b>Location:</b> Between 66 and 66A Derryoghill Road Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Jacinta Hughes 136 Clay Rd Keady Armagh BT60 3QU	<b>Agent Name and Address:</b> Mr John Aidan Kelly 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>  One third party representation has been received. The main issues raised are concerning sewage and the septic tank.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The application site lies within the rural area outside any defined settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site comprises a roadside plot of land to the side and rear of No.66 Derryoghill Road with the red line also including a portion of the existing curtilage of No.66. The adjacent road network is a minor, single-track winding road. The settlement of the Moy is in proximity to the

northeast. The immediate surrounding context is rural characterised predominantly by agricultural fields, however there is moderate development pressure in the immediate context. The site is relatively open to the front with gravel and hard-core present particularly around the entrance where there is a metal gate for enclosure. The southern boundary is well defined with established trees. The eastern boundary is currently defined with scattered trees and wooden fencing enclosing the neighbouring property, No.66a. The western boundary of the proposal site is currently undefined however beyond the red line behind the existing outbuildings, which are in the western corner of the field, established trees and hedging define the western boundary of the land. There is a gradual incline from northeast to southwest, with the proposal site on slight elevated ground from that of the adjacent road.

### **Description of Proposal**

This is a reserved matters for a proposed dwelling at Between 66 and 66A Derryoghill Road, Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one third-party representation has been received.

One comment has been submitted from the neighbour Mr Anderson at No. 66a Derryogill Road which is to the east of the site. Mr Anderson has concerns where the sewage from the proposed dwelling will go as it is positioned in front of his septic tank. I consider the issues raised are third party concerns and are not material planning considerations. It is the responsibility of the owner/applicant to ensure planning approval can be enacted according to the approved plans.

#### **Planning History**

LA09/2020/0657/O - Proposed Dwelling - Between 66 & 66A Derryoghill Road,

Dungannon – permission granted 8<sup>th</sup> September 2021.

LA09/2022/1551/F - Variation of condition 6 of planning approval LA09/2020/0657/O - Between 66 & 66A Derryoghill Road, Dungannon – permission granted 8<sup>th</sup> February 2023.

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

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

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

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

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

### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

There is an outline application LA09/2020/0657/O at this site, which was granted approval on 8<sup>th</sup> September 2021. This application was received and validated on the 4<sup>th</sup> July 2023 so I am content the reserved matters has been submitted within 3 years from the approval date of the outline. Therefore, I am content the principle of development has been established at the site. I am satisfied all the conditions at outline stage have been met so this assessment will only consider the design and boundaries at the site.

### **CTY 13 – Integration and Design of Buildings and CTY 14 – Rural Character**

The application site is a portion of land between No.66 to the north and No.66a to the south. The topography rises from the roadside where it levels off at the back of the site where the proposed dwelling will be situated. As the dwelling will sit to the rear of the site with associated farm buildings to the north, I am content the proposal will not be a prominent feature in the landscape. There is hedging along the southern boundary, but the applicant has proposed additional planting which will assist in protecting

neighbouring amenity.

As shown in figure 1 below the proposed dwelling is single storey with a ridge height of 5.3m to finished floor level. The dwelling has external finishes of grey tile or slate roof tiles, smooth rendered walls, and upvc windows and doors. The proposed dwelling is characteristic of a simple rural form and a dwelling in the countryside. The dwelling is set back from the roadside and there are limited critical views in both directions.



Figure 1 – Proposed front elevation of the dwelling.

As stated previously as this is a modest single storey dwelling, I am content it will not be a prominent feature in the landscape.

Overall, I consider the proposed dwelling will integrate into the landscape and not have a detrimental impact on rural character.

#### **Other Considerations**

I have checked the statutory map viewers and I am content there are no other ecological, flooding or built heritage issues at the site.

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

Approve is recommended

The proposal is recommended for approval as it complies with CTY 13 and CTY14 in PPS 21.

#### **Approval Conditions**

##### **Condition 1**

The development to which this approval relates must be begun by whichever is the later of the following dates:-

- i. The expiration of a period of 5 years from the grant of outline planning permission;



or

ii. The expiration of a period of 2 years from the date hereof.

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

**Condition 2**

Prior to commencement of the development hereby permitted, access and visibility splays of 2m x 33m in both directions and 33m forward sight distance shall be provided in accordance with the approved drawing No.02 Rev 1 date received 08 DEC 2023, or as may otherwise be agreed in writing with the Department. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained 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**

All landscaping comprised in the approved details of landscaping on the approved drawing No.02 Rev 1 date received 08 DEC 2023 shall be carried out in the first planting season following the occupation of the development hereby approved. Any tree shrub or other plants identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure the development integrates into the countryside.

**Condition 4**

The existing natural screenings of the site shall be retained in accordance with details shown on approved drawing 02 Rev 1 date received 08 DEC 2023. These shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of biodiversity.

**Condition 5**

The existing buildings identified as A and B on approved drawing No.02 Rev 1 date received 08 DEC 2023 shall be retained. These shall be retained unless necessary to prevent danger to the public.

Reason: This development is granted solely on the basis these buildings provide enclosure to the proposed development.

**Signature(s):** Gillian Beattie

**Date:** 11 December 2023

<b>ANNEX</b>	
<b>Date Valid</b>	4 July 2023
<b>Date First Advertised</b>	17 July 2023
<b>Date Last Advertised</b>	17 July 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 66A Derryoghill Road Dungannon Tyrone BT71 7JJ</p> <p>The Owner / Occupier 66 Derryoghill Road Dungannon Tyrone BT71 7JJ</p> <p>The Owner / Occupier 66B Derryoghill Road Dungannon Tyrone BT71 7JJ</p>	
<b>Date of Last Neighbour Notification</b>	11 July 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1551/F Proposals: Variation of condition 6 of planning approval LA09/2020/0657/O Decision: PG Decision Date: 15-FEB-23</p> <p>Ref: LA09/2020/0657/O Proposals: Proposed Dwelling Decision: PG Decision Date: 08-SEP-21</p> <p>Ref: M/1998/0587 Proposals: Erection of dwelling Decision: PG Decision Date:</p> <p>Ref: LA09/2023/0733/RM Proposals: Proposed dwelling Decision: Decision Date:</p>	

Ref: M/1978/0347  
Proposals: EXTENSIONS TO DWELLING  
Decision: PG  
Decision Date:

Ref: M/2003/0996/O  
Proposals: Proposed dwelling  
Decision: PG  
Decision Date: 17-OCT-03

**Summary of Consultee Responses**

-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Proposed Plans Plan Ref: 02 Rev 1

**Notification to Department (if relevant)**

Not ApplicableNot ApplicableNot Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.22
<b>Application ID:</b> LA09/2023/0790/F	<b>Target Date:</b> 10 November 2023
<b>Proposal:</b> Proposed garage	<b>Location:</b> 73 Favour Royal Road Aughnacloy
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Stuart Henderson 73 Favour Royal Road Aughnacloy BT69 6BR	<b>Agent Name and Address:</b> Mr raymond gillespie 1 Lismore Road Ballygawley Dungannon BT70 2ND
<b>Executive Summary:</b> <p>The application is being presented to Committee as the scale, massing, design and external materials of the proposed garage are not sympathetic with the built form and appearance of the existing property, and would, if approved, appear incongruous in the rural countryside.</p> <p>The proposal is contrary to Policy CTY1 of PPS 21, Sustainable Development in the Countryside and EXT1 of the Addendum to PPS 7, Residential Extensions and Alterations.</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

### 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 at No. 73 Favour Royal Road, approximately 2.6km north-west of Aughnacloy as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is roughly rectangular shaped and includes a recently constructed two-storey dwelling and its square defined curtilage, as well as a portion of an agricultural field to the west of the dwelling and the access to the public road. A post and wire fence defines the entire curtilage of the dwelling. The southern boundary of the site outlined in red is undefined as it is cut out of a larger agricultural field. A hedgerow defines the northern, eastern and western boundaries of the site. The site is set back from the public road by approximately 60m and is at a lower level than it with rising land to the north.

The surrounding area is agricultural, of an undulating nature, with development taking the form of single dwellings and associated outhouses. There is little recent development pressure in the area, with a 2 storey dwelling recently constructed to the south-west of the site, between the application site and the public road.

### **Description of Proposal**

Full application for proposed 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/2000/0243/O

Proposals: Chalet Dwelling

Decision: PG

Decision Date: 31-JUL-00

Ref: M/2003/0700/O

Proposals: Dwelling

Decision: PG

Decision Date: 01-AUG-03

Ref: M/2003/1191/O

Proposals: Proposed dwelling

Decision: PG

Decision Date: 27-NOV-03

Ref: M/2006/1954/F

Proposals: Proposed Dwelling and Garage

Decision: PG

Decision Date: 02-OCT-07

Ref: M/2006/1973/RM

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 21-MAR-07

Ref: LA09/2021/0440/F

Proposals: Change of house design & location as approved under M/2006/1973/RM.

Decision: PG

Decision Date: 08-JUL-21

### **Representations**

One (1) no. neighbour notification has been carried out as well as press advertisement in line with the Council's statutory duty. To date no third party representations have been received.

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

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and is not subject to any area plan designations, as such, existing



planning policies should be applied in this assessment.

### **Mid Ulster District Council Draft Plan Strategy 2030**

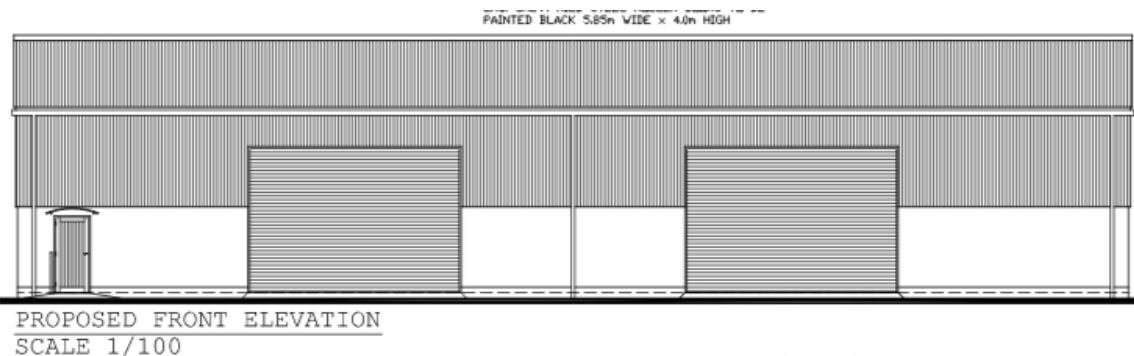
The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The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

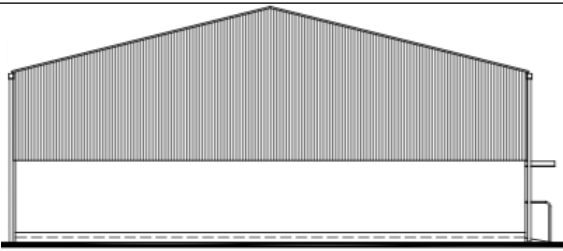
### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. 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 PPS21 Sustainable Development in the Countryside and the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (The Addendum).

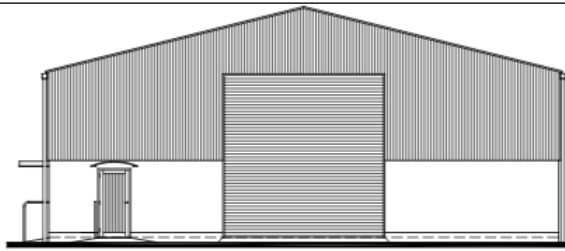
Planning Policy CTY 1 of PPS 21 allows for extensions in the countryside where they meet with policy EXT 1 of PPS7, which permits development where a range of criteria have been met.

This application is for a domestic garage as clarified by the agent on 11<sup>th</sup> September 2023 and 4<sup>th</sup> December 2023. The proposal also includes an extension to the existing curtilage and the additional fee for this has been paid. The proposed garage is sited approximately 60m to the west of the dwellinghouse and measures 30.5m x 15.6m x 7m in height. There are 2 no. roller doors and a pedestrian door to the front elevation, with a roller door and pedestrian door on one of the side elevations. The proposed finishes are sand/cement smooth render to the lower walls with Kingspan roof and wall system colour grey fixed as per Kingspan specification. The roller doors will be painted black.





PROPOSED SIDE ELEVATION  
SCALE 1/100

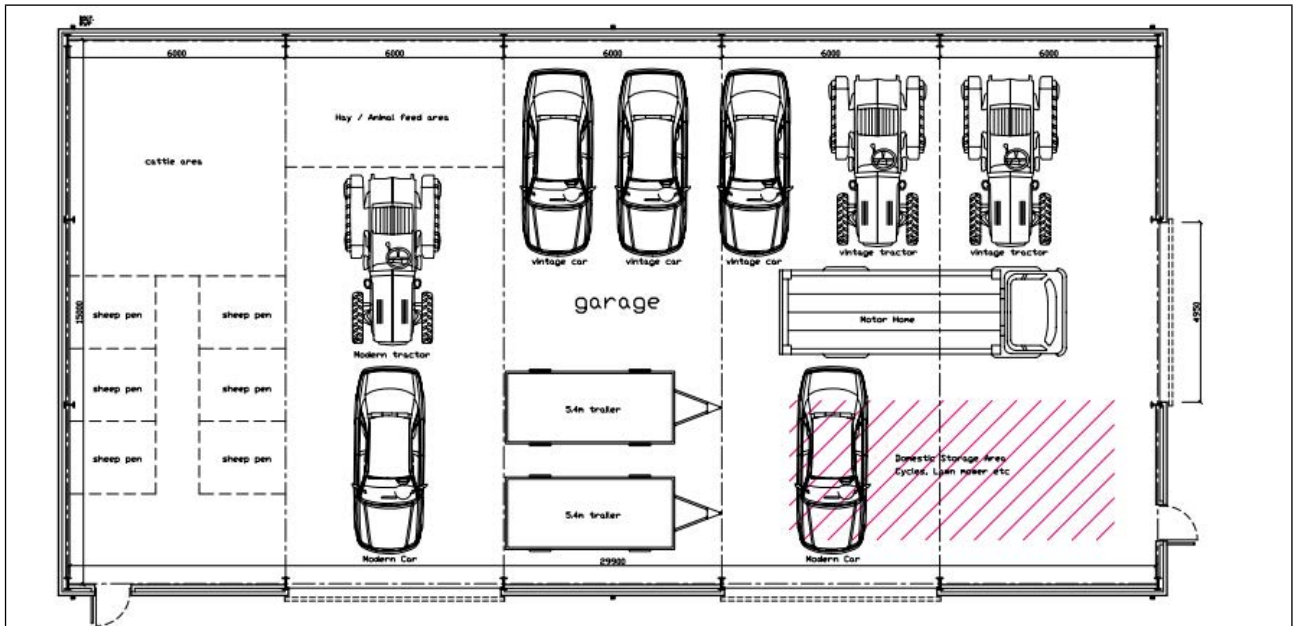


PROPOSED SIDE ELEVATION  
SCALE 1/100  
GALV. MILD STEEL ROLLER DOORS TO BE  
PAINTED BLACK 4.95m WIDE x 5.0m HIGH

The extended curtilage will increase the size of the domestic curtilage of the dwelling by approximately 80m, with the proposed garage located 60m from the dwelling. I consider this a substantial increase for a domestic curtilage. The large building is not sympathetic with the built form and appearance of the dwelling on site in terms of scale, massing, design and external materials as it has the appearance of an industrial shed as opposed to a domestic garage. The proposal is not subordinate to the dwelling and in my opinion, exceeds the size and scale, as well as the appearance, of what you would expect for a domestic garage.

Additionally, I do not consider the extended curtilage is reflective of the character of the area. Paragraph A13 of PPS7 states that in the countryside ancillary buildings should be designed as part of the overall layout to result in an integrated rural group of buildings. The large separation distance between the dwelling and the proposed building gives the appearance of a standalone building in the countryside, as opposed to an integrated rural group of buildings.

The agent has been informed of our concerns and provided a further supporting statement whereby they argue that the applicant has 2 no. domestic cars, 3 no. vintage cars, 2 no. vintage tractors, a motorhome and 2 no. 5.4m long trailers that he needs to store safely. The applicant is from a farming family in Fermanagh and he would also do the repairs/service on some of the farm machinery solely for his own farm. He also breeds rare sheep and he would like to use a portion of the shed for this, with approximately  $\frac{1}{4}$  of the building used for animals with  $\frac{3}{4}$  of the shed domestic use. An indicative layout has been provided and is shown below.



**Indicative layout of proposed garage**

The agent feels that while it will be part domestic, part agricultural it will be classed as a domestic garage hence falling under PPS7 guidelines. I do not agree that a mixed use development can be considered solely as a domestic garage. The site does benefit from lying below the level of the public road, with rising land to the rear, and critical views will not be long term. The agent argues that the positioning of the garage will minimise critical views, and that the mass of the building would overpower the existing house if located near it. They also indicate that they are considering an extension to the side of the dwelling and do not want to be looking into the garage. No application for this extension has been received to date and therefore cannot be considered. There are no overlooking concerns or overshadowing concerns as there are no neighbouring properties in the vicinity. No vegetation removal is required to facilitate development; consequently, there is no unacceptable loss to trees or other landscape features. Sufficient space remains within the curtilage of the property for recreational and domestic purposes, and there will be no negative impact on parking and manoeuvring of vehicles within the site, given the large increase in curtilage. Whilst the proposal meets a number of criteria set out in EXT 1 it fails to meet criterion (a) and therefore cannot be approved.

It is my opinion that the proposed building is contrary to PPS7 given its size, scale and massing, and the increase in the size of the curtilage is not acceptable in the rural countryside. The agent has indicated that his client needs all the floor area applied for but would be willing to reduce the overall height by approximately 0.5m. I do not consider this will reduce the significant impact of the building, or make it appear less incongruous in the countryside. Furthermore, I am not persuaded that the building is wholly domestic in nature and is contrary to PPS7 and I recommend refusal.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside and EXT1 of the Addendum to Planning Policy Statement 7, Residential Extensions and Alterations in that the scale, massing, design and external materials of the proposed garage are not sympathetic with the built form and appearance of the existing property, and would, if approved, appear incongruous in the rural countryside.

**Signature(s):** Deirdre Laverty

**Date:** 18 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	28 July 2023
<b>Date First Advertised</b>	7 August 2023
<b>Date Last Advertised</b>	7 August 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 75 Favour Royal Road Aughnacloy Tyrone BT69 6BR	
<b>Date of Last Neighbour Notification</b>	2 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2021/0440/F Proposals: Change of house design &amp; location as approved under M/2006/1973/RM. Decision: PG Decision Date: 08-JUL-21</p> <p>Ref: M/2003/0446/O Proposals: Proposed 2 story dwelling and garage Decision: PG Decision Date: 02-SEP-03</p> <p>Ref: M/2006/1954/F Proposals: Proposed Dwelling and Garage Decision: PG Decision Date: 02-OCT-07</p> <p>Ref: M/2003/0700/O Proposals: Dwelling Decision: PG Decision Date: 01-AUG-03</p> <p>Ref: LA09/2023/0790/F Proposals: Proposed garage</p>	

Decision:  
Decision Date:

Ref: M/2003/1191/O  
Proposals: Proposed dwelling  
Decision: PG  
Decision Date: 27-NOV-03

Ref: LA09/2021/0441/F  
Proposals: Change of house design & location as approved under M/2006/1954/F.  
Decision: PG  
Decision Date: 08-JUL-21

Ref: M/2006/1973/RM  
Proposals: Proposed dwelling and garage  
Decision: PG  
Decision Date: 21-MAR-07

Ref: M/2000/0243/O  
Proposals: Chalet Dwelling  
Decision: PG  
Decision Date: 31-JUL-00

### **Summary of Consultee Responses**

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

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Elevations and Floor Plans Plan Ref: 02  
Site Location Plan Plan Ref: 01 rev. 01

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

Not Applicable

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.23
<b>Application ID:</b> LA09/2023/0874/F	<b>Target Date:</b> 1 December 2023
<b>Proposal:</b> Proposed farm shed	<b>Location:</b> Lands Approx 53M East of 17A Corvanaghan Road Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Charles Quinn 35 Corvanaghan Road Cookstown BT80 9TW	<b>Agent Name and Address:</b> Mor Architects 11 Dunamore Road Cookstown BT80 9NR
<p><b>Executive Summary:</b></p> <p>The proposal is being presented to members with the recommendation to refuse the application as it is contrary to CTY 12 in that it has not been demonstrated that the proposal is necessary for the efficient use of the agricultural holding. Insufficient evidence has been provided to demonstrate that there is a need for the building. Furthermore, the size and scale of the building is unsuitable for the site. It is not sited beside existing farm buildings and again, no evidence has been provided to demonstrate it is essential for the efficient functioning of the business. The proposal also fails to comply with CTY 13 &amp; CTY 14 due to the size and scale and the location of the proposed shed, it would result it becoming a prominent feature in the landscape.</p> <p>DfI Roads were consulted and requested amendments which to date have not been requested or provided by the agent. Therefore, in its current form the application also fails to comply with PPS 3. It is likely that these issues could be overcome with the amendments being made as requested. No third party objections were received.</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 full.docx
Statutory Consultee	DAERA - Omagh	LA09-2023-0874-F.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	DAERA - Omagh	LA09-2023-0874-F.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, 12, 13 & 14 of PPS 21. The proposal is also contrary to PPS 3.



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

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The red line of the application site is located within the southern part of a larger agricultural field which extends further north east. The land rises in a north direction gradually. The southern boundary of the site is defined by a low level hedgerow separating the site and the public road. The northern boundary is defined partly by the gable end of a third party dwelling and garage, with trees defining the remainder of the boundary at that side. The south eastern boundary is partially defined by trees and hedgerows. The corner of the site is open with a field access. The north-eastern boundary is currently undefined with the agricultural field extending further. The surrounding area is a mix of residential dwellings located immediately to the north west, with single dwellings located sporadically throughout the countryside.

## **Description of Proposal**

This is a full planning application for a proposed farm shed.

### **Representations**

No third-party representations have been received.

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

### **Policy Consideration**

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

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy.

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

*(a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;*

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

Firstly, with regards to determining if the agricultural holding is active and established as set out within Policy CTY 10, DAERA responded to confirm that the farm business is active and established.

With regards to criteria A, I am not satisfied enough justification and information has been provided to justify the need for the shed and how it is necessary for the efficient use of the holding. The agent submitted a statement of case in which the applicant stated they wish to start a sheep enterprise now, and they state no animals are currently kept on the holding as there is no housing available. However, within the statement of case they contradict this by stating there is an agricultural shed adjacent to the applicants dwelling that is being used mainly for domestic storage as there is no garage associated with the dwelling. The agricultural shed identified at the applicants home at 35 Corvanaghan Road measures approximately 170sqm with the proposed shed measuring approximately 230sqm. From this, I believe it is reasonable to assume that the existing shed at 35 Corvanaghan Road could be utilised for the storage of animal feed, veterinary medicine, straw and hay. The onus is on the applicant to provide information on why the proposed shed is necessary for the efficient use of the agricultural holding, which I do not believe is the case.

I do not believe the character and scale of the proposal is appropriate for the local landscape and it will not visually integrate into the local landscape. The agent has not provided a strong enough justification for the need for the proposed shed, especially one of this size. In my opinion, the proposed shed is larger than what is required to accommodate a small herd of sheep. In terms of the ridge height the proposed shed measures approximately 6.3m in height above finished floor level. The shed also has a roller shutter door which is common with agricultural buildings to store machinery such as tractors and other machinery. If the applicant owns any machinery which they have not confirmed, it will leave the question where these are currently stored. The applicant has not provided any clear need for the proposed shed and why it is required to be at the scale proposed. With regards to the site, although there are boundaries on the wider boundary of the site, I believe it is a very open site, with the land rising in a north-eastern direction, it would result in the building being prominent and failing to integrate into the local landscape. The proposed block plan only indicates proposed post and wire fence being used on the boundary of the site, which will not aid integration of the proposal.

I have no concerns that the proposal will not have an adverse impact on the natural or built heritage. Environmental Health were consulted on the proposal and advised that the original plans showed the proposed shed located within 75m of a third party dwelling and it may result in nuisance. The agent then amended the site block plan and moved the proposed shed further north east to ensure there was a separation distance of at least 75m between the proposed shed and third party dwellings. Furthermore, a

condition could be applied to any approval to ensure that the shed is used only for lambing purposes and general storage of farm machinery and feed.

Policy CTY 12 states further that;

*In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:*

- *There are no suitable existing buildings on the holding or enterprise that can be used;*
- *The design and materials to be used are sympathetic to the locality and adjacent buildings: and*
- *The proposal is sited beside existing farm or forestry buildings.*

I believe there is a suitable building located on the holding at the applicants home address at 35 Corvanaghan, which in the statement of case has been referred to as an agricultural shed. While the scale of the proposed shed is excessive I am content with the design and materials being proposed. The proposal is not sited beside existing farm buildings.

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

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

I am content that there no alternative sites available at the group of buildings at No.35 Corvanaghan Road, based on the information provided by the agent. However, I am not satisfied that it is essential for the efficient functioning of the business. No demonstrable health and safety reasons have been provided.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. As previously mentioned, I do not believe the proposal visually integrates into the local landscape. It will result in the building being a prominent feature in the landscape and lacks long established natural boundaries to provide a suitable degree of enclosure. While the scale of the proposal is not acceptable in the local area, I am satisfied that the design of the building in terms of its finishes is acceptable.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously mentioned, the proposal will result in the building being a prominent feature in the landscape which will erode the rural character. I have no concerns regarding suburban style build-up of development or add to or create a ribbon development.

### PPS 3: Access, Movement and Parking

DfI Roads were consulted on the proposed plans and requested a number of amendments be made to ensure that a safe access is being provided. These amendments were not sought as the principle of development has not been accepted at this location. As such, in its current form the proposal is contrary to Policy AMP 2 of PPS 3 as insufficient information has been provided to demonstrate that the proposal will create a safe access onto the public road. It should be noted for members that should the principle of development be accepted here in line with other prevailing policy, any concerns related to PPS 3 are likely able to be overcome.

### **Other Material Considerations**

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

### **Summary of Recommendation:**

Refuse is recommended

### Refusal Reasons

#### Reason 1

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

#### Reason 2

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that; there is an active and established farm holding, the building is necessary for the efficient use of the agricultural holding and in terms of character and scale it is not appropriate to its location and it will not visually integrate into the local landscape and no additional planting has been proposed. The proposal is also not sited beside existing farm buildings.

#### Reason 3

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

**Reason 4**

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

**Signature(s):** Ciaran Devlin

**Date:** 23 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	18 August 2023
<b>Date First Advertised</b>	29 August 2023
<b>Date Last Advertised</b>	29 August 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 17A Corvanaghan Road Cookstown Tyrone BT80 9TN	
<b>Date of Last Neighbour Notification</b>	24 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1991/0269 Proposals: Dwelling and Garage Decision: PR Decision Date:</p> <p>Ref: I/1981/032701 Proposals: ERECTION OF BUNGALOW Decision: PG Decision Date:</p> <p>Ref: I/1981/0327 Proposals: BUNGALOW Decision: PG Decision Date:</p> <p>Ref: I/2001/0802/O Proposals: Site for dwelling Decision: PG Decision Date: 14-JAN-02</p> <p>Ref: LA09/2023/0874/F Proposals: Proposed farm shed</p>	

Decision:  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.doc  
Roads Consultation full.docx  
DAERA - Omagh-LA09-2023-0874-F.docx  
Environmental Health Mid Ulster Council-Planning response.pdf  
DAERA - Omagh-LA09-2023-0874-F.docx

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

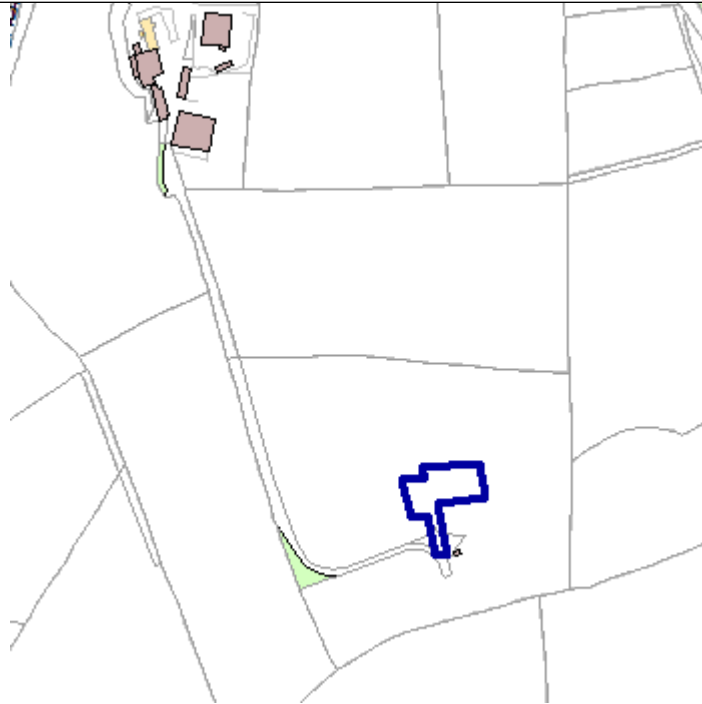
Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.24
<b>Application ID:</b> LA09/2023/0899/F	<b>Target Date:</b> 12 December 2023
<b>Proposal:</b> Proposed replacement of existing wind turbine as approved under planning reference H/2011/0329/F with a new wind turbine to a hub height of 53m and a rotar diameter of 52m along with associated development	<b>Location:</b> Lands Approx 320M South East of No 6 Brackaghislea Road Draperstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Austin Kelly 6 Brackaghislea Road Draperstown Magherafelt BT45 7JZ	<b>Agent Name and Address:</b> Clyde Shanks Ltd 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b> <p>Application is to replace an existing turbine with a new larger turbine. Existing turbine approved under H/2011/0329/F with a height to the hub of 40m and rotor diameter of 29m. This proposed turbine has a hub height of 53m and rotor diameter of 52m.</p> <p>Application is presented to committee because there have been three objections. Objections relate to size of turbine, noise, shadow flicker and impacts on character of the area. All of these issues have been addressed in the case officers report.</p> <p>Env Health have been consulted and have no issue subject to imposition of condtions. A curtaliment calendar will be implmented to mitigate issues of shadow flicker which will impact on 8 identiifed propoerties. It should be noted that objectors will NOT be impacted by shadow flicker as identified in the shadow flicker assessment.</p> <p>Proposal is in accordance with PPS 18.</p>	



Recommendation is to approve subject to condition.

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NIEA	PRT LA09-2023-0899-F.PDF
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0899 F V0 WT 320m S of 6 Brackaghlistlea Rd.doc
Non Statutory Consultee	ESB Telecoms Ltd	
Non Statutory Consultee	National Air Traffic Services	Land approx 320M SE of No 6 Brackaghlistlea Road - no impact.pdf
Non Statutory Consultee	Joint Radio Company	
Non Statutory Consultee	P.S.N.I Information And Communications Services	MUCLA0920230899F.pdf
Non Statutory Consultee	Belfast City Airport	NSO Letter.rtf
Non Statutory Consultee	Belfast International Airport	BIA No Objections.pdf
Non Statutory Consultee	UK Crown Bodies - Safeguarding (DIO)	

Non Consultee	Statutory	Arqiva Services Limited	<p>LA09_2023_0899_F_- Arqiva response.docx The wind turbine co-ordinates in the application form do not match with the Location - Lands Approx 320M South East of No 6 Brackaghlistlea Road, Draperstown</p> <p>The turbine co-ordinates in the application form are 282022 (E) 403838 (N), which place the turbine close to a separate application (LA09/2023/0904/F).</p> <p>Can the correct turbine co-ordinates be provided, as an Arqiva RBL link is close to the vicinity of 6 Brackaghlistlea Road, Draperstown.</p>
Non Consultee	Statutory	Environmental Health Mid Ulster Council	LA09.2023.0899.F .pdf
<b>Representations:</b>			
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			
<b>Summary of Issues</b>			
<b>Characteristics of the Site and Area</b>			
<p>The site is located approximately 3.5km south east of the settlement of Draperstown, in the countryside as per the Magherafelt Area Plan.</p> <p>The site consists of a rectangular shaped field which slopes considerable downwards from south to north. There is an agricultural laneway which runs along the western boundary and leads from a farmyard which is connected to the field. The address of the farmyard is no. 6 Brackalisleagh Road. The laneway leads to an existing wind turbine</p>			

which was approved under H/2011/0329/F.

### **Description of Proposal**

The proposal is for a new turbine to replace that approved under H/2011/0329/F. The application is for a turbine which is 53m high to the hub and a rotor diameter of 52m. There will be an overall height to the tip therefore of 79m. The existing turbine was approved as 40m to the hub and 29m rotor diameter. The overall height of the turbine, as approved therefore is 54.5m.

The new, proposed turbine will therefore be 24.5m higher in total (i.e. from base to tip) and have a hub height which is greater by 13m.

The new proposed turbine will also be sited approx. 8.5 metres to the north, further down the slope of the field.

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

#### **Policy Consideration**

The relevant policy considerations are;

- Magherafelt Area Plan (MAP)
- SPPS – Strategic Planning Policy Statement
- PPS 21 – Sustainable Development in the Countryside
- PPS 18 – Renewable Energy
- Best Practice Guidance (BPG) to PPS 18
- Wind Energy Development in Northern Ireland Landscapes – SPG TO PP S18 (2010)

#### **Magherafelt Area Plan (MAP)**

The site is located in the countryside as per the MAP and therefore must be considered under the prevailing policy for the rural area which is PPS 21, Sustainable Development in the Countryside.

#### **SPPS**

Para. 6.224 of the SPPS states that development that generates energy from renewable resources will be permitted where the proposal and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on the following planning considerations:

- public safety, human health, or residential amenity;

- visual amenity and landscape character;
- biodiversity, nature conservation or built heritage interests;
- local natural resources, such as air quality, water quality or quantity; and,
- public access to the countryside.

### PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 states that one acceptable form of development in the rural area is renewable energy development, where it accords with PPS 18. PPS 18 therefore becomes the main policy consideration in relation to the specific details of this application.

### PPS 18 – Renewable Energy

Policy RE1 states that development that generates energy from renewable resources will be permitted provided the proposal will not result in an unacceptable adverse impact on:

- a) Public safety, human health or residential amenity;
- b) Visual amenity and landscape character;
- c) Biodiversity, nature conservation or built heritage interests;
- d) Local natural resources, such as air quality or water quality; and
- e) Public access to the countryside.

The policy goes on to say, more specifically to wind energy development that they will also be required to demonstrate all of the following:

- (i) that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines;
- (ii) that the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications;
- (iii) that the development will not create a significant risk of landslide or bog burst;
- (iv) that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;
- (v) that no part of the development will have an unacceptable impact on roads, rail or aviation safety;
- (vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors<sup>1</sup> (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light; and

- (vii) that above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

The first point to consider therefore is the potential for this turbine to impact on human health and residential amenity.

The closest property to the proposed turbine is approximately 200m away so the risk to habitable property if the turbine were to collapse or throw a blade is minimal. Likewise the nearest public road is 300m away so any potential impact on road safety is not an issue to consider.

Noise from wind turbines can be an issue which affects human health. In relation to noise from this proposed, more powerful turbine, Environmental Health have been consulted and have not stated any objection subject to conditions restricting noise at certain properties. They have also sought and received confirmation that no. 6 Brackalisleagh Road has a financial interest in the turbine.

As well as noise, shadow flicker has potential impact negatively on residential amenity. Shadow flicker is unlikely to occur at properties outside of a distance of 10 times the rotor diameter and PPS 18 best practice guidance recommends that shadow flicker at properties within this distance is kept to a minimum of 30 hours per year or 30 minutes per day.

As part of this application, the developer has submitted a shadow flicker assessment which shows that there are 8 properties within the distance of 10 times the rotor diameter which have potential to be affected by shadow flicker to a level above that recommended as acceptable by PPS 18 BPG. These properties are;

- 6 Brackalisleagh Road
- 7 Brackalisleagh Road
- 8 Brackalisleagh Road
- 8a Brackalisleagh Road
- 10 Brackalisleagh Road
- 10a Brackalisleagh Road
- 111 Iniscarn Road
- 114 Iniscarn Road

The shadow flicker assessment goes on to propose mitigation for these properties by way of a curtailment calendar which sets out times when the turbine shall be shut off from operating in order to keep shadow flicker below the recommended parameters. I have spoken via telephone with the author of the report on 17/01/2024 and he confirmed that the curtailment calendar is adequate to ensure none of the properties in question will suffer from shadow flicker above the recommended exceedances.

I am therefore satisfied that this curtailment calendar can be implemented via a condition

to ensure that shadow flicker is not experienced at any properties, above the recommended level of 30 hours per year or 30 minutes per day.

In terms of the visual impact of the proposed turbine, the main view of the existing turbine is from Brackalisleagh Road and from the Drpaerstown Road, both of which are less than 1km away. The existing turbine is a prominent feature on the skyline when viewed from Brackaghlistlea Rd, as is viewed from the photograph below. Given the roadside hedges and topography, views from the Draperstown Road are less widespread and are softened by the backdrop of Slieve Gallion to the south.



The site is located within the Upper Moyola Valley Landscape Character Area as defined by the NILCA 2000 and described as “undulating” with a “strong sense of enclosure.” The Supplementary Planning Guidance (SPG) for Wind Energy in Northern Ireland Landscapes”, states that this LCA has a high to medium sensitivity in relation to new turbines with the least sensitive part of the LCA being the southern edge of the valley, on the lower slopes of Slieve Gallion – which is where this development is located. The SPG also states that consideration should be given to using hillside backdrops to help soften visual impact, which as stated above, has been achieved in this case with some views being softened by the backdrop of Slieve Gallion.

In addition to the consideration above, I am also conscious of the fact that in this case, we are starting from a baseline of a large turbine already being in situ. I am not therefore, considering the visual impact of the whole turbine, but rather the 13m

additional hub height and the overall height to the tip of around 25m. In my opinion, the most visual parts of these machines are the shaft and the hub so the additional 13m of height of this part of the structure. Whilst not discounting the visual impact of the rotor blades, I am of the view that the hub height is a more critical element in terms of the visual impact.

I am also conscious that there are no other single turbines in the immediate vicinity so cumulative impact is low.

Given all of the above consideration and the additional height of the proposed turbine when assessed against the existing turbine, I am of the opinion that there will not be a significant impact on the visual amenity and landscape character of the area.

In relation to biodiversity and impacts on the natural environment, NIEA have been consulted and have stated that they have no concerns subject to conditions requiring the submission of a BMMP (this has also been recommended by the developer) and feathering of blades. The site is not located on active peatland.

There is a rath feature located approx. 90m away from the proposed turbine but given that the groundwork for the existing turbine as already been carried out, closer to this feature, I do not feel that there is a need to consult HED in relation to this feature.

PSNI, JRC and Arqiva have all been consulted and have not raised any concern in terms of impact on radio communication or infrastructure. Likewise, the Civil Aviation Authority, Belfast City Airport and Belfast International Airport have all been consulted and have not raised any concerns in terms of impacts on aviation safety although Belfast International Airport recommend that medium strength omni directional light on the turbine to advise low flying aircraft of its location.

## **OTHER MATERIAL CONSIDERATIONS**

There have been three objections received from the public in relation to this applications. Objections have been received from;

- 35a Draperstown Road (approx. 930m from proposed turbine)
- 35b Draperstown Road (approx. 900m from proposed turbine)
- 3 Rectory Road (approx. 720m from proposed turbine)

The content of the objection letters are summarised into the main issues as laid out below and addressed in the following paragraphs;

### **3 Rectory Road**

- Development too high
- Too close to adjoining properties
- Noise nuisance
- Out of character with the area

In relation to the comment that the development is “too high” it is unclear as to what the



development is “too high” for but I am assuming the impact on the character of the area is what is being referred to. The overall height of the development is increasing but as outlined above, the impact on the area is assessed bearing in mind the existing turbine. I have given a detailed consideration of the impact of the turbine on the character of the area and this is outlined in the main body of this report.

Once again, the assertion of the turbine being “too close to adjoining properties” is not expanded upon as to what the properties are “too close” for. In terms of health and safety, I do not consider there to be any property which is at risk where the turbine to fall for instance. Similarly, the impact on noise and shadow flicker of those properties which are closer have been assessed. Environmental Health have not raised any objections in relation to noise and the issue of shadow flicker has been addressed via the implementation of a curtailment calendar to mitigate the impact.

### 35A and 35B Draperstown Road

- Noise impact
- Shadow Flicker
- Impact on the character of the area (LCA)
- Neighbour Notification Procedures

Again the impact of noise has been addressed through the consultation with environmental health department. The objectors state that as part of H/2011/0329/F, Env Health stated that noise would be an issue at locations within 10 times the rotor diameter of the turbine. This is not clear from a review of this application but it seems that the Env Health have instead quoted PPS 18 where it says that 10 times rotor diameter is the distance whereby *shadow flicker* will be a problem. In terms of noise, the Env Health consultation for this application has considered the proposal and the supporting Noise Impact Assessment and have not raised any objections.

The two properties are approx. 1km away from the turbine and therefore unlikely to be affected by shadow flicker to any significant degree. Para. 1.3.76 of the BPG to PPS 18 states that “at distances greater than 10 times rotor diameter from a turbine, the potential for shadow flicker is very low.” Given the location of these properties, almost 1km away, I am content that shadow flicker at these properties should not be a significant problem.

As with the other objection, the impact on the character of this area, with reference to NILCA 2000 LCAs, has been considered in the main body of the report under assessment of relevant policy.

Neighbour notification procedures are set out in legislation and cannot be addressed as part of this application.

## Summary of Recommendation:

Approve is recommended

Given all of the above assessment of policy and consideration of objections raised, I recommend that this application be approved subject to the following conditions

### Approval Conditions

#### Condition 1

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

Reason: Time Limit.

#### Condition 2

The approved turbine shall not become operation until the existing turbine approved under H/2011/0329/F has been decommissioned and removed from the development site.

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

#### Condition 3

The wind turbine to be installed shall be a 53m hub height Vesta V52 turbine with a generating capacity curtailed to 250kW. The approved turbine shall be located at Irish Grid co-ordinates E281813 N393632 unless otherwise agreed in writing (in consultation with the Environmental Health Department) with the Local Planning Department.

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

#### Condition 4

The level of noise imissions from the wind turbine (including the application of any tonal penalty when calculated in accordance with the procedures described on Pages 104-109 of ETSU-R-97 and the Institute of Acoustic's Good Practice Guide) at all times shall not exceed the values set out in the table which is included on page 2 of the Environmental Health Dept. consultation repsonse, which is uploaded to mid ulster planning portal (under reference LA09/2023/0899/F) and dated 15th January 2024.

Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the above table shall be those of the physically closest location listed in the table, unless otherwise agreed by the

Department.

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

Condition 5

Within 28 days of being notified by the Planning Department of a reasonable complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of consent, the wind turbine operator shall, at his/her own expense employ a consultant, approved by the Planning Department, to assess the level of noise emissions from the wind turbine at the complainant's property following the procedures described in the Institute of Acoustic's Good Practice Guide. The Department shall be notified not less than two weeks in advance of the date of the commencement of the noise monitoring.

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

Condition 6

The wind turbine operator shall provide to the Planning Department the consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within three months of the date of the written request of the Department unless otherwise extended in writing by the Department.

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

Condition 7

Wind speed, wind direction and power generation data shall be continuously logged throughout the period of operation of the wind turbine. The data shall be retained for a period of not less than 12 months. At the request of Mid Ulster District Council, the recorded wind data, standardised to 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint, shall be made available to Mid Ulster District Council.

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

Condition 8

Within 4 weeks from receipt of a written request from Mid Ulster District Council, following an amplitude modulation (AM) complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall submit a scheme for the assessment and regulation of AM to Mid Ulster District Council for its written approval. The applicant must ensure that the Institute of Acoustics metric shall be applied to the data collected to derive the reconstructed AM values for consecutive 10- minute periods, as per the 'IOA Noise Working Group (Wind Turbine Noise), Amplitude Modulation Working Group Final Report - A Method for Rating Amplitude Modulation in Wind Turbine Noise - 9th August 2016 - Version 1'.

For each period with an AM value of equal to or greater than 3 dB, a penalty shall be assigned (in accordance with Figure 1 on page 4 of the Environmental Health Dept.

consultation response, which is uploaded to Mid Ulster District Council planning portal (under reference LA09/2023/0899/F and dated 15th January 2024) and added to the absolute level of noise. Each summed value of overall average level (corrected for background where necessary) + AM penalty + Tonal Penalty (if applicable) shall be binned into wind speeds of 1 m/s intervals over the range of the data for when the turbine is operating and complaints occurring. Where the number of 10-minute breaches at any given wind speed during the period of complaint is considered to be unacceptable by Mid Ulster District Council, the operator shall submit details of a scheme describing proposals for suitable mitigation of the unacceptable AM periods to reduce the number of breaches during the operational conditions giving rise to the complaint, to that considered acceptable by Mid Ulster District Council and then implement such a scheme in a time period agreed with Mid Ulster District Council.

Reason: To control the levels of amplitude modulation from the development at noise sensitive locations.

#### Condition 9

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 turbine erection, testing/commissioning works, emergency works, or construction work that is not audible at any noise sensitive property.

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

#### Condition10

The wind turbine hereby approved shall not become operational until the wind turbine has been installed with a computerised control system necessary to shut down the turbine when conditions would cause shadowing of the residential properties during the dates and times outlined in the shadow flicker curtailment calendar on page 38 of the Shadow Flicker Assessment and Report which is uploaded on Mid Ulster Planning Portal (under reference LA09/2023/0899/F) and dated 28th August 2023.

Reason: to reduce the impacts of shadow flicker on identified properties to acceptable levels in accordance with Best Practice Guidance to PPS 18.

#### Condition11

The developer must install a Medium Intensity, Omni-directional, Night Vision Compatible, Steady Red Obstacle light at the highest point of the hub. The light should be lit 24 hours a day, seven days a week and it is to warn low flying aircraft that there is an obstacle at this location.

Reason: In the interests of aviation safety.

#### Condition12

No wind turbine shall become operational until a Bat Monitoring and Mitigation Plan (BMMP) has been submitted to and approved in writing by the Planning Authority. The BMMP should adhere to the Guidance on Bat Surveys, Assessment & Mitigation for

Onshore Wind Turbine Developments NIEA, Natural Environment Division, August 2021. The approved BMMP shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The BMMP shall include the following:

- a) Details of the further automated acoustic monitoring of bat activity across the site post construction using appropriate methodology for a period of three years;
- b) Details of bat carcass searches at selected turbines using appropriate methodology for the appropriate recommended length;
- c) Details of appropriate weather monitoring;
- d) Details of the production of yearly monitoring reports to be submitted to the planning authority within 6 months of the end of each monitoring year;
- e) Provision for additional mitigation or contingency measures which may be deemed necessary depending on the results of the monitoring and which shall be implemented if instructed by the Planning Authority;
- f) Provision for review of the mitigation measures and the length of the monitoring plan. The further monitoring should follow the guidelines laid out in the response above.

Reason: to monitor and mitigate the impact of the proposal on bats.

**Condition13**

All wind turbine blades shall be "feathered" when wind speeds are below the "cut-in speed" of the operational turbines. This shall involve pitching the blades to 90 degrees and/or rotating the blades parallel to the wind direction to reduce the blade rotation speed below two revolutions per minute while idling.

Reason: to protect bats

**Signature(s):** Colin McKeown

**Date:** 22 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	29 August 2023
<b>Date First Advertised</b>	12 September 2023
<b>Date Last Advertised</b>	12 September 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2011/0329/F  Proposals: Proposed wind turbine (Vestas v29 225kw with 40m hub height and 29 diameter rotors).  Decision: PG  Decision Date: 13-MAY-13</p> <p>Ref: LA09/2023/0899/F  Proposals: Proposed replacement of existing wind turbine as approved under planning reference H/2011/0329/F with a new wind turbine to a hub height of 53m and a rotar diameter of 52m along with associated development  Decision:  Decision Date:</p>	
<b>Summary of Consultee Responses</b>	
<p>NIEA-PRT LA09-2023-0899-F.PDF  Environmental Health Mid Ulster Council-LA09 2023 0899 F V0 WT 320m S of 6 Brackaghlistlea Rd.doc  ESB Telecoms Ltd-  National Air Traffic Services-Land approx 320M SE of No 6 Brackaghlistlea Road - no impact.pdf  Joint Radio Company-  P.S.N.I Information And Communications Services-MUCLA0920230899F.pdf</p>	

Belfast City Airport-NSO Letter.rtf  
Belfast International Airport-BIA No Objections.pdf  
UK Crown Bodies - Safeguarding (DIO)-  
Arqiva Services Limited-LA09\_2023\_0899\_F\_- Arqiva response.docx  
The wind turbine co-ordinates in the application form do not match with the Location - Lands Approx 320M South East of No 6  
Brackaghlistea Road,  
Draperstown

The turbine co-ordinates in the application form are 282022 (E) 403838 (N), which place the turbine close to a separate application (LA09/2023/0904/F).

Can the correct turbine co-ordinates be provided, as an Arqiva RBL link is close to the vicinity of 6 Brackaghlistea Road, Draperstown.  
Environmental Health Mid Ulster Council-LA09.2023.0899.F .pdf

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



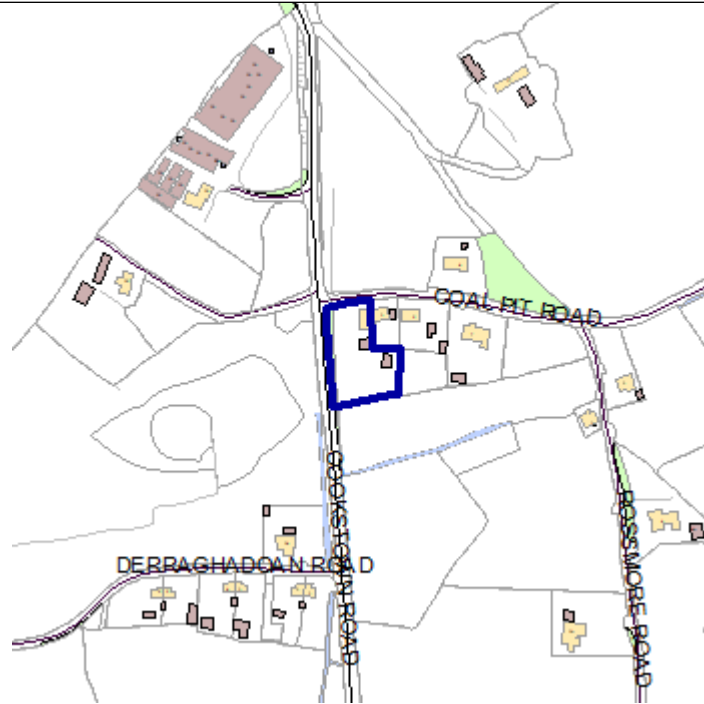
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.25
<b>Application ID:</b> LA09/2023/0906/O	<b>Target Date:</b> 13 December 2023
<b>Proposal:</b> Dwelling and domestic garage based on policy CTY 10 (Dwelling on a Farm)	<b>Location:</b> 20M South of 3 Coal Pit Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Shaun Kelly 31 Thornhill Road Dungannon BT70 3LW	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	Geological Survey NI (DfE)	3565 MUDC Planning. 20M South of 3 Coal Pit Road Dungannon.pdf
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0906-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside outside any settlement defined under the Dungannon and South Tyrone Area Plan 2010. It sits immediately east of the Cookstown Road / A29, a heavily trafficked protected route between Cookstown and Dungannon. It also sits immediately south of the Coal Pit Road, a minor rural road, at its junction with the Cookstown Road.



Fig 1: Site outlined red with circle.



Fig 2: Site outlined red.

The site, which is proposed to be accessed off the A29, is a relatively L-shaped plot. It comprises a small rectangular shaped gravelled yard located immediately to the west side of no. 3 / 3a Coal Pit Road, an existing single storey dwelling with granny flat extension; and a larger relatively flat square shaped field (main body of the site) located to the rear / south of no. 3 / 3a. This field, which contains what appears to be a domestic shed and some building vehicles such as a digger, has been largely gravelled in the middle.

The site is well enclosed to the north, west and south by post and wire fencing and a mix of mature vegetation, particularly along the southern boundary which is defined by a thick line of high trees. The most eastern boundary of the site, along the main body of the site, is defined by mesh security fencing. The north boundary of the main body of the site is bound in part by the garage to the rear of no. 3 / 3a and by a low wall with close boarded fencing above. The eastern boundary of the smaller part of the site, the rectangular yard is undefined.



Fig 3: Main body of site identified to the rear / south of no. 3 / 3a Coal Pit Road.

Views into this site are limited on both the north and south approach along the A29 Cookstown Road and from the Coal Pit Road on the west approach until passing along its roadside frontages due to the existing development and vegetation bounding the site.

The area surrounding the site is semi-rural, characterised largely by the heavily trafficked A29 to the immediate west of the site and agricultural lands interspersed with detached dwellings, farm complexes and agricultural fields in the wider vicinity. There is moderate development pressure in the immediate area with a line of 3 / 4, mainly one and one and half storey dwellings, running along the roadside frontage of the Coal Pit Road immediately to the east of the site.

## Description of Proposal

This is an outline application for a dwelling and domestic garage based on Policy CTY 10 of Planning Policy Statement 21 (Dwelling on a farm) on lands 20m South of 3 Coal Pit 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.

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

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

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

### **Representations**

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

### **Relevant Planning History**

- M/2006/2030/F - Extension (Granny Flat) to dwelling - 3 Coalpit Road Rossbeg Dungannon - Granted May 2007
- M/2008/1093/F - Domestic Garage - Rear Of 3 Coalpit Road Rossbeg Dungannon - Granted Nov 2008

### **Consultees**

1. DFI Roads were consulted in relation to the access, movement and parking arrangements. DFI Roads advised that the proposed access for this dwelling is onto the A29 Cookstown Road Dungannon which is a Protected Route, as such the proposal is contrary PPS 3, Access, Movement and Parking:



- Policy AMP 3, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety; and
- Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is near a road junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.

In light of the above, DFI Roads were reconsulted to assess this proposal if access was to be taken off the Coal Pit Road to the north of the site. This was to establish if an alternative access position could be provided to satisfy the requirements of PPS 3. DFI Roads responded to advise third party land in an eastern direction along the frontages of houses 3/3a and 5 Coal Pit Road would be required to achieve the required 2.4m x 45m visibility splays and that it is not possible within the Coal Pit Road site frontage to provide an access with adequate spacing to the Protected Route (A29 Cookstown Road) to the west. That any access would be in close proximity to the Main Road junction / Protected Route (A29 Cookstown Road) and would also run parallel to the it. Accordingly, DFI Roads recommended refusal of this alternative proposal as it would be contrary PPS 3, Access, Movement and Parking:

- Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would not be possible within the application site to provide an access with visibility splays of 2.4 metres x 45 metres, in accordance with the standards contained in the Department’s Development Control Advice Note 15;
  - Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is in close proximity to a junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted to provide comment on the applicant’s farm business, identified on the application form submitted. DAERA advised the farm business was established on the 30<sup>th</sup> March 2023 and that it is a category 3 business not entitled to claim land payments through the Basic Payment Scheme or Agri Environment Scheme.
  3. DETI Geological Survey of Northern Ireland (GSNI) were consulted in relation to this proposal as the site is located within an area of constraint on abandoned mines. GSNI reviewed the planning proposal in view of stability issues relating to abandoned mine workings and advised that a search of the GSNI “Shafts and Adits Database” indicates that the proposed site contains a recorded abandoned mine working and is located in close proximity to recorded mine shaft and underground workings. To assess any potential risk to the proposed development, further information should be supplied in the form of a Mine Risk Assessment.

**Dungannon and South Tyrone 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,

DAERA advised the applicant's farm business was only established in March 2023. That it is a category 3 business not entitled to claim land payments through the Basic Payment Scheme or Agri Environment Scheme.

Whilst a substantial number of receipts from 2016 through each year until 2021 have been submitted by the applicant for various works, it is not considered they demonstrate what his farm business is; where all his farmlands / buildings are; or that the business has established for at least 6 years, as they do not demonstrate profit as they are all for works he has paid to have done to maintain lands at his home address 31 Thornhill Road (not at the site) including: sowing fertiliser; topping grass; power washing paths around outhouses and outbuildings; maintenance and repairs to outhouses; maintenance, repairs and or replacement to gates and fences.

The only map submitted with this application was that of the site location plan with only the site identified in the ownership of the applicant. No other farm maps and / or details of any other farmlands / buildings in the ownership or control of the applicant have been submitted. As such, whilst DAERA has advised the applicant's farm business was established in March 2023, I consider insufficient information has been submitted to demonstrate what his farm business is; where all his farmlands / buildings are; or that the business is currently active and has been established for at least 6 years. Criterion (1) of CTY 10 cannot be considered to have 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,

As detailed above under criterion 1, the only map submitted with this application was that of the site location plan with only the site identified in the ownership of the applicant. No other farm maps and / or details of any other farmlands / buildings in the ownership or control of the applicant have been submitted. As such I consider insufficient information

has been submitted to check there have been no dwellings or development opportunities out-with settlement limits sold off from the applicant's farm holding within 10 years of the date of the application. Criterion (2) of CTY 10 cannot be considered to have 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).



Fig 4 & 5: Applicant's address no. 31 shown circled blue in relation to site circle red in fig 4; and ortho showing applicants dwelling with two sheds to the rear in fig 5.

In addition to insufficient information to demonstrate what the applicants farm business is; where all his farmlands / buildings are; or that the business is currently active and has been established for at least 6 years is that there is only one building, that appears to be a domestic shed, on the current site for a dwelling to visually link or cluster with. One building is not a group. Whilst 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), this has not been demonstrated. As detailed above in relation to criteria 1 & 2 of CTY 10, the only map submitted with this application was that of the site location plan with only the site identified in the ownership of the applicant. No other farm maps and / or details of any other farmlands / buildings in the ownership or control of the applicant have been submitted to confirm he has no other lands / buildings to site beside. It is also noted that at the applicants address, no. 31 Thornhill Road, there appears to be three buildings including a dwelling and two sheds (See figs 4 & 5, further above). Whether the applicant owns or controls any farmlands at or bounding these buildings that could accommodate a dwelling, should it be established he has an active and established farm business, is unclear. Accordingly, Criterion (2) of CTY 10 cannot

be considered to have been met.

Taking account of the above, the applicant / agent would usually be given the opportunity to submit further information to demonstrate how this proposal complies with Policy CTY 10 of PPS 21 or to establish if there were any other opportunities for a dwelling on site under PP3 21. Additionally, as per DETI GSNI's response further above (see Consultees, further above) the applicant / agent would be asked to submit a Mine Risk Assessment to demonstrate there was no risk to the proposed development. However, in this instance no further information is being sought given DFI Roads advice (see Consultees, further above) that the dwelling's proposed access onto the A29, a protected route, is contrary to Policy AMP 3 and Policy AMP 2 of PPS 3; and an alternative access off the Coal Pit Road can not be achieved.

### **Additional considerations**

Had this proposal met policy criteria to warrant a dwelling I consider a suitably designed dwelling including garage could have been accommodated on this site without impacting the amenity of neighbouring properties (namely no. 3/ 3a and 5 Coal Pit Road bounding the site) to any unreasonable degree in terms of overlooking or overshadowing given the location and dimensions of the site, separation distances that could be retained, existing walls, fencing and vegetation bounding the site.

In addition 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 no natural heritage features of significance on or bounding the site and whilst HED Map Viewer identified an industrial heritage point in close proximity, I am content that it is outside the site on already developed lands occupied by no. 3/ 3a Coal Pit Road, an existing single storey dwelling with granny flat extension.

Whilst Flood Maps NI indicate a watercourse runs along the outside of the southern boundary of the site in line with Policy FLD 3 off PPS 15, I consider had this proposal met policy criteria to warrant a dwelling, that a maintenance strip could have been provided to this watercourse from the lands to south of the site. Additional, whilst fluvial flooding was indicated along this watercourse it was outside of the site.

**Recommendation:** Refuse

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable



Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Reason 2**

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

**Reason 3**

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is near a road junction where the slowing down and turning movements of vehicles entering and leaving the access would conflict with traffic movements at the junction.

**Reason 4**

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

**Reason 5**

A search of the GSNI "Shafts and Adits Database" indicates that the proposed site contains a recorded abandoned mine working and is located in close proximity to a recorded mine shaft and underground workings. A Mine Risk Assessment is required to assess any potential risk to the proposed development from the abandoned mine workings.

**Signature(s):** Emma Richardson

**Date:** 24 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	30 August 2023
<b>Date First Advertised</b>	11 September 2023
<b>Date Last Advertised</b>	11 September 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  Unit 18-19 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 5 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 16 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 17 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 15 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 4 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 3 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Units 17-19 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 11 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 2 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 12 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 14 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 8 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Units 1 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 9 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 7 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier  Unit 13 18 Cookstown Road Dungannon Tyrone BT71 4BG  The Owner / Occupier</p>	

Unit 10 18 Cookstown Road Dungannon Tyrone BT71 4BG  
 The Owner / Occupier  
 14 Cookstown Road Dungannon Tyrone BT71 4BE  
 The Owner / Occupier  
 Unit 6 18 Cookstown Road Dungannon Tyrone BT71 4BG  
 The Owner / Occupier  
 5 Coal Pit Road Dungannon Tyrone BT71 4BH  
 The Owner / Occupier  
 3 Coal Pit Road Dungannon Tyrone BT71 4BH  
 The Owner / Occupier  
 3A Coal Pit Road Dungannon Tyrone BT71 4BH

<b>Date of Last Neighbour Notification</b>	31 August 2023
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	<events screen>
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**Planning History**

Ref: M/2006/2030/F  
 Proposals: Extension (Granny Flat) to dwelling  
 Decision: PG  
 Decision Date: 24-MAY-07

Ref: M/2008/1093/F  
 Proposals: Domestic Garage  
 Decision: PG  
 Decision Date: 18-NOV-08

Ref: LA09/2023/0906/O  
 Proposals: Dwelling and domestic garage based on policy CTY 10 (Dwelling on a Farm)  
 Decision:  
 Decision Date:

Ref: M/1979/0738  
 Proposals: RETIREMENT DWELLING  
 Decision: PG  
 Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
 Geological Survey NI (DfE)-3565 MUDC Planning. 20M South of 3 Coal Pit Road  
 Dungannon.pdf  
 DAERA - Omagh-LA09-2023-0906-O.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

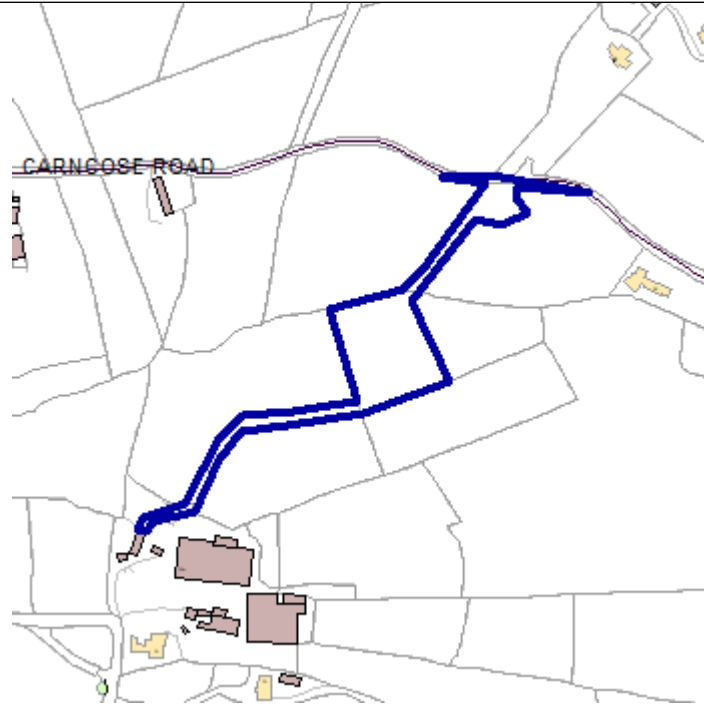


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.26
<b>Application ID:</b> LA09/2023/0916/F	<b>Target Date:</b> 15 December 2023
<b>Proposal:</b> Proposed off site replacement dwelling and garage 180m West of No. 16 Carnose Road, Cranny, Moneymore, BT45 7RY	<b>Location:</b> 180M West of No 16 Carnose Road Cranny Moneymore
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Gregory McGovern 31 Tirgan Road Moneymore BT45 7RZ	<b>Agent Name and Address:</b> CMI Planners 38B Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b> <p>This proposed full application for an off-site replacement dwelling is brought to the planning committee with a recommendation for refusal. The proposed fails to meet the criteria in Policy CTY 3 of PPS 21 in that it would, if permitted, have a significantly greater visual impact than the existing dwelling.</p> <p>I am however content that the proposed complies with Policy CTY 13 and CTY 14 of PPS 21.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed development is in the rural countryside outside any designated settlement limit as defined in the Magherafelt Area Plan 2015. The site for the proposed dwelling is 180m west of no. 16 Carncoise Road Moneymore and comprises a hilltop portion of a larger agricultural field. The site is set back approximately 90 metres from

the Carnose Rd. Boundaries include field hedgerow along the northern and southern edges of the site and post and wire fencing along the western boundary. The site for the dwelling is 170 metres north west of Tir-con Engineering which is comprised of a large built up yard area with a series of large sheds. The existing dwelling to be replaced lies along the western edge of this yarded area and is marked in green within the red-lined area of the site location map.

### **Description of Proposal**

This is a full application for the proposed off site replacement dwelling and garage 180m west of no. 16 Carnose Road, Cranny, Moneymore, BT45 7RY.

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

#### **Policy Consideration**

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

#### **Planning History**

LA09/2023/0357/F – Proposed off-site replacement dwelling and detached garage – Lands approx. 1110m NE of 37 Tirgan Road Moneymore – Permission Granted 13/11/2023

#### **Representations**

To date no third party representations have been received.

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

The site of the proposed development is in the rural countryside outside any designated settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

The site is located in the Sperrins AONB. The proposal is considered against Policy NH 6 of PPS 2 in the main body of the report.

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

There are no issues pertaining to flooding at the site.

#### **Mid Ulster District Council Draft Plan Strategy 2030**

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

### SPPS – Strategic Planning Policy Statement for Northern Ireland

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

### PPS 3 – Access, Movement and Parking

The proposed involves the creation of a new access to a public road. Given this is a replacement dwelling, there will be no intensification of the use of this access and thus the proposed will not prejudice road safety. DfI Roads were consulted in this application and provided no objection to the proposal, subject to condition. I am content that the proposed satisfies policy AMP 2 of PPS 3.

### PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including replacement dwellings, subject to policy criteria within CTY 3 - Replacement Dwellings being met.

The existing building on site exhibits the essential characteristics of a dwellinghouse, including what appears to be the remnants of a fireplace / chimney and domestic-scale door and window gaps. All four walls are substantially intact. Thus I am content that the existing dwelling qualifies for replacement. It is not a listed building and nor is it considered to make an important contribution to the heritage, appearance or character of the locality.

Policy CTY 3 provides that the proposed replacement dwelling should be sited within the established curtilage of the existing building. I acknowledge that the existing building is located along the western edge of a heavily built up and busy yard area with limited existing domestic curtilage and therefore it is accepted that the proposed replacement dwelling cannot be sited at this location.



The design of the replacement dwelling is considered to be appropriate for its rural setting, with rendered walls and flat dark concrete tiles. All necessary services can be provided without significant adverse impact on the environment and the access to the public road is considered to be in compliance with PPS 3, as established above.

Finally, the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building. While the proposed dwelling is single storey and modest in size, it is considered that the siting for the dwelling on what is a significantly more prominent position atop a hill, will result in the dwelling having a significantly greater visual impact than the existing dwelling. The agent was asked to consider with the applicant an alternative siting location for the replacement dwelling, including the agricultural field just north of the existing dwelling, though this has not been forthcoming. Because of this I have to advise that the proposal fails on this aspect of the policy and therefore fails to meet Policy CTY 3.

Consideration is given to a similar application which was recently granted planning permission. Planning approval was granted to the off-site replacement dwelling under LA09/2023/0357/F, the existing dwelling of which was the adjoining dwelling to the south of the existing dwelling in this current case under consideration. There were initial concerns raised pertaining to the height of the dwelling in that case, and as a result the proposed dwelling was reduced to single storey. While this current application also proposes a single storey dwelling, the siting by comparison to the siting of that approved, results in a significantly greater visual impact than that of the existing dwelling.

Policy CTY 13 states planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As above, the design of the dwelling is considered to be acceptable. The proposed site is complete with a degree of long established natural boundaries which include field hedgerow to the north western and south eastern boundaries. There is a degree of proposed landscaping at the site consisting of natural species feature trees dotted around the proposed dwelling. It is considered that the proposed dwelling would not be a prominent feature in the environment, though it is important to note that this does not mean that the proposed dwelling does not have a significantly greater visual impact than that of the existing dwelling as has been established for the purposes of Policy CTY 3 above. I am content that the proposal meets the criteria under Policy CTY 13.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its environs are suitable for absorbing a dwelling of this size and scale. I am content that the proposal meets the criteria under Policy CTY 14.

### Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application for planning

permission be refused.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal fails to comply with Policy CTY 3 of PPS 21 in that it would, if permitted, have a significantly greater visual impact than the existing dwelling.

**Signature(s):** Benjamin Porter

**Date:** 18 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	1 September 2023
<b>Date First Advertised</b>	12 September 2023
<b>Date Last Advertised</b>	12 September 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 31 Tirgan Road Moneymore Londonderry BT45 7RZ The Owner / Occupier 19 Carncoose Road Moneymore Londonderry BT45 7RY	
<b>Date of Last Neighbour Notification</b>	12 September 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/0624/F  Proposals: Proposed single storey rear extension and alterations to dwelling  Decision: PG  Decision Date:</p> <p>Ref: H/2006/0145/O  Proposals: Site of proposed Community Hall (Removal of Existing) for Social Community Events &amp; Provision of Car Parking Facilities  Decision: PG  Decision Date: 06-SEP-07</p> <p>Ref: H/2003/1362/O  Proposals: Site of dwelling and garage.  Decision:  Decision Date:</p> <p>Ref: H/1994/0553  Proposals: SITE OF RETIREMENT DWELLING  Decision: WITHDR  Decision Date:</p> <p>Ref: H/2008/0293/F</p>	

Proposals: Proposed new access laneway into house No. 31a Tirgan Road, Moneymore

Decision: PG

Decision Date: 15-APR-09

Ref: H/1988/0118

Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/1980/0051

Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/2006/0355/F

Proposals: Proposed new access laneway into house No. 31a Tirgan Road, Moneymore

Decision:

Decision Date:

Ref: LA09/2023/0928/LDE

Proposals: Existing Manufacture, Storage & Office Buildings for Tircon Engineering specialising in the Manufacture & Erection of steel agricultural sheds

Decision:

Decision Date:

Ref: H/2000/0836/PA

Proposals: Telecommunications Apparatus

Decision: 53

Decision Date: 03-JAN-01

Ref: H/1989/0368

Proposals: RETIREMENT BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2023/0357/F

Proposals: Proposed off-site replacement dwelling and detached garage

Decision:

Decision Date:

Ref: H/1975/0200

Proposals: 11KV AND M/V O/H LINES (C.7060)

Decision: PG

Decision Date:

Ref: H/2000/0771/F

Proposals: 11kv Overhead Line

Decision: PG

Decision Date: 18-DEC-00

Ref: LA09/2023/0916/F

Proposals: Proposed off site replacement dwelling and garage 180m West of No. 16 Carnose Road, Cranny, Moneymore, BT45 7RY

Decision:

Decision Date:

Ref: LA09/2020/0500/F

Proposals: Proposed off Site Replacement Dwelling

Decision: WDN

Decision Date: 16-JUN-21

Ref: LA09/2021/0934/O

Proposals: Dwelling & Garage

Decision: WDN

Decision Date: 06-SEP-23

Ref: H/2008/0628/F

Proposals: Extension and refurbishment to existing dwelling and erection of new garage for domestic use.

Decision: PG

Decision Date: 18-FEB-09

Ref: H/2007/0861/F

Proposals: Replacement Dwelling

Decision:

Decision Date:

Ref: H/2015/0084/LDP

Proposals: Improvement works are proposed within the existing NI water service reservoir site to facilitate deployment of emergency tankering operations if required during extreme weather conditions. The works include creation of a parking bay, new posts to abut existing fence proposed concrete post and strained wire fence

Decision: PG

Decision Date: 06-AUG-15

Ref: H/1996/0448

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: H/1995/0441

Proposals: SITE OF DWELLING

Decision: WITHDR

Decision Date:

Ref: H/1996/0028

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1983/0136

Proposals: REINFORCED CONCRETE RESERVOIR AND OUTSTATION

Decision: CROWN

Decision Date:

Ref: LA09/2016/0019/RM

Proposals: Proposed dwelling and garage for residential purposes

Decision: PG

Decision Date: 25-FEB-16

Ref: LA09/2015/0642/O

Proposals: One dwelling house and garage

Decision: PG

Decision Date: 09-NOV-15

Ref: H/2003/1280/O

Proposals: Site of single dwelling.

Decision: PG

Decision Date: 01-MAR-05

Ref: H/1986/0123

Proposals: BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: H/1977/0430

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: H/1975/0244

Proposals: 11KV AND MV O/H LINES C7240

Decision: PG

Decision Date:

Ref: H/1974/0053

Proposals: SITE OF CONVERSION OF RECREATION BUILDING TO OFFICES AND STORES

Decision: PG  
Decision Date:

Ref: H/1994/0053  
Proposals: REPLACEMENT DWELLING  
Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx  
DFI Roads - Enniskillen Office-Full Resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Floor Plans Plan Ref: 03  
Proposed Floor Plans Plan Ref: 04  
Proposed Elevations Plan Ref: 05  
Road Access Plan Plan Ref: 06

**Notification to Department (if relevant)**

Not Applicable



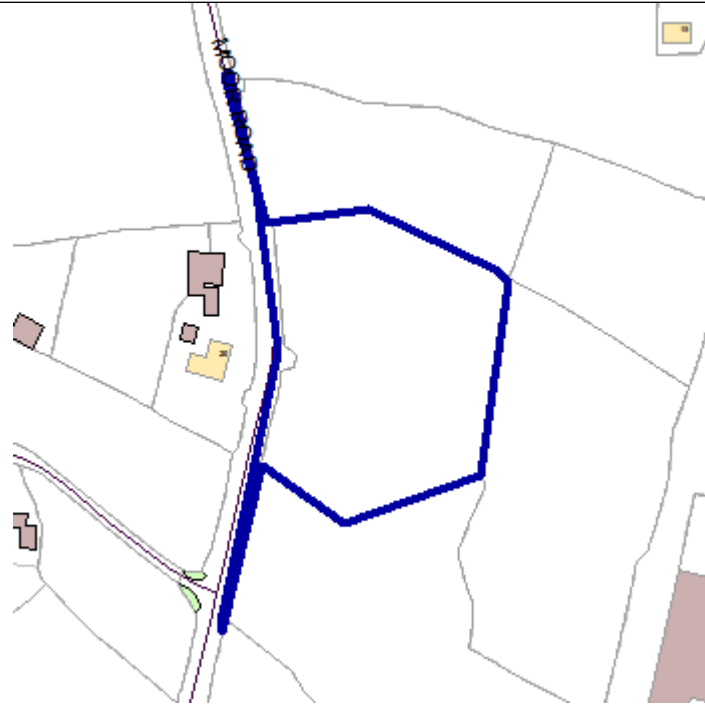
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.27
<b>Application ID:</b> LA09/2023/1064/O	<b>Target Date:</b> 22 January 2024
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Lands opposite 20 Moor Road Corr Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Sean O' Brien 20 Moor Road Corr Dungannon BT71 6HF	<b>Agent Name and Address:</b> Mr Seamus Donnelly 80A Mountjoy Road, Aughrimderg Coalisland BT71 5EF
<b>Executive Summary:</b>  No third party representations have been received.  I have requested further information to demonstrate if there is an active and established farm and to date this has not been received.  The application site does not cluster or visually link with the established group of buildings on the farm at No.20 Moor Road. No supporting evidence has been provided as to why the proposed dwelling needs to be sited elsewhere on the farm such as health and safety reasons or verifiable plans to expand at the site.	



## 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
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.doc Roads outline.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	

### Representations:

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

### Summary of Issues

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

The application site is 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 farm buildings. There is minimal development pressure from the construction of single dwellings in the immediate area and there are no other dwellings on either side of the site itself. Across the road from the site is the associated farm group at 20 Moor Road which comprises of a single storey dwelling, a garage, and a group of sheds.

The application site is one half of a larger agricultural field with a flat topography and has a direct roadside frontage to the Moor Road, which is a highly trafficked road between Ballynakilly Road and the village of Clonoe. Along the roadside, east and west boundaries is a low hedge, and the remaining boundary is undefined.

## **Description of Proposal**

This is an outline application for proposed dwelling and garage at lands opposite 20 Moor Road, Corr, Dungannon.

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

### **Policy Consideration**

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

### **Representations**

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

### **Planning History**

No planning history at the application site.

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

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

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

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that**

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

### **Planning Policy Statement 21**

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

When the application was received by the case officer no information was submitted or it was not stated which policy the applicant wanted the application to be considered under. Following discussions with the agent it was stated the proposal is to be considered under CTY 10 – dwelling on a farm.

As this proposal is for one farm dwelling CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

At the time of writing no DAERA business number has been provided so I am unable to consult DAERA. Initially I telephoned the agent on the 20<sup>th</sup> October 2023 to request farming information to be submitted to allow an assessment against CTY 10.

On the 24<sup>th</sup> November 2023 the following farming information was received.

It is stated that the land, dwelling and outbuildings have been in the O’Brien family for over 60 years and at times the land has been rented out to various other farmers. Also, Mr O’Brien maintains the land by cutting hedges, grass topping and rolling and fencing.

The following evidence has been provided to substantiate these claims.

1. Receipts from Martin McCaffrey & Sons Plant Hire for grass topping of land. This invoice is for the hire of a tractor and topper and hedgecutter on the 20<sup>th</sup> February 2019, 27<sup>th</sup> October 2018, 10<sup>th</sup> October 2017.
2. Receipt for McVeigh's Garden sheds for a field gate on the 4<sup>th</sup> October 2019 and fence posts on the 4<sup>th</sup> May 2017.

The following receipts demonstrate what works Mr O'Brien, the applicant, has done to maintain the land on the farm holding. However, these receipts are in the years 2017-2019 and no evidence has been submitted to show how the applicant has maintained or gaining an income from the land in the past 6 years.

Receipts have been submitted which demonstrate that the applicant is selling bales from his farm holding.

1. M Taggart has paid Sean O'Brien has paid money for small bales on the 21<sup>st</sup> September 2021, 14<sup>th</sup> November 2019, 9<sup>th</sup> September 2016, 18<sup>th</sup> October 2018.

I cannot verify the validity of the invoices and receipts provided.

I sent a further email to the agent on the 24<sup>th</sup> November 2023 requesting does the applicant has a DAERA number, farm boundary maps, and evidence of any con-acre agreement. At the time of writing this information was not submitted.

I consider the information provided does not demonstrate there has been an established farm for the past 6 years and that the farm business is currently active.

No farm maps have been provided with the application, so I am unable to determine if any sites have been sold off from the farm holding.

The applicant, Mr Sean O'Brien, has stated he lives at No.20 Moor Road which is a dwelling and two outbuildings. I am content there is an established group of buildings on the farm holding. The site itself is an agricultural field across the road from the group of farm buildings and I consider does not cluster with the farm buildings. I am of the opinion if the proposed dwelling was sited to the front of the site there would be limited visual linkage as shown in figure 1 below.



Figure 1 – Image showing the site in relation to the farm buildings.

No supporting documentation has been provided to demonstrate why the proposed dwelling should be sited on an alternative site away from the farm buildings. No health and safety reasons or verifiable plans to expand the farm holding at the site have been provided.

Having assessed all the evidence, I consider the proposal does not meet all the criteria in CTY 10 for a dwelling on a farm.

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

The application site is an agricultural field with a roadside frontage to the Moor Road which is a highly trafficked public road. There is a low wooden fence along the roadside boundary and the remaining boundaries are low hedging. I consider there is limited enclosure at the site due to the lack of natural boundaries. As this is an outline application no details have been provided about the design of the dwelling or the access and these will be considered at the reserved matters stage.

### **CTY 14 – Rural Character**

As stated earlier I am content the proposal will not be a prominent feature in the landscape. A single storey dwelling on this site would respect the traditional pattern of settlement in the area and not have a negative impact on rural character.

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

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

The site does not access onto a protected route, so I have no concerns in this regard.

The proposal includes a new access to Moor Road so DFI Roads were consulted. Roads were content with access subject to the access being from the existing field gate which is in the middle of the site with visibility splays of 120m in both directions.

**Other Considerations**

I checked the statutory map viewers and there is no NED, HED and flooding issues at the site.

To the rear of the application site there is a wind turbine and engineering works at General Cabins and Engineering. I consulted Environmental Health for their opinion on the impact on the occupants of the proposed dwelling. However, as the application does not meet the case for a dwelling on a farm there is no principle of development at the site.

**Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it does not meet all the criteria in CTY 10 - Dwellings on Farms in PPS 21.

**Refusal Reasons**

**Signature(s):** Gillian Beattie

**Date:** 17 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	9 October 2023
<b>Date First Advertised</b>	23 October 2023
<b>Date Last Advertised</b>	23 October 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 20 Moor Road Corr Dungannon BT71 6HF	
<b>Date of Last Neighbour Notification</b>	10 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/1064/O Proposals: Proposed dwelling and garage Decision: Decision Date:</p> <p>Ref: M/1979/0431 Proposals: EXTENSION AND REPAIR TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/2002/0121/F Proposals: Extension to Kitchen Decision: PG Decision Date: 13-MAR-02</p> <p>Ref: M/2011/0198/F Proposals: Additional electrical plant and equipment installation, control room inside the existing sub-station site. Overhead electrical transmission lines detailed in Form P1. Decision: PG Decision Date: 08-DEC-11</p>	

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.doc  
Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-  
DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docRoads outline.docx  
Environmental Health Mid Ulster Council-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.28
<b>Application ID:</b> LA09/2023/1070/O	<b>Target Date:</b> 24 January 2024
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Adjacent to 59 and 24M SE of 55 Killary Lane Killary Stewartstown Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Brian Corr 55 Killary Lane Stewartstown Dungannon BT71 5QE	<b>Agent Name and Address:</b> Mr Seamus Donnelly 80A Mountjoy Road, Aughrimderg Coalisland BT71 5EF
<b>Executive Summary:</b>  The proposal is presented to Committee as it fails to meet all the policy criteria of Policy CTY 2a of PPS 21, New Dwellings in Existing Clusters, in that the application site is not associated with a focal point, nor is it located at a crossroads.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

### 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 0.14ha parcel of ground located on Killary Lane off the Mountjoy Road and lies approximately 440m north-east of Clonoe. The site is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is a square parcel of land comprising an agricultural shed and part of a yard, as well as an existing access laneway which serves No. 55 Killary Lane. The southern boundary of the site is defined by hawthorn hedging, with a post and wire fence along the northern boundary. The eastern boundary is undefined as it is cut out of a larger agricultural field. The western boundary is defined by shrubbery to the northern portion and the wall of the shed on site defining the southern portion.

There is significant development pressure in the area, with 12 dwellings and associated outhouses within 200m of the site. The Western Building Systems factory complex lies approximately 200m to the south-east of the site, across the public road. The settlement limits of Derragh/Clonoe lies approximately 450m to the south-west of the site.

### **Description of Proposal**

Proposed 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 far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Relevant Histories**

There are no recent relevant histories associated with this site.

### **Representations**

Five (5) neighbouring properties were identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. To date no letters of representation have been received.

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

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

### **Mid Ulster District Council Draft Plan Strategy 2030**

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction from PPS 21, therefore existing policy applies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Killary Lane, as indicated on the submitted plan. DFI Roads have no objection subject to sightlines of 2.4m x 45m being provided.

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

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS21 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside in the case of a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

## CTY 2a – New Dwellings in Existing Clusters

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

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

The existing development in the area lies outside of a farm. To the immediate north of the site lies No. 59 - a single storey dwelling and garage and to the north-east is No. 63, a single storey dwelling. Immediately adjacent to and north-west of the site is a greenhouse and garden area. To the immediate west are a number of outbuildings which are associated with No's 57 and 55 Killary Lane, two single storey dwellings accessed via the same laneway as the application site. A further 4 dwellings lie to the north-west of these two dwellings, extending along Killary Lane in a linear fashion. From this I consider the first criterion for CTY 2a has been met.

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

When travelling west along the Mountjoy Road the existing buildings all read as a cluster and I believe the cluster appears as a visual entity in the landscape. The second criterion has been met.

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

There is no focal point in the immediate area such as a community building or social facility and the site is not located at a crossroads. In a supporting statement submitted by the agent it is argued that the focal point includes a company office, factories (7) and store as well as a hall and St Michael's Church and graveyard. There are also 13 houses in close proximity with the nearest being within 8m from the boundary. The agent argues that the site does not move outside the confines of the existing cluster and does not add to or create a ribbon of development in this area and this application meets all the requirements of a cluster. I do not consider St. Michaels Church and Hall can be considered a focal point here given the 300m distance from the site. It does not read with the existing development of Killary Lane when travelling along the public road, and therefore cannot be considered a focal point associated with the site. I am not satisfied that the proposal meets this criterion of the policy.

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

I am content there is a suitable degree of enclosure and there is development on two sides as there are two dwellings to the north/north-east and a number of dwellings to the west and north-west. There will be critical views of the site however it reads fully with the other development in the cluster.

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

I am of the opinion that a new dwelling here can be absorbed into the existing cluster and will not significantly alter the existing character here. A dwelling on this site will

consolidate the existing development and will not visually intrude into the open countryside. Accordingly, the fifth criterion can be met.

*development would not adversely impact on residential amenity.*

A new dwelling on this site would not adversely impact on residential amenity should an approval be considered acceptable, particularly if it is sited to the southern portion of the site, ensuring the maximum possible separation distance from No. 59 which is the dwelling closest to the site.

### **Policy CTY 13 – Design and Integration and Policy CTY 14 – Rural Character**

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application. The proposal meets the requirements of CTY 13.

CTY 14 of PPS21 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling will not be unduly prominent in the landscape nor does it result in build up. It respects the settlement pattern of the area and it does not create or add to a ribbon of development. The ancillary works will not damage rural character. A dwelling on this site is in accordance with this policy and the proposal therefore complies with CTY 14.

There is no evidence to suggest that the proposal falls into any other types of development that are listed as acceptable in principle in the countryside under Policy CTY 1 or that there are overriding reasons why the development is essential and could not be located in a settlement.

### **Other Material Considerations**

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

From a check of the Rivers Agency Strategic Flood Map I have no flooding concerns. Although the proposal meets most of the criteria set down in CTY2a it fails to meet all of them. As the application site is not associated with a focal point, nor located at a crossroads I recommend the application is refused as it is contrary to CTY 1 & CTY 2a of PPS 21.

### **Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY 2a of Planning Policy Statement 21, New Dwellings in Existing Clusters, in that the application site is not associated with a focal point, nor is it located at a crossroads.

**Signature(s):** Deirdre Laverty

**Date:** 23 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	11 October 2023
<b>Date First Advertised</b>	31 October 2023
<b>Date Last Advertised</b>	24 October 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 57 Killary Lane Stewartstown Dungannon Tyrone BT71 5QE</p> <p>The Owner / Occupier 55 Killary Lane Stewartstown Dungannon Tyrone BT71 5QE</p> <p>The Owner / Occupier 63 Killary Lane Stewartstown Dungannon Tyrone BT71 5QE</p> <p>The Owner / Occupier 53 Killary Lane Stewartstown Tyrone BT71 5QE</p> <p>The Owner / Occupier 59 Killary Lane Stewartstown Tyrone BT71 5QE</p>	
<b>Date of Last Neighbour Notification</b>	18 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2019/1054/O Proposals: Proposed dwelling and domestic garage on an infill site Decision: PG Decision Date: 17-OCT-19</p> <p>Ref: M/1980/0548 Proposals: EXTENSION AND RENOVATIONS TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/2002/0846/O Proposals: Proposed Retirement Dwelling Decision: Decision Date:</p> <p>Ref: M/1994/0497</p>	



Proposals: Erection of replacement dwelling

Decision: PG

Decision Date:

Ref: LA09/2023/1070/O

Proposals: Proposed dwelling and garage

Decision:

Decision Date:

Ref: M/1996/0577B

Proposals: Retirement Dwelling & garage

Decision: PG

Decision Date:

Ref: M/1988/0280

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2019/1681/RM

Proposals: Proposed Dwelling & Domestic Garage on an Infill Site

Decision: PG

Decision Date: 22-APR-20

Ref: M/2001/1189/O

Proposals: Retirement Dwelling

Decision: PG

Decision Date: 13-MAR-02

Ref: M/2005/0623/O

Proposals: Proposed retirement dwelling

Decision: PG

Decision Date: 15-JUN-05

Ref: M/1998/0497

Proposals: Site for Dwelling

Decision: PG

Decision Date:

Ref: M/2006/0266/RM

Proposals: Proposed Retirement Dwelling

Decision: PG

Decision Date: 28-JUN-06

Ref: M/1992/0444

Proposals: New Vehicular Access to existing dwelling

Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docFORM RS1 STANDARD.docRoads outline.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

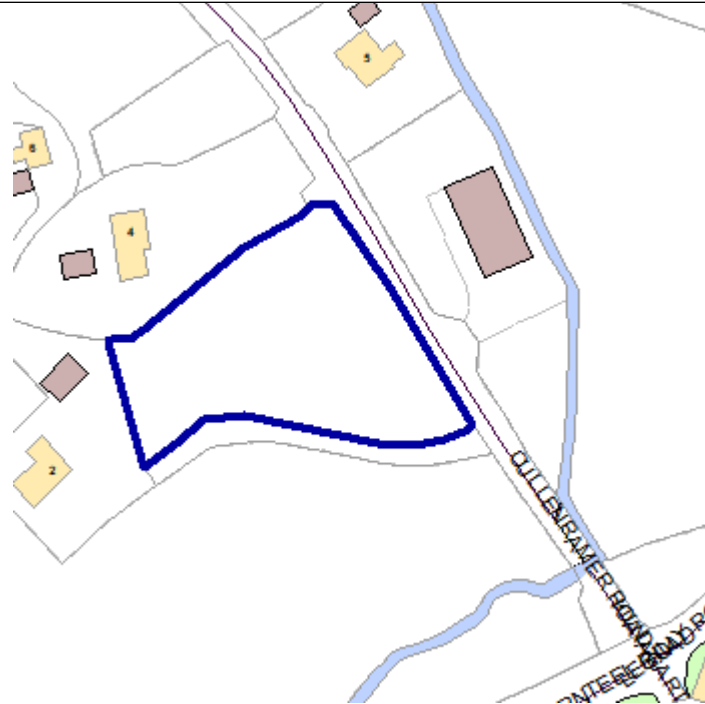


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.29
<b>Application ID:</b> LA09/2023/1071/O	<b>Target Date:</b> 24 January 2024
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> Approx 50M NE of No 2 Cullenrammer Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Michael Walls 2 Cullenrammer Road Greystone Dungannon BT70 1SS	<b>Agent Name and Address:</b> C. McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
<b>Executive Summary:</b>  No third party representations have been received.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docDC Checklist 1.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 site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in

character with agricultural fields, interspersed with groups of farm buildings and single dwellings.

The application site is an agricultural field where the land rises from the roadside to the rear boundary. There is a single storey dwelling and garage to the rear of the site at No.2. There is another dwelling to the north at No.4 and across the road is a dwelling and shed. There is a row of established trees along the rear boundary. Fencing is the boundary treatment along the remaining boundaries.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage at lands approx. 50m NE of No 2 Cullenramer Road, Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

No recent planning histories at the application site.

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

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

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone

Area Plan 2010 and is not within any other designations or zonings in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that**

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

**Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a new dwelling in an existing cluster CTY 2a is the relevant policy in the assessment.

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

I am content there is a cluster of development outside of a farm and there are four or more buildings with at least three are dwellings as shown in figure 1 below.



Figure 1 – Image of the site in the context of the surrounding area.

There is No.2 to the west, No.4 and No.6 to the north are dwellings and No.5 across the road is a dwelling. In addition, there is a shed directly across the road.

I am content the cluster appears as a visual entity in the landscape as shown in figure 1 above.

There is no focal point in the immediate area such as a community building or social facility. I consider the site is not located at a crossroads. There is a crossroads nearby, but the policy states the cluster should be located at a crossroads. In a supporting statement submitted by the agent it is argued the site is located at a crossroads as the crossroads is easily identifiable when travelling along the roads which lead into it. It is stated that roadside development is found along all four roads which meet at the junction.

I am content there is a suitable degree of enclosure and there is development on two sides as there is a dwelling to the west and north of the site.

I consider a single storey dwelling on the western portion of the site adjacent to No.2 and No.4 would round off the existing cluster. I am content a dwelling in this siting would not have a detrimental effect on rural character.

There is a row of established trees along the western boundary which will assist in

protecting neighbour amenity at No.2 to the north. The proposed dwelling would be adjacent to No.4 to the north, but I consider additional planting would assist in the integration of the dwelling and reduce any overlooking or loss of privacy.

Having assessed all the evidence, the proposal does not meet all the criteria in CTY 2a as the site is not at a crossroads or has a focal point. However, the proposal if sited in the western half of the site would rounding off a cluster of buildings and would not have a detrimental impact on rural character as shown on the concept plan submitted. It is stated in the supporting statement that the proposed dwelling would read with the existing cluster of development.

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

The land rises steeply from the roadside to the rear boundary of the site adjacent with No.2 Cullenrammer Road. The predominant house type in the area is single storey and due to the rising topography, I consider a single storey dwelling would be the most acceptable house type in this location. I am of the opinion a modest dwelling to the rear of the site would round off the cluster and not be a prominent feature in the landscape. There are established trees along the rear boundary but additional hedging around the remaining boundaries would assist in the integration into the landscape. I am content a dwelling would integrate at the site subject to a siting condition.

### **CTY 14 – Rural Character**

As stated earlier in the assessment I am content a dwelling in this location would not be a prominent feature in the landscape. There are already several other dwellings in the immediate area so I am of the opinion another dwelling would not exacerbate a suburban style build-up of development. I consider a dwelling in this location would not have an unacceptable impact on rural character.

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

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

The site does not access onto a protected route, so I have no concerns in this regard. Roads were content a new safe access could be created to the site subject to the positioning of a dual access with the existing laneway.

### **Other Considerations**

I completed checks on the statutory map viewers and I am satisfied there are no other ecological, historical or flooding issues at the site.

### **Summary of Recommendation:**

Refuse is recommended

The application site does not meet any policies in PPS 21 for a dwelling in the countryside.



Refusal Reasons
<b>Signature(s):</b> Gillian Beattie
<b>Date:</b> 22 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	11 October 2023
<b>Date First Advertised</b>	23 October 2023
<b>Date Last Advertised</b>	23 October 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 4 Cullenramer Road Dungannon Tyrone BT70 1SS The Owner / Occupier 2 Cullenramer Road Dungannon Tyrone BT70 1SS	
<b>Date of Last Neighbour Notification</b>	12 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2004/1595/F Proposals: Proposed dog kennels for commercial use Decision: Decision Date:</p> <p>Ref: M/1979/0822 Proposals: PROPOSED DWELLING Decision: PG Decision Date:</p> <p>Ref: M/1979/0821 Proposals: TWO DWELLINGS (BUNGALOWS) Decision: PG Decision Date:</p> <p>Ref: M/1984/0214 Proposals: DWELLING Decision: PG Decision Date:</p> <p>Ref: LA09/2023/1071/O Proposals: Dwelling and garage</p>	

Decision:  
Decision Date:

Ref: M/1987/0379  
Proposals: DWELLING  
Decision: PG  
Decision Date:

Ref: M/1981/046901  
Proposals: ERECTION OF DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: M/1981/0469  
Proposals: DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: LA09/2016/0262/F  
Proposals: Removal / variation of condition 8 of M/2011/0500/F  
Decision: PG  
Decision Date: 09-MAY-16

Ref: LA09/2015/0447/PAD  
Proposals: Proposed pet crematorium  
Decision: PAD  
Decision Date: 30-NOV-15

Ref: M/2006/2096/F  
Proposals: Proposed change of use from domestic garage to provide office  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

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

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

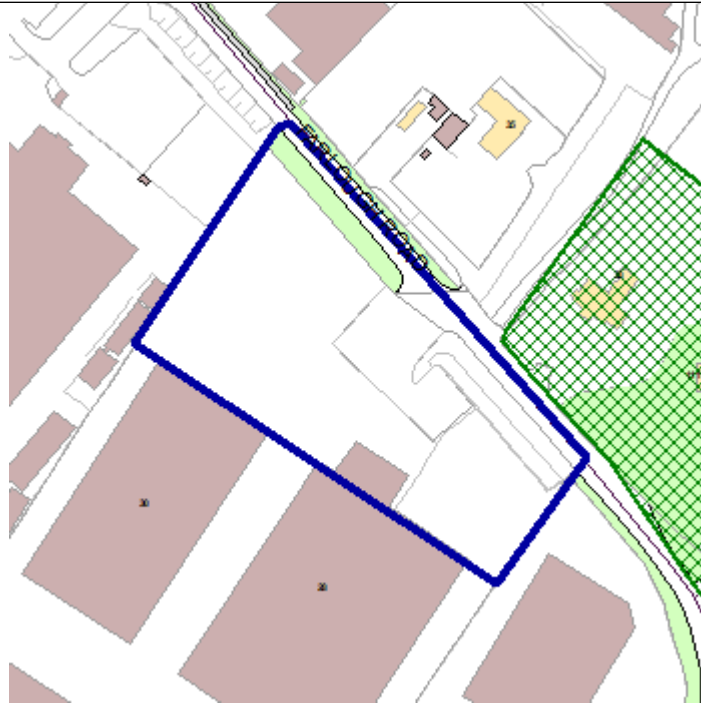


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.30
<b>Application ID:</b> LA09/2023/1114/F	<b>Target Date:</b> 6 February 2024
<b>Proposal:</b> Proposed office extension and alterations to existing offices.	<b>Location:</b> 30 Farlough Road Dungannon BT71 4DT
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Darragh Cullen 30 Farlough Road Newmills Dungannon BT71 4DT.	<b>Agent Name and Address:</b> Mr Seamus Donnelly 80A Mountjoy Road, Aughrimderg Coalisland BT71 5EF
<b>Executive Summary:</b>  One third party representation has been received and I am content the proposal complies with all the criteria in SETT 1 in the Dungannon and South Tyrone Area Plan and PED 1 and PED 9 in PPS 4.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

One third party representation has been received and I am content the proposal complies with all the criteria in SETT 1 in the Dungannon and South Tyrone Area Plan and PED 1 and PED 9 in PPS 4.

### Characteristics of the Site and Area

The site is within the development limit of Coalisland as defined in the Dungannon and

South Tyrone Area Plan 2010. The surrounding area is semi-urban in character and there is a mix of land uses. To the south of the site are agricultural fields and dwellings on single plots. Across the road from the site are industrial business and single dwellings. The site comprises of three large sheds for manufacturing and in front of these is an existing two Storey office building. The site is accessed off the Farlough Road on the outskirts of the settlement of Newmills. In front of the sheds is a concrete yard area for storage and a small car parking area. To the rear of the sheds is a large staff car parking area.

### **Description of Proposal**

This is a full application for proposed office extension and alterations to existing offices at 30 Farlough Road, Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one third-party public comment has been received.

The owner/occupier is Mrs Campbell who lives at 35 Farlough Road which is a dwelling across the road from the main access to Edge Innovate. The following issues have been raised in the public comment.

1. Mid Ulster Council has essentially created a linear industrial estate along Farlough Road comprising of heavy engineering plants. Mrs Campbell's home is surrounded on three sides by engineering plants and within ¼ mile of her home there are no less than 14 heavy engineering plants. In rebuttal the proposal is within an existing industrial business which is within an area which has already been designated for industrial use within the Dungannon and South Tyrone Area Plan 2010.
2. It is stated they have no objection to the planning application and the new frontage may improve the aesthetic outlook of the engineering plant.

3. The owner/occupiers do object to the additional noise that building work will produce and will create unacceptable levels of dust, fumes, and additional traffic.
4. It is stated there is a continual drone of engineering noise from 7am till after 6pm each day and some of the plants operate Saturday and Sunday. This is impacting on the owner/occupiers relaxing in their garden area. In rebuttal, this proposal is for an office building so there will be no engineering or manufacturing within the building itself when constructed.
5. They object to the additional noise created by the building work as it will include the demolition of the existing office building, excavation of new foundations, lorries coming and going. The objector would like assurances that building noise will be kept to a minimum and within reasonable hours such as only taking place at weekends or public holidays. In rebuttal, any conditions that are attached to a planning approval must meet six tests as stated below:

Necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. I completed a check of planning histories of nearby industrial developments and in no other approvals has there been a condition limiting building work to weekends/public holidays. I consider this condition would not meet the test for reasonable or necessary.

6. The objector also states that an alternative site should be found for testing machinery so that building work and testing work does not happen simultaneously at the front area of the site.

### **Planning History**

LA09/2017/1313/F - New roof between existing factories (covering existing lean-to side of existing factory) - 30 Farlough Road, Newmills, Dungannon – permission granted 13<sup>th</sup> March 2018.

LA09/2016/1523/LDP - Installation of a 180kw Solar PV Installation using a non-penetrative mounting system. All works will take place on the roof and inside the building, this includes the installation of the mounting system and array and internal and external wiring - 30 Farlough Road, Newmills, Dungannon – permission granted 17<sup>th</sup> January 2017.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

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

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



Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is within the settlement of Coalisland 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 complies with all the criteria in PED 1 and PED 9 in PPS 4 it also complies with SETT 1 in the Plan.

The site is within CI 01 industrial and business zoning for land at Farlough Road and any proposal must meet the following key site requirements. I am content there are no changes to the access, and it is still from Farlough Road. It is stated a detailed survey of existing vegetation and extensive landscaping of trees should be provided to the public road frontages and site boundaries. The proposal is for an extension to an existing office on an area of existing hardstanding and the trees are already in place along the boundaries, so I have no concerns.

Plan Policy IND 1 – Industry and Business is relevant in this application as the site is within an area of existing industry and business use at Farlough Road. As the proposal is for an office within an existing industrial site, I have no concerns about the use, and I am content it will not have an unacceptable impact on the character of the area.

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

#### **Policy PED 1 – Economic Development in Settlements**

##### **Villages and Smaller Settlements**

##### **Class B3 – General Industrial Use**

As shown in figure 1 the proposal is for the extension to an existing office to the front of the factory buildings at Edge manufacturing business. The building will be used as offices for the associated business. The building has a square form with a height of 12m. I have no concerns about the scale and massing of the building as it will sit beside the factory buildings which are a greater height. In critical views the new office building will cluster with the associated factory buildings. The proposed external materials are parapet wall cladding on the external walls, stone cladding and blue glazed panelling. I am content the materials will not detract from the character of the surrounding area.

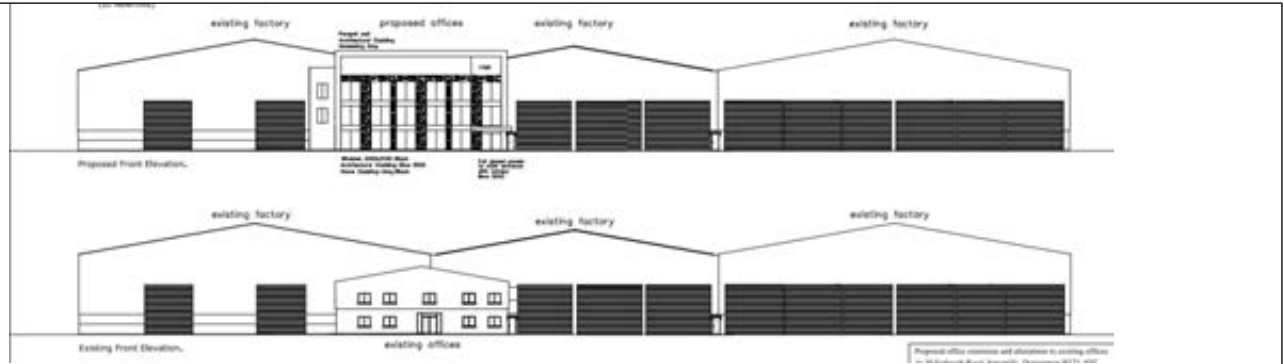


Figure 1 – Image of the Proposed Elevations of the Office.

The site itself is within an area zoned for industrial business use and there are other industrial businesses in the immediate area, so I have no concerns about the office use. In terms of neighbouring amenity there are dwellings across the road from the site but as this proposal is for office use, I am content there will be no further manufacturing in this building. The office building is set back from the road frontage so I consider the proposed building will not create unacceptable overshadowing or loss of light to neighbouring dwellings.

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

As the proposal is for an extension to an existing office within the curtilage of an industrial site, I am content the use is compatible with the surrounding area. I am content the use as an office will not harm the amenity of occupants of nearby dwellings as there is no increase in manufacturing at the site. The site is not within any natural or built heritage designations. The site is not located within an area of flooding. I consider the office use will not create an unacceptable noise nuisance or there are no emissions or effluent from the building. It is stated on the P1 form there are 50 existing employees attending the site daily and there will be an expected increase of 5 employees at the site. There are no changes to the existing access at the site, so I do not consider it is necessary to consult DFI Roads. In terms of car parking the applicant has shown existing car parking to the front of the site. There is a large car parking area to the rear of the site, so I am content there is sufficient space within the curtilage to accommodate extra car parking. The site is within the settlement limits of Coalisland, so I am content there is provision for cycling and walking to and from the site. There are no changes to the landscaping arrangements at the site. Overall, I consider the proposal meets all the criteria in PED 9.

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

The applicant has stated on the P1 form there will be five extra employees at the site so there may be an intensification of the existing access. However, there is an access already in place along Farlough Road and another access to a staff car park further south along Farlough Road, so I have no concerns about the access.

**Other Considerations**

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

**Summary of Recommendation:**

Approve is recommended

The proposal is recommended for approval as it complies with all the criteria in SETT 1 in the Dungannon and South Tyrone Area Plan 2010 and PED 1 and PED 9 in PPS 4 Planning and Economic Development.

**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.

**Signature(s):** Gillian Beattie

**Date:** 6 December 2023

<b>ANNEX</b>	
<b>Date Valid</b>	24 October 2023
<b>Date First Advertised</b>	7 November 2023
<b>Date Last Advertised</b>	7 November 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  35 Farlough Road Dungannon Tyrone BT71 4DU  The Owner / Occupier  32 Farlough Road Dungannon Tyrone BT71 4DU  The Owner / Occupier  28 Farlough Road Dungannon Tyrone BT71 4DU  The Owner / Occupier  24 Farlough Road Dungannon Tyrone BT71 4DU  The Owner / Occupier  Unit 1 Derryvale Industrial Estate Dungannon Tyrone BT71 4DT  The Owner / Occupier  30 Farlough Road Dungannon Tyrone BT71 4DU  The Owner / Occupier  29 Farlough Road Dungannon Tyrone BT71 4DU  The Owner / Occupier  33 Farlough Road Dungannon Tyrone BT71 4DU</p>	
<b>Date of Last Neighbour Notification</b>	25 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1996/0563  Proposals: Workshop and Offices  Decision: PG  Decision Date:</p> <p>Ref: LA09/2019/1039/O  Proposals: Proposed Dwelling (access off Derryvale Road)  Decision: PG  Decision Date: 28-APR-20</p> <p>Ref: LA09/2019/0643/F</p>	

Proposals: Proposed erection of new assembly building

Decision: PG

Decision Date: 09-JAN-23

Ref: M/1990/0283

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: M/1989/0551

Proposals: Change of use from Private Dwelling to Nursing Home

Decision: PR

Decision Date:

Ref: M/1991/0165

Proposals: Erection of dwelling - Site 3

Decision: PR

Decision Date:

Ref: LA09/2023/1114/F

Proposals: Proposed office extension and alterations to existing offices.

Decision:

Decision Date:

Ref: LA09/2018/1586/PAN

Proposals: Erection of new assembly building and staff welfare facilities

Decision: PANACC

Decision Date: 20-DEC-18

Ref: M/1994/0282

Proposals: Erection of workshop and offices

Decision: PG

Decision Date:

Ref: M/1997/0086

Proposals: Extension to Existing Workshop

Decision: PG

Decision Date:

Ref: M/2007/1280/F

Proposals: 1. Erection of temporary spare parts warehouse (25m x 50m)

2. Erection of small spraybooth workshop (7m x 15m)

Decision: PG

Decision Date: 14-MAR-08

Ref: M/2013/0529/F

Proposals: Proposed extension to existing production warehouse and proposed extension to existing offices.

Decision: PG

Decision Date: 22-DEC-14

Ref: M/1974/0068

Proposals: CONSTRUCTION OF A BRICK FACTORY

Decision: PG

Decision Date:

Ref: M/1981/0037

Proposals: PRIVATE HOUSING DEVELOPMENT

Decision: WITHDR

Decision Date:

Ref: M/1991/0164

Proposals: Erection of dwelling - Site 2

Decision: PR

Decision Date:

Ref: M/2003/0411/F

Proposals: Proposed New Workshop and Offices

Decision: PG

Decision Date: 14-OCT-03

Ref: M/2003/0779/F

Proposals: Proposed new workshop and offices

Decision: PG

Decision Date: 25-MAR-04

Ref: M/2005/2354/F

Proposals: Proposed Workshop inc 2 storey ancillary office space, associated siteworks and new access to Farlough Road

Decision: PG

Decision Date: 20-OCT-06

Ref: LA09/2016/1523/LDP

Proposals: Installation of a 180kw Solar PV Installation using a non-penetrative mounting system. All works will take place on the roof and inside the building, this includes the installation of the mounting system and array and internal and external wiring

Decision: PG

Decision Date: 17-JAN-17

Ref: M/2007/0168/F

Proposals: Additional workshop to provide completed machinery including assembly line and finishing off complete machinery

Decision: PG  
Decision Date: 03-JUL-07

Ref: LA09/2017/1313/F  
Proposals: New roof between existing factories (covering existing lean-to side of existing factory)  
Decision: PG  
Decision Date: 13-MAR-18

Ref: M/1990/0062  
Proposals: 11 KV. system improvement (part 4)  
Decision: PG  
Decision Date:

Ref: LA09/2019/0626/TPO  
Proposals: Proposal for consent to carry out work(s) to Protected Trees  
Decision: WTPOG  
Decision Date: 16-MAY-19

Ref: LA09/2015/0131/F  
Proposals: Proposed new dwelling and garage  
Decision: PG  
Decision Date: 01-DEC-15

**Summary of Consultee Responses**

-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Floor Plans Plan Ref: 03  
Existing Floor Plans Plan Ref: 04  
Existing and Proposed Elevations Plan Ref: 05

**Notification to Department (if relevant)**

Not ApplicableNot ApplicableNot Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.31
<b>Application ID:</b> LA09/2023/1159/F	<b>Target Date:</b> 15 February 2024
<b>Proposal:</b> Proposed 2no. Infill dwellings and domestic garages as Policy CTY8	<b>Location:</b> 50M West of 56 Tobermore Road Draperstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Adrian McIvor 1 Gortnaskey Road Draperstown BT45 7JX	<b>Agent Name and Address:</b> CMI Planners 38A Airfield Road Antrim BT41 3SQ
<b>Executive Summary:</b> <p>This full application proposal for 2 no. infill dwellings is brought to the planning committee with a recommendation for refusal. The proposal is contrary to Policy CTY 8 and Policy CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create or add to a ribbon of development. The proposal is contrary to Policy CTY 13 and Policy CTY 14 of PPS 21 in that it would be unduly prominent in the landscape and the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.</p>	



## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside approximately 0.5 miles north east and outside of the Draperstown settlement limit as defined in the Magherafelt Area Plan 2015. The site is a rectangular-shaped, 0.36 hectare area, flat agricultural field which occupies a roadside position along the Tobermore Road. The field is sited between no. 52 Tobermore Rd to the south west and no. 56 Tobermore Rd to the north east. The site is level with the road and fairly open. Boundaries include a mature line of trees along the south western and north eastern boundaries. The rear north western boundary is undefined and the roadside boundary is marked by low-cut hedgerow. The site is currently accessed via a field gate at the south western corner of the site. The wider surrounding environment consists mostly of agricultural fields with a number of roadside dwellings and farm buildings dotted along the road and increasing in frequency towards Draperstown.

### Description of Proposal

This is a full application for the proposed 2no. infill dwellings and domestic garages as Policy CTY 8.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

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

#### Relevant Histories

None

#### Representations

To date no third party representations have been received.

#### Magherafelt Area Plan 2015

The site is located in the rural countryside approximately 0.5 miles north east and outside of the Draperstown settlement limit as defined in the Magherafelt Area Plan 2015.

#### Other Constraints

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

This site is not located within or adjacent to any listed buildings / structures.

There are no issues pertaining to flooding.

#### Mid Ulster District Council Draft Plan Strategy 2030

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

#### SPPS – Strategic Planning Policy Statement for Northern Ireland

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

### PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. This application is to be considered under CTY 8 – Ribbon Development.

In terms of the gap, I hold the view that the application site gap between no. 52 Tobermore Rd to the south west and no. 56 Tobermore Rd to the north east of the site is sufficient only to accommodate up to a maximum of two houses. The proposal therefore meets this aspect of the policy.

With regard to the built up frontage; I am content that dwelling no. 52 and the shed within its curtilage can be considered buildings that share a common frontage to the south west of the site. However, to the north east of the site, it is not considered that the curtilage of no. 56 Tobermore Rd fronts the main road in the same way. The dwelling (and its curtilage) at this position is sited back 40 metres from the main road. The driveway cannot be considered as a frontage and this is a precedent set by the Planning Appeals Commission. Furthermore the road-fronting field to the immediate south east of this property cannot be considered as the curtilage of the property. This is quite clearly an agricultural field. Site photos taken on 08/12/23, when compared to google street view imagery taken on Oct 2022, show the fairly recent erection of post and wire fencing as well as the removal of a field gate and hedging which have opened up the field with the dwelling. These landscaping works, while likely not carried out for the purposes of meeting the policy, do not provide evidence that this road-fronting field is part of the curtilage of the dwelling. There is no historic CLUD / planning permission that would establish this as the curtilage of said property. Therefore I have to advise that the proposal fails to meet this part of the policy, in that the proposal would create or add to a ribbon of development. The proposal therefore fails to meet Policy CTY 8 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Two no. mirrored single-storey dwellings and garages are proposed at the site with principle ridge heights of 6 metres from finished floor levels. Finished materials include white smooth render finish to the walls with front and rear return locally sourced stone elements and black flat tiles or slates to the roofs. I consider the design of the buildings to be appropriate for the site and its locality. It is my opinion that the dwellings at this site would be overly prominent even though they are single-storey. This is a very open site with clear views of the Sperrins in the background to the rear of the site. It is my opinion that the proposed fails to blend with the landform and the site is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape. I therefore hold the view that the proposed dwellings fails to meet Policy CTY 13 of PPS 21.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As discussed, it is considered that the proposal will be unduly

prominent in the landscape and would create or add to a ribbon of development.

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. The proposed access arrangements involve the construction of a new access to a public road. In the initial consultation response from Dfl Roads, it was requested that an amended block plan be provided showing 2.4 x 120m visibility splays in both directions, the access location moved further east to prevent the need for third party land for the required splays for this paired access, and the red site outline amended to encompass the land required for the visibility splays. The required amendments have been provided and Dfl Roads have been reconsulted and their follow up response is pending at the time of writing. Given the proposal fails to meet Policies CTY 8, CTY 13 and CTY 14 of PPS 21, it has been agreed that this application be brought to the planning committee while awaiting the follow up response from Dfl Roads.

Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application for planning permission be refused.

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY 13 and Policy CTY 14 of PPS 21 in that it would be unduly prominent in the landscape and the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.

**Signature(s):** Benjamin Porter

**Date:** 18 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	2 November 2023
<b>Date First Advertised</b>	14 November 2023
<b>Date Last Advertised</b>	14 November 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 52 Tobermore Road Draperstown Londonderry BT45 7HJ The Owner / Occupier 56 Tobermore Road Draperstown Londonderry BT45 7HJ	
<b>Date of Last Neighbour Notification</b>	23 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2020/0769/PAD Proposals: Re-locate Cattle Mart Decision: PAD Decision Date: 01-JAN-21  Ref: LA09/2023/1159/F Proposals: Proposed 2no. Infill dwellings and domestic garages as Policy CTY8 Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Full Resp.docx DFI Roads - Enniskillen Office-Full Resp.docx	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



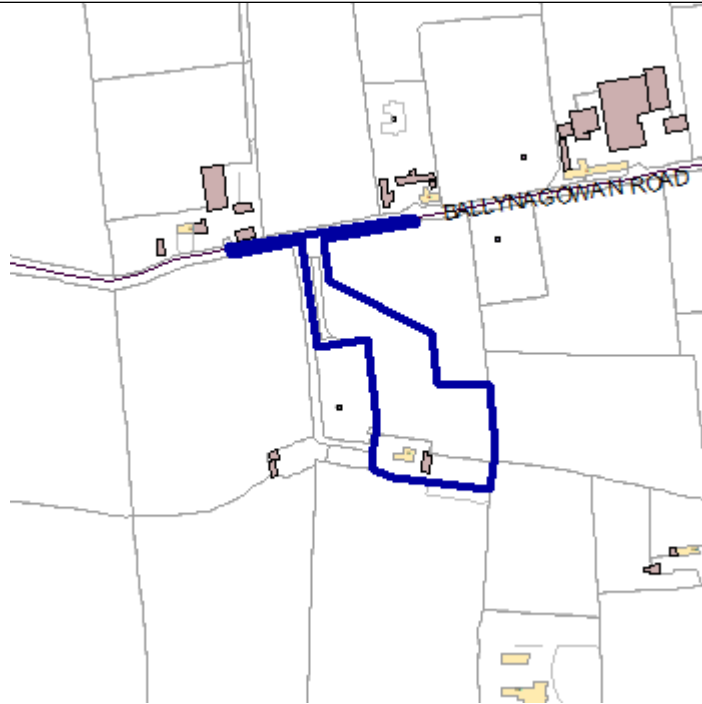
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.33
<b>Application ID:</b> LA09/2023/1286/F	<b>Target Date:</b> 12 March 2024
<b>Proposal:</b> Proposed extension and alterations to dwelling	<b>Location:</b> 22 Ballynagowan Road Stewartstown BT71 5ET
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr and Mrs Enda and Nuala Devlin 22 Ballynagowan Road Stewartstown Dungannon BT71 5ET	<b>Agent Name and Address:</b> Mr Seamus Donnelly 80A Mountjoy Road, Aughrimderg Coalisland BT71 5EF
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as defined by the Cookstown Area Plan 2010, approx. 4.5km east and 2.7km west of Stewartstown and Lough Neagh, respectively.



Fig 1: Site outlined red



Fig 2: Site outlined red



Fig 3: Dwelling to be extended and altered.

The site is an irregular shaped plot located adjacent the Ballynagowan Road. It comprises a modest single storey dwelling and its curtilage including a small no. of ancillary outbuildings, and part of an adjoining roadside field to its north.

The dwelling and its curtilage, no 22 Ballynagowan Road, is well set back from and accessed off the Ballynagowan Road via an existing lane that runs to the west side of a large building of agricultural appearance approved under planning application LA09/2019/0037/F as a domestic garage and private art studio in association with and just to the northwest of no. 22 Ballynagowan Road.

As seen above in Fig 3 the dwelling on site has a rectangular shaped floor plan and a pitched roof construction with 3 stacked chimneys expressed along its ridgeline and a small flat roofed front porch. Finishes to the dwelling include a mix of render, stone and brick to its walls and red tiles / slates to its roof. An outbuilding of similar size, scale and finish exists to the east side of, and runs perpendicular, to the dwelling. The dwelling has a hard cored driveway /amenity area to its west side and rear with a substantial garden running right round the property to the outside of this area. The curtilage of the dwelling is enclosed to the rear and sides by a mix of post and wire fencing, hedging and mature trees; and to the front by wooden d-rail fencing as in Fig 3, further above.

The portion of field located immediately to the north of the dwelling that has been included within this application to accommodate the extension and a new access lane to serve the resultant dwelling is defined to its most outer sides by a mix of well-established trees and hedging and to its inner sides by post wire fencing enclosing the curtilage of the aforementioned domestic garage and private art studio and newly planted trees.





Figs 4 & 5: View of dwelling from the Ballynagowan Road on the west approach and same view zoomed in, respectively. Dwelling sits to rear of the large domestic garage and private art studio.

Views of the dwelling on site are largely screened on the east approach along the Ballynagowan Road and passing along its roadside frontage by vegetation along the roadside and the within the wider vicinity. A view of the dwelling, sitting to the rear of the large domestic garage and private art studio exists, over a short distance on the west approach to the site along the Ballynagowan Road as seen in Figs 4 & 5, above.

The area surrounding the site is predominantly rural in nature with a scattering of single dwellings and farm holdings located along the roadside.

### **Description of Proposal**

This is a full planning application for the proposed extension and alteration of an existing single storey dwelling located at 22 Ballynagowan Road Stewartstown.

As seen below in Figs 6 & 7 a substantial unit of accommodation comprising a mix of ridge heights and styles up to three storeys, which for all intents and purposes could function as a standalone dwelling, is proposed to be attached to the front of the existing property via a single storey flat roofed orangery. The orangery will in effect act as a link corridor between the old and new part of the resultant dwelling.

The existing dwelling has a ridge height approx. 5m above FFL. The highest ridge height of the proposed extension will be approx. 15.5m above the FFL of existing dwelling.

Finishes to the proposal which includes two hipped roofs incorporating roof dormers, will have finishes in keeping with the existing property.

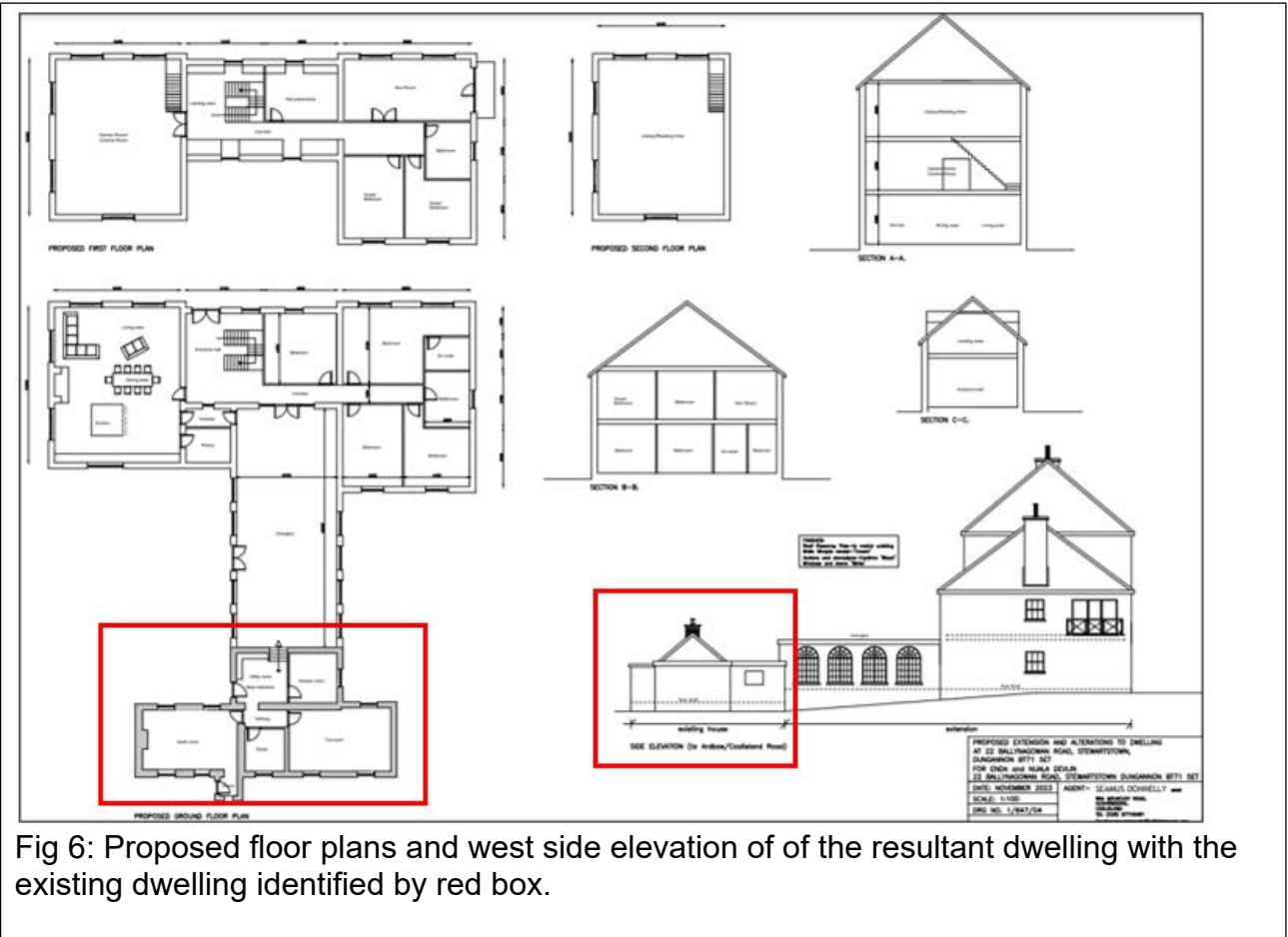


Fig 6: Proposed floor plans and west side elevation of of the resultant dwelling with the existing dwelling identified by red box.

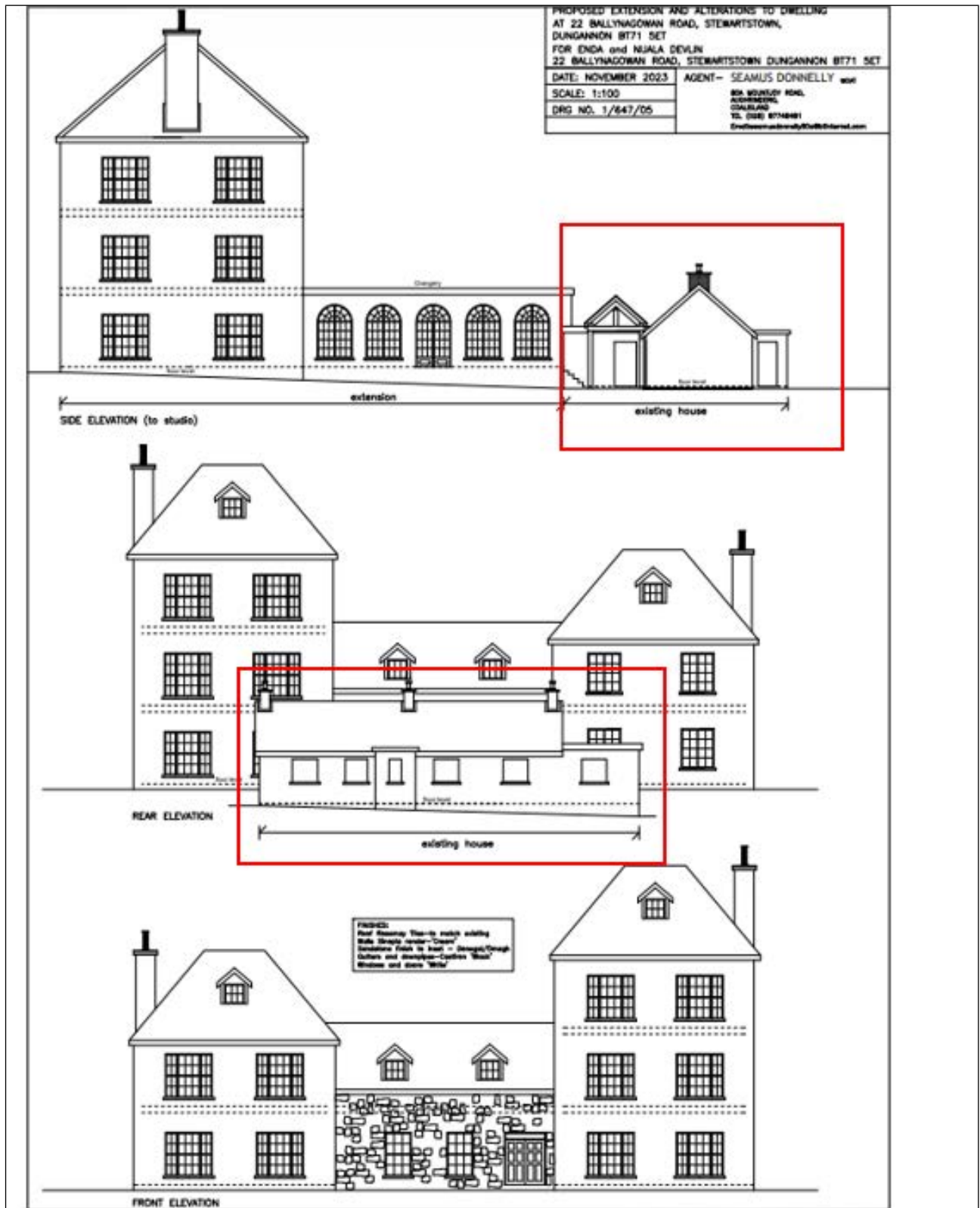


Fig 7: East side, rear and front elevation, respectively of the resultant dwelling with the existing dwelling identified by red box.

**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.

### **Key Policy Context**

Regional Development Strategy

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21: Sustainable Development in the Countryside

Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

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

### **Relevant Planning History on Site**

- I/1978/0150 - Improvements to dwelling - Granted (Historical Decision)
- LA09/2019/0037/F - Proposed domestic garage and private art studio - Granted 7<sup>th</sup> May 2019
- LA09/2021/1497/F - Retention of existing access, walls and pillars - Granted 11<sup>th</sup> October 2022

### **Consultees**

N/A

**Cookstown Area Plan 2010** – The site is located in the rural countryside outside any settlement limit identified within the Plan.

**Strategic Planning Policy Statement for Northern Ireland** - sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

**Planning Policy Statement 21 Sustainable Development in the Countryside** - Policy CTY1 of Planning Policy Statement 21 allows for extensions in the countryside where they meet with Policy EXT1 of the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations.

### **Addendum to Planning Policy Statement 7 Residential Extensions and Alterations**

- Policy EXT 1 of this policy outlines planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- a) the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
- b) the proposal does not unduly affect the privacy or amenity of neighbouring residents;
- c) the proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and
- d) sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

With regards to the above, I am content that this proposal meets criteria b), c) and d) in that: it should not unduly affect the privacy or amenity of neighbouring residents in terms of overlooking or overshadowing given there are no properties in close proximity; DAERA's Natural Environment Map Viewer available online was checked and identified no natural heritage features of significance on site and the extension is to be located on improved grasslands as such will not cause any loss of, or damage to, trees or other landscape features contributing significantly to local environmental quality; and sufficient space will be retained within the curtilage of the existing dwelling for recreational and domestic purposes including the parking and manoeuvring of vehicles and additional space is to be provided through the extension of the properties curtilage.

The above said, it is not considered that the proposal meets criteria a) in that the scale, massing, design and external materials of the proposal are not considered sympathetic with the built form and appearance of the existing modest property and will detract from the appearance and character of the surrounding area.

The addendum to PPS 7 seeks to ensure a proposal to extend or alter a dwelling in the countryside is sensitive to its setting within the rural landscape. It encourages high quality design solutions irrespective of whether the approach followed seeks to mirror the style of the existing property or adopts a contemporary modern design approach. It outlines that to ensure good design any extension or alteration will need to complement the host building and respect its location and wider setting.

This 3 - storey extension with a hipped roof construction incorporating roof dormers is not of a scale, massing and design in keeping with the existing modest single storey pitched roof dwelling on site, which it is to be located to the front of. The extension, which will project significantly above the ridge line of the existing dwelling not usually considered acceptable, is considered so large and prominent that it will dominate the host property and its wider surroundings when viewed from the Ballynagowan Road. This is despite the site benefitting from a good sense of enclosure provided by vegetation in the wider vicinity, on and along the boundaries of the site and a large domestic garage and private art studio. A critical view of this proposal will be over a short distance on the west approach to the site along the Ballynagowan Road as seen in Figs 4 & 5, further above. On this approach, whilst the large domestic garage and private art studio provide some screening to the proposed extension, at approx. 15.5m above the



FFL of existing dwelling it is considered it will tower above the shed and be prominent in skyline.

In relation to the access arrangements, I am content there is no intensification here and that the proposal will utilise an existing unaltered access onto the public road. Whilst I acknowledge that the curtilage extension to accommodate the proposed extension and new access lane as part of this proposal was not detailed in the description of proposal used for neighbour notifying / advertising I have considered this ancillary development. In my opinion had the dwelling on site only sought this curtilage extension and new access lane, given the low-lying level of such development and enclosed nature of the site, it would not be visually apparent in the landscape when viewed from the public road.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, one third-party objections had been received on the 7<sup>th</sup> December 2023. Whilst the letter was signed, the objector's name could not be made out, and no address was provided to acknowledge receipt. A summary of the issues raised is provided below:

- The design of proposal including its 3 storey's, hipped roof construction and style of windows is contrary to MUDC Draft Plan and plan policy, is not in keeping with the character of existing property or the local area and if granted would be a prominent focal point in the sky and set a precedent for similar proposals contrary to policy within the district. No evidence submitted to explain how design is appropriate to dwelling and area. Design should be rethought to be sympathetic to the existing house and surrounding context. There is no need for curtilage extension to property, as there is scope within it, consideration should be given to keeping the extension within.
- The new lane proposed to serve the dwelling, off the existing lane; and the increase to the dwelling's curtilage, requiring planning permission, has not been mentioned.
- The new lane and curtilage extension proposed will create an infill opportunity under Policy CTY 8 of PPS 21 for a minimum of 3 future sites as seen below:



- The proposal will lead to the loss of agricultural land in an area dependent on land for farming.
- No need for this development as there is scope to meet local housing need as 3 sites in close proximity with foundations poured but not yet developed.

I have considered the objection above and would agree that the design of the proposed extension is contrary to policy in its current form in that it is not in keeping with the character of existing property or the local area as detailed further above in my assessment of the proposal. That said in my opinion had the dwelling on site only sought the curtilage extension and new access lane, given the low-lying level of such development and enclosed nature of the site, it would not be visually apparent in the landscape when viewed from the public road and thus acceptable. Albeit I acknowledge that the curtilage extension to accommodate the proposed extension and new access lane as part of this proposal was not detailed in the description of proposal used for neighbour notifying / advertising. In relation to bullet point 3 the new lane and curtilage extension proposed would not in my opinion create an infill opportunity. Policy CTY 8 – Ribbon Development Planning only permits the development of a small gap site sufficient 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 location of the 3 sites identified are not located within a gap as defined. In relation to the last two bullet points above, the applicant's have detailed they own these lands and have the right to apply for planning permission.

### **Additional Considerations**

In addition to checks on the planning portal Historic Environment Division (HED) map viewer available online has been checked and no built heritage assets of interest were identified on or near the site.

Flood maps indicate no flooding on site.

**Case Officer recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary Policy EXT1 of the Addendum to Planning Policy Statement 7 Residential Extensions and Alterations in that the scale, massing, design and external materials of the proposal are not sympathetic with the built form and appearance of the existing property and will detract from the appearance and character of the surrounding area.

**Signature(s):** Emma Richardson

**Date:** 25 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	28 November 2023
<b>Date First Advertised</b>	12 December 2023
<b>Date Last Advertised</b>	12 December 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  22A Ballynagowan Road Stewartstown Tyrone BT71 5ET  The Owner / Occupier  19 Ballynagowan Road Stewartstown Tyrone BT71 5AF  The Owner / Occupier  25 Ballynagowan Road Stewartstown Tyrone BT71 5ET  The Owner / Occupier  21 Ballynagowan Road Stewartstown Tyrone BT71 5ET</p>	
<b>Date of Last Neighbour Notification</b>	21 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2007/0769/RM  Proposals: Proposed single storey dwelling and domestic double garage  Decision: PG  Decision Date: 19-MAY-08</p> <p>Ref: LA09/2023/1286/F  Proposals: Proposed extension and alterations to dwelling  Decision:  Decision Date:</p> <p>Ref: LA09/2021/1497/F  Proposals: Retention of existing access, walls and pillars (amended plans)  Decision: PG  Decision Date: 18-OCT-22</p> <p>Ref: LA09/2019/0036/F  Proposals: Proposed domestic garage and private art studio</p>	

Decision:  
Decision Date:

Ref: LA09/2019/0037/F  
Proposals: Proposed domestic garage and private art studio  
Decision: PG  
Decision Date: 07-MAY-19

Ref: I/1978/0150  
Proposals: IMPROVEMENTS TO DWELLING  
Decision: PG  
Decision Date:

Ref: I/2005/0675/O  
Proposals: 1 No dwelling house  
Decision: PG  
Decision Date: 14-JUL-05

Ref: I/2006/0370/O  
Proposals: Site for dwelling & detached garage  
Decision: PG  
Decision Date: 16-OCT-06

### **Summary of Consultee Responses**

-

### **Drawing Numbers and Title**

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

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

Not Applicable

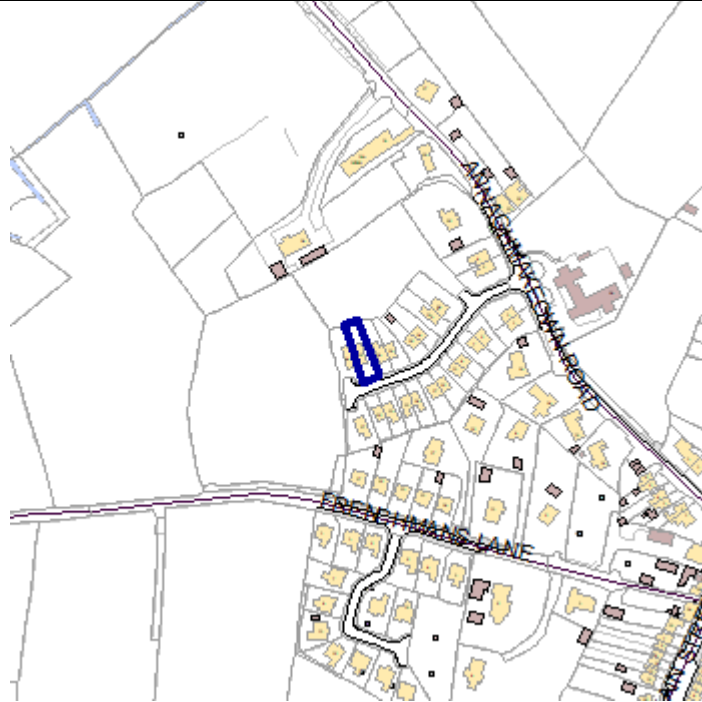


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.34
<b>Application ID:</b> LA09/2023/1296/F	<b>Target Date:</b> 13 March 2024
<b>Proposal:</b> Proposed car port and first floor extension to side of dwelling	<b>Location:</b> 22 Ferny Ridge Castlecaulfield BT70 3FE
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Gareth Hetherington 22 Ferny Ridge Castlecaulfield Dungannon	<b>Agent Name and Address:</b> McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	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 inside the development limits of Castlecaulfeild, within 'Ferry Ridge' an established housing development comprising semi detached properties of similar design and finishes.



Fig 1: Site outlined red.



Fig 2: Photos showing dwelling on site, no. 22 Ferny Ridge; and neighbouring properties nos. 20 and 24 Ferny Ridge.

The site is a flat rectangular shaped plot containing a 2-storey semi-detached dwelling, no. 22 Ferny Ridge, and it curtilage bound to the sides and rear by close boarded fencing. The dwelling has a single storey front projection incorporating a bay window and porch with hipped roof over; and a single storey rear return offset to its open gable incorporation a sunroom. It has a light grey dash finish with some stone detailing, dark roof tiles and white upvc window frames and doors. The dwelling has a small garden to the front and a larger garden / amenity area to the rear containing a single storey detached garage. In-curtilage parking is provided on a tarmac driveway running to the front and open gable of the property.

The landform in the immediate area rises generally from east to west, from the Annaghmakeown Road up through Ferny Ridge including the site and just beyond. As such no. 22 Ferny Ridge sits just above the level of no. 20 Ferny Ridge located to its



east and just below the level of no. 24 Ferny Ridge located to its west (see Fig 2, further above).

### Description of Proposal

This is a full planning application for a two-storey gable extension to an existing 2 storey, semi-detached property, located at no. 22 Ferny Ridge Castlecaulfield.

The extension, which is to accommodate a ground floor car port with first floor bedroom over, measures approx. 3.7m in frontage length x 4.9m in gable depth x 6.8m in height above EGL (main roof of the dwelling approx. 8.4m above EGL).

Material finishes are to match the existing property.



Fig 3: Proposed front, side and rear elevation of proposed extension, respectively.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

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

#### **The following documents provide the primary policy context and guidance for the determination of this application**

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement (SPPS) for Northern Ireland

Addendum to Planning Policy Statement (PPS7) Residential Extensions and Alterations

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

In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Representations**

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

### **Consultations**

N/A

### **Planning History**

- M/2004/0874/O - proposed housing development - Granted
- M/2005/2067/O - Proposed amendment to previously approved outline planning for a housing site 1 detached dwelling and 12 pairs of semi-detached dwellings (M/2004/0874/O) - Granted
- M/2009/0387/RM - Proposed housing development to include 24 no 4 bedroom semi-detached dwellings with detached garage and 1 no 4 bedroom detached dwelling also service road & associated turning head –
- M/2010/0334/F - Proposed amended house designs from that previously approved under M/2009/0387/RM for sites 1&2 and 24-25 to incorporate 2 no detached 2 storey dwellings in lieu of 4 No semi-detached dwellings -
- M/2011/0054/F - Proposed amended house designs from that previously approved under M/2009/0387/RM for sites 1-12 and 14-25 to change 4 bedroom semi-detached to 3 bedroom semi-detached 2 storey dwellings and detached domestic garages - Granted

### **Assessment**

Dungannon and South Tyrone Area Plan 2010 – The site is located within a housing development that straddles the settlement limits of Castlecaulfeild and the rural countryside with the site sitting in the rural countryside. Policy CTY1 of Planning Policy Statement 21 allows for extensions in the countryside where they meet with Policy EXT1 of the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations.

Strategic Planning Policy Statement for Northern Ireland - sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. I am not content the proposed development will not cause demonstrable harm to interests of acknowledged importance as detailed further below under the addendum to Planning Policy Statement 7 Residential Extensions and Alterations.

The addendum to Planning Policy Statement 7 Residential Extensions and Alterations - Policy EXT 1 of this policy outlines planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- a) the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;

- b) the proposal does not unduly affect the privacy or amenity of neighbouring residents;
- c) the proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and
- d) sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

With regards to the above, this proposal meets criteria c) and d) in that the extension is to be located on an existing tarmac driveway as such will not cause any loss of, or damage to, trees or other landscape features; and given the location and (existing tarmac driveway) and nature of the extension (incorporating carport), space within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles should not be impacted.

The above said, it is not considered, this proposal meets criteria a) or b), above.

In relation to criteria a) I consider the extension overdevelopment of the site in terms of massing, plot size and proximity to the neighbouring boundary with no 20 Ferny Ridge creating a visual 'terrace' effect. That this side extension would not be sympathetic with the built form and appearance of the existing property and would alter the character of the property and area by filling the visual gap between the host and neighbouring property. Furthermore, adequate space alongside boundaries is promoted within the addendum to PPS 7 to allow for maintenance and eliminate the possibility of any part of the extension, including rainwater goods, overhanging neighbouring property.

In relation to b) it is considered the proposal will unduly affect the amenity of the neighbouring resident no. 20 Ferny Ridge that by reason of its location, scale, massing and design it will cause overshadowing/loss of light and dominance. Due to the extension being two storey and located right up against the neighbouring boundary it is considered it will adversely impinge on the immediate aspect or outlook from no. 20 creating a sense of being 'hemmed in'. This dominance could be increased as no. 20 sits at a lower ground level to the development site. This two-storey extension will appear very prominent when viewed from no. 20 and dominate outward views from its main serving ground floor windows particularly its rear sunroom (see Fig 4, further below), appearing excessively large and overbearing. Loss of light to no. 20's will be a consequence of the dominance. The proposed extension would significantly exacerbate to an unacceptable level the existing shadowing (see Fig 5, further below) / loss of daylight to no. 20 in particular its main serving ground floor windows including to its sunroom by no. 22 Ferny Ridge and the party boundary between the two properties.



Fig 4: Photo showing the neighbouring property, no. 20 Ferny Ridge's sunroom.



Fig 5: Showing existing overshadow from no. 22 to no. 20 Ferny Ridge on 9<sup>th</sup> August 2022.

### Additional Considerations

In addition to checks on the planning portal Historic Environment Division (HED) map viewer available online has been checked and identified the site is located within the buffer of an C17th Church & Graveyard however consultation with HED was not considered necessary as the site has already been developed as part of the wider housing development and the extension is to be located on a tarmac driveway.

Flood maps indicate no flooding on site.

**Recommendation - Refuse**

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to the Addendum to Planning Policy Statement 7 Residential Extensions and Alterations, Policy EXT 1, in that the location, scale, massing and design of the proposal are not sympathetic with the built form and appearance of the existing property and would detract from the appearance and character of the surrounding area; and that it would unduly affect the amenity of the neighbouring resident no. 20 Ferny Ridge by reason of overshadowing/loss of light and dominance.

**Signature(s):** Emma Richardson

**Date:** 25 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	29 November 2023
<b>Date First Advertised</b>	11 December 2023
<b>Date Last Advertised</b>	11 December 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 24 Ferny Ridge Castlecaulfield Tyrone BT70 3FE The Owner / Occupier 20 Ferny Ridge Castlecaulfield Tyrone BT70 3FE The Owner / Occupier 25 Ferny Ridge Castlecaulfield Tyrone BT70 3FE The Owner / Occupier 23 Ferny Ridge Castlecaulfield Tyrone BT70 3FE	
<b>Date of Last Neighbour Notification</b>	30 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2009/0387/RM  Proposals: Proposed housing development to include 24 no 4 bedroom semi-detached dwellings with detached garage and 1 no 4 bedroom detached dwelling also service road &amp; associated turning head.  Decision: PG  Decision Date: 12-FEB-10</p> <p>Ref: LA09/2023/1296/F  Proposals: Proposed car port and first floor extension to side of dwelling  Decision:  Decision Date:</p> <p>Ref: M/2013/0595/F  Proposals: Proposed housing developments phase 2: - 9 no.3 and 4 bedroom dwellings (1no. detached and 8 no. semi detached)  Decision: PR  Decision Date: 22-SEP-14</p>	

Ref: M/2010/0334/F

Proposals: Proposed amended house designs from that previously approved under M/2009/0387/RM for sites 1&2 and 24-25 to incorporate 2 no detached 2 storey dwelling in lieu of 4 No semi detached dwellings.

Decision: PG

Decision Date: 02-JUN-10

Ref: M/2004/0874/O

Proposals: proposed housing development

Decision: PG

Decision Date: 15-OCT-04

Ref: M/2005/2067/O

Proposals: Proposed amendment to previously approved outline planning for a housing site 1 detached dwelling and 12 pairs of semi detached dwellings.(M/2004/0874/O)

Decision: PG

Decision Date: 03-MAY-06

Ref: M/2011/0054/F

Proposals: Proposed amended house designs from that previously approved under M/2009/0387/RM for sites 1-12 and 14-25 to change 4 bedroom semi-detached to 3 bedroom semi-detached 2 storey dwellings and detached domestic garages.

Decision: PG

Decision Date: 01-MAR-11

### Summary of Consultee Responses

-

### Drawing Numbers and Title

Site Location Plan    Plan Ref: 01

Proposed Plans        Plan Ref: 02

Existing Plans         Plan Ref: 03

### Notification to Department (if relevant)

Not Applicable



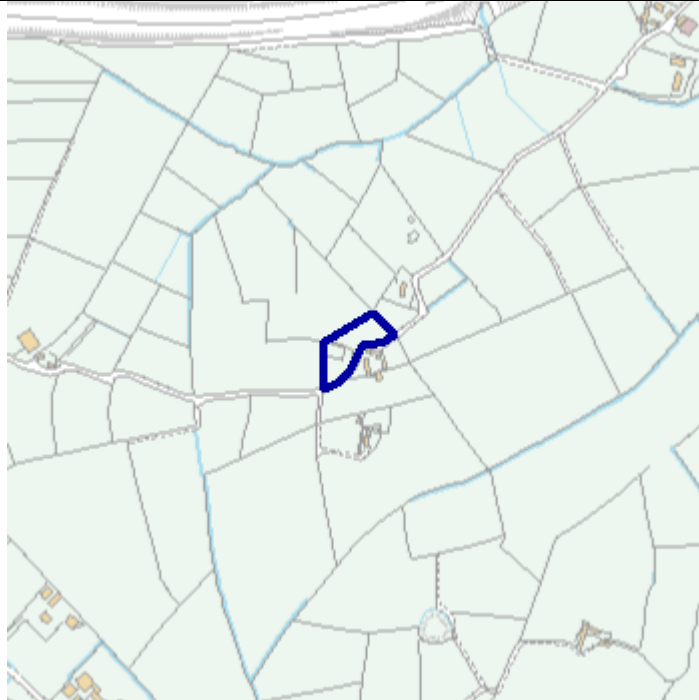
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 February 2024	<b>Item Number:</b> 5.32
<b>Application ID:</b> LA09/2023/1297/F	<b>Target Date:</b> 13 March 2024
<b>Proposal:</b> Temporary planning permission for the retention of a mobile caravan unit for living accommodation	<b>Location:</b> Site 50M West of 10 Aghnahoe Road Killeeshill Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Trevor Hurst 10A Aghnahoe Road Killeeshill Dungannon	<b>Agent Name and Address:</b> McKeown and Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
	DAERA - Omagh	

### 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 adjacent the Aghnahoe Road in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approximately 5.2km northeast and 0.4km south of Ballygawley and the A29, respectively.



Fig 1: Site outlined red



Fig 2: Site outlined red.

The site is an irregular shaped roadside plot comprising in effect two parcels of adjoining land, a triangular shaped plot with a relatively rectangular shaped plot to the northeast.

The triangular plot (see Figs 3 & 4, below) comprises a yard, largely undefined to the front on to the adjacent public road; and bound to both sides by a mix of mature hedgerow and tree vegetation. It contains a large agricultural style building, numerous vehicles in various states of repair and a mobile caravan. The mobile caravan, which appears occupied by the applicant, is the subject of this application. The rectangular plot comprises the roadside frontage of a larger agricultural field. It is bound to the front onto

the public road and both sides by a mix of mature hedgerow and tree vegetation and undefined to the rear onto the host field.



Figs 3 & 4: Photos showing portion of yard containing the mobile caravan, the subject of this application, set back of site to the south side of a large agricultural style building also on site.

Views into the triangular site and of the mobile caravan on it are limited from the Annaghnaoboe Rd on the southwest and northeast approach along the Aghnahoe Road until passing along its roadside frontage due to its location at a slight bend in the road, the topography of the area, the mature vegetation bounding the site and in the wider vicinity, and the existing large agricultural style building helping to enclose, screen and provide it with a backdrop.



Figs 5 & 6: Photos of triangular plot containing the mobile caravan, the subject of this application, screened on the southwest and northeast approach along the Aghnahoe Road, respectively.

The area surrounding the site is rural in character comprising agricultural landscape interspersed with single dwellings, ancillary buildings, and farm groups. The landform in the immediate area, along this stretch of the Aghnahoe Road, generally falls moderately steeply from southwest to northeast through the site and lands immediately to its east containing a two-storey dwelling (no. 10 Aghnahoe Road) with ancillary attached and detached outbuildings / sheds.

## Description of Proposal

This is a full planning application seeking temporary planning permission for a period of 3 years for the retention of a mobile caravan for living accommodation on lands 50m west of 10 Aghnahoe Road Killeeshill Dungannon.

The mobile caravan, which measures approx. 19m (length ) x 3.2m (width) x 2.95 (height above EGL), has coloured panelling to its walls and roof and white window frames and doors.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

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

### **Representations**

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

### **Relevant Planning History on Site**

LA09/2022/0048/CA - Unauthorised use of a mobile caravan as a self-contained unit of permanent accommodation - Pending outcome of this application.

### **Consultees**

1. DFI Roads were consulted in relation to the proposals access, movement and parking arrangements to ensure compliance with Planning Policy Statement 3:

## Access, Movement and Parking requirements.

DFI Roads advised that to create a safe access onto Aghnahoe Road to meet DCAN 15 standards an amended block plan detailing the proposed access for this full allocation is required. Details should include: 2.4m x 33m visibility splays in both directions onto the public road and a 33m FSD; any fence line / hedge; any pillars or gates a minimum of 5m back from the public road; the method of dealing with surface water to prevent water flowing from site to road; parking and turning from the existing business yard / shed to be detailed; and parking and turning in curtilage from the mobile caravan demonstrated.

The amended block plan required above has not been sought at this time as the principle of this proposal has not been established (see 'Key Policy Considerations / Assessment' below).

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

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21 and include residential caravans and mobile homes in accordance with policy CTY9.

Policy CTY9 'Residential Caravans and Mobile Homes' states that permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances including;

- 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 'Personal and Domestic Circumstances' of PPS 21)

All permissions will normally be subject to a three-year time limit. However, this may be extended having regard to the particular circumstances of the case. The siting of a residential caravan or mobile home will be subject to the same planning and



environmental considerations as a permanent dwelling. Permission will depend on the ability to integrate the unit within an existing building group and screen the unit from public view. Residential caravans or mobile homes on farms will be required to be visually linked or sited to cluster with an established group of buildings on the farm.

This proposal does not meet exception one of Policy CTY 9, as the mobile caravan sought to be temporary retained as residential accommodation is not pending the development of a permanent dwelling.

The applicant has advised that he has inherited his mother's 38-acre farm which he intends seeking planning permission to erect a dwelling on when the legal probate process in his mother's name is complete. In the meantime, as an active farmer, he seeks the mobile caravan on the farmlands for living accommodation. As he does not have a farm business ID, normally used by Planning in order to carry out consultation with DAERA to establish an active and established farmer under Policy CTY 10 of PPS 21 which makes provision for dwellings on a farm, to support that he has been an active and established farmer for at 6 years he submitted: a RICS Con Acre Agreement with a neighbouring farmer, whom he has let out the lands to, from 2017 – 2024; and a selection of dockets, invoices and receipts for labour and materials purchased in the past 6 years in connection with the upkeep of the farmlands to keep them in good shape for letting out.

Taking account of the above, it is not considered that the applicant has provided an adequate compelling and site-specific reason that the residential mobile caravan is a necessary response to the particular circumstances of the case and that, as detailed in Policy CTY 6 of PPS 21, that genuine hardship would be caused if planning permission were refused. As such this proposal does meet exception two of Policy CTY 9.

It is advised that as this proposal does meet exception two of Policy CTY 9 and that the proposal is not for a 'dwelling' on a farm under Policy CTY 10 of PPS 21 the evidence in to establish the applicant is an active and established farmer has not been fully investigated.

Had this proposal met policy to warrant the temporary retention of the mobile caravan, which would be subject to the same planning and environmental considerations as that of a permanent dwelling. I consider it does integrate onto site and into the landscape, with minimal disruption to the character of the area in accordance with Policy CTY 13 and 14 of PPS 21. The site, and thus mobile caravan to the back of the site, benefits from location at a slight bend in the road; the topography of the area; the mature vegetation bounding the site and in the wider vicinity; and the existing large agricultural style building helping to enclose, screen and provide it with a backdrop from the limited views as detailed further above in 'Characteristics of the Site and Area'.

### **Additional Considerations**

Had this proposal met policy to warrant the temporary retention of the mobile caravan I consider it would not have impacted the amenity of neighbouring property, no. 10 Aghnahoe Road, to any unreasonable degree in terms of overlooking or overshadowing given the location of the mobile to the opposite side of the road and the separation

distance retained.

In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on or bounding the site.

Flood Maps NI indicate no flooding on site.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to SPPS, Policies CTY1, CTY 6 and CTY9 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not for the provision of temporary residential accommodation pending the development of a permanent dwelling; nor has the applicant provided compelling and site specific evidence that a residential mobile caravan is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.

**Signature(s):** Emma Richardson

**Date:** 24 January 2024

<b>ANNEX</b>	
<b>Date Valid</b>	29 November 2023
<b>Date First Advertised</b>	11 December 2023
<b>Date Last Advertised</b>	11 December 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 10 Aghnahoe Road Killeeshill Dungannon BT70 1TN	
<b>Date of Last Neighbour Notification</b>	1 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2023/1297/F Proposals: Temporary planning permission for the retention of a mobile caravan unit for living accommodation Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Full Resp.docx DAERA - Omagh-	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	



**Notification to Department (if relevant)**

Not Applicable





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

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

## Further Deferred Consideration Report

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

**Characteristics of the Site and Area:**

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

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

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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



Fig 1 Proposed building and approved building



Fig 2 Proposed layout and approved layout

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

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

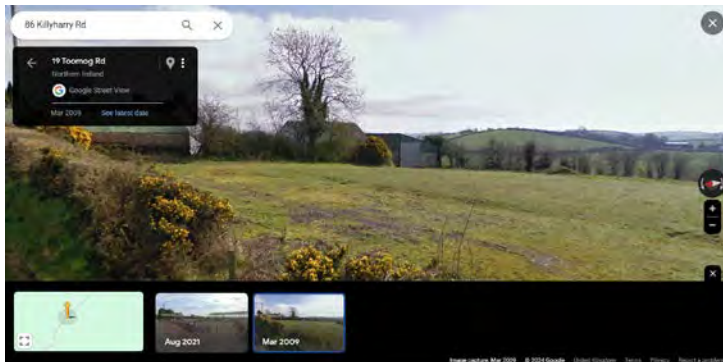


Photo 1 – view of objectors shed with door facing into the field

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



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



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

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

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



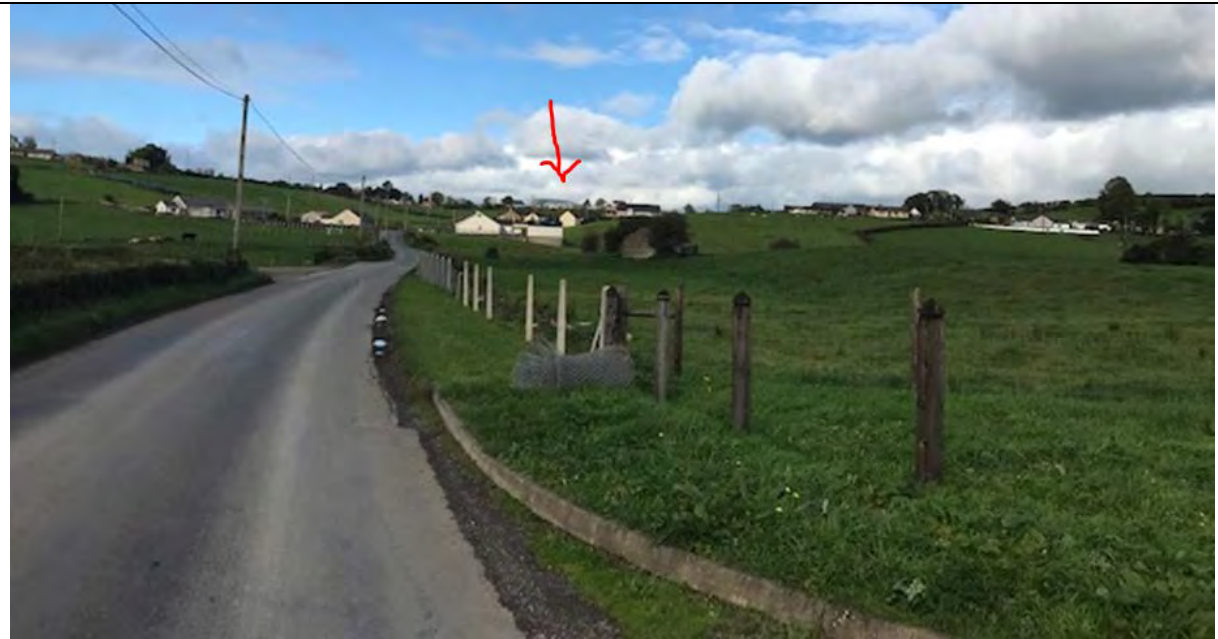


Photo 5 – building on skyline from south east long distance



Photo 6 – closer view from South East – middle distance





Photo 7 – view from close up from south east.

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

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

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

**Conditions:**

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

Reason: This is a retrospective application.

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

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

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

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

Reason: The protect residential amenity from Noise and Odour

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

Reason: The protect residential amenity from Noise and Odour

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

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

Reason: To prevent flooding of neighbouring properties.

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

Reason: In the interests of visual amenity.

**Signature(s)**

**Date:**



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

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

## Deferred Consideration Report

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

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

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

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

#### **Description of Proposal**

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

#### **Deferred Consideration:**

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

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

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



Fig 1 – building on skyline from south east long distance

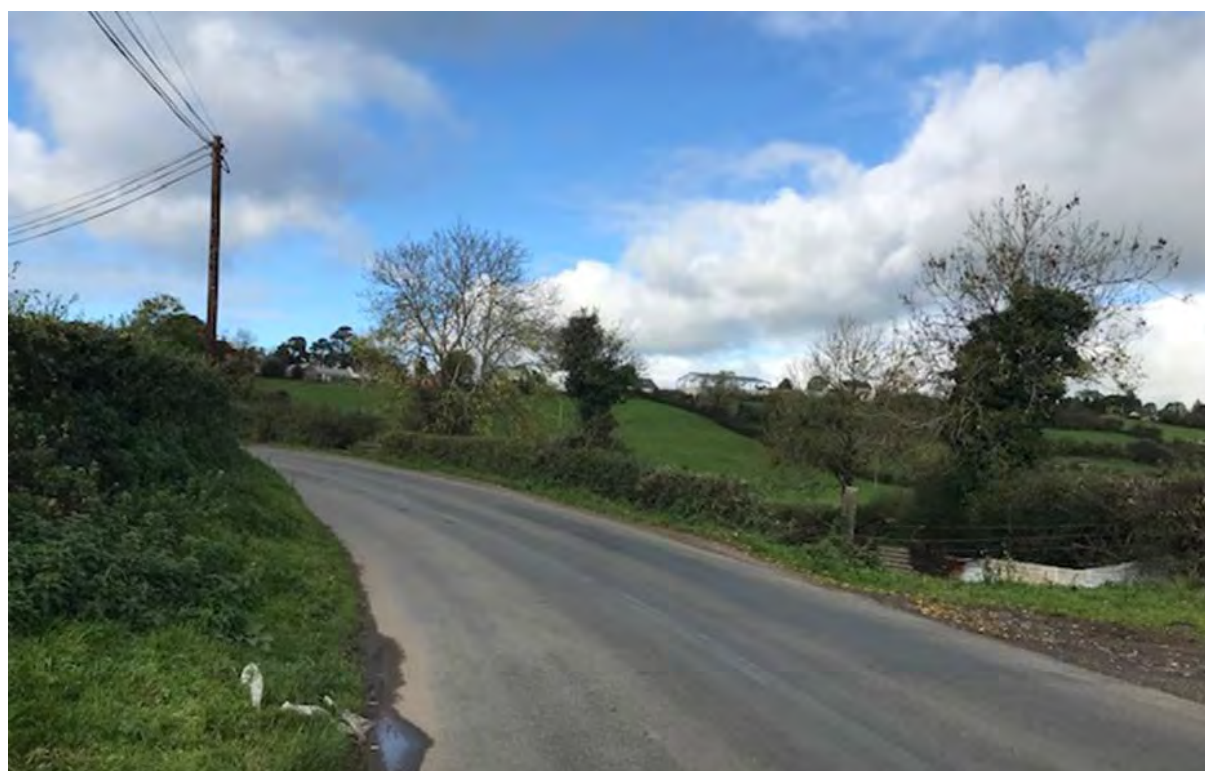


Fig 2 – closer view from South East – middle distance





Fig 3 – view from close up from south east.

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



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

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

**Reasons for Refusal:**

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

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

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



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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

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

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

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

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

### Planning History

This application site has various planning histories on it.

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

There are a number of enforcement histories on this site.

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

### **Description of Proposal**

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

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

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

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

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

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

The SPPS advises that the policy provision of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) are retained. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and that includes development for agriculture and forestry. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

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

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

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

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

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

In addition to the requirements above and in cases where a new building is proposed, applicants will also need to provide sufficient information to confirm all of the following:

- There are no suitable existing buildings on the holding or enterprise that can be used;
- The design and materials to be used are sympathetic to the locality and adjacent buildings; and
- The proposal is sited beside existing farm or forestry buildings.

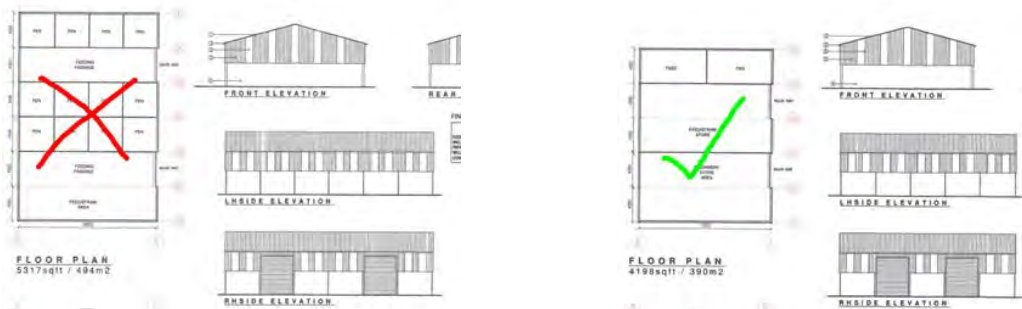
Exceptionally, consideration may be given to an alternative site away from existing farm, provided there are no other sites available at another group of buildings on the holding, and where:

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

#### LA09/2017/0977/F

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

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



Original Design

Revised and Approved Design

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

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



Original Siting



Revised and Approved Siting

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

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

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



Retention of building as Constructed

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

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



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



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

The building as was initially submitted as part of this application measured 30.6 metres in length, 18.6 metres wide with a ridge height of 8.2 metres FGL. This building occupies a footprint of almost 570 metres squared and as is apparently reflective of what is currently on the site. Through the processing of the previous application, both the applicant and agent were fully aware that the siting of the shed along the northern boundary and of that scale was unacceptable and did not meet the policy requirements of CTY 21, hence why the proposal was amended and thus approval was granted for the reduced and re-sited scheme. Not only did the applicant fail to construct the building as approved, they augmented the scale of the building by increasing the footprint by almost 180 metres squared, which resulted in the building being some 45% larger than what was granted permission. The footprint is also over 70 metres squared larger than the building which was deemed unacceptable due to its inappropriate scale. Along with this, the applicant has constructed a basement level also further increases the floorspace of the building.



Initial Drawing Submitted



Proposal incorporating partial demolition



Most recent layout

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

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

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

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

### Consultations

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

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

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

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

### Objections

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

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



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

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

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

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

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

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

**Refusal Reasons**

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

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

**Signature(s)**

**Date:**

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

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

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

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

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

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

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

Ref ID: M/1999/4033  
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Address: 28A TOOMAGH ROAD CASTLECAULFIELD DUNGANNON  
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Address: TOOMOG DUNGANNON  
Decision:  
Decision Date:

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

Decision Date: 06.07.2018

### Summary of Consultee Responses

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

### Drawing Numbers and Title

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

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

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

### Notification to Department (if relevant)

Date of Notification to Department:  
Response of Department:

## Deferred Consideration Report

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



### Description of Proposal

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

### Deferred Consideration:

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

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

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

**Reasons for Refusal:**

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

**Signature(s):**

**Date**



## Deferred Consideration Report

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



### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

**Reasons for Refusal:**

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

**Signature(s):**

**Date**



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

**Development Management Officer Report  
 Committee Application**

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

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### Representations:

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

#### Summary of Issues

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

#### Description of Proposal

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

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

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

### Site History.

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

### Consultees.

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

### Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 15.03.2021 (Publication date 16.03.2021). One (1) neighbouring properties was notified on 15.03.2021, and two (2) neighbouring properties wre notified on 17.09.2021; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

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

### Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 does not contain provided by PPS 21 and the SPPS.

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

**Supplementary planning guidance:-**

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

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

**Magherafelt Area Plan 2015.**

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

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

Planning Policy Statement 21: Sustainable Development in the Countryside. PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria being met. These are listed in Policy CTY1 of PPS21.

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

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

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



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

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

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

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

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

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

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

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

**Other Considerations**

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

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

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

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

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**



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

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

Decision Date: 15.02.2010

Ref ID: H/2009/0454/F

Proposal: Proposed 1? storey detached dwelling

Address: 35m South of 25 Macknagh Lane, Upperlands

Decision:

Decision Date: 16.10.2009

Ref ID: H/2001/0476/RM

Proposal: Dwelling and garage

Address: Junction of Macknagh Lane & Tirgarvil Lane, Upperlands

Decision:

Decision Date: 21.08.2001

Ref ID: H/2007/0898/O

Proposal: Site of proposed dwelling & garage

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

Decision:

Decision Date: 16.11.2007

Ref ID: H/2010/0562/O

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

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

Decision:

Decision Date: 29.06.2011

Ref ID: H/2010/0160/F

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

Address: 180m NE of 24 Macknagh Lane, Maghera

Decision:

Decision Date: 23.07.2010

Ref ID: H/2015/0065/O

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

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

Decision: WITHDR

Decision Date: 15.06.2015

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

**Reason 2**

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

**Signature(s):**Karen Doyle

**Date:** 25 January 2024



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

## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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



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

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

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

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

The surrounding topography within the site is relatively flat.

### **Description of Proposal**

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

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

### **Planning history.**

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

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

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

### **Representations.**

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

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

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

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

### **Consultees.**

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

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

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

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

### **Cookstown Area Plan 2010**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

-

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

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

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

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

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

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

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

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

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Taking into consideration the design and layout I would be content on balance that the dwelling should not appear as a prominent feature in the landscape and that the dwelling and ancillary works would be able to visually integrate into the landscape given the existing landscaping coupled with new landscaping and the land form. In terms of the proposed design I am content that this is acceptable on balance within this rural context.

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

### **Objection Assessment**

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

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

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

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

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

<p>I am content the site is within existing cluster and as a visual entity in the local landscape.</p> <p>In terms of road concerns - Roads were consulted and responded having no objection and recommended approval subject to conditions.</p> <p>I am in agreement with the objector that the site is not bounded on at least two sides with other development in the cluster and fails the policy in this respect.</p> <p><b>Other Material Considerations</b> There are no concerns with regards to flooding, residential amenity or ecology.</p> <p><b>The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy:</b> was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues faced with COVID19, this period has been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.</p>	
<b>Neighbour Notification Checked</b>	<b>Yes</b>
<p><b>Summary of Recommendation:</b></p> <ol style="list-style-type: none"> <li>1. Refusal- Contrary to Policies CTY1 &amp; CTY2a of PPS 21</li> <li>2. Letter of objection</li> </ol>	
<p><b>Reasons for Refusal:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not associated with a focal point and the site does not provide a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster.</li> </ol>	
<p><b>Signature(s)</b></p> <p><b>Date:</b></p>	

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

Decision: PG  
Decision Date: 21.10.2019

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

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

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

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

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

**Summary of Consultee Responses**

Content

**Drawing Numbers and Title**

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

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

**Notification to Department N/A**

Date of Notification to Department:  
Response of Department:





## Deferred Consideration Report

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

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

#### Relevant Planning History

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

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

#### Description of Proposal

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

#### Deferred Consideration:

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

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

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

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

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

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

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

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

##### **Refusal Reasons**

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

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

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

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

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, add to a ribbon of development along the Motalee Road and would therefore result in a detrimental change to erode the rural character of the countryside.

**Reason 4**

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

**Signature(s):**Karla McKinless

**Date:** 19 January 2024



## Development Management Officer Report Committee Application

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

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

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

### **Description of Proposal**

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

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

#### **Policy Consideration**

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

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

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

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

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

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold

off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

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

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

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

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

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

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

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

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

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

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

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

### PPS 3: Access, Movement and Parking

DfI Roads were consulted and offered no objection.

### Other Material Considerations

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

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

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

Refusal Reasons
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**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY8 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Motalee Road and would, if permitted, result in the creation of a ribbon and suburban build up of dwellings.

**Case Officer:** Ciaran Devlin

**Date:** 18 August 2022

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

Ref: LA09/2019/0710/O

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

Decision: PR

Decision Date: 06-DEC-19

Ref: H/1998/0334

Proposals: EXT TO DWELLING AND NEW GARAGE

Decision: PG

Decision Date:

Ref: LA09/2021/0676/O

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

Decision:

Decision Date:

Ref: H/2002/0894

Proposals: Disposal of railway land.

Decision: 211

Decision Date: 03-MAR-04

Ref: H/1993/0066

Proposals: CONVERSION OF GARAGE TO PROVIDE RECREATION ROOM ALSO CAR

PORT AND GARDEN STORE

Decision: PG

Decision Date:

Ref: H/1996/0582

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DAERA - Coleraine-Substantive: TBCResponseType: FR

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable





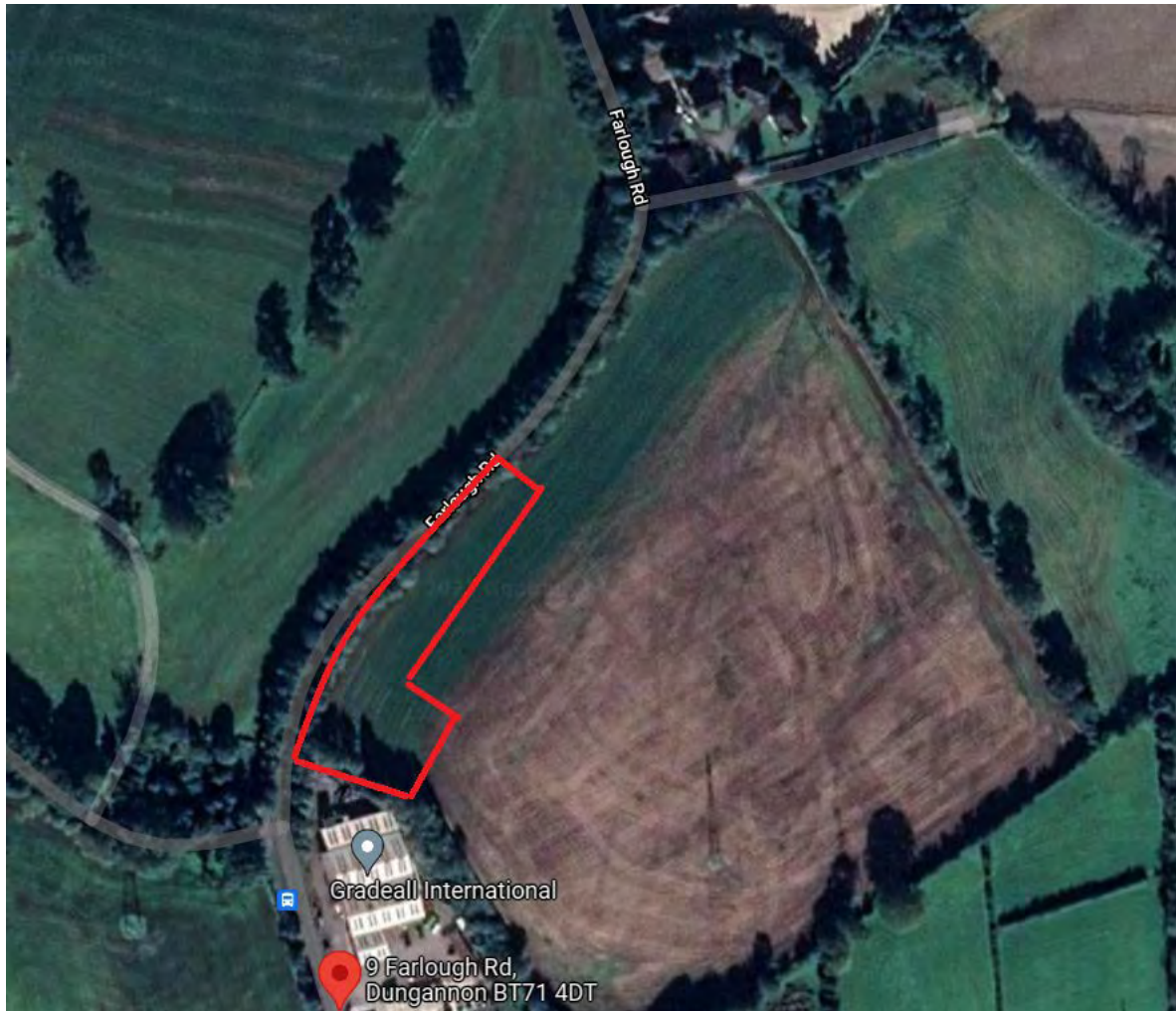
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Deferred Consideration Report

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

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



**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

**Reasons for Refusal:**

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

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



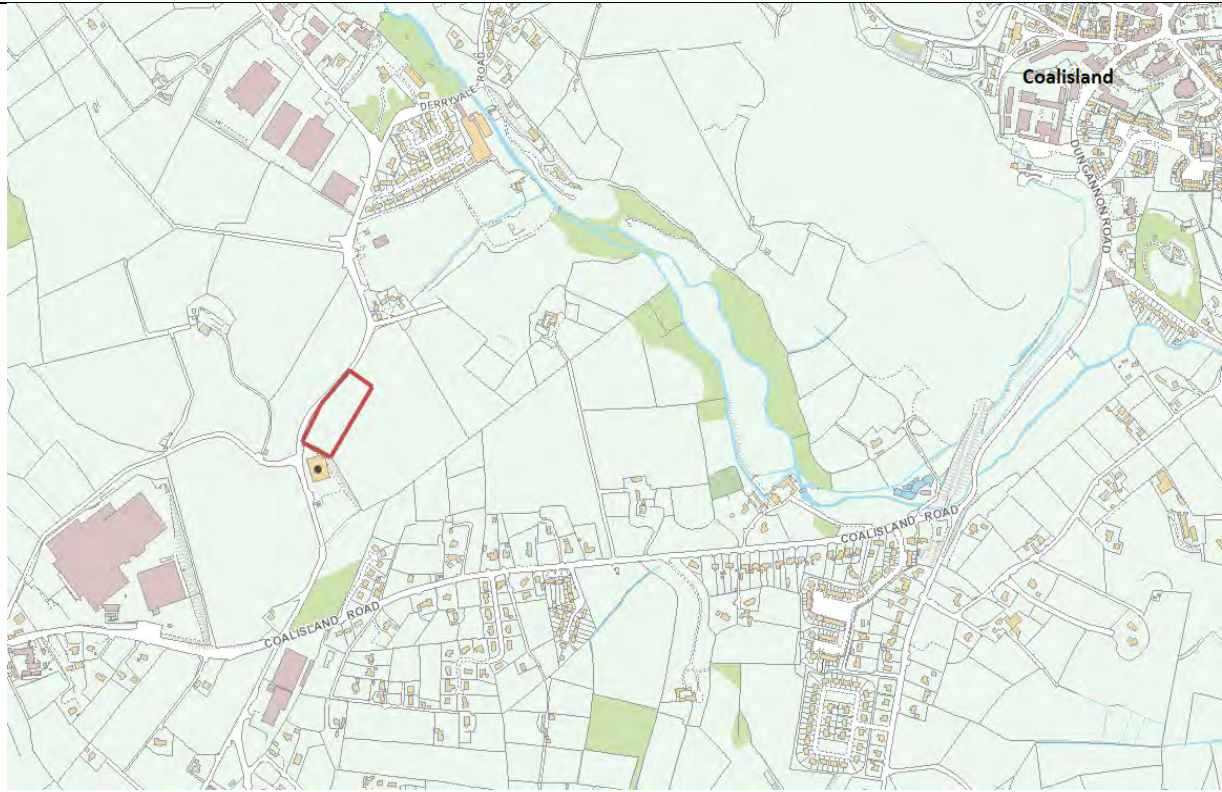
## Development Management Officer Report Committee Application

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



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Contrary to PPS21 CTY1, PPS4 PED2 & PED9

### Characteristics of the Site and Area

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

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

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



### Description of Proposal

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





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

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

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

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

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

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

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

### **Representations**

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

### **History on Site**

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

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

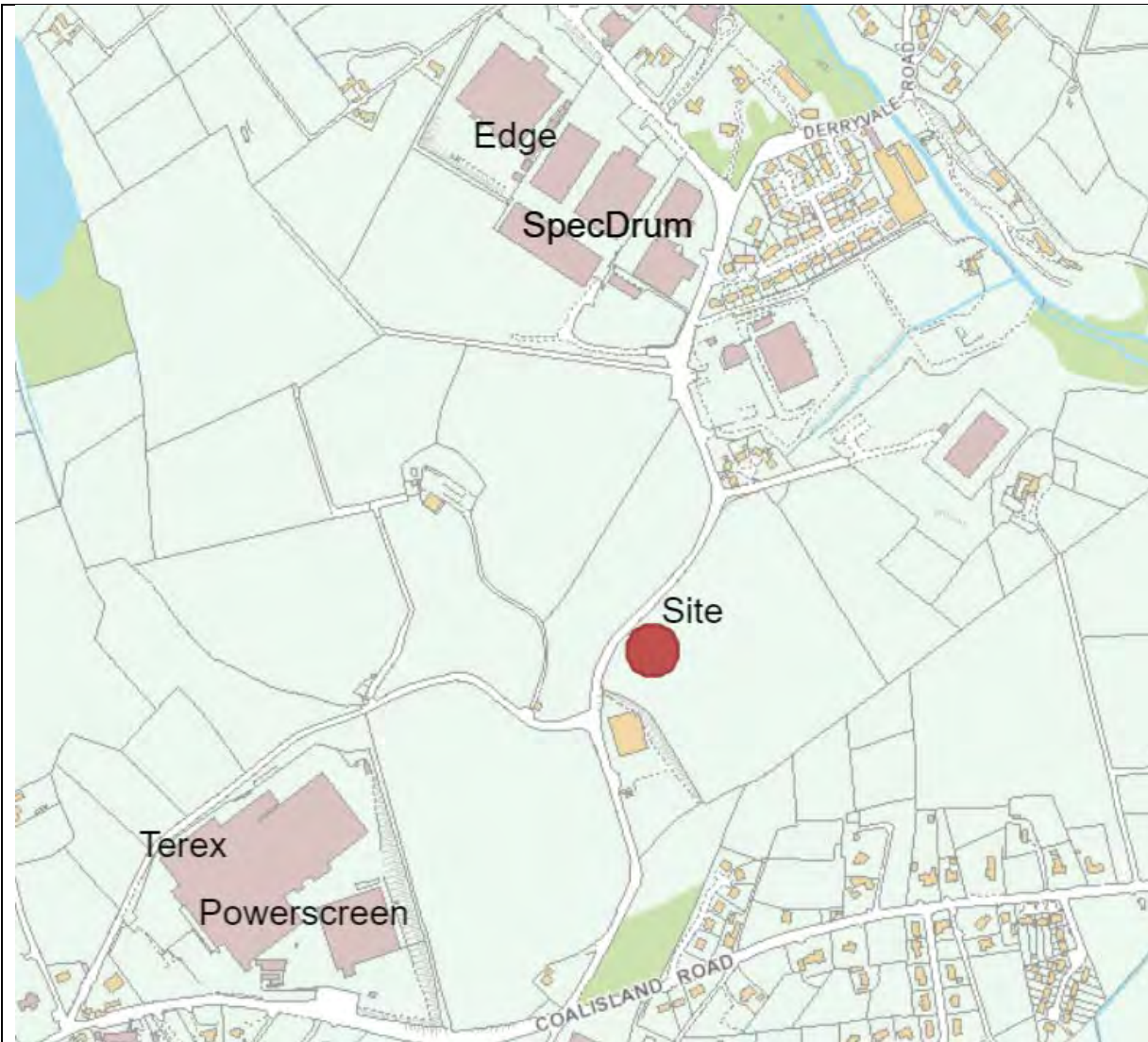
DSTAP - This site is located outside any settlement defined in the DSTAP 2010. It is not subject to any area plan designations or zonings and the plan does not have any policies for this type of development in a rural location. As such, existing planning policy will be applied (i.e.) PPS 4.

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

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

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

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



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

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

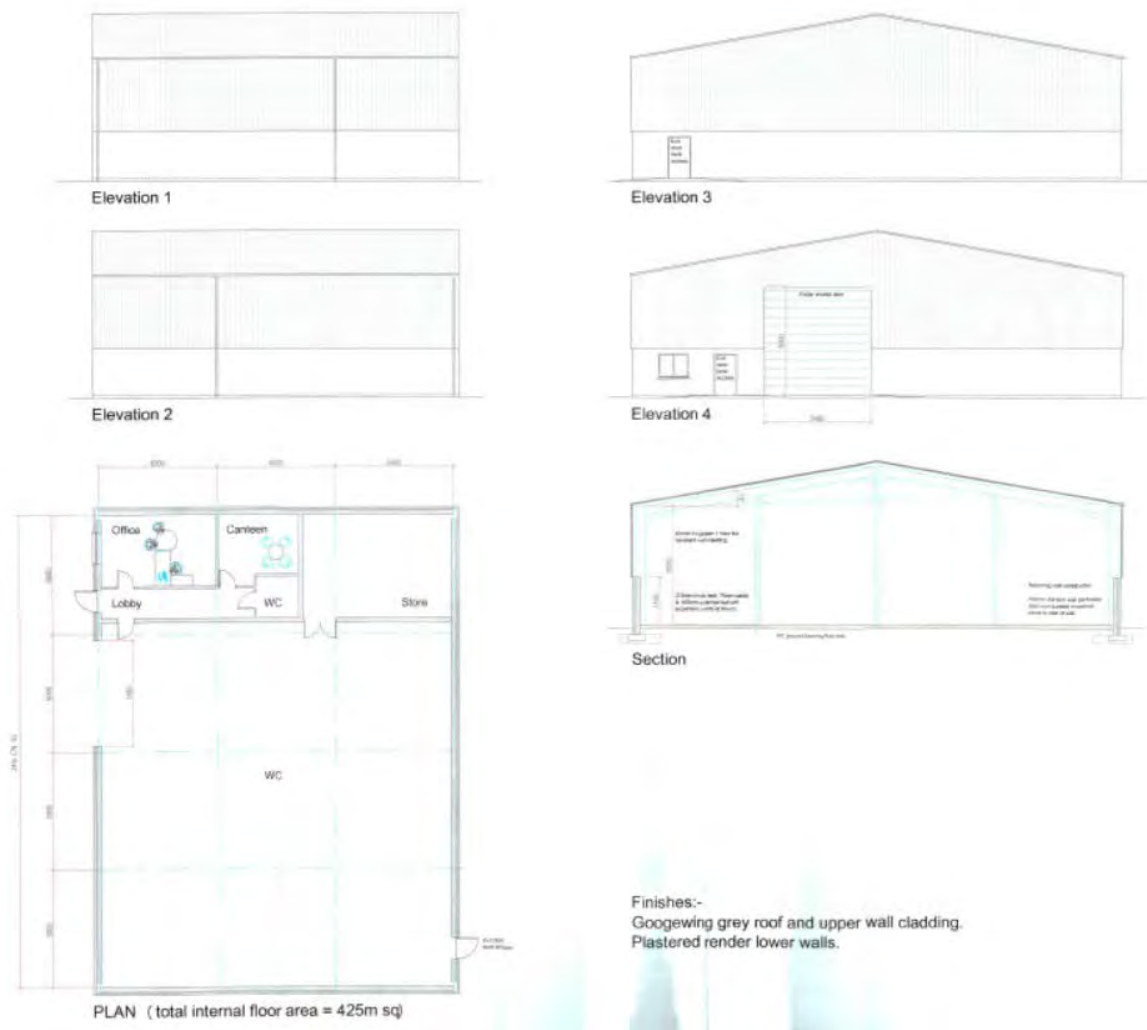
Policy PED 2 - Economic Development in the Countryside states proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:

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

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



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



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

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

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

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

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



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



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

Recommendation Refusal

**Neighbour Notification Checked**

**Yes**

**Refusal Reasons**

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

2. The proposal is contrary to the Council's Planning Policy Statement 4, PED 2 in that the site is located within the open countryside and no exceptional circumstances have been demonstrated to justify relaxation of the strict planning controls exercised in this area.

3. The proposal is also contrary to Policy PED9 of PPS4 as it would, if approved, fail to meet the following criteria, (a) it is compatible with surrounding land uses, (b) it does not harm the amenities of nearby residents, and (e) it has the potential to create noise nuisance.

**Signature(s)**

**Date:**



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

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

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

**Drawing Numbers and Title**

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

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

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

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



### Description of Proposal

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

#### Site History

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

### Deferred Consideration:

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

101a Dunnamore Road.

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

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

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

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

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

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

#### **Refusal Reasons**

##### **Reason 1**

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

##### **Reason 2**

The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it has not been demonstrated that the farm business

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

**Signature(s):**Karla McKinless

**Date:** 24 January 2024

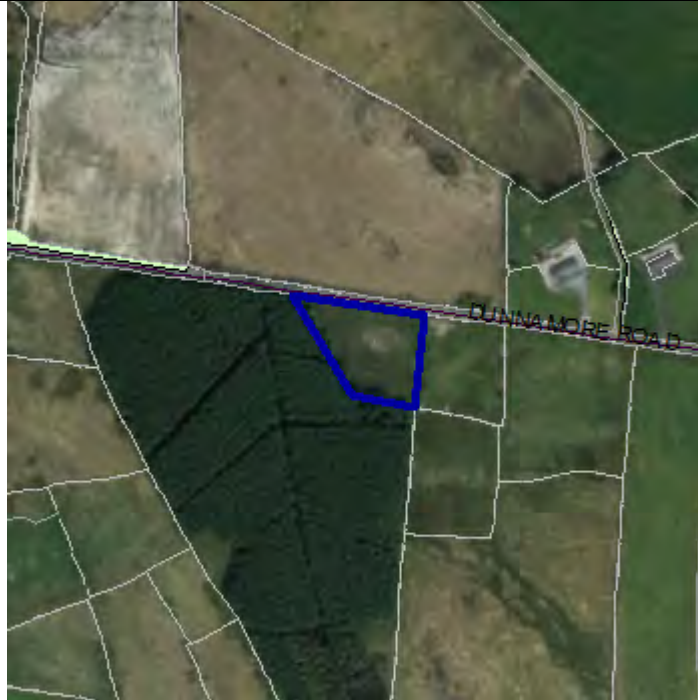


## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

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

### Characteristics of the Site and Area

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



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

## **Description of Proposal**

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

### **Site History**

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

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

### **Policy Consideration**

Cookstown Area Plan 2010  
Strategic Planning Policy Statement for Northern Ireland (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS3: Access, Movement and Parking  
Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 -Sustainable Development in the countryside.

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

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

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

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from

the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane. Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

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

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

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

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

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, the proposed site is bounded to the west and south by existing mature trees and I am content a dwelling at this location would not be a prominent feature in the landscape. Ancillary works would integrate with the surroundings.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. However, given the screening available at this site and the landform surrounding the site I am content an appropriately designed dwelling would not be unduly prominent in the landscape. I do not believe a dwelling here would result in a suburban style build up or development nor create or add to a ribbon of development.

#### Other Material Considerations

PPS 3 - Access, Movement and Parking;

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

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

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

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

**Signature(s):** Ciaran Devlin

**Date:** 15 August 2022

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

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

**Summary of Consultee Responses**

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

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



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

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

## Further Deferred Consideration Report

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

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

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

14,760m, which allows for a freeboard of more than 600mm. DFI Rivers ask for 300mm to 600mm clearance above design flood levels to ensure wave action or storm surges do not swamp development.

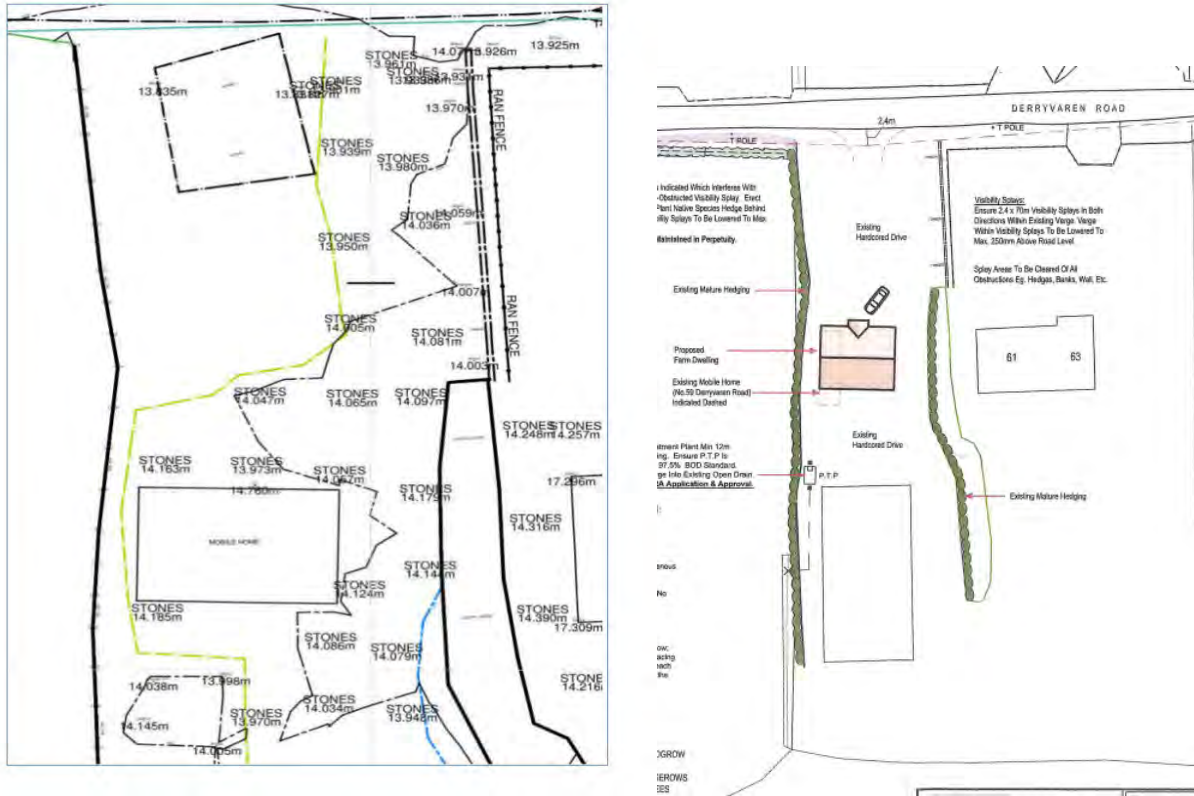


Fig 1 – topographical survey provided by applicant and site plan proposed







Fig 3 – extract from agents submission

On the face of it, the applicant appears to have shown the proposed dwelling is located outside the area that floods and as such is saying this dwelling will not flood and is asking that planning permission be approved. Members are advised that development in flood plains, including land raising, will result in the loss of valuable pondage areas and storm water capacity in the flood plain. Where development occurs in these areas it can displace water elsewhere and property that may not currently be at risk of flooding will become at risk. There has been infilling of the site carried out since the LIDAR Survey was taken as is evident in Figs 4 and 5 below.



Fig 4 Google Sreetview January 2009



Fig 5 Google Streetview July 2023

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



Fig 6 – flood event 20 November 2009



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

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

**Reasons for Refusal:**

**Reason 1**

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

**Signature(s)**

**Date:**





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

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

## Further Deferred Consideration Report

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

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

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



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

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

**Reasons for Refusal:**

**Reason 1**

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

**Reason 2**

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

**Signature(s)**

**Date:**





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

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

## Deferred Consideration Report

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



**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

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



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

Reasons for Refusal:

Reason 1

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

Reason 2

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

Reason 3

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

Reason 4

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

**Signature(s)**

**Date:**

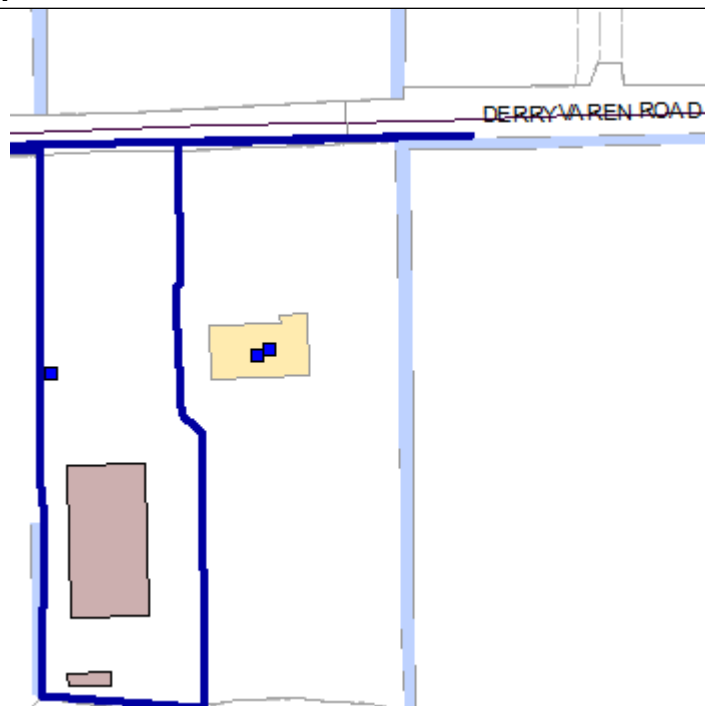


## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

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

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

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

### **Description of Proposal**

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

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

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

Site across the road

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

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

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

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

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

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

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

### **Planning Policy Statement 21**

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

### **CTY 10 – Dwelling on a Farm**

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

Invoices from SC Groundworks for

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

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

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

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

Invoices from MacLaughlin Engineering for

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

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

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

Invoices from G & C McGahan for

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

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

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

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

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

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

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

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

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

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

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

### **CTY 14 – Rural Character**

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

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

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

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



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

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

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

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

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

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

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

### **Other Considerations**

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

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

### **Neighbour Notification Checked**

**Yes/No**

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

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

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

**Reason 3**

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

**Reason 4**

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

**Signature(s):** Gillian Beattie

**Date:** 17 August 2022

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

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



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

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

## Deferred Consideration Report

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

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

**Description of Proposal**

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

**Deferred Consideration:**

This application was before the Planning Committee in November 2022 where it was deferred to meet with the Planning Manager. A meeting took place on 10 November 2022 where the agent advised the existing shed is for storing machinery and the proposed shed is for keeping sheep and feed. The agent was asked to provide further justification to demonstrate this building is necessary for the agricultural operations n the holding.

Members will be aware that an exception to the requirement to demonstrate 6 years active arming was exercised under LA09/2017/0489/F for a proposed 9m x 15m farm shed for the housing of animals and storage of farm machinery. Permission was granted on 8<sup>th</sup> June 2021 and this shed has been constructed. The permission for that was based on the applicants need to house sheep and that he had no room at his dwelling to do so. (Fig 1)

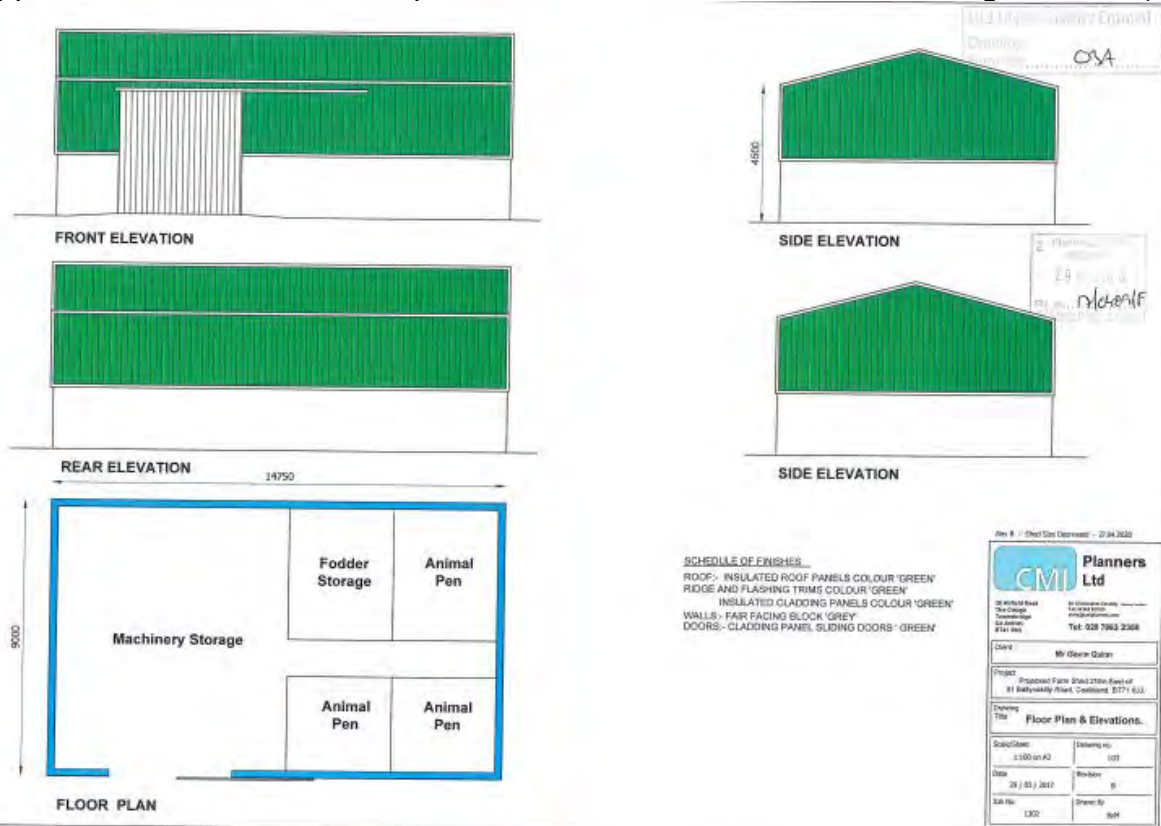


Fig 1 Approved shed

This proposal is for an identically sized building to be sited beside the approved and erected building. (Fig 2). The applicant has been asked to provide justification for the need for this additional building as there is a recently constructed building that was approved to

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

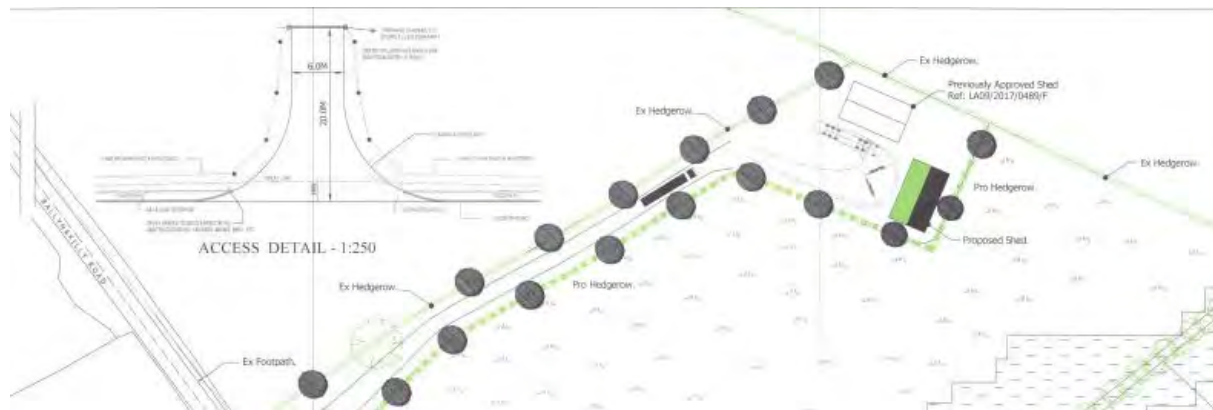


Fig 2 Proposed siting of new building

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

**Reasons for Refusal:**

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

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

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



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DAERA - Omagh	Substantive: TBC

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

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

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

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

### **Description of Proposal**

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

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

LA09/2017/0489/F - Proposed farm shed for the housing of animals and storage of farm machinery - 210M East Of 91 Ballynakilly Road, Coalisland – Permission Granted 8<sup>th</sup> June 2021

#### **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

## **Dungannon and South Tyrone Area Plan 2010**

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010 and is not within any other designations or zonings in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster’s Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

### **PPS21 - Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside;**

Policy CTY 1 Development in the Countryside

Policy CTY 12 Agricultural and Forestry Development.

Policy CTY 13 Integration and Design of Buildings in the Countryside

Policy CTY 14 Rural Character

Policy CTY 1 within PPS 21 highlights that there are a number of developments which may be acceptable in the countryside. One of these is agricultural and forestry developments in accordance with Policy CTY 12.

#### **CTY 12 -**

Policy CTY 12 stipulates that planning permission will be granted for development on an active and established agricultural or forestry holding and within the amplification text, it clarifies that for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10. Policy CTY 10 stipulates that the farm business should be both active and established for a period of at least 6 years.

The P1C form states that the business Id for this holding has only been created since 3<sup>rd</sup> November 2015 and DAERA confirmed this. I am content there is an established farm at the site for the past 6 years. DAERA stated the farm is a category 3 business and no farm subsidies have been claimed for the past 6 years. As the farm business is a Category 3 it is not entitled to claim farm payments from DAERA. I emailed the agent on the 29<sup>th</sup> June 2022 and 24<sup>th</sup> August 2022 requesting information to demonstrate the farm business is currently active and a supporting statement to show why the shed is necessary for the farm holding. At the time of writing no information has been received. I consider the agricultural holding is established but no evidence has been submitted to show it is currently active.

CTY 12 includes five further criteria (a-e):

(a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;  
Currently on site there is a shed which was granted approval under LA09/2017/0489/F. The applicant has submitted no evidence why a second shed is required on the farm for the efficient use of the agricultural holding.

(b) in terms of character and scale it is appropriate to its location;

The proposal presents an agricultural building which is not considered uncommon within

the context of this rural landscape. The materials used are similar to other types of agricultural development within this area. The existing pattern and type of buildings in the area are that of industrial sheds and large buildings therefore the level of impact associated with the proposal will be minimal and on that basis, I consider that the proposal will not have a significant detrimental impact on the rural character of the area.

(c) it visually integrates into the local landscape and additional landscaping is provided as necessary;

The proposed agricultural shed would benefit from the existence of natural vegetation and screening especially to the rear which surround the site area. As documented above, the location of other large buildings to the Northwest, help the proposal to fit into the wider. The proposal would not present a prominent feature in the context of this rural landscape setting, and I consider it to be successfully integrated. Additional trees and hedging was conditioned along the boundary and along the access lane as part of planning approval LA09/2017/0489/F but this had not been done at the time of my site visit.

(d) it will not have an adverse impact on the natural or built heritage;  
There are no sensitive natural heritage features of note within the site or the surrounding area. Therefore, I consider that the proposal will not have a negative impact on any natural/historic features or monuments.

(e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

It is noted that the proposal is sited some 160m away from the closest unconnected residential dwelling at No. 96 Ballynakilly Road. The agent has stated the proposed shed is for the storage of hay and there will be no animals housed within the building so I am content there will be no issues with smells to neighbouring dwellings.

### **CTY 12 - Additional Requirements**

In addition to that above and in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- There are no suitable existing buildings on the holding or enterprise that can be used;
- The design and materials to be used are sympathetic to the locality & adjacent buildings; &
- The proposal is sited beside existing farm or forestry buildings.

The applicant has provided no information why an additional shed is required, and the existing shed cannot be used to meet the needs of the farm holding. The proposed shed is the same footprint and height as the existing shed and the same external materials. I am content the design and materials are typical of an agricultural shed in the countryside. The proposed shed is sited adjacent to a farm shed already approved.

Overall, I do not consider the proposal meets all the criteria in CTY 12.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

As the proposed shed is the same scale, massing and design as the existing shed I am content the proposal will not be a prominent feature in the landscape. The new shed will sit adjacent to the shed in critical views so I am content the shed will integrate into the landscape.

### **CTY 14 – Rural Character**

I am content the proposed shed will not have an unacceptable impact on rural character. As shown below in figure 1 the existing shed is set back from the road and in long-distance views the proposed shed will sit beside the existing shed.



Figure 1 – Roadside view of the site

### **PPS 3 – Access, Movement and Parking**

A new access has been created as part of planning approval LA09/2017/0489/F and at the time of the site visit this access is in place, so it was not necessary to consult DFI Roads.

### **Other Considerations**

I checked the statutory map viewers, and I am content there are no other ecological, built heritage or flooding issues at the site. There is an area of surface water flooding to the southeast of the site, but I consider this will not impact on the proposal due to separation distance.

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it does not meet the criteria in CTY 12 in PPS 21.

Refusal Reasons

Reason 1

Contrary to CTY 12 - Agricultural and Forestry Development in PPS 21 in that no evidence has been submitted that there is an active farm holding and the building is necessary for the efficient use of the agricultural holding.

**Signature(s):** Gillian Beattie

**Date:** 17 October 2022

<b>ANNEX</b>	
<b>Date Valid</b>	25 April 2022
<b>Date First Advertised</b>	8 September 2022
<b>Date Last Advertised</b>	10 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 96 Ballynakilly Road, Ballynakilly, Coalisland, Tyrone, BT71 6HD The Owner / Occupier 81 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD The Owner / Occupier 91 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD The Owner / Occupier 89 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD	
<b>Date of Last Neighbour Notification</b>	6 July 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DAERA - Omagh-Substantive: TBC	

**Drawing Numbers and Title**

Proposed Plans Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable





Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1095/F	<b>Target Date:</b> 13 October 2022
<b>Proposal:</b> Relocation of previously approved dwelling and domestic double garage due to ground conditions.	<b>Location:</b> Approx. 75M NW Of No 42 Cloghoss Road Coalisland BT71 4QJ
<b>Applicant Name and Address:</b> Mr Declan McShane 202 Washingbay Road Coalisland BT71 5EG	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Summary of Issues:</b>  The application site was previously approved closer to the group of buildings on the farm. Due to adverse ground conditions the dwelling was re-sited further away. The dwelling is still visually linked with buildings on the farm. There was an issue in relation to the address of the proposal, it was initially submitted as Drummurrer Lane, however the street name signs show it as Cloghoss Road and spatial has the address as Drumuerrer Lane. The site has been re-advertised and both addresses have been subject to advertising.	
<b>Summary of Consultee Responses:</b> GSNI – no issues of concern raised	
<b>Characteristics of the Site and Area:</b>  The site is located in the rural countryside, outside any settlement limits defined in the Dungannon and South Tyrone Area Plan 2010, approx. 1.6km northeast of Annaghmore and 2.4km west of Lough Neagh.	



Fig 1: Site outlined red



Fig 2: Site outlined red

The application site is a flat irregular shaped plot cut from the south end of a much larger agricultural roadside field. The site is in effect divide into two plots, the southern and northern.



Fig 3: Google streetview showing southern plot highlighted green and northern plot outlined red. Whilst not shown in this image the northern plot as detailed below now contains the foundations of a dwelling and garage show in Fig 4 below.



Fig 4: Photograph showing foundations of dwelling and garage on northern plot  
The southern plot is a long rectangular shaped strip of agricultural land accessed off Drummurrer Lane via recessed wooden gated entrance. A hardcore area exists to the front of the south plot just inside the access. A mix of d-rail and post and wire fencing bounds the southern plot on all four sides in addition to a mature hedgerow and trees bounding it to the east half of its southern / party boundary with no. 42 Drummurrer Lane, a neighbouring detached one and storey property on lands within the control of the applicant.

The northern plot is a relatively square piece of ground comprising the foundations of a dwelling and garage set back from and accessed off Drummurrer Lane via an existing access and gravelled driveway off Drummurrer Lane. The boundaries of the northern plot are relatively open defined only by post and wire fencing with some vegetation along the eastern boundary. This plot also contains a mobile home situated just to the southeast of the foundations of the dwelling and garage.

Critical views of the site are from Drummurrer Lane on the northern approach to and passing along the roadside frontage of the site; and from the Washingbay Rd located further to the north of the site when travelling east to west and vice versa on the approach to its junction with Drummurrer Lane.

The immediate area surrounding the site is rural in nature with the site bound to the west, north and east by agricultural lands. As detailed above no. 42 Drummurrer Lane, a detached property on lands within the control of the applicant bounds the site to the south alongside a mobile home located immediately to its west, no 42a Drummurrer Lane, also within the control of the applicant.

### **Description of Proposal**

This is a full application for the relocation of a previously approved dwelling and domestic double garage due to ground conditions on lands approx. 75m NW of no. 42 Drummurrer Lane Coalisland.

The dwelling and garage sought to be relocated was approved under outline planning



application LA09/2020/0993/O and reserved matter planning application LA09/2021/1067/RM respectively on the 10<sup>th</sup> May 2021 and 29<sup>th</sup> September 2021.



Figs 5 & 6: Site layout including location of dwelling and garage previously approved; and new site layout including relocation of the dwelling and garage sought, respectively.

**Deferred Consideration:**

This application was before the Planning Committee in March 2023 where it was deferred for a meeting with the Service Director. At a meeting on 24 March 2023 the agent indicated the dwelling was relocated as the ground conditions where it was approved to be built was so poor the house could not be constructed there. The applicant has moved the dwelling and garage further to the north and is on stable ground.

Members are advised the original permission was granted as a dwelling on a farm and the permission is still live for that dwelling with development to have commenced by 10 May 2026. I am satisfied there is a fallback position in this case, if approved this would be in substitution for the approved development and would not result in an additional dwelling being approved under the farming case within 10 years.

The original permission was granted in a position closer to the group of buildings on the farm and this would have clustered with them. That said Policy CTY10 does go on to advise a dwelling can be approved where it is visually linked with the buildings on the farm. The amplification of the policy clarifies this as 'there is no appreciation of any physical separation between them'. In my opinion the main issue in this case is whether or not the proposed dwelling is sited to visually link with a group of existing buildings on the farm with little appreciation of any physical separation between them. Travelling towards the site from the north, the dwelling has a backdrop of the existing group of buildings, it is also apparent from the road frontage in front of the site, the proposed development is visually linked with the existing group of buildings. From my inspection of the site, I am of the opinion the proposed dwelling does have the necessary visual linkage and as such meets the criteria in Policy CTY10 for siting. I do not see any discernible difference in the site now proposed and the approved site in relation to the potential for integration and note additional landscaping will be carried. As this is in substitution for the original approval I consider it is necessary to impose a condition that one dwelling shall be erected on the site to ensure only one house is allowed within 10 years under the farming case.

I recommend this application is approved.

Conditions/Reasons for Refusal:

1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

2. The area within the 2.4m x 60.0m sight visibility splays shown on drawing No 02 bearing the stamp dated 30 June 2022 shall be kept cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

3. All hard and soft landscape works as detailed on drawing no 02 bearing the stamp dated 30- JUN- 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out before the end of the next planting season following the date of this decision. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

4. One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 bearing the stamp dated 30 JUN 2022.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2020/0993/O and reserved matter planning application LA09/2021/1067/RM and is not for an additional dwelling on this site.

**Signature(s)**

**Date:**



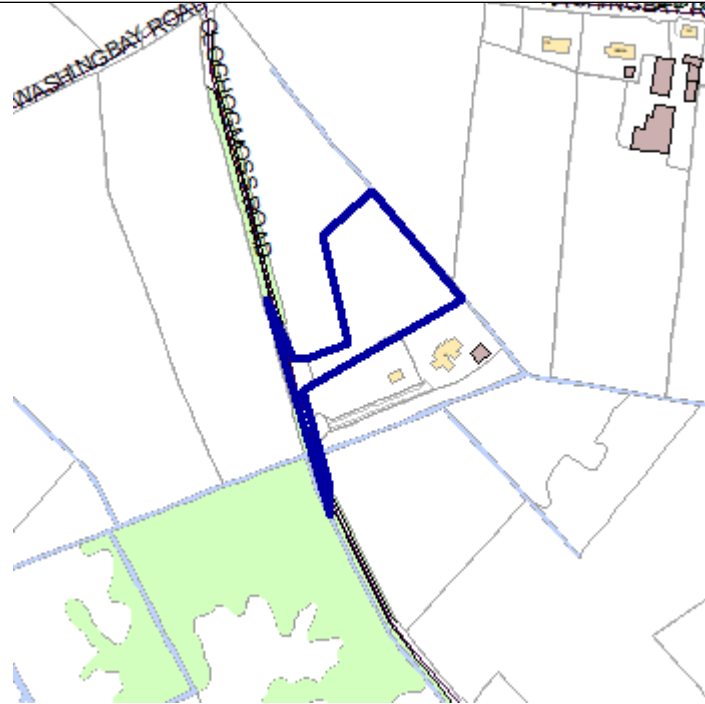


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2022/1095/F	<b>Target Date:</b> 13 October 2022
<b>Proposal:</b> Relocation of previously approved dwelling and domestic double garage due to ground conditions.	<b>Location:</b> Approx. 75M NW Of No 42 Drummurrer Lane Coalisland BT71 4QJ
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Declan McShane 202 Washingbay Road Coalisland BT71 5EG	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Geological Survey NI (DfE)	3143 MUDC Planning. Approx. 75m NW of No 42 Drummurrer Lane Coalisland BT71 4QJ.doc

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, outside any settlement limits defined in the Dungannon and South Tyrone Area Plan 2010, approx. 1.6km northeast of Annaghmore



and 2.4km west of Lough Neagh.



Fig 1: Site outlined red



Fig 2: Site outlined red

The application site is a flat irregular shaped plot cut from the south end of a much larger agricultural roadside field. The site is in effect divide into two plots, the southern and northern.

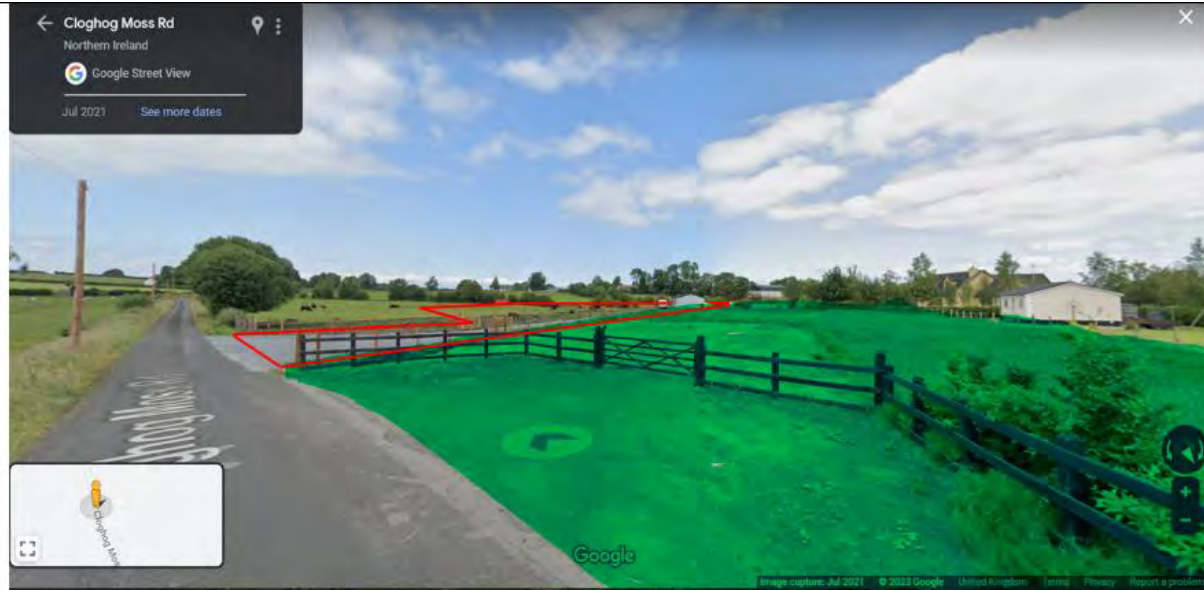


Fig 3: Google streetview showing southern plot highlighted green and northern plot outlined red. Whilst not shown in this image the northern plot as detailed below now contains the foundations of a dwelling and garage show in Fig 4 below.



Fig 4: Photograph showing foundations of dwelling and garage on northern plot

The southern plot is a long rectangular shaped strip of agricultural land accessed off Drummurrer Lane via recessed wooden gated entrance. A hardcore area exists to the front of the south plot just inside the access. A mix of d-rail and post and wire fencing bounds the southern plot on all four sides in addition to a mature hedgerow and trees bounding it to the east half of its southern / party boundary with no. 42 Drummurrer Lane, a neighbouring detached one and storey property on lands within the control of the applicant.

The northern plot is a relatively square piece of ground comprising the foundations of a dwelling and garage set back from and accessed off Drummurrer Lane via an existing



access and gravelled driveway off Drummurrer Lane. The boundaries of the northern plot are relatively open defined only by post and wire fencing with some vegetation along the eastern boundary. This plot also contains a mobile home situated just to the southeast of the foundations of the dwelling and garage.

Critical views of the site are from Drummurrer Lane on the northern approach to and passing along the roadside frontage of the site; and from the Washingbay Rd located further to the north of the site when travelling east to west and vice versa on the approach to its junction with Drummurrer Lane.

The immediate area surrounding the site is rural in nature with the site bound to the west, north and east by agricultural lands. As detailed above no. 42 Drummurrer Lane, a detached property on lands within the control of the applicant bounds the site to the south alongside a mobile home located immediately to its west, no 42a Drummurrer Lane, also within the control of the applicant.

### Description of Proposal

This is a full application for the relocation of a previously approved dwelling and domestic double garage due to ground conditions on lands approx. 75m NW of no. 42 Drummurrer Lane Coalisland.

The dwelling and garage sought to be relocated was approved under outline planning application LA09/2020/0993/O and reserved matter planning application LA09/2021/1067/RM respectively on the 10<sup>th</sup> May 2021 and 29<sup>th</sup> September 2021.



Figs 5 & 6: Site layout including location of dwelling and garage previously approved; and new site layout including relocation of the dwelling and garage sought, respectively.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

**The following documents provide the primary policy context for the determination of this application:**

Regional Development Strategy 2030

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 21 - Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

**Representations**

Press advertisement and Neighbour Notification has been carried out in line with the Council's statutory duty. At the time of writing, no third party representations were received.

**Planning History on Site**

- LA09/2020/0993/O - Proposed site for dwelling and domestic garage (Based on policy CTY10) - Approx 40m NW of 42 Drummurrer Lane Coalisland - Granted 10<sup>th</sup> May 2021
- LA09/2021/1067/RM - Proposed dwelling and domestic double garage - Approx 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021
- LA09/2021/1031/F - Retention of Existing Mobile Home for Period of 4 Years - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021 - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021
- LA09/2022/0468/NMC - Relocation of dwelling & domestic double garage. Minor amendments to internal ground & 1st floor layouts & elevations - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Withdrawn 1<sup>st</sup> July 2022

**Consultees**

1. DfI Roads were consulted in relation to the proposed access arrangements under

the previous application on site LA09/2021/1067/RM and had no objection subject to standard conditions and informatives. Accordingly, as there have been no significant changes on site or change in policy I am content as before that the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI’s “Shafts and Adits Database” indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

### **Consideration**

Dungannon and South Tyrone Area Plan 2010 - is the statutory local development plan for the application site. The site is located outside any development limit and the development plan offers no specific policy or guidance in respect of the proposal.

The Strategic Planning Policy Statement for Northern Ireland - Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

Planning Policy Statement 21: Sustainable Development in the Countryside - is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in Policy CTY1 of PPS21.

The principle of the proposed development a dwelling and garage has already been established on this site under the previous applications LA09/2020/0993/O and LA09/2021/1067/RM respectively (see ‘Planning History’ further above), which granted permission for a dwelling on a farm under the provisions of Policy CTY 10 of PPS 21 ‘Dwellings on Farms’.

The key consideration here is whether the relocation of the dwelling and garage sought through increasing the red line of the previously approved site further north (see Figs 5 & 6 further above), which has already commenced on site in the form of foundations, is acceptable and in this instance I am not content that it is.

The dwelling and garage approved on this site was under the provisions of policy CTY10 ‘Dwellings on Farms’. The only buildings on the farm holding located immediately to the south of the site were the farm dwelling at no. 42 Drummurrer Lane and a small mobile no. 42a Drummurrer Lane to the west of the dwelling. Under the outline application it was considered necessary to attach a siting condition that the dwelling and garage approved, as was submitted at the reserved matters stage, be sited in the southeast corner of the site to cluster with the established group of buildings on the farm and aid integration on this open site by taking advantage of the only well-established vegetation bounding the site, along the party boundary of the site with no. 42 Drummurrer Lane.

I consider the siting condition attached to the outline application, adhered to under the subsequent reserved matters application, necessary to visually link the dwelling and garage with the associated farm holding and to integrate them on the site and into the surrounding landscape without significant impact to the character of the area. That pulling the dwelling and garage further north away from the applicant's farm group and the only well-established vegetation bounding the site will result in them having a significantly greater visual impact. This relocation will not only result in the dwelling and garage occupying a prominent position on a more open and exposed part of the host field owing to the lack of long-established vegetation bounding the site but it will also open up a gap field (see Fig 3) between the dwelling and garage and the applicant's farm group.

I consider the proposal is contrary to Policy CTY13 of PPS21 as site lacks long established natural boundaries therefore is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape and Policy CTY14 of PPS21 in that the new building would, if permitted, would be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside. Furthermore, due to the gap created (see Fig 3), which could accommodate another dwelling, I consider the dwelling and garage would no longer cluster or visually link / read with farm holding in accordance with CTY 10 of PPS21.

The above said as it had been submitted that this relocation was sought due to poor ground conditions and in this instance the alternative location may be accepted I consulted with Mid Ulster Councils Building Control however they advised that they were not aware of ground issues at this site and other construction methods could be used. According, in order to consider this proposal further justification / structural report outlining why the applicant cannot build at approved location was sought from the agent via email on the 6th February 2023.

The agent responded the same day via email with photos of the ground encountered and to advise it was peat and running soil. That foundations filled in as quickly as they were dug out. Trial holes showed better ground to the north of the approval and this is where the foundations were put in. That a house can be built on any ground if you have a never ending pot of money. In this case it would have taken in excess of 60k to pile the site approved. The common sense solution was to move it to its current location. In regard to leaving an infill opportunity this would be impossible as there is no common frontage. That he would like this application to go to Committee where he can ask members to visit the site and see the conditions for themselves.

Having taken account of the additional information submitted above I do not consider it has been demonstrated that the dwelling and garage could not be built at the approved location, albeit it may require additional works such as piling as suggested, accordingly my opinion remains as before and consider this proposal be presented to Committee as a refusal.

### **Other Policy/Considerations**

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available, online have been checked

and identified no built heritage assets or natural heritage interests of significance on site or within the immediate vicinity.

Checks of the Planning portal and Flood Maps NI indicate a small amount of surface water flooding along the frontage of the site over the access however I am content this is on already developed and hardcore ground.

**Taking all of the above into consideration I would recommend the refusal of this application**

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated why this development is essential at this rural location and could not be located as previously approved.

**Reason 2**

The proposal is contrary to Policies CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that proposed new building will not be visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries therefore is unable to provide a suitable degree of enclosure for the new building to integrate into the landscape.

**Reason 4**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s):** Emma Richardson

**Date:** 20 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	30 June 2022
<b>Date First Advertised</b>	
<b>Date Last Advertised</b>	12 July 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 42A Drummurrer Lane, Coalisland BT71 4QJ The Owner / Occupier 42 Drummurrer Lane, Coalisland BT71 4QJ	
<b>Date of Last Neighbour Notification</b>	6 July 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1095/F  Proposals: Relocation of previously approved dwelling and domestic double garage due to ground conditions.  Decision:  Decision Date:</p> <p>Ref: M/2004/1511/O  Proposals: Proposed dwelling  Decision:  Decision Date:</p> <p>Ref: M/2005/2210/F  Proposals: Proposed new storey and a half private dwelling and garage and septic tank  Decision: PG  Decision Date: 20-JUN-06</p> <p>Ref: LA09/2021/1067/RM  Proposals: Proposed dwelling and domestic double garage.  Decision: PG  Decision Date: 29-SEP-21</p> <p>Ref: LA09/2020/0993/O</p>	



Proposals: Proposed site for dwelling and domestic garage (Based on policy CTY10)

Decision: PG

Decision Date: 10-MAY-21

Ref: LA09/2022/0468/NMC

Proposals: Relocation of dwelling & domestic double garage. Minor amendments to internal ground & 1st floor layouts & elevations

Decision: WDN

Decision Date: 26-JUL-22

Ref: LA09/2021/1031/F

Proposals: Retention of Existing Mobile Home for Period of 4 Years

Decision: PG

Decision Date: 29-SEP-21

Ref: M/2005/0198/O

Proposals: Dwelling house

Decision:

Decision Date:

### **Summary of Consultee Responses**

Geological Survey NI (DfE)-3143 MUDC Planning. Approx. 75m NW of No 42 Drummurrer Lane Coalisland BT71 4QJ.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Garage Plans Plan Ref: 04

### **Notification to Department (if relevant)**

Not Applicable

## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1582/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 21 February 2023
<b>Proposal:</b> Proposed dwelling and garage on a farm.	<b>Location:</b> 60M NE Of 28 Cloughfin Road Killeenan Cookstown
<b>Applicant Name and Address:</b> Mr Patrick Hegarty 28 Cloughfin Road Cookstown Tyrone BT80 9EN	<b>Agent Name and Address:</b> Mr Conor McElhone Unit 4 Mid Ulster Business Park Cookstown BT809LU
<b>Summary of Issues:</b>  This application was first before Members at March 2023 Planning Committee with a recommendation to refuse. It was considered that the proposal was contrary to Policies CTY 1, CTY 10, CTY 13 and CTY 14 of PPS 21 in that a dwelling on this site would not cluster or visually link with buildings on the farm, it would appear overly prominent in the local landscape and that it would rely on new landscaping for the purposes of integration. Members agreed to defer the application for an office meeting which was facilitated on the 24 <sup>th</sup> March 2023. Having visited the site and reconsidered the application I recommend that it be refused with the justification for this recommendation detailed further in this report.	
<b>Summary of Consultee Responses:</b>  No new or additional consultations were issued to inform this deferred consideration	

## Description of Proposal

This is an outline planning application for a proposed dwelling and garage on a farm.

## Deferred Consideration:

This application has been submitted under Policy CTY 10 of PPS 21 for a dwelling on a farm. The first test of CTY 10 is that there must be an active and established farm business.

The applicant, Mr Patrick Hegarty of 28 Cloughfin Road, has used a third party farm business ID belonging to his uncle Mr Peter McNally of 29 Crancussy Road, and has confirmed on the application form that he has permission to use Mr McNallys farm business ID for the purposes of this application. DAERA have confirmed that the farm business has been in existence for 6 years or more and that payments have been claimed on the lands for 6 or more years. Farm maps have been provided which show all lands claimed by Mr McNally. I am satisfied that there is an active and established farm business for the purpose of CTY 10.

The business ID subject of this application has been previously used to obtain a farm dwelling permission. This approval (I/2011/0246/F) was granted on the 15.02.2012 and so can be discounted from the 1 in 10 year entitlement.

The farm buildings associated with the farm business are located at 29 Crancussy Road. I/2011/0246/F was sited beside farm buildings at 30 Limehill Road, Pomeroy so that would indicate another group of buildings on the holding. The application site is not located beside any buildings on the farm holding. There are third party farm buildings located approximately 90m south east of the site but these cannot be relied on for this application. At the office meeting the agent explained that the applicant actually does have his own farm business ID but currently owns no land which is why he did not use his own business ID. He keeps some sheep on the application site which is owned by his uncle, Mr McNally and it is hoped that the applicant will purchase/inherit this land so that he can grow and establish his own farm at this location. This site is the only parcel of land available to the applicant as Mr McNally currently farms all his other lands. Whilst the applicants intentions to start a farm at this location seem legitimate, the test of CTY 10 is to site a dwelling so that it visually links or clusters with an established group of buildings on the farm. Alternative sites are considered if there are health and safety reasons or verifiable plans for farm expansion at an existing group. In this case the justification to start a farm from this location is not a reason to accept an alternative siting and as such the proposal is at conflict with the policy. In my opinion, if the applicants intentions is to farm from here then the logical move would be to apply for farm buildings under Policy CTY 12 of PPS21. If farm buildings did exist at this location then the siting concern under CTY 10 could be overcome. As it stands the proposal fails to comply with CTY 10 of PPS 21.

It was previously considered that a dwelling on this site would fail to comply with policies CTY 13 and CTY 14 in terms of prominence and integration. Having carried out a site inspection it is evident that the site sits below the level of the road and benefits from a backdrop of rising land. Critical views are short term. There is also a grouping of semi mature trees/shrubs located along one boundary. It is my opinion that a single storey dwelling, appropriately sited with existing vegetation retained, would not appear overly prominent in this location. New landscaping would be necessary but would not be relied upon primarily for the purposes of

integration. I am therefore satisfied that there is no conflict with policies CTY 13 and CTY 14 of PPS 21.

There have been no objections to the application.

It is recommended that Members refuse this application as it fails to meet policy CTY 10 of PPS 21 and subsequently CTY 1 of PPS 21

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

Reason 1

The proposal is contrary to Policies CTY 1 and CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):**Karla McKinless

**Date:** 23 January 2024



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.25
<b>Application ID:</b> LA09/2022/1582/O	<b>Target Date:</b> 21 February 2023
<b>Proposal:</b> Proposed dwelling and garage on a farm.	<b>Location:</b> 60M NE Of 28 Cloughfin Road Killeenan Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Patrick Hegarty 28 Cloughfin Road Cookstown Tyrone BT80 9EN	<b>Agent Name and Address:</b> Mr Conor McElhone Unit 4 Mid Ulster Business Park Cookstown BT809LU
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Omagh	LA09-2022-1582-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	RS1 Form a (1).doc Roads Consultation outline approval.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The proposal is contrary to Criteria C of policy CTY 10, CTY 13 & CTY 14 of PPS 21.

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The red line of the application incorporates parts of two agricultural fields with a portion of a narrow field that runs in a south eastern direction and part of a larger field that travels north. There is a fence and low hedge which separates the two fields within the red line. There is a hedge row which defines part of the eastern boundary and a post and wire fence and low level shrubbery that defines the roadside boundary. The site sits below the road level slightly. The surrounding area is mainly agricultural in nature with single dwellings located sporadically throughout the countryside.

### **Representations**

No third party representations have been received.

### **Description of Proposal**

This is an outline planning application for a proposed dwelling and garage on a farm.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Cookstown Area Plan 2010  
Strategic Planning Policy Statement for Northern Ireland (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS3: Access, Movement and Parking  
Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 -Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster' Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a

dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

(a) the farm business is currently active and has been established for at least 6 years;  
(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and  
(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.  
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

The applicant has used a third party farm business ID and have confirmed on the application form they have permission to use the farm business ID for the purposes of this application. DAERA were consulted and confirmed that the farm business has been in existence for 6 years or more and that payments have been claimed on the lands for 6 or more years. From this I am content the farm business is currently active and has been established for at least 6 years.

Following a search on the planning system I am content that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. There is planning history for a dwelling in February 2012, which is more than 10 years ago.

With regards criteria C which states that the new building is visually linked or sited to cluster with an established group of buildings on the farm, which is not the case in this instance. The site is an open site which is not located to any buildings on the farm holding. There are third party farm buildings located approximately 90m south east but these cannot be relied on for this application. The policy allows for an alternative site elsewhere on the farm provided there are no other sites available at another group of buildings on the farm and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. On the application form when asked to provide justification if you are applying for an alternative site removed from the existing farm group the agent answered N/A. The address of the registered farm business is 29 Crancussy Road and having reviewed the farm maps and ortho images there is an established group of buildings on the farm at this location and land available here which a dwelling could site to cluster or visually link. No justification has been provided for an alternative site; therefore, the application fails to comply with criteria C.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been



provided however, I do not believe a dwelling at this proposed siting would visually integrated in the landscape as it does not have long established boundaries to provide a suitable degree of enclosure and it would rely on new landscaping for integration resulting in it being unduly prominent in the landscape. As previously mentioned the dwelling is not visually linked or sited to cluster with an established group of buildings on a farm and fails Policy CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As stated, the proposed site lacks established boundaries resulting in it being unduly prominent in the landscape and would damage the rural character. As such, the proposal is contrary to this policy.

PPS 3 - Access, Movement and Parking;

The proposal is to create a new access. DfI Roads advised that they have no objection to the proposed development subject to conditions.

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that the proposed building will be a prominent feature in the landscape and the site relies primarily on the use of new landscaping for integration.

**Reason 4**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape.

**Signature(s):** Ciaran Devlin

**Date:** 21 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	8 November 2022
<b>Date First Advertised</b>	22 November 2022
<b>Date Last Advertised</b>	22 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1582/O  Proposals: Proposed dwelling and garage on a farm.  Decision:  Decision Date:</p> <p>Ref: I/2001/0775/O  Proposals: Proposed site for one and a half storey dwelling  Decision: PR  Decision Date: 05-SEP-02</p> <p>Ref: I/2004/0843/O  Proposals: Site for Dwelling &amp; Repositioning of Existing Private Access  Decision:  Decision Date:</p> <p>Ref: I/2002/0695/O  Proposals: Proposed site for 2 storey dwelling and domestic garage  Decision:  Decision Date:</p> <p>Ref: I/1978/0057  Proposals: 11 KV O/H LINE</p>	

Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DAERA - Omagh-LA09-2022-1582-O.docx  
DFI Roads - Enniskillen Office-RS1 Form a (1).doc  
Roads Consultation outline approval.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0105/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 17 May 2023
<b>Proposal:</b> Proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm	<b>Location:</b> 60M East of 32 Drummuck Road Maghera
<b>Applicant Name and Address:</b> Grainne and Tommy Quigley 19 Tullynure Road Lissan Cookstown BT80 9XH	<b>Agent Name and Address:</b> Austin Mullan 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application was first before Members at April 2023 Planning Committee with a recommendation to refuse. It was considered that the proposal failed to comply with policies CTY 1, CTY 8, CTY 10, CTY 13 and CTY 14 of PPS 21 in that a dwelling would not visually link or cluster with buildings on the farm and that if sited in this location it would create a ribbon of development. Members agreed to defer the application for an office meeting with Dr Boomer and myself. The application is again being recommended for refusal for the same reasons and the justification for this is detailed further in this report.	
<b>Summary of Consultee Responses:</b>  No new or additional consultations were issued to inform this deferred consideration	
<b>Description of Proposal</b>  This is an outline planning application for a proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm.	

**Deferred Consideration:**

This outline application for a dwelling on a farm has been considered primarily under CTY 1 and CTY 10 of PPS 21. DAERA have been consulted and confirmed the farm business ID, which has an address at 19 Tullynure Road, Lissan, has been established for more than 6 years and that single farm payments have been claimed in each of the last 6 years. I am therefore satisfied that there is an active and established farm for the purpose of the policy. They also advised that the site is on land associated with another farm business. In effect - these lands in Gulladuff are being claimed by someone else. At the deferred office meeting it was explored why the applicants, Tommy and Grainne Quigley, could not site a dwelling adjacent to the only farm buildings on the holding at 19 Tullynure Road, Lissan as it was evident that there are sites at this location which would be policy compliant in terms of visual linkage and clustering.

The agent advised that the applicants have their main farm in Lissan and an outlying farm in Gulladuff. The Gulladuff lands extend to 25 acres and were once owned by Grainne's family. There is 14 miles between these farms and no buildings at the Gulladuff location. The agent went on to advise that on purchasing these lands, it shows a clear intent by the applicants to expand their holding and it is the intention that their son will live here and look after the holding.

Whilst this may be a realistic intention, Policy CTY 10 clearly states that a dwelling on the farm must be sited to visually link or cluster with an established group of buildings on the farm. Alternative siting will be considered if there are verifiable plans to expand the farm or if there are health and safety reasons for not siting at a group of buildings. No demonstrable health and safety reasons have been provided or any verifiable or concrete plans submitted for the expansion of the farm. The applicant was provided the opportunity to submit plans for agriculture buildings at this location to be assessed under Policy CTY 12 of PPS21, but to date these have not been received. It is my opinion that adequate time has been provided in order for these plans to be submitted (nearly 10 months). There are a group of buildings immediately adjacent the site but these have to be discounted as they are third party buildings outside the farm holding. The proposal therefore remains to be at conflict with criteria (c) of policy CTY 10 in that a dwelling here will not cluster or visually link with an established group of buildings on the farm. This also creates a conflict with Policies CTY 1 and CTY 13 of PPS 21.

As with all proposals for development in the Countryside, their impact on rural character must be considered. The creation or addition of ribbon development is considered as having a negative impact on rural character. If a dwelling were to be approved at this location it would create a ribbon of development when viewed with number 32 and its associated outbuilding. For this reason the proposal is contrary to both CTY 8 and CTY 14 of PPS 21.

Members are advised that the proposal is not acceptable in principle as it is at conflict with policies CTY 1, 8, 10, 13 and 14 of PPS21 and should be refused for the reasons set out below.

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is

essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would create a ribbon of development along the Drummuck Road.

**Signature(s):**Karla McKinless

**Date:** 22 January 2024

**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2023/0105/O	<b>Target Date:</b> 17 May 2023
<b>Proposal:</b> Proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm	<b>Location:</b> 60M East of 32 Drummuck Road Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Grainne and Tommy Quigley 19 Tullynure Road Lissan Cookstown BT80 9XH	<b>Agent Name and Address:</b> Austin Mullan 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0105-O.DOCX
Non Statutory Consultee	DAERA - Omagh	DAERA response already issued on 03/03/2023
	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

Letters of Support	0
Letters of Objection	0
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The proposal is contrary to policy

## **Characteristics of the Site and Area**

The site is located within the open countryside, outside any defined settlement limits or any other designations as per the Magherafelt Area Plan. The red line of the application site is a front portion of a larger agricultural field which extends further north. This portion is a roadside piece of the field, with existing mature boundaries on the roadside and west. The eastern boundary is partly bounded by sparsely populated trees which provide some screening to the site with the northern boundary currently undefined with the land rising in this direction. The surrounding area is mainly agricultural lands with a third party dwelling located west and adjacent to the red line.

## **Description of Proposal**

This is an outline planning application for a proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm.

## **Planning Assessment of Policy and Other Material Considerations**

### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement for Northern Ireland (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS3: Access, Movement and Parking  
Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster' Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of

PPS 21.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

(a) the farm business is currently active and has been established for at least 6 years;  
(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.

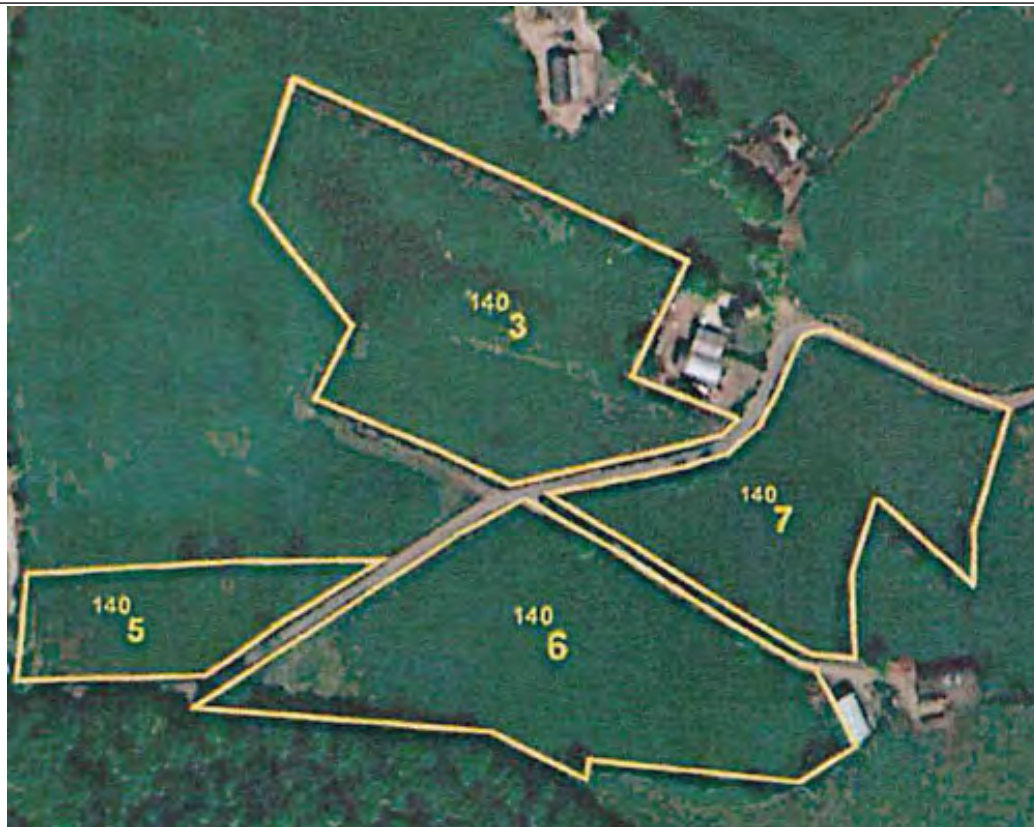
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

The agent provided farm details which were sent to DAERA who confirmed the farm business ID has been established for more than 6 years and that single farm payments have been claimed in each of the last 6 years. From this I am content the farm business is currently active and established.

Following a search on the MUDC Planning Portal I am content that no dwellings or development opportunities have been sold off within 10 years of the date of the application.

The new building is not visually linked or sited to cluster with an established group of buildings on the farm. The policy allows for consideration to be given to a site located away from the farm complex where there are no other sites available on the holding. Having reviewed the farm provided by the agent it showed farm lands surrounding a dwelling and associated farm buildings located at 21 Tullynure Road, Lissan. A land registry search was carried out on this address and the owner is listed as Thomas Quigley who is the applicant in this case.



From this, it would appear another site is available on the holding. The agent was asked to provide a statement of case to justify the proposed siting away from the existing holding in which they responded;

“The applicant here has his main farm in Lissan and an outlying farm in Gulladuff. The Gulladuff lands extend to 25 acres and were once owned by Grainne’s family. There is 14 miles between these farms and no buildings at the Gulladuff location. On purchasing these lands, it shows a clear intent to expand their holding and it is the intention their son will live here and look after the holding. The chosen site is well enclosed with mature trees to provide a suitable amount of integration.”

No demonstrable health and safety reasons have been provided or any plans shown on the expansion of the farm at the holding. Although the agent contends it is an expansion of the holding at the proposed application site there are no approved farm buildings associated near this site, and as such the proposal fails to comply with criteria C of CTY 10.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, I am content a dwelling with a maximum ridge height of 6m above finished floor level would not be a prominent feature in the landscape. A dwelling of this size would integrate into the landscape and the existing dwelling adjacent and the mature trees which should be retained will provide a backdrop. As previously mentioned the dwelling is not visually linked or sited to cluster with an established group of buildings

on a farm and fails Policy CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As previously mentioned, a dwelling with a ridge height of no more than 6m would ensure it is not a prominent feature. However, criteria (d) refers to creating or adding to a ribbon of development which I feel if a dwelling was approved here it would create a ribbon of development along the Drummuck Road. Therefore, the proposal fails to comply with CTY 8 and CTY 14 of PPS 21.

#### PPS 3: Access, Movement and Parking

DfI Roads were consulted on the application and offered no objection subject to the access being provided in accordance with the RS1 form.

#### **Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

#### **Summary of Recommendation:**

Refuse is recommended

#### **Refusal Reasons**

##### Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

##### Reason 2

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

##### Reason 3

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would create a ribbon of development along the Drummuck Road.

**Signature(s):** Ciaran Devlin

**Date:** 21 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	1 February 2023
<b>Date First Advertised</b>	14 February 2023
<b>Date Last Advertised</b>	14 February 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 32 Drummuck Road Maghera Londonderry BT46 5ES	
<b>Date of Last Neighbour Notification</b>	6 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2014/0195/RM Proposals: Replacement dwelling and garage Decision: PG Decision Date: 26-SEP-14</p> <p>Ref: H/2011/0349/O Proposals: Replacement single dwelling and garage Decision: PG Decision Date: 14-DEC-11</p> <p>Ref: LA09/2023/0105/O Proposals: Proposed site for dwelling and domestic garage based on policy CTY10 dwelling on a farm Decision: Decision Date:</p>	
<b>Summary of Consultee Responses</b>	
<p>DAERA - Coleraine-Consultee Response LA09-2023-0105-O.DOCX DAERA - Omagh-DAERA response already issued on 03/03/2023 DFI Roads - Enniskillen Office-Outline resp.docx</p>	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0206/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 9 June 2023
<b>Proposal:</b> Dwelling and Garage	<b>Location:</b> 30M South of 15 Craigs Road Cookstown
<b>Applicant Name and Address:</b> Mrs Marissa McTeague 15 Craigs Road Cookstown BT80 9LD	<b>Agent Name and Address:</b> Eamonn Moore Architect Ltd 10 Knockmoyle Cookstown BT80 8XS
<b>Summary of Issues:</b> <p>This application was first before Members at September 2023 Planning Committee. It was recommended for refusal as it was considered there was no substantial and built up road frontage for the purposes of Policy CTY 8 of PPS 21. Members agreed to defer the application for an Office Meeting. This meeting took place on the 20<sup>th</sup> September 2023 and following a site inspection I am of the opinion that the original recommendation to refuse the application be upheld, with justification for this detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b> <p>No new consultations were issued to inform this deferred consideration. DFI Roads were initially consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives.</p>	
<b>Description of Proposal</b> <p>This is an outline application for a proposed dwelling and garage. The site is identified as 30M South of No. 15 Craigs Road, Cookstown.</p>	

**Deferred Consideration:**

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21. Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. To the immediate Southeast of the site is a detached dwelling set back from the road (No. 13 Craigs Road). To the immediate Northwest of the site is a detached dwelling and detached garage (No. 15 Craigs Road), which are also set back from the road.

Policy CTY 8 of PPS 21 requires a line of 3 or more buildings along a road frontage. Having carried out a site inspection, it is my opinion the buildings being relied upon - no. 13 and no. 15 do not have a road frontage with Craigs Road. Furthermore, the approved domestic curtilages of both No. 13 and No. 15 do not extend to public road. Both dwellings are set back, and an agricultural field and individual driveways separates these dwellings from the public road.

At the office meeting the applicant/agent made the case that both existing dwellings at No. 13 and No. 15 are well integrated and whilst I do not disagree with this, that is not the test of Policy CTY 8. The test is based on road frontage development and the filling of a gap between existing road frontage development which is reflective in terms of plot size, siting etc. It remains a fact that neither No. 13 or No. 15 front directly onto the road and as such, the proposal fails the test of CTY 8.

As requested at the office meeting, I have viewed other development in the surrounding area and accept that further to the South there is a build up of development including a farm complex at No. 10, a dwelling at No. 11 and other dwellings. It is my opinion the level of visual appreciation and linkage between the application site and this other development further South is limited and does not make this site any more compliant under policy CTY 8.

It was explored at the office meeting if the applicant had a farm case he could make under Policy CTY 10, however, it was confirmed that this would not be an option. The site does not meet the cluster criteria under CTY2A either.

I recommend that Members refuse this application as the proposal fails to comply with Policies CTY 1 and CTY 8 of PPS 21.

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

**Reason 1**

The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up road frontage.

**Signature(s):**Karla McKinless

**Date:** 16 January 2024



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 September 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2023/0206/O	<b>Target Date:</b> 9 June 2023
<b>Proposal:</b> Dwelling and Garage	<b>Location:</b> 30M South of 15 Craigs Road Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mrs Marissa McTeague 15 Craigs Road Cookstown BT80 9LD	<b>Agent Name and Address:</b> Eamonn Moore Architect Ltd 10 Knockmoyle Cookstown BT80 8XS
<b>Executive Summary:</b> <p>The current application for a proposed dwelling and garage is presented as a refusal.</p> <p>CTY 8 – This proposal fails to meet Policy CTY 8 of PPS 21 as it cannot be deemed a substantial and built-up frontage as the policy requires a line of 3 or more buildings along a road frontage. Both dwellings immediately adjacent on either side of the proposed site (No. 13 and No. 15 Craigs Road) are both set back from the public road. The approved domestic curtilage of both No. 13 and No. 15 Craigs Road does not extend to public road. Both dwellings are set back, and an agricultural field separates these dwellings from the public road. Therefore No. 13 and no. 15 cannot be considered as road frontage for this policy test.</p> <p>CTY 13 – An appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape, therefore I am content that the application is able to comply under CTY 13.</p> <p>CTY 14 – An appropriately designed dwelling would not appear as a prominent feature in the landscape and would unlikely result in an adverse impact to the rural character of the area, therefore I am content that the application is able to comply under CTY 14.</p>	

PPS 3 – DFI Roads were consulted in relation to access, movement and parking arrangements and have no objection subject to standard conditions and informatives.

No third party objections were received in connection with this application.

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docDC Checklist 1.docRoads outline.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

This proposal fails to meet Policy CTY 8 of PPS 21 as it cannot be deemed a substantial and built-up frontage as the policy requires a line of 3 or more buildings along a road frontage.

Both dwellings immediately adjacent on either side of the proposed site (No. 13 and No. 15 Craigs Road) are both set back from the public road. The approved domestic

curtilage of both No. 13 and No. 15 Craigs Road does not extend to public road. Both dwellings are set back, and an agricultural field separates these dwellings from the public road. Therefore No. 13 and no. 15 cannot be considered as road frontage for this policy test.

### **Characteristics of the Site and Area**

The application site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site is identified as 30M South of No. 15 Craigs Road. The red line of the site consists of two small agricultural fields, separated by scattered trees and hedgerow. Immediately adjacent and Southeast of the proposed site is a detached dwelling, No. 13 Craigs Road. Immediately adjacent and Northwest of the proposed site is a detached dwelling and detached garage, No. 15 Craigs Road. The western boundary is roadside and undefined, the northern boundary is defined by a small wooden fence, and the remaining boundaries are defined by mature trees and hedgerow. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings.

### **Description of Proposal**

This is an outline application for proposed dwelling and garage. The site is identified as 30M South of No. 15 Craigs Road, Cookstown.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

##### Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

##### Relevant Planning History

No relevant planning history on this site.

#### **Planning Assessment of Policy and Other Material Considerations**

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 8 – Ribbon Development

CTY 13 – Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

Building on Tradition – A Sustainable Design Guide for Northern Ireland Countryside

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development area are acceptable in the countryside. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21. Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. To the immediate Southeast of the proposed site is a detached dwelling set back from the road (No. 13 Craigs Road).



To the immediate Northwest of the proposed site is a detached dwelling and detached garage (No. 15 Craigs Road), which is also set back from the road. Even though the detached garage at No. 15 Craigs Road is small in scale and set back behind the existing dwelling, for the purposes of CTY 8, we could consider the 2no. dwelling and the detached garage as a line of 3 buildings.

Policy CTY 8 of PPS 21 requires a line of 3 or more buildings along a road frontage. Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. The site is not located within an otherwise substantial and continuously built up frontage within the countryside. The approved domestic curtilage of both No. 13 and No. 15 Craigs Road does not extend to public road. Both dwellings are set back, and an agricultural field separates these dwellings from the public road. Therefore No. 13 and no. 15 cannot be considered as road frontage for this policy test. I am of the opinion, this proposal fails to meet Policy CTY 8 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however, given the landform and landscape, and the proposed concept plan provided by the agent, I believe that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping would be required to aid integration therefore a landscaping scheme would be required in any reserved matters application. From which, I am content that the application is able to comply under CTY 13.

Policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape, and is unlikely to result in an adverse impact to the rural character of the area. On a whole, I am content that the application is able to comply under CTY 14.

**Summary of Recommendation:**

Refuse is recommended

Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.

## Refusal Reasons

### Reason 1

The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

### Reason 2

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal does not constitute a gap site within a substantial and continuously built up frontage.

**Signature(s):** Seáinín Mhic Íomhair

**Date:** 29 June 2023

<b>ANNEX</b>	
<b>Date Valid</b>	24 February 2023
<b>Date First Advertised</b>	7 March 2023
<b>Date Last Advertised</b>	7 March 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier RNN -12 Craigs Road Cookstown Tyrone BT80 9LD The Owner / Occupier RNN - 13 Craigs Road Cookstown Tyrone BT80 9LD The Owner / Occupier 15 Craigs Road Cookstown Tyrone BT80 9LD	
<b>Date of Last Neighbour Notification</b>	6 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2007/0016/RM  Proposals: Proposed Dwelling and Domestic Double Garage  Decision: PG  Decision Date: 10-MAY-07</p> <p>Ref: I/2007/0110/RM  Proposals: Proposed dwelling and domestic garage.  Decision: PG  Decision Date: 10-MAY-07</p> <p>Ref: I/2004/0961/O  Proposals: proposed site for dwelling and domestic garage.  Decision: PG  Decision Date: 12-NOV-04</p> <p>Ref: I/2005/0165/O  Proposals: Proposed Site for Dwelling &amp; Domestic Garage  Decision: PG  Decision Date: 19-MAY-05</p>	

Ref: LA09/2023/0206/O  
Proposals: Dwelling and Garage  
Decision:  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docDC Checklist 1.docRoads outline.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not ApplicableNot Applicable



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2023/0268/O	<b>Target Date:</b> 23 June 2023
<b>Proposal:</b> Dwelling and Garage Under Cty 10	<b>Location:</b> Lands 40M North Of 182 Brackaville Road Coalisland
<b>Applicant Name and Address:</b> <b>Applicant Name and Address:</b> Mr James Girvin 180 Brackaville Road Coalisland BT71 4EJ	<b>Agent Name and Address:</b> CMI LTD 38 Airfield Road 38B AIRFIELD ROAD toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application is for a dwelling on a farm, planning permission was granted for a dwelling on the farm as a renewal of a previous permission within the last 10 years. No other case has been made and no further information submitted.	
<b>Summary of Consultee Responses:</b> DFI Roads - recommend approval with sight lines of 2.4m x 90.0m DAERA – Category 1 farmer, allocated 10/02/1992, site on land claimed by another farm business in 2022.	
<b>Characteristics of the Site and Area:</b>  The red line of the site includes an irregular shaped portion of roadside lands located approx. 40m North of 182 Brackaville Road, Coalisland. The site is quite flat throughout and it is bounded by post and wire fencing along the roadside boundary with scattered hedging and along the NW boundary there are some mature trees providing the boundary treatment. The remainder of the boundaries are currently undefined, opening to the remainder of the field. The surrounding lands are rural in nature, however the area does appear to have some recent development and the site itself is not far from	

Coalisland/Brackaville.

**Description of Proposal**

Outline planning permission is sought for a proposed dwelling and garage under CTY 10.

**Deferred Consideration:**

This application was at the Planning Committee in September 2023 where it was deferred for a meeting with the Servicer Director for Planning to allow further discussion of the planning history of the farm and the adjacent lands.

At the meeting the agent was informed that any application for the renewal of planning permission is considered in light of the planning policies in place at the time of the decision. There is no automatic right of renewal of planning permission. The agent was unaware of this and requested an opportunity to provide further information in relation to this. To date there has not been any additional information submitted to advise the Councils practice in relation to the consideration of renewals is in any way flawed.

Members are reminded that planning permission has been granted for dwelling under reference numbers M/2010/0696/O, LA09/2015/1189/F and LA09/2018/0492/F (which was a renewal of LA09/2015/1189/F). The permission was renewed as it was re-assessed against CTY10 using Mr James Patrick Gervis business id as the active and established farm.

The proposed site is located on the opposite side of the road from the buildings on the farm. The most appropriate location for integration purposes is the west part of the site which has vegetation to the side and rear and some of the roadside vegetation could be retained. A dwelling in that location would not appear to be visually interlinked with those buildings and it would appear to have a physical separation from them.

I do not consider there is any information that changes the consideration for this application and as such I recommend it is refused.

**Reasons for Refusal:**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that other dwelling(s)/development opportunities have been sold off from the farm holding within 10 years of the date of the application and there is appreciable distance between the proposed new building and the established group of buildings on the farm. Planning permission for a dwelling on a farm under CTY 10 was approved within the last 10 years also.

**Signature(s)**

**Date:**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 September 2023	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2023/0268/O	<b>Target Date:</b> 23 June 2023
<b>Proposal:</b> Dwelling and Garage Under Cty 10	<b>Location:</b> Lands 40M North Of 182 Brackaville Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr James Girvin 180 Brackaville Road Coalisland BT71 4EJ	<b>Agent Name and Address:</b> CMI LTD 38 Airfield Road 38B AIRFIELD ROAD toomebridge BT41 3SQ
<b>Executive Summary:</b>  The proposal is considered to be contrary to CTY 10 of PPS 21.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0268-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc Roads outline.docx FORM RS1 STANDARD.doc

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

No representations received.

### Characteristics of the Site and Area

The red line of the site includes an irregular shaped portion of roadside lands located approx. 40m North of 182 Brackaville Road, Coalisland. The site is quite flat throughout and it is bounded by post and wire fencing along the roadside boundary with scattered hedging and along the NW boundary there are some mature trees providing the boundary treatment. The remainder of the boundaries are currently undefined, opening to the remainder of the field. The surrounding lands are rural in nature, however the area does appear to have some recent development and the site itself is not far from Coalisland/Brackaville.

### **Description of Proposal**

Outline planning permission is sought for a proposed dwelling and garage under CTY 10.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

#### Planning History

M/2010/0595/O - Proposed Dwelling in association with a Farm - Lands 35M East Of 180 Brackaville Road, Dungannon – PERMISSION GRANTED

LA09/2015/1189/F - Lands 35M East Of 180 Brackaville Road, Dungannon - Proposed domestic dwelling and garage – PERMISSION GRANTED

LA09/2018/0492/F - Renewal of existing planning application previously approved under Ref. LA09/2015/1189/F - Lands 35M East Of 180 Brackaville Road, Dungannon – PERMISSION GRANTED

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 180,182 and 187 Brackaville Road. At the time of writing, no third party representations have been received.

#### Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 - Draft Plan Strategy

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being in the rural countryside, located between Newmills and Coalisland Settlement Limits. There are no other zonings or designations within the Plan.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

Policy CTY 1 of PPS 21 establishes that planning permission will be granted for a dwelling on a farm where it is in accordance with Policy CTY 10. This establishes the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

(a) the farm business is currently active and has been established for at least 6 years

(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building groups(s)

With respect to (a) the applicant has provided details surrounding their farm business ID and associated mapping. DAERA have confirmed that the business ID has been in existence for more than 6 years and that the applicant has claimed on the land 2017-2019. They note within their response that the proposed site is located on land that is not under the control of the farm business identified on the application form, the land was claimed by another farm business in 2022. No further information was sought from the agent to confirm the status of the farming activity given that the proposal was considered to fail on other criterion within this policy, as outlined later in the report.

With respect to (b) there are records indicating that there is dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of this application. Checks were carried out using the UNiform system and no historical applications have been found. There were a number of

applications which appeared to link with the farm holding, including a recent approval for a replacement dwelling under LA09/2019/1676/F however this does not appear to have been transferred or sold off following a land registry check carried out 21/04/23. There were further approvals on the farm lands under M/2010/0595/O, LA09/2015/1189/F and most recently under LA09/2018/0492/F (which was renewal of LA09/2015/1189/F).

These all relate to the same parcel of land which is adjacent to the application site. A land registry check was carried out and it appears the land was transferred 8<sup>th</sup> June 2020. This was queried with the agent who has noted that this site was gifted by the farmer to his daughter in 2011. The agent adds that the Council accepted the site had changed hands as the land ownership i.e., Cert A was not challenged in either of the full or renewals applications. In response to this, it is my view that applications are taken at face value unless there are reasons to query information provided. Land registry checks are not carried out for all applications.

The agent referenced a case which was dealt with by another Council in which the report details that the completion of Certificate A by a different application along with a building control submission equates to confirmation by way of legal documentation that the ownership was transferred. From my reading of the report, it appears that the land registry check did not provide any ownership details. As this application was in a different Council area and obviously I am not in control of all of the facts or information surrounding the case, I don't feel this provides any justification for this application. I would refer to the PAC decision 2022/A0036 with particular attention to the Commissioners comments about the transfer of lands.

With respect to (c), there is considered to be appreciable distance between the site and buildings on the farm. I would note that there appears to be a number of other alternative sites within the applicant's ownership, which would meet the policy criteria and would visually link with existing farm buildings on the farm. There were no health and safety reasons presented nor are there any verifiable plans that the farm business is to be expanded and as such the proposal fails on this criterion also.

To conclude the consideration of the proposal against CTY 10, it is considered that it fails on criterion (b) and (c) as outlined above. Full permission was granted on 14<sup>th</sup> April 2016 under LA09/2015/1189/F and as such is contrary to the policy also which notes that planning policy granted under this policy will only be forthcoming once every 10 years.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, it is considered that the proposal fails on criterion (g) of CTY 13 where in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. We would also have some concerns that a dwelling in this location would be somewhat prominent as there is only some degree of hedging along the western boundary but this is low lying and wouldn't provide any suitable degree of enclosure or integration for a dwelling at this site.

The applicant has noted that they intend to create a new access onto Brackaville Road. DfI Roads were consulted and have noted no issues with the proposed access arrangement subject to condition.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that other dwelling(s)/development opportunities have been sold off from the farm holding within 10 years of the date of the application and there is appreciable distance between the proposed new building and the established group of buildings on the farm. Planning permission for a dwelling on a farm under CTY 10 was approved within the last 10 years also.

**Signature(s):** Sarah Duggan

**Date:** 19 July 2023

<b>ANNEX</b>	
<b>Date Valid</b>	10 March 2023
<b>Date First Advertised</b>	21 March 2023
<b>Date Last Advertised</b>	21 March 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 187 Brackaville Road Coalisland Tyrone BT71 4EJ The Owner / Occupier 180 Brackaville Road Coalisland Tyrone BT71 4EJ The Owner / Occupier 182 Brackaville Road Coalisland Tyrone BT71 4EJ	
<b>Date of Last Neighbour Notification</b>	13 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2015/1189/F  Proposals: Proposed domestic dwelling and garage  Decision: PG  Decision Date: 21-APR-16</p> <p>Ref: M/2010/0595/O  Proposals: Proposed Dwelling in asociation with a Farm.  Decision: PG  Decision Date: 31-JAN-11</p> <p>Ref: M/1989/0279  Proposals: Farm Dwelling  Decision: PG  Decision Date:</p> <p>Ref: M/1985/0276  Proposals: DWELLING  Decision: PG  Decision Date:</p>	

Ref: LA09/2018/0492/F

Proposals: Renewal of existing planning application previously approved under Ref. LA09/2015/1189/F

Decision: PG

Decision Date: 24-SEP-18

Ref: M/1989/0279B

Proposals: Farm Dwelling

Decision: PG

Decision Date:

Ref: LA09/2019/1676/F

Proposals: Proposed replacement dwelling

Decision: PG

Decision Date: 28-FEB-20

Ref: LA09/2023/0268/O

Proposals: Dwelling and Garage Under Cty 10

Decision:

Decision Date:

Ref: M/1993/0527

Proposals: Change of use from hall to living accommodation and alterations to existing dwelling house

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DAERA - Omagh-LA09-2023-0268-O.docx

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads outline.docxFORM RS1 STANDARD.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

### **Notification to Department (if relevant)**

Not ApplicableNot Applicable

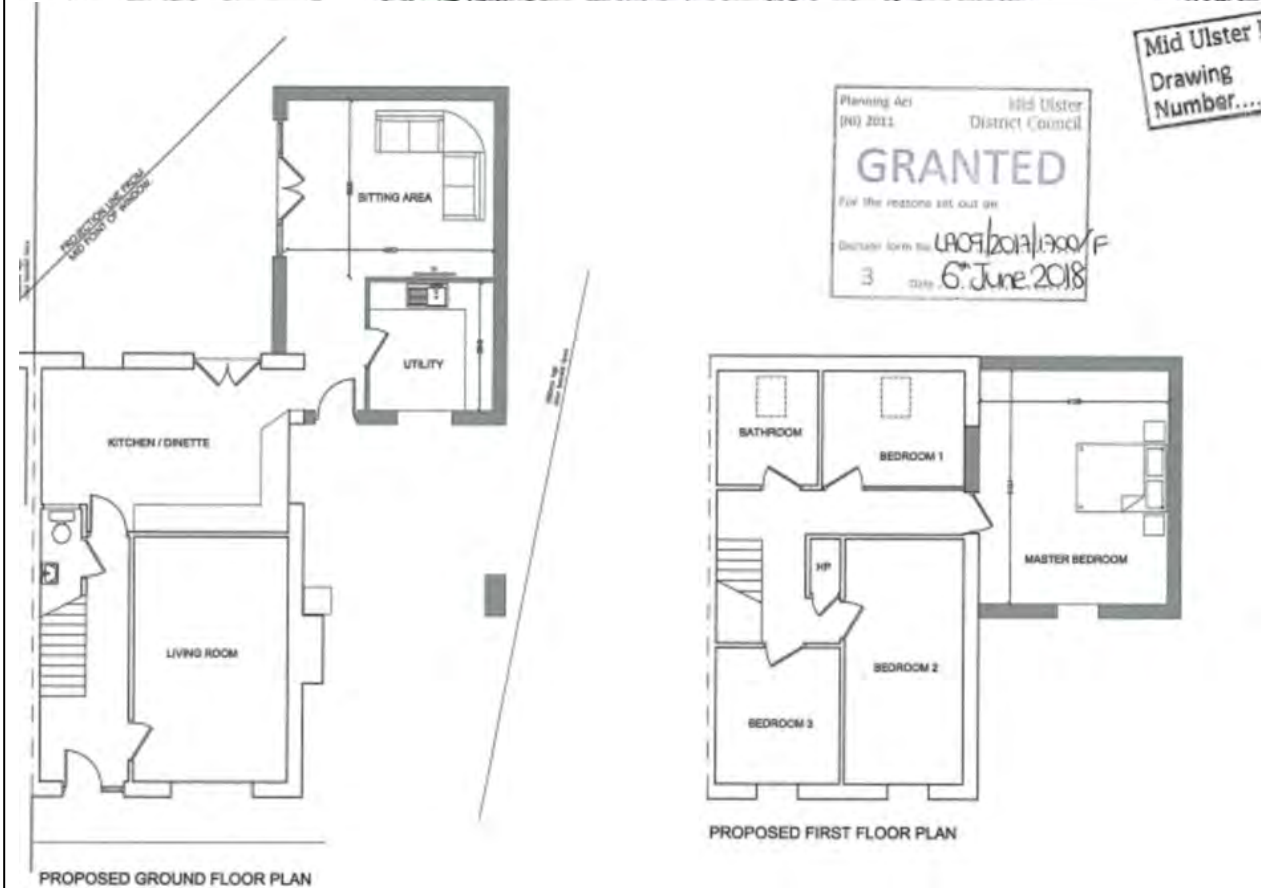
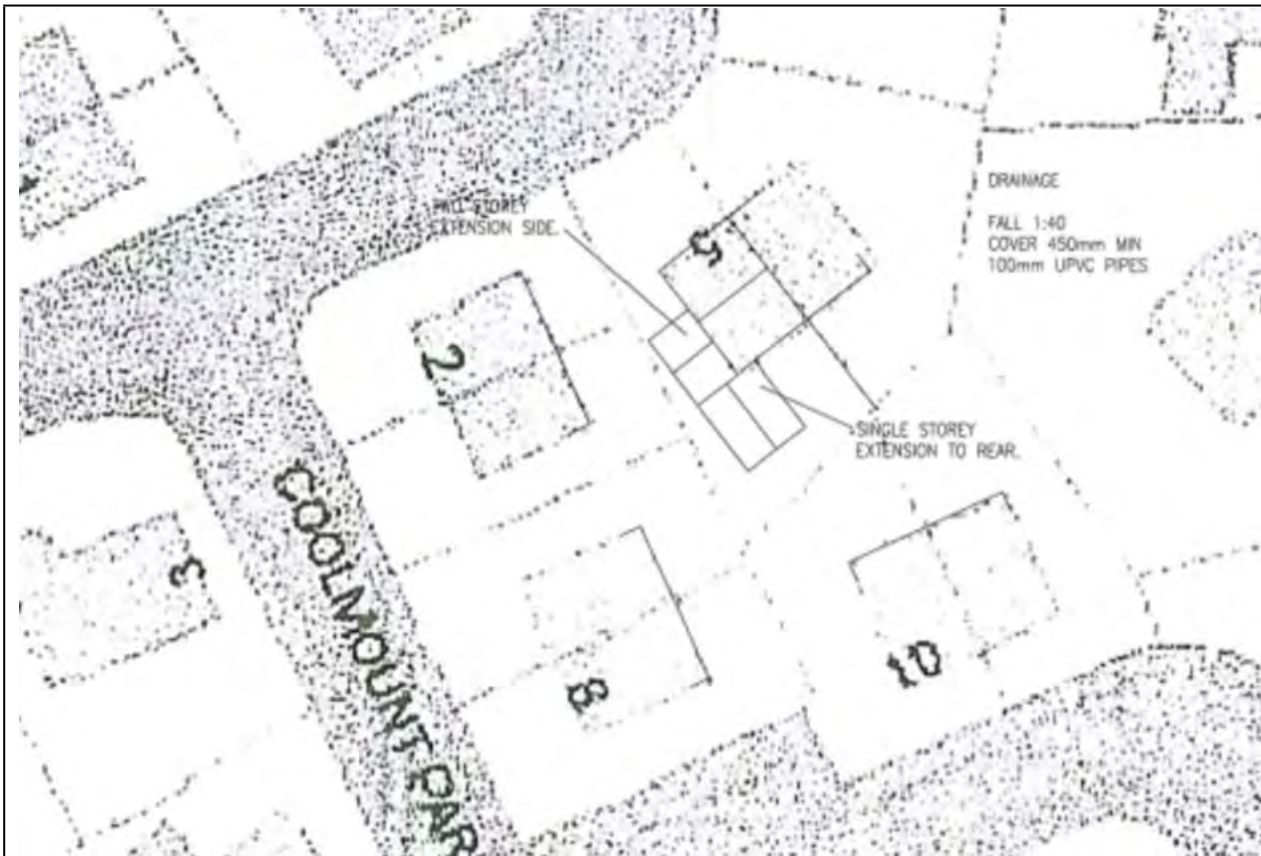


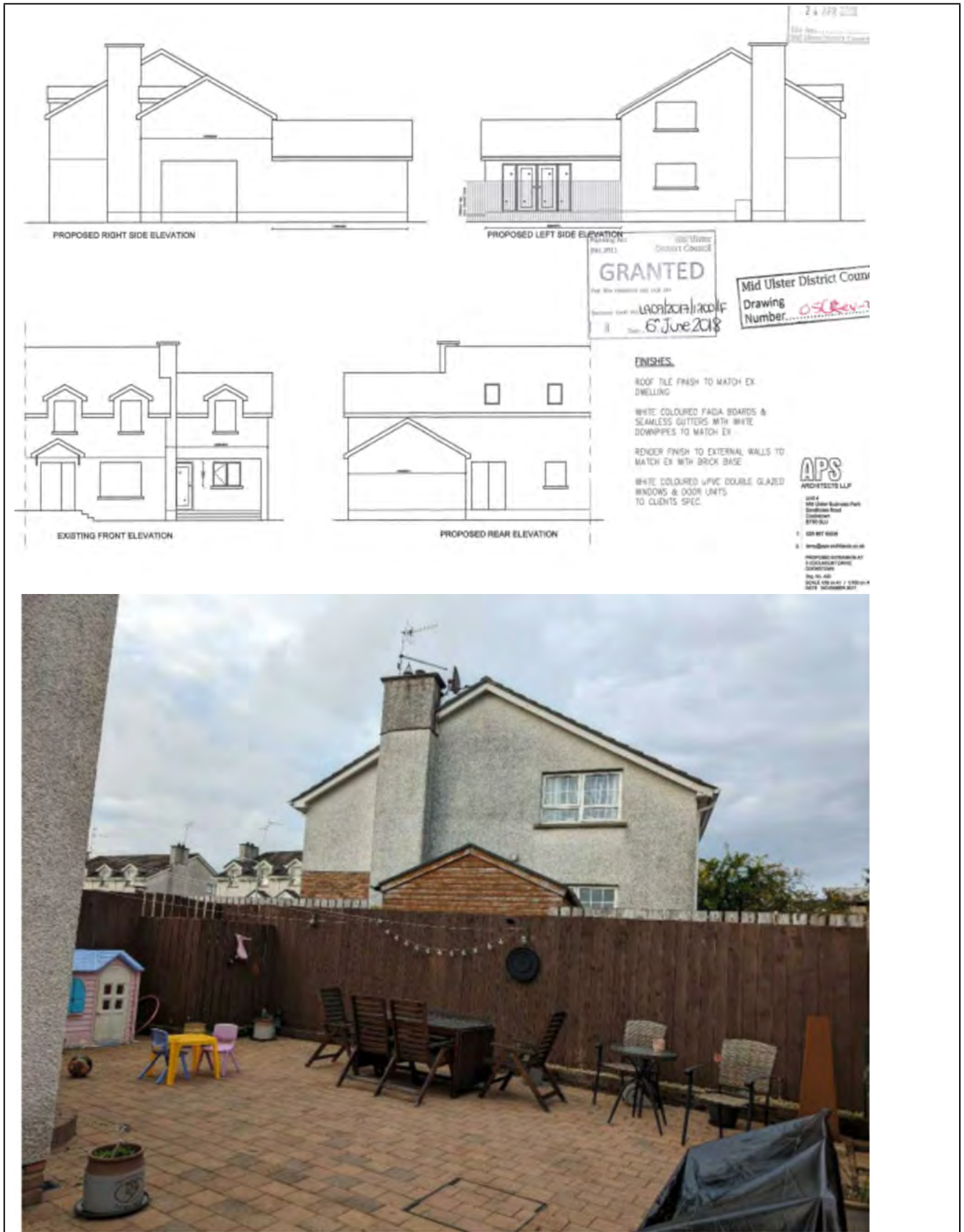




## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2023/0328/F <b>Recommendation:</b> Refuse	<b>Target Date:</b> 7 July 2023
<b>Proposal:</b> Renewal of approved planning application (Extension to rear and side of dwelling to accommodate siting area and bedroom)	<b>Location:</b> 5 Coolmount Drive Cookstown Bt80 8YF
<b>Applicant Name and Address:</b> Emma McAleer	<b>Agent Name and Address:</b> No Agent
<b>Summary of Issues:</b> <p>This application was first before Members at June 2023 Planning Committee with a recommendation to approve. It was however agreed to defer the application for a Members Site Visit so that Members could consider concerns raised by an objector. This site visit took place on the 30<sup>th</sup> June 2023. The application has been fully reconsidered and is now being recommended for refusal. My justification for this is detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b> <p>No consultations were issued to inform this deferred consideration</p>	
<b>Description of Proposal</b> <p>This is a full application for the renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate sitting area and bedroom) at No. 5 Coolmount Drive, Cookstown. LA09/2017/1700/F was granted approval on 06.06.2018.</p>	





### **Deferred Consideration:**

This application was recommended for approval back in June 2023 on the basis that it was an in-time renewal and there had been no change in planning policy since LA09/2017/1700/F was issued as an approval.

In considering this application Members should note that a material change in circumstance has been brought to the Council's attention. Neighbours that should have been notified under LA09/2017/1700/F were not. Under this current application all relevant neighbours have been notified. Some have raised material planning objections, which following a Members Site Visit on the 30th June 2023, hold some weight in this deferred consideration. It is not unreasonable to assume that if proper neighbour notification was carried out under LA09/2017/1700/F then these same concerns would have been raised at that time and may have resulted in design changes being sought.

Having visited the site and viewing it from the rear garden of 4 Coolmount Park it is my opinion that the proposed extension will have a negative impact on adjacent residential amenity by way of over dominance experienced by the occupants of 4 Coolmount Park. This relates to the 2 storey element of the extension. Whilst it does not have any proposed 1st floor gable windows, its height and the limited separation distance would have a very overbearing impact. It will adversely impinge on the immediate outlook from the rear garden, kitchen and dining room of number 4 Coolmount Park and could create a feeling of being hemmed in.

Members should note that I have provided the applicant the opportunity to address these concerns. It was suggested to the applicant to reduce the scheme so that it is a single storey side extension in its entirety. The applicant advised that this was not an option they wanted to avail of and requested that the application be considered on the basis of the approved plans.

I am therefore recommending that Members refuse this application as the development fails to comply with Policy EXT 1 of the Addendum to PPS 7 in that it will unduly affect the amenity of neighbouring residents by way of over dominance. It is also considered contrary to paragraph 4.12 of the Strategic Planning Policy Statement (SPPS) in respect of Safeguarding Residential Environments.

### **Conditions/Reasons for Refusal:**

#### **Refusal Reasons**

##### **Reason 1**

The proposed development is contrary to paragraph 4.12 of the Strategic Planning Policy Statement (SPPS) in that its design and siting will be over dominant and will have an overbearing impact on the amenity afforded by neighbouring residents at number 4 Coolmount Park, Cookstown

**Reason 2**

The proposed development is contrary to Policy EXT 1 of the Addendum to PPS7, Residential Extensions and Alterations, in that it will unduly affect the amenity of neighbouring residents by way of over dominance.

**Signature(s):**Karla McKinless

**Date:** 15 January 2024



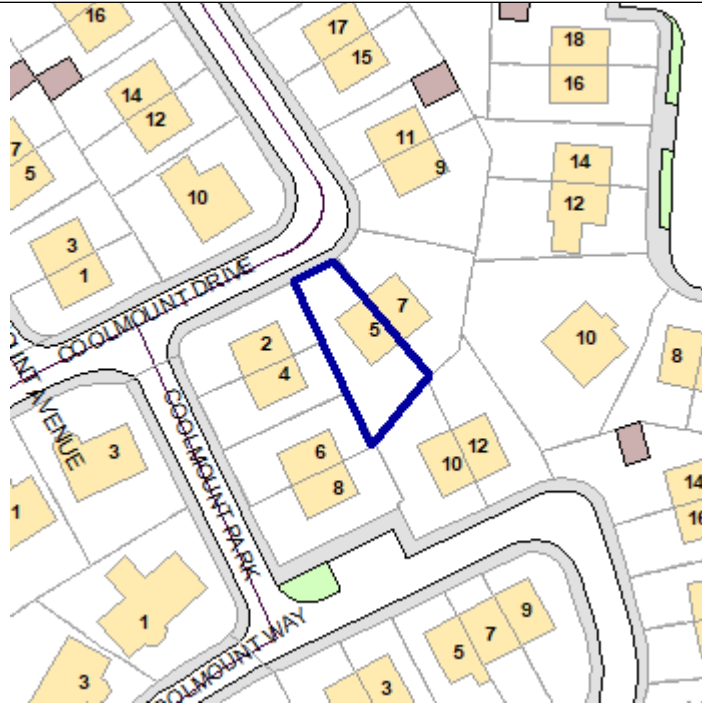
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 12 June 2023	<b>Item Number:</b> 5.56
<b>Application ID:</b> LA09/2023/0328/F	<b>Target Date:</b> 7 July 2023
<b>Proposal:</b> Renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate siting area and bedroom)	<b>Location:</b> 5 Coolmount Drive Cookstown Bt80 8YF
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Emma McAleer	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	3
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

This application is recommended for approval, however it is presented to Committee as it has received two objections from neighbouring properties. Issues raised will be addressed within the main body of the report.

### Characteristics of the Site and Area

The application site is located at No. 5 Coolmount Drive, Cookstown and features a semi-detached dwelling finished in natural rustic facing brick and painted dash render,

black roof slates, and white upvc windows, doors, and rainwater goods.

The front of the property is defined by a 1m wooden fence and two brick pillars providing vehicular access. The dwelling is set back approximately 8m from the public road. The rear garden is triangular in shape, with defined boundaries of a 1.8m close board fence which defines the boundaries shared with No. 7 Coolmount Drive to the east, No. 10 Coolmount Park to the south, No's 2, 4 and 6 Coolmount Park to the west.

The surrounding area is entirely residential in nature with a combination of detached and semi-detached bungalows and two-storey dwellings.

The application was received on 24/03/2023 which is within the statutory expiry date of 18/04/2023. Given that the principle of planning had been established under the previous application LA09/2017/1700/F, I am content that this application is acceptable and is within the statutory expiry date.

### **Description of Proposal**

This is a full application for the renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate sitting area and bedroom) at No. 5 Coolmount Drive, Cookstown.

### **Representations**

Nine neighbour notification letters were issued in relation to this application and two objections have been received.

### **Site History**

LA09/2017/1700/F – 5 Coolmount Drive, Cookstown – Extension to rear and side of dwelling to accommodate sitting area and bedroom – Permission Granted 06.06.2018.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

#### **Cookstown Area Plan 2010**

The site falls within the settlement limits of Cookstown as defined in the Cookstown Area Plan 2010. There are no other zonings or designations on this site.

#### **Strategic Planning Policy Statement for Northern Ireland (SPPS)**

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the



LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Para 6. 137 of the SPPS advises that residential extensions should be well designed.

### **PPS 7 (Addendum): Residential Extensions and Alterations**

This application is for an in-time renewal of planning reference (LA09/2017/1700/F – Extension to rear of dwelling to accommodate a sitting area and bedroom).

There has been no change in planning policy since the original outline approval was granted, as such, the principle of development on this site remains acceptable. There have been two objections to the proposal from neighbouring properties, their concerns are addressed below:

1. Loss of natural sunlight to surrounding properties – The occupant of No. 7 Coolmount Drive has raised concern that they will experience a loss of sunlight due to the proposed extension. Having considered the location of the extension in relation to No. 7 alongside the trajectory of the sun, I am content that there will be little to no loss of sunlight. The original proposal under LA09/2017/1700/F was reduced in scale in response to concerns over loss of sunlight. The current renewal application is therefore still deemed acceptable.
2. Scale of proposed extension – Under the original application (LA09/2017/1700/F), the scale of the proposal was raised as an issue. Amended plans were received wherein the extension was reduced in height and footprint and this was deemed to satisfactorily deal with concerns relating to scale and dominance.
3. Loss of privacy – There are no windows on the proposed extension that would cause the loss of privacy to any of the surrounding properties. The window arrangement is unchanged from the originally approved design.
4. Loss of views – This is not a material consideration.

One of the objectors has raised the point that they were not notified of the original application however I am content that the concerns they have raised under the current application were dealt with satisfactorily at the determination of the original application and would not have affected the outcome.

### **Mid Ulster Local Development Plan 2030 – Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24<sup>th</sup> September 2020. The period for Counter Representations closed on 18<sup>th</sup> December 2020. On the 28<sup>th</sup> May 2021, the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination. In light of this, the Draft Plan Strategy does not yet carry determining weight.

### **PPS 3 – Access, Movement and Parking**

I note that there is no change to the existing access arrangements therefore no consultation with DfI Roads was required.

Approval is recommended subject to the same conditions that were attached to LA09/2017/1700/F.

#### **Summary of Recommendation:**

Approve is recommended

#### Approval Conditions

##### Condition 1

The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

##### Condition 2

The materials to be used in the construction of the proposal hereby permitted, shall be as shown on stamp approved Drawing No. 05 (Rev-2) dated 24/04/2018 of LA09/2017/1700/F.

Reason: In the interest of visual amenity and to ensure the proposal is in keeping with the existing dwelling.

##### Informative 1

This decision relates to drawing No 01, 02 (Rev-2), 04 (Rev-1), 05 (Rev-2) date stamped 06/06/2018 previously approved under application LA09/2017/1700/F. **Signature(s):** Zoe Douglas

**Date:** 12 May 2023

<b>ANNEX</b>	
<b>Date Valid</b>	24 March 2023
<b>Date First Advertised</b>	4 April 2023
<b>Date Last Advertised</b>	4 April 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 10 Coolmount Drive Cookstown Tyrone BT80 8YF The Owner / Occupier 7 Coolmount Drive Cookstown Tyrone BT80 8YF The Owner / Occupier 12 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 10 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 8 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 6 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 4 Coolmount Park Cookstown Tyrone BT80 8YB The Owner / Occupier 2 Coolmount Park Cookstown Tyrone BT80 8YB	
<b>Date of Last Neighbour Notification</b>	29 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: I/1997/0357 Proposals: Erection of 1 detached dwelling, 1 pair of semi-detached dwellings and estate road Decision: PG Decision Date:  Ref: I/2006/0988/F Proposals: Proposed Retention of Dwellings Built on Plots 2, 4, 6, 8, & 10 Decision: PG	

Decision Date: 15-MAY-07

Ref: I/2002/0618/F

Proposals: Proposed 11 No. Dwellings

Decision: PG

Decision Date: 16-JAN-03

Ref: I/2003/0269/F

Proposals: 2 No detached dwellings and garages

Decision: PG

Decision Date: 17-JUN-03

Ref: I/1999/0189

Proposals: 2 No.semi-detached dwellings and 1 no. detached dwelling and garages

Decision: PG

Decision Date:

Ref: LA09/2017/1700/F

Proposals: Extension to rear and side of dwelling to accommodate siting area and bedroom

Decision: PG

Decision Date: 06-JUN-18

Ref: LA09/2023/0328/F

Proposals: Renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate siting area and bedroom)

Decision:

Decision Date:

Ref: I/2001/0060/F

Proposals: 14 No Semi-detached Dwellings & Garages and 1 No Detached Dwelling & Garage

Decision: PG

Decision Date: 14-MAY-01

Ref: I/1990/0015

Proposals: Residential Development

Decision: PG

Decision Date:

Ref: I/2003/0843/F

Proposals: Proposed alterations to development with 4 No semi-detached dwellings, 3 No Town houses and new road determination

Decision: PG

Decision Date: 19-APR-04

Ref: I/2004/1319/F

Proposals: 2No Semi-Detached dwellings and 1No Detached Dwelling & Garage

Decision: PG

Decision Date: 16-FEB-05

**Summary of Consultee Responses**

-

**Drawing Numbers and Title**

**Notification to Department (if relevant)**

Not Applicable



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2023/0580/FF	<b>Target Date:</b> 6 September 2023
<b>Proposal:</b> Removal of Conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O (Condition No. 8 relates to Condition No. 7, i.e. they are one and the same)	<b>Location:</b> 25M North West of 56 Cavey Road - Ballygawley
<b>Applicant Name and Address:</b> Mr NIALL McCARTAN No 56 CAVEY ROAD BALLYGAWLEY ROAD BT70 2JQ	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
<b>Summary of Issues:</b>  Outline planning permission was granted with conditions siting a dwelling at the front of the site to meet infill grounds. Due to difficulties, expense and potential dangers of developing the site at the front this proposal is for the infill dwelling set back on the site.	
<b>Summary of Consultee Responses:</b> none	
<b>Characteristics of the Site and Area:</b>  The application site includes lands located approx 25m NW of 56 Cavey Road, Ballygawley. The red line of the site is an irregular shed and includes a roadside portion of lands with an area attached outlined in blue indicating ownership. The lands rise from	

the roadside towards the site and beyond. The site is predominantly bounded by existing hedging and vegetation and there is wooden fencing between the application site and adjacent properties. The immediate area is surrounded by existing dwellings, including detached and semi detached dwellings and beyond that the lands are rural in nature, scattered with single dwellings. The settlement of Ballygawley is a short distance from the site.

**Description of Proposal**

Planning permission is sought for the removal of Conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O.

**Deferred Consideration:**

This application was before the Planning Committee in September 2023 where it was deferred for a meeting with the Service Director. At a meeting on 14 September 2023 the agent advised there was OPP granted to the front of the site and planning permission reference LA09/2023/0022/O was in substitution for that permission.

The agent had submitted a statement to indicate a dwelling at the front of the site would involve significant excavations and these could undermine the applicants parents house next door. The proposal is for the dwelling to be sited in the gap and to the rear of the adjacent development (fig 1)

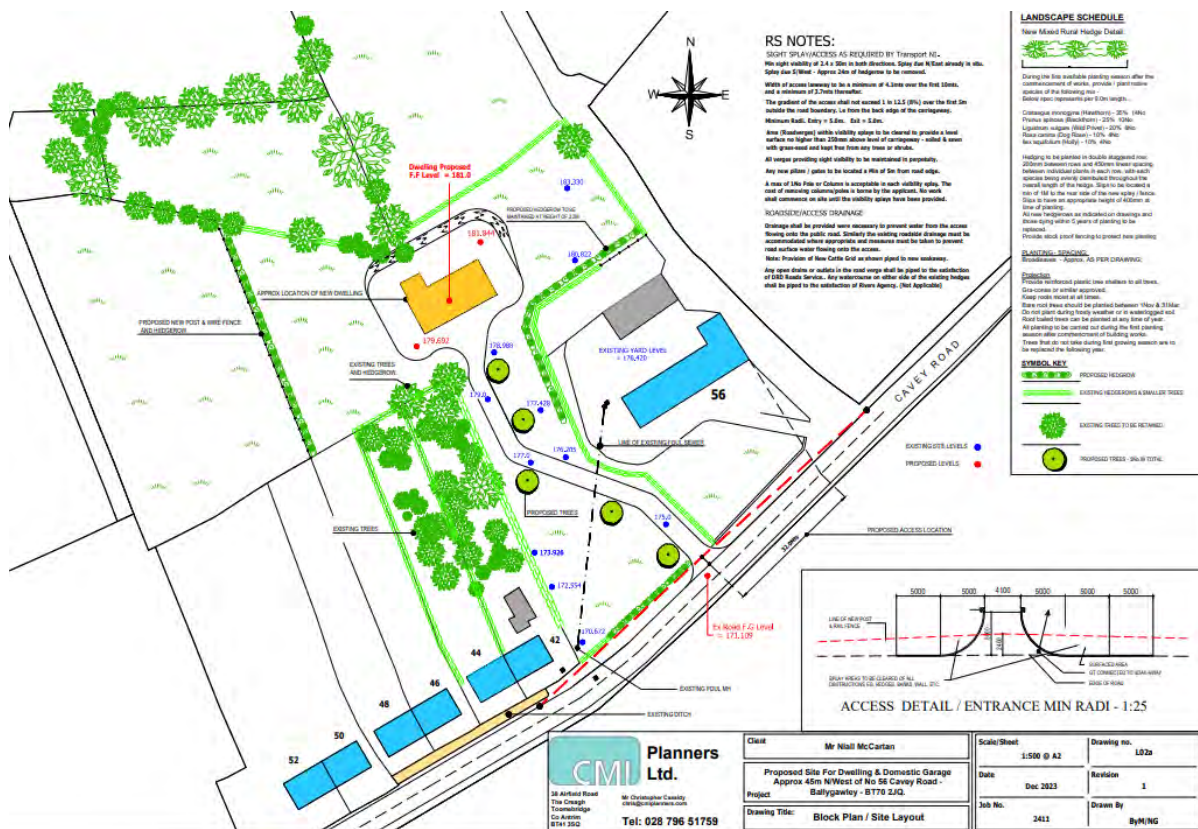


Fig 1 – proposed layout

The issue in this case relates to the principle of the development on infill grounds. Members will be aware CTY8 advocates against ribbon development but does recognise

some instances where infilling a gap is acceptable. In the policy it clearly sets out that ribbon development can be buildings set back, staggered or at angles and with gaps between them, if they have a common frontage. This proposal seeks to remove conditions restricting the curtilage and specifying an area for siting any new dwelling. In support of the proposal the applicants have submitted a layout showing how a dwelling could be accommodated on this site and still comply with CTY8 (Fig 1). A dwelling located as proposed in fig1 would, in my view, still result in ribbon development, by definition in CTY8 and as such I must conclude that it would also meet the criteria for a gap site in a substantially built up frontage.

As the proposal will still meet the principles of ribbon development I consider the conditions in relation to siting and curtilage restriction can be removed. I do however consider it necessary for these conditions to be replaced with conditions that the dwelling should be sited in the general location as proposed in the submission and a substitution condition to ensure that only one dwelling is erected on the site.

I recommend this application is approved.

#### Conditions/Reasons for Refusal:

##### Condition 1

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the 17<sup>th</sup> April 2023; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

##### Condition 2

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

##### Condition 3

Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 50m in both directions and a 50m forward sight line, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

##### Condition 4

A detailed scheme of structured landscaping for the site including along all site boundaries, especially between the proposed site and No 56 Cavey Road, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details



of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

Reason: To ensure the dwelling integrates into the countryside and to ensure the maintenance of screening of the site.

**Condition 5**

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

**Condition 6**

The dwelling hereby permitted shall have a ridge height not exceeding 5.5 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: In the interests of visual amenity and to ensure the development is not prominent in the landscape.

**Condition 7**

The proposed dwelling shall be sited in the location as shown on drawing No 02 received 19 December 2023.

Reason: To ensure that the development is integrated into the landscape.

**Condition 8**

One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 bearing the stamp dated 23 MAY 2023.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2021/0119/O and is not for an additional dwelling on this site.

**Signature(s)**

**Date:**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 September 2023	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2023/0580/F	<b>Target Date:</b> 6 September 2023
<b>Proposal:</b> Removal of Conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O (Condition No. 8 relates to Condition No. 7, i.e. they are one and the same)	<b>Location:</b> 25M North West of 56 Cavey Road - Ballygawley
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr NIALL McCARTAN No 56 CAVEY ROAD BALLYGAWLEY ROAD BT70 2JQ	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
<b>Executive Summary:</b>  Refusal - conditions were attached to ensure the proposal complied with policies contained within PPS 21.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

No representations received.

### Characteristics of the Site and Area

The application site includes lands located approx 25m NW of 56 Cavey Road, Ballygawley. The red line of the site is an irregular shed and includes a roadside portion of lands with an area attached outlined in blue indicating ownership. The lands rise from the roadside towards the site and beyond. The site is predominantly bounded by existing

hedging and vegetation and there is wooden fencing between the application site and adjacent properties. The immediate area is surrounded by existing dwellings, including detached and semi detached dwellings and beyond that the lands are rural in nature, scattered with single dwellings. The settlement of Ballygawley is a short distance from the site.

### **Description of Proposal**

Planning permission is sought for the removal of Conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

##### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were a number of neighbours notified under this application including: 42, 44, 46, 47 and 56 Cavey Road. At the time of writing, no third party representations have been received.

##### Planning History

LA09/2023/0022/O - PROPOSED SITE FOR DWELLING & DOMESTIC GARAGE - 25M North West of 56 Cavey Road, Ballygawley – PERMISSION GRANTED

LA09/2021/0119/O - 20M NW Of No.56 Cavey Road, Ballygawley BT70 2JQ - One No. Dwelling House (infill site) – PERMISSION GRANTED

##### Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- The Local Development Plan 2030 – Draft Plan Strategy

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being in the rural countryside with no other zonings or designations within the plan.

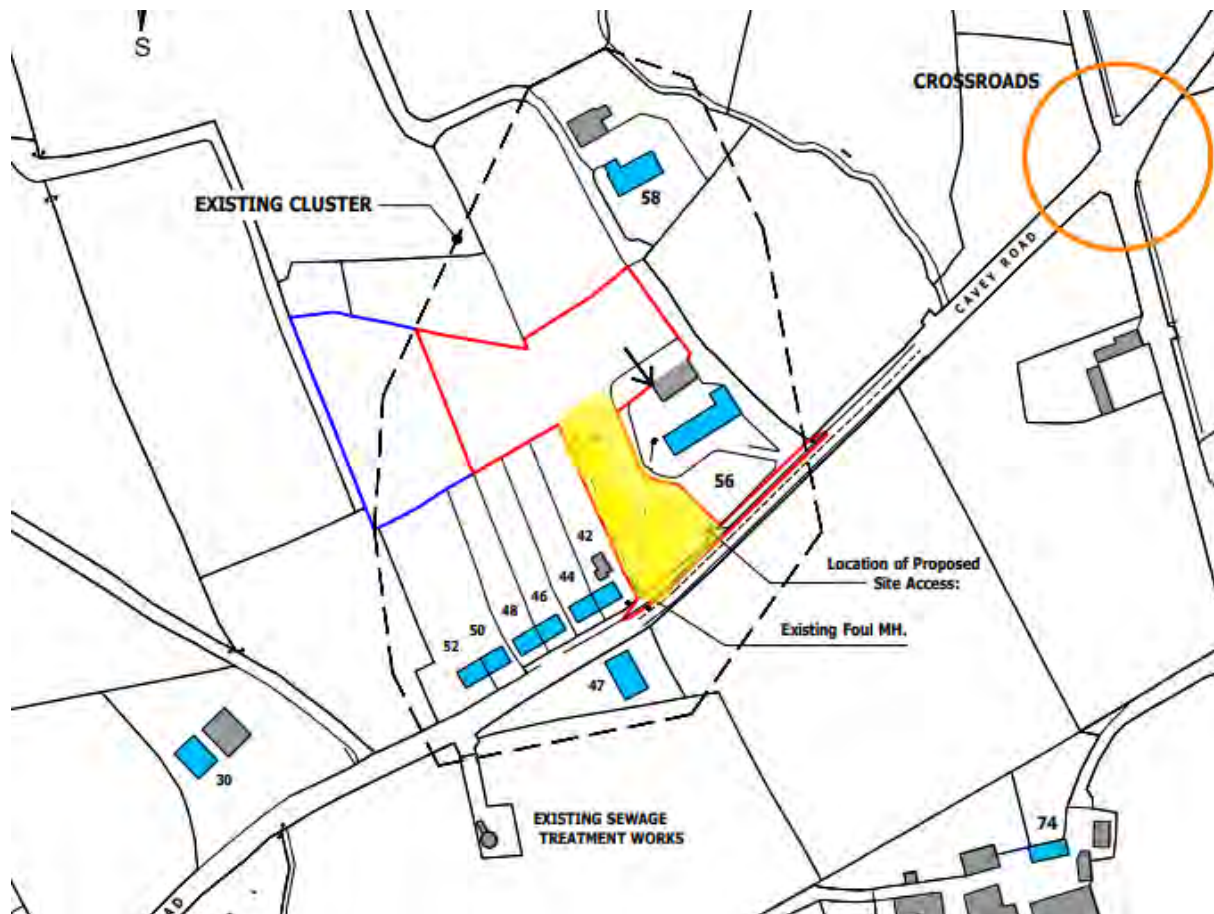
The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and

any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

The agent/applicant originally submitted application LA09/2023/0022/O for a dwelling under the clustering policy CTY 2a, however following group discussion it was felt that CTY 8 was appropriate as the site was not associated with a focal point or at a crossroads. The application was therefore assessed against policy CTY8 – ribbon development and conditions were attached to ensure that the proposal met with this policy. This current application is for the removal of conditions No. 7 & No. 8 from previously approved Planning Application LA09/2023/0022/O which were:

- *The proposed dwelling shall be sited in the area shaded yellow on the approved plan No. 01 Rev 1 which was received on 9th January 2023.*
- *The curtilage of the proposed dwelling shall be as indicated in the area shaded yellow on the approved plan No. 01 Rev 1 which was received on 9th January 2023.*



**Figure 1 – The site location plan above shows the area shaded yellow referred to in conditions 7 & 8.**

The agent provided justification for the removal of these conditions, noting that the outline application LA09/2023/0022/O was intended to supersede the approval, LA09/2021/0119/O adding that a home in this “small, narrow and fairly steep plot of land

was and is not financially practicable or feasible”. They add that extensive cutting/excavating would be required for a dwelling at this approved site. During the discussions of the previous application, LA09/2023/0022/O the agent was made aware of the proposed siting and curtilage we were proposing restrictions by email and noted they were content. It has since been confirmed that this was an error on their behalf, hence the submission of this application.

The removal of both of these conditions would mean that the dwelling could be sited elsewhere within the red line. It was considered under the previous application and further discussions under this application confirmed that we do not believe the removal of these conditions would allow for a dwelling at this site as the proposal would then be contrary to CTY 8 of PPS 21, which it was approved under and as discussed already in the previous reports there are no other policies which we feel the site would meet. CTY 2a was discussed under LA09/2023/0022/O and it was felt it had no focal point, nor was it located at a crossroads.

Given the reasoning set out above, it is considered that the conditions attached were necessary to ensure the proposal was in line with policy requirements of PPS 21 and as such we would not be content with the removal of them and therefore this application is recommended for refusal.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The planning approval LA09/2023/0022/O was only agreed subject to condition 7 and 8 being attached to ensure it met with the criteria of Policy CTY8 of Planning Policy Statement 21.

**Signature(s):** Sarah Duggan

**Date:** 22 August 2023

<b>ANNEX</b>	
<b>Date Valid</b>	24 May 2023
<b>Date First Advertised</b>	5 June 2023
<b>Date Last Advertised</b>	5 June 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  56 Cavey Road Ballygawley Tyrone BT70 2JQ  The Owner / Occupier  46 Cavey Road Ballygawley Tyrone BT70 2JQ  The Owner / Occupier  47 Cavey Road Ballygawley Tyrone BT70 2JQ  The Owner / Occupier  44 Cavey Road Ballygawley Tyrone BT70 2JQ  The Owner / Occupier  42 Cavey Road Ballygawley Tyrone BT70 2JQ</p>	
<b>Date of Last Neighbour Notification</b>	5 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
-	
<b>Drawing Numbers and Title</b>	
Site Location Plan Plan Ref: 01	



**Notification to Department (if relevant)**

Not Applicable



<b>Report on</b>	NIPSO Own Initiative Overview Report 'Strengthening Our Roots', An Overview report by the Northern Ireland Public Services Ombudsman on Tree Protection in the Planning Service
<b>Date of Meeting</b>	06.02.2024
<b>Reporting Officer</b>	Emma McCullagh Principal Planning Officer, Local Development Plan and Environment and Conservation
<b>Contact Officer</b>	Dr. Chris Boomer, Director of Services Planning

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	The Purpose of this Paper is to set out the background to NIPSO Report on tree protection in the Northern Ireland Planning Service received by Mid Ulster District Council on 30.10.2024 (Appendix A) and to consider the Council's Planning Department response to each recommendation contained therein (Appendix B).
<b>2.0</b>	<b>Background</b>
2.1	The role of the Ombudsman is set out in the Public Services Ombudsman Act (NI) 2016 (the 2016 Act) and includes a discretionary power to undertake investigations on her Own Initiative, with or without a prior complaint(s) being made.
2.2	In this instance the Ombudsman has taken a view that there is reasonable suspicion that there is systemic maladministration specific to tree protection through the medium of Tree Preservation Order (TPO)
2.3	Where the Ombudsman determines that an issue has not met her published criteria, but she considers that an overview of her actions in considering an investigation could provide learning, she may determine it appropriate to provide any relevant organisations with an overview report. In this specific case the NIPSO Report was issued to the Department for Infrastructure and the 11 Local District Councils.
<b>3.0</b>	<b>Main Report</b>
3.1	Mid Ulster District Council's Planning Department welcome the NIPSO report focusing on the protection of trees in the NI Planning Service.

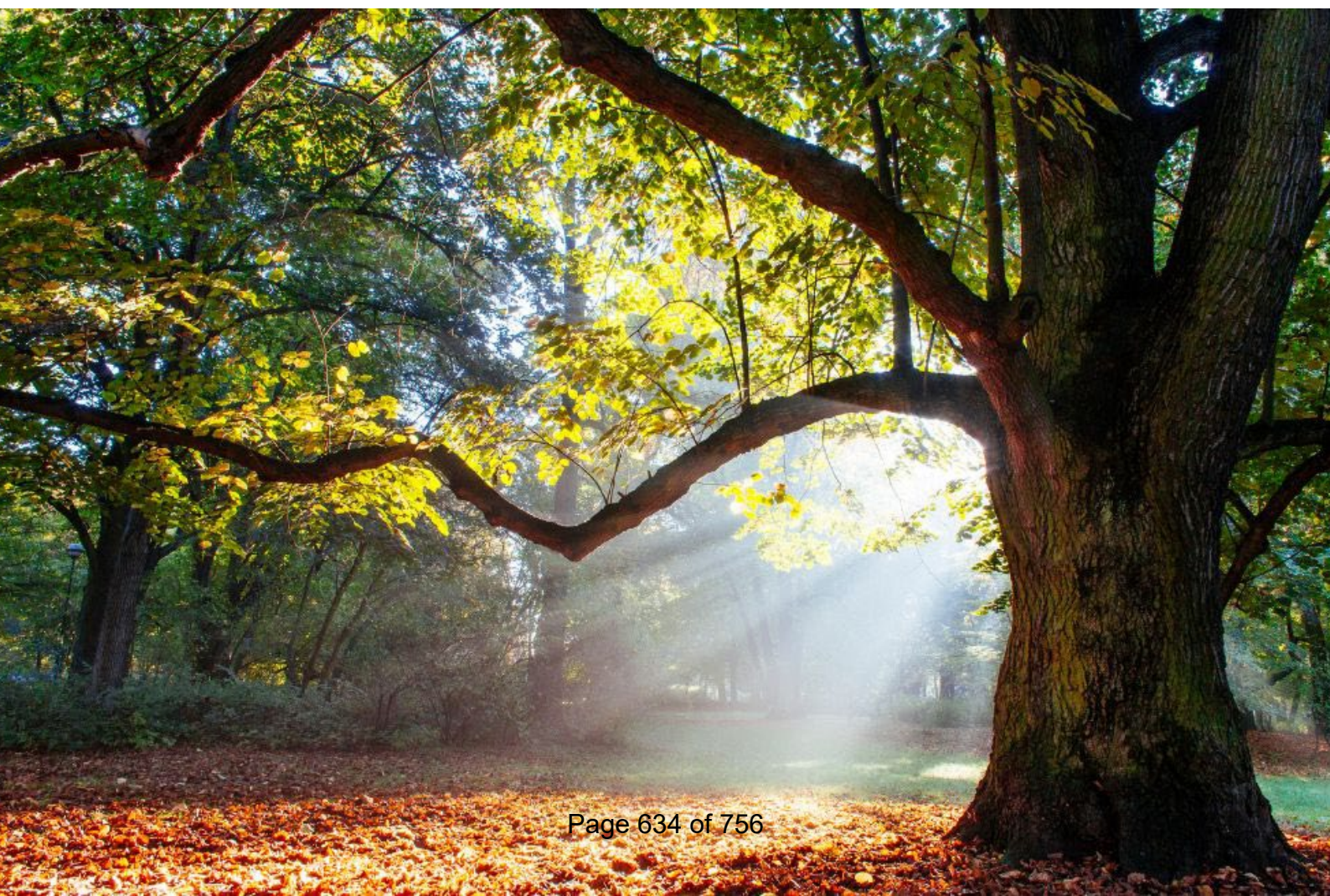
3.2	Members may recall that on 07.06.2022, under Agenda Item No.13, the Planning Committee agreed to an online service for customers specific to Tree Preservation Order issues.
3.3	Members may also recall that the report highlighted Sections 122 and 123 of the Planning Act (NI) 2011 that relate specifically to Tree Preservation Orders.
3.4	<p>Section 122 (1) states:</p> <p>‘Where it appears to a council that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in its district, it may for that purpose make an order (in the Act referred to as a ‘tree preservation order’) with respect to such trees, groups of trees or woodlands as may be specified in the order; and in particular, provision may be made by any such order-’</p>
3.5	A Tree Preservation Order is a legal document. It does not prevent development. It is a management tool that a Local District Council may consider if additional legal protection is deemed appropriate and it is at the discretion of the Council.
3.6	Mid Ulster District Council’s Planning Department currently holds approximately 60 digital records related to a Tree Preservation Order located within its district. The majority of these the Council inherited from the former Department of Environment (DoE), now the Department for Infrastructure (Dfi).
3.7	<p>Alongside the launch of Mid Ulster District Councils Planning Portal, the Council’s Planning Department enabled the customer to submit written requests regarding Tree Preservation Orders online. The online format includes,</p> <ul style="list-style-type: none"> <li>- A written request for an assessment for a Tree Preservation Order,</li> <li>- Written consent for remedial tree works related to a TPO, and,</li> <li>- Written consent for remedial tree works related to a designated Conservation Area.</li> </ul>
3.8	Furthermore, as previously agreed by the Planning Committee, the Council’s website contains a section on Tree Preservation Order under the Planning Department <a href="http://www.midulstercouncil.org/planning">www.midulstercouncil.org/planning</a>
3.9	These webpages clearly set out what a Tree Preservation Order is and what this means for the landowner if there is a proposed development. It also sets out specific procedures for remedial tree work and required consent, thereby several of the NIPSO’s report recommendations have already been implemented by the Council.
3.10	That said, this report provides the opportunity to refine the Councils webpages and to improve where appropriate TPO advice and guidance.
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<p><b>Financial, Human Resources &amp; Risk Implications</b></p> <hr/> <p>Financial:</p>

	Unknown
	Human: Unknown
	Risk Management: Unknown
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: Unknown
	Rural Needs Implications: Unknown
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	Members asked to consider the contents of this report and agree that the Planning Department submits this report to the NIPSO as Mid Ulster District Councils response to each recommendation, (Appendix B).
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	Appendix A – NIPSO Strengthening Our Roots Report. Appendix B – Mid Ulster District Councils written response to Recommendations contained within the NIPSO Report.



# Strengthening Our Roots

An overview report by the  
Northern Ireland Public Services Ombudsman  
on **Tree Protection** in the planning system





# The Role of the Ombudsman

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act) and includes a discretionary power to undertake investigations on her Own Initiative, with or without a prior complaint(s) being made.

Under Section 8 of the 2016 Act the Ombudsman may launch an investigation where she has reasonable suspicion that there is systemic maladministration or that systemic injustice has been sustained (injustice as a result of the exercise of professional judgement in health and social care).

In order to make a determination on reasonable suspicion, the Ombudsman initially gathers information relating to an issue of concern. This may include desktop research, contact with the body concerned, the use of a strategic inquiry, consultation with Section 51 bodies, etc. The Ombudsman assesses this information against her published Own Initiative Criteria<sup>1</sup> in order to decide whether or not to proceed with an investigation.

Where the Ombudsman determines that an issue has not met her published criteria, but she considers that an overview of her actions in considering an investigation could provide learning, she may determine it appropriate to provide any relevant organisations with an overview report.

## What is Maladministration and Systemic Maladministration?

Maladministration is not defined in the legislation but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

Systemic maladministration is maladministration which has occurred repeatedly in an area or particular part of the public service. Systemic maladministration does not have to be an establishment that the same failing has occurred in the 'majority of cases', instead it is an identification that an issue/failing has repeatedly occurred and is likely to occur again if left unremedied; or alternatively, an identification that a combination or series of failings have occurred throughout a process which are likely to occur again if left unremedied.

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<sup>1</sup> [Own Initiative Criteria](#)

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# Executive Summary

Within the planning system in Northern Ireland, the Department for Infrastructure (the Department) and local councils have statutory duties to consider the protection of trees. The effective promotion, administration and enforcement of tree protection is critical to long term strategies to improve the social, environmental and economic well-being of our areas and people. Trees have a key role not only in increasing biodiversity and combating climate change but are also increasingly recognised for the value they add to homes and public spaces and for their wide ranging benefits to public health.

Within recent years much attention has been given to the importance of planting more trees, and I welcome the many initiatives that have been undertaken in this area. There is however also a need for a renewed focus on recognising our existing trees as valuable infrastructure assets which need to be carefully managed and protected. The importance of protecting trees is even more critical given that it has been established that Northern Ireland ranks amongst the worst in the world for biodiversity loss<sup>2</sup>, is one of the lowest in Europe for woodland cover<sup>3</sup> and is likely to fall short of its 2050 net zero emissions target.<sup>4</sup>

In July 2022 I wrote to the Department and all eleven councils to advise that concerns had been raised with my Office indicating potential systemic maladministration in how public bodies fulfil their duties to protect trees within the planning system. I had also noted ongoing and significant public confidence issues, including community distress, consistently reported in the public domain. This included concerns about the extent that works to 'protected' trees (including the removal of) were granted and that adequate enforcement action was not being taken in response to wilful destruction.

I shared with the Department and councils a proposal to investigate using my own initiative powers. I requested information from the Department and each council to help inform my decision making in this matter. Whilst I have chosen not to proceed to full investigation at this time, the information gathered during the proposal stage was comprehensive and has allowed me to draw out significant observations and recommendations.

The **Principles of Good Administration** are the standards by which I expect public bodies to deliver good administration. The first principle is **getting it right** and in [Section 1](#) I set out the main strategies, policies and procedures which I have been advised are currently in place to deliver council functions to protect trees. Whilst some councils have developed comprehensive strategies to align their actions in this important area of planning this is not yet evident in all council areas. There is also an absence of procedural guidance to supplement the legislative framework around tree protection, which I consider is necessary to ensure consistency in decision making processes and to promote the application of good practice. I further consider that the Department has a greater role to play in developing regional guidance and in facilitating the sharing of best practice.

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<sup>2</sup> A [2021 NHM & RSPB study](#) ranks Northern Ireland as 12<sup>th</sup> lowest, out of 240 countries/territories, for biodiversity intactness.

<sup>3</sup> 9% Northern Ireland, 19% Scotland, 15% Wales, 10% England. *National Statistics on Woodland* produced by Forest Research, approved by UK Statistics Authority, 16 June 2022. Available from: [Woodland Statistics](#). EU-27 averages at 40%. [Woodland cover targets.pdf \(defra.gov.uk\)](#)

<sup>4</sup> [Advice Report: The path to a Net Zero Northern Ireland](#), March 2023.

In [Section 2](#), I outline how Tree Preservation Orders (TPOs) are administered and the variation in the number of TPOs requested and approved across council areas. A TPO is an order made by a planning authority which provides statutory protection to specific trees, groups of trees or woodlands. Whilst recognising this continues to be an evolving area of expertise, further work is required by both the Department and councils to establish how best to assess the 'amenity' value of a tree when considering the use of TPOs. This should include councils documenting a clear methodology and exploring better use of valuation software in this process. The Department should also issue guidance on the key TPO terms contained within the legislation.

Within this section I also note the potential for greater **openness and transparency** through increased electronic mapping of TPOs and provision of online access to the TPO registers. Council websites should provide clear information about the process that members of the public can follow to request a TPO, and the schemes of delegation should outline where the decision making on making TPOs sits within the council.

Similarly, there is the opportunity for increased transparency about the granting of works to protected trees. Within [Section 3](#), I outline the variation in the volume of applications made and approved across the region. Councils should consider the potential of publishing details of the applications and decision making to increase accountability and public confidence. The introduction of community notification for residents likely to be affected, which is a procedure recommended in England, should also be examined as a way of improving engagement in the planning system.

When considering how application for works are processed, it is important that councils clarify the circumstances in which independent evidence is required to support the applications for work and the parties responsible for obtaining it. **Being customer focused** involves public bodies explaining clearly what they expect of a service user as well as what is expected from the public body. Consistency of approach in processing applications for works could be further supported by all councils having standardised forms available online and signposting the use of the planning portal.

To comply with the principle of **acting fairly and proportionately**, the actions and decisions of public bodies should be free from interests that could prejudice their actions and decisions. Within [Section 4](#), I considered how councils approach cases in which the council wishes to carry out work to a protected tree on land which it owns, and the processes used to investigate where a council is suspected of a breach. The responses highlighted the variation in council awareness and interpretation of the governing legislation and best practice in this area. Department and councils should agree clear procedural guidance to comply with the legislation and to ensure potential conflicts of interest are being appropriately managed.

The need for adequate oversight and engagement between the Department, councils and statutory undertakers in respect of the removal of protected trees on operational land is discussed in [Section 5](#). Public bodies must work effectively together to mitigate against adverse impact, but also proactively communicate with the public on why, and how, the work is being undertaken.

When taking decisions, public bodies should ensure that the measures taken are proportionate to the objectives pursued. Taking appropriate enforcement action, to prevent or remedy harm, is central to the effectiveness and credibility of the planning system and to meeting the principle of **putting things right**.

Within [Section 6](#), the figures gathered regionally provide insight into the level of enforcement action taken in respect of reported breaches of planning control concerning protected trees. Out of 369 tree protection breaches reported to councils over a three year period, only one resulted in formal enforcement action being taken. No cases were brought to court. I have not carried out an analysis of the individual decision making however the low level of enforcement activity should be a concern for councils as they seek to improve the environmental quality of their area.

The figures further showed that nearly one fifth of the overall number of cases were closed as 'not expedient', indicating that a breach was established but that the council decided not to take further action having applied the 'expediency test'. I have recommended an examination of these cases to establish if the approaches taken are in keeping with enforcement guidance and council priorities, and whether there are repeat issues that can be acted upon to prevent future breaches. Council enforcement strategies should also provide clear information on the 'expediency test' and ensure there is sufficient oversight when enforcement decisions are taken under delegated authority.

I also recommend that the Department collate, monitor and publish enforcement data specific to tree protection enforcement cases to further enhance scrutiny at a regional level.

In adhering to the principle of **seeking continuous improvement**, public bodies should actively seek and welcome all feedback to improve their public service delivery. I was pleased to note that whilst all councils asserted that they meet their obligations to protect trees, several welcomed the proposal as an opportunity to review policies and practice for potential improvements.

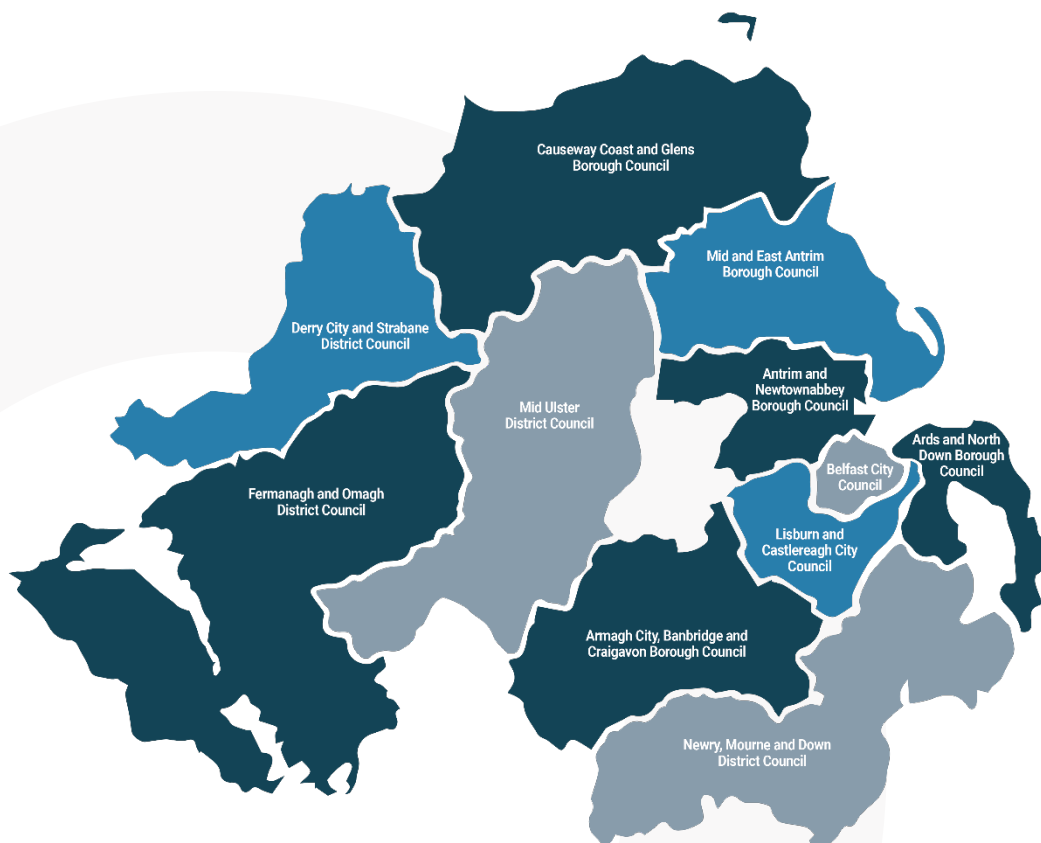
Having considered the responses to my investigation proposal I have made 26 recommendations for improvement which I have shared with the Department and councils. I am mindful that some councils have already implemented a number of the recommendations and I have highlighted examples of existing good practice. I am hopeful my report will make a positive contribution to the protection of trees within the Northern Ireland planning system. If required, I may choose to reassess this issue in the future.

# The Statutory Duty to Protect Trees

The Planning Act (Northern Ireland) 2011 (the 2011 Act) introduced a new two-tier system for the delivery of planning functions in Northern Ireland. This system, which came into effect in April 2015, resulted in the majority of planning functions passing from the former Department of the Environment (DoE) to local councils.

The eleven local councils have responsibility for delivering most operational planning functions including the determination of planning applications and the investigation of alleged breaches of planning control. The Department for Infrastructure (the Department) was established in 2016 and has responsibility for regional planning policy and legislation as well as monitoring and reporting on the performance of local councils. It also has certain reserve enforcement powers and can make planning decisions in respect of regionally significant and 'called-in' planning applications.

**Figure 1: A map of the 11 local councils in Northern Ireland**

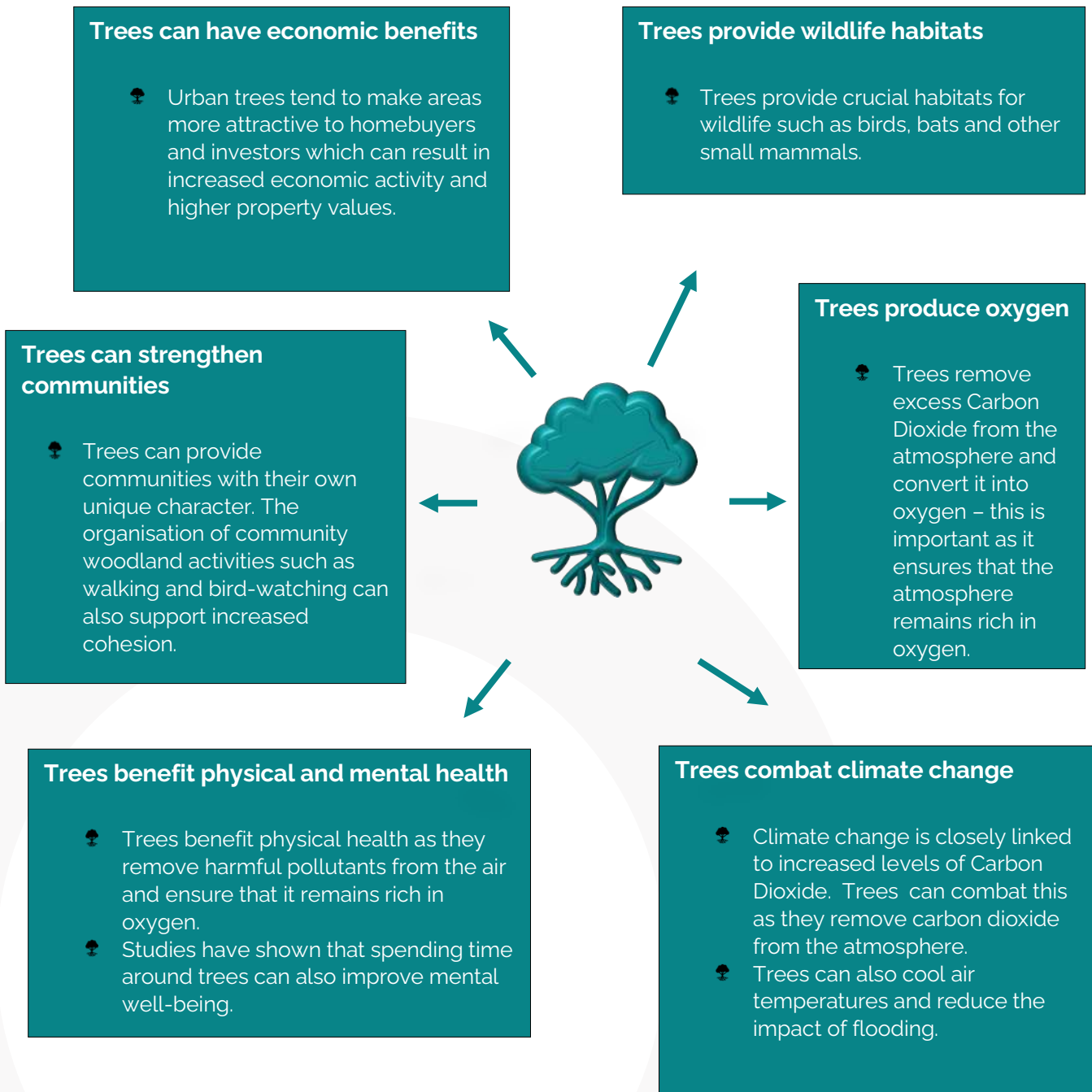


The 2011 Act places statutory duties on councils and the Department to make adequate provision for the protection of trees, where appropriate, within the planning system.<sup>5</sup> It is vital that these duties are fully understood and implemented. This means that councils should protect existing trees, as well as promoting further planting of trees. Trees provide many

<sup>5</sup> [Planning Act \(Northern Ireland\) 2011, Chapter 3, s.121-128](#)

important benefits for both members of the public and the natural environment. Key benefits include the fact that they provide habitats for wildlife, play a significant role in combating climate change and bring important advantages for public health.<sup>6</sup>

**Figure 2: The Benefits of Trees**



<sup>6</sup> A 2021 study carried out by Forest Research found that trees provide significant benefits for wellbeing & estimated that the mental health benefits associated with visits to UK woodlands save £185 million in mental health treatment costs annually. [Valuing the mental health benefits of woodlands \(forestresearch.gov.uk\)](https://www.forestresearch.gov.uk/valuing-the-mental-health-benefits-of-woodlands)

It is recognised that not all trees are considered as requiring statutory protection and that there is a need to scrutinise and prioritise the protection of trees determined to be of greater value. This continues to be an evolving area of expertise. Native trees, for example, are thought to be more beneficial for biodiversity than non-native trees.<sup>7</sup> Areas of ancient woodland are also extremely valuable natural assets which are of greater environmental benefit than younger trees.<sup>8</sup>

The importance of public bodies upholding and promoting their responsibilities to protect trees is further reinforced by the growing concerns in relation to the current state of Northern Ireland's trees and woodland areas. Northern Ireland is one of the least wooded areas in Europe<sup>9</sup> and it has the lowest density of woodland coverage in the United Kingdom.<sup>10</sup> It was also recently ranked the 12<sup>th</sup> worst out of 240 countries in terms of biodiversity loss.<sup>11</sup> Within the last Biodiversity Strategy<sup>12</sup> for Northern Ireland, it was highlighted that land use change and development has a major impact on biodiversity. The important role which planning controls and policy play in mitigating against biodiversity loss was also emphasised. Northern Ireland's comparatively low level of woodland cover and lack of biodiversity therefore reinforces how important it is for planning authorities to take proactive steps to protect the region's existing tree assets.

The planning system in Northern Ireland currently protects trees in three main ways:

### 1. Tree Preservation Orders

Tree Preservation Orders (TPOs) are statutory protections afforded to trees under the 2011 Act.<sup>13</sup> The 2011 Act gives local councils the 'discretionary' power to make TPOs where they consider that it is 'expedient in the interests of amenity'. Whilst the making of new TPOs primarily sits under the remit of councils, the Department also retains the power to make them in certain circumstances. The 2011 Act is supplemented by The Planning (Trees) Regulations (Northern Ireland) 2015 (the 2015 Regulations) which set out the form which TPOs should take along with the procedures to be followed when making, confirming and revoking TPOs.<sup>14</sup>

A TPO can be applied to a single tree or a group of trees. Whilst the issuing of a TPO is discretionary, where one is made the planning authority has a duty to enforce it. If a tree is protected by a TPO it is necessary to apply for consent from the council or, in some circumstances, the Department before carrying out any felling or pruning work. Breach of a TPO is a criminal offence which can result in a fine of up to £100,000 on summary conviction or an unlimited fine on conviction on indictment.<sup>15</sup>

### 2. Conservation Areas

Conservation Areas are areas designated by planning authorities as having special architectural or historic interest. Trees located in conservation areas receive similar protection to those

<sup>7</sup> [Biodiversity: why native woods are important - Woodland Trust](#)

<sup>8</sup> [Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK \(www.gov.uk\)](#)

<sup>9</sup> The Woodland Trust reports that Northern Ireland has just over 8.7% woodland cover [Our Work in Northern Ireland - Woodland Trust](#) compared to a European average of 40% - see [Woodland cover targets Detailed evidence report.pdf \(defra.gov.uk\)](#)

<sup>10</sup> [State of the UK's Woods and Trees 2021 \(woodlandtrust.org.uk\)](#), pg.29

<sup>11</sup> [2021 NHM & RSPB study](#)

<sup>12</sup> The former Department of the Environment published a [Biodiversity Strategy for Northern Ireland](#) in July 2015 in compliance with The Wildlife and Natural Environment Act (Northern Ireland) 2011 (WANE). WANE places a duty on all public bodies to conserve biodiversity when exercising their functions ([s.1](#)).

<sup>13</sup> [Planning Act \(Northern Ireland\) 2011, s.122 -124](#)

<sup>14</sup> [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015](#)

<sup>15</sup> [Planning Act \(Northern Ireland\) 2011, s.126 \(1\)](#)



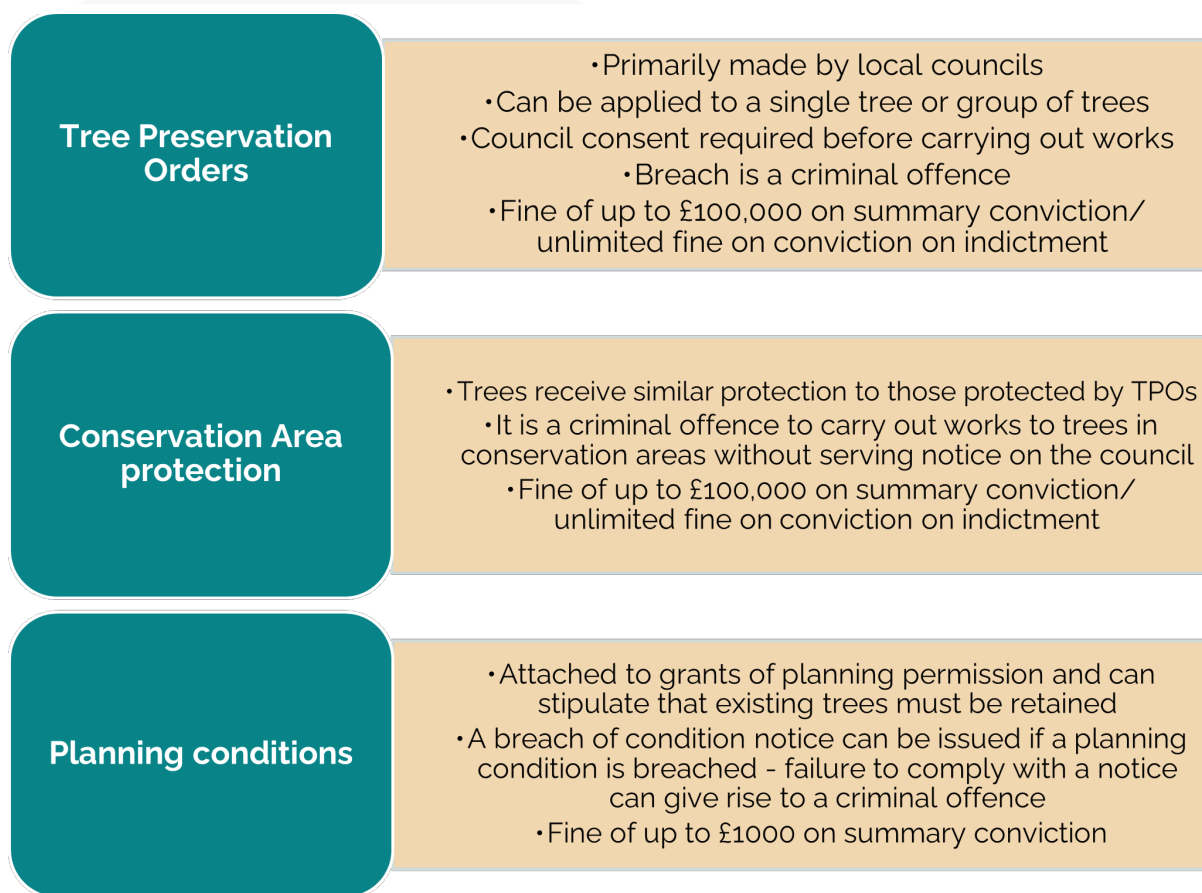
which are protected by TPOs. It is a criminal offence to carry out works to trees in conservation areas without first serving notice on the council or, in certain circumstances, the Department.<sup>16</sup> If the council or the Department objects to any proposed works, it can make a formal TPO to protect the tree(s).

### 3. Planning Conditions

Trees can also be protected by planning conditions attached to grants of planning permission.<sup>17</sup> A planning condition may, for example, stipulate that an existing tree or trees must be retained. Breach of a planning condition protecting trees is not a criminal offence. If a breach is identified a council can take formal enforcement action by issuing a breach of condition notice. Failure to comply with the requirements of a breach of condition notice can however give rise to a criminal offence which is punishable by a fine of up to £1000 on summary conviction.<sup>18</sup>

It is notable there is a considerable penalty variation between breaches of TPOs and planning conditions, with the maximum fine for a breach of a TPO significantly higher than a breach of a planning condition notice. Given the differing levels of protection, planning authorities should carefully consider in each case whether a planning condition or TPO provides the most effective safeguard. It is not considered reasonable to use planning conditions as the means to secure long term protection of trees, where TPOs are available for this purpose.

**Figure 3: The three main ways in which the Northern Ireland planning system protects trees**



<sup>16</sup> [Planning Act \(Northern Ireland\) 2011, s. 127 \(1-4\)](#)

<sup>17</sup> [Planning Act \(Northern Ireland\) 2011, s.121](#)

<sup>18</sup> [Planning Act \(Northern Ireland\) 2011, s.152](#)

## Section 1:

# Strategies, Policies and Procedures

### 1.1 The Councils

All eleven councils were asked to provide my Office with copies of the policies and procedures which they have in place to fulfil their duties to effectively promote, administer and enforce the protection of trees.

Whilst recognising the autonomy of each council to develop local policy, the responses highlighted several points of concern including an absence of strategies in some council areas and a lack of procedural guidance to underpin key functions. This section will set out my observations in respect of:

- (i) Local Development Plans;
- (ii) Strategies;
- (iii) Schemes of Delegation; and
- (iv) Procedural Guidance.

#### (i) Local Development Plans

The 2011 Act requires each council to prepare its own Local Development Plan (LDP).<sup>19</sup> A council's LDP is intended to be a 15-year framework which sets out a vision for how the council area should look in the future in terms of the type and scale of development. The legislation requires each LDP to be made up of a Plan Strategy and a Local Policies Plan. Whilst it was originally anticipated that it would take approximately three years for councils to complete their LDPs, it is concerning to note that none of the LDPs have been completed despite the passage of more than eight years.<sup>20</sup>

*It is concerning to note that none of the LDPs have been completed despite the passage of more than eight years.*

In its recent review of Planning in Northern Ireland, the Northern Ireland Audit Office (NIAO) commented on the lack of progress made in completing LDPs and made a recommendation in relation to reviewing timetables for completion and streamlining the remaining steps of the process.<sup>21</sup>

The Department has advised my Office that it is currently bringing forward a Planning Improvement Programme in conjunction with the councils, involving specific actions which seek to improve and streamline the current LDP process.

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<sup>19</sup> [Planning Act \(Northern Ireland\) 2011, Part 2](#)

<sup>20</sup> The former DOE's *Strategic Planning Policy for NI* (2015) set out an indicative timeframe for the completion of LDPs - [Strategic Planning Policy Statement for Northern Ireland \(SPPS\)](#) ([infrastructure-ni.gov.uk](#)), pg.30

<sup>21</sup> [NIAO Report - Planning in NI.pdf](#) ([niauditoffice.gov.uk](#)) - see LDP recommendation on pg.26



Most of the councils referred to their LDPs when providing copies of their policies and procedures to protect trees. Some of the councils shared copies of their draft Plan Strategies<sup>22</sup> and I welcome the fact that most appear to be including information in relation to the protection of trees within these strategies. I consider that the LDPs present a good opportunity for councils to set out a long-term vision for how they will balance development with the need to protect trees and woodland within the council area. However, it is not possible to comment substantively on the effectiveness of the Plan Strategies as, to date, most have not been adopted by the councils.

It should also be noted that most of the councils also referred to using regional planning guidance to assist them in setting planning conditions to protect trees, which I will discuss further in section 1.2. A number of councils provided my Office with sample planning conditions used to protect trees.

I further note that councils have signalled their intent to bring forward Supplementary Planning Guidance as part of the LDP process. I welcome that Belfast City Council recently published 'Trees and Development' planning guidance to supplement policies in its LDP, to support its aims to 'protect, promote and preserve' trees.<sup>23</sup>

## (ii) Strategies

### TREE AND WOODLAND STRATEGIES

Alongside local plans, the development of Tree and Woodland Strategies are a way in which councils can set out across functions their long-term approach for managing the trees within their council area. Four councils currently have such strategies, or supporting policies, in place.<sup>24</sup> Whilst these strategies do not solely relate to the protection of trees, most contain some information in relation to the approaches which the councils are currently taking in this area. For example, one council stated that it only carries out tree works where necessary whilst another stated that it avoids the unnecessary removal or disfigurement of trees with 'amenity' or high wildlife value.

*4 councils currently have tree strategies. 7 councils do not have tree strategies however 2 currently have draft tree strategies.*

I note that Belfast City Council undertook considerable public consultation to inform its recently launched tree strategy and I welcome the level of detail it contains, as well as its commitment to protecting Belfast's tree population.

The remaining seven councils do not have tree strategies in place however two are currently working on draft tree strategies.<sup>25</sup> I would encourage the councils which do not currently have tree strategies in place to consider the benefits of developing one. I would also encourage councils which do have tree strategies to review their strategies to ensure they are comprehensive. The strategies should include the different functions of the council to ensure

<sup>22</sup> Three councils have adopted their Plan Strategies since my initial enquiries – Fermanagh & Omagh District Council in March 23, Belfast City Council in May 23 and Lisburn & Castlereagh City in September 23.

<sup>23</sup> [Trees and Development \(belfastcity.gov.uk\)](https://www.belfastcity.gov.uk/trees-and-development)

<sup>24</sup> Ards and North Down Borough Council has published a [Tree and Woodland Strategy](#), Armagh City Banbridge & Craigavon Borough Council has published a [Tree Management Policy](#), Lisburn and Castlereagh City Council adopted a new [Tree and Woodland strategy](#) on 7 February 2023. Belfast City Council's [Tree Strategy](#) was launched on 5<sup>th</sup> October 2023.

<sup>25</sup> Newry Mourne and Down District Council stated that it was preparing a draft tree strategy which would be published for consultation. Causeway Coast and Glens Borough Council also provided me with a copy of its draft Tree Risk Management Plan.

priorities in this area are aligned. For example, the role of enforcement activity to remedy and prevent harm should be sufficiently valued in the context of protecting tree stock, biodiversity and public health.

I note that one council included the appointment of a Tree Officer as one of the proposed actions within its tree strategy and within their responses to my investigation proposal, six councils referred to having designated Tree Officers. The appointment of Tree Officers appears to be increasingly common across the councils with the aim to promote the protection of trees.

It is also critical that within their strategies councils consider how effectively they are communicating with the public in this important area. Ten of the eleven councils currently have dedicated tree preservation sections within their websites. Whilst it is encouraging that the majority of councils do provide online information in this area, it is concerning that one council does not and I would urge it to rectify this as soon as possible. Throughout this report I highlight several areas and make recommendations for increased availability of information to the public.

### ENFORCEMENT STRATEGIES

An effective enforcement strategy is key to remedying, and indeed preventing, harm to trees already subject of protection through planning conditions, TPOs or location within a conservation area. A planning enforcement strategy sets out a council's enforcement objectives as well as how breaches of planning control are investigated. These strategies also outline how the investigation of enforcement complaints are prioritised.

*All of the councils have Planning Enforcement Strategies*

All of the local councils have planning enforcement strategies in place. They are very similar in content and, whilst none are specific to trees, all of the council strategies refer to TPO breaches when outlining enforcement priorities. It is notable that all of the councils give complaints about alleged TPO breaches the highest possible priority for investigation. I will however set out several significant concerns I have identified in respect of 'Enforcement Activity' later in this report within [Section 6](#).

#### (iii) Schemes of Delegation

Under the 2011 Act, it is a statutory requirement for councils to have schemes of delegation for planning.<sup>26</sup> Schemes of delegation outline which decisions are made by the Planning Committee and which are delegated to council officers.

*There is variation across the councils in relation to how decisions around TPOs are made.*

Whilst all of the local councils have developed their own schemes of delegation, there is some variation in relation to the decision-making mechanisms which councils are employing around TPOs. Some councils delegate all decision-making in this area to council officers whereas others require their Planning Committees to play a role in certain aspects of TPO decision-making.

<sup>26</sup> [Planning Act \(Northern Ireland\) 2011, s.31](#)

The wording of some of the schemes of delegation has however the potential to cause confusion. Of the three councils whose Planning Committees retain decision making functions for making TPOs, it is not clear from the schemes if the Planning Committees review *all* requests for TPOs or only those which council officers recommend are made.<sup>27</sup> It is also not clear how they would operate where there is a need to act quickly to protect trees. Open and transparent information about the process is necessary not only for Committee and council officers to ensure procedural compliance, but also to instil public confidence in the process.

It is also notable that, within their schemes of delegation, two councils refer to delegating functions which they do not possess. Both of these councils state that they delegate the revocation of TPOs to council officers however this runs contrary to the 2011 Act which does not extend this power to local councils. Whilst I note that the Department, in its 2022 Review of the Implementation of the 2011 Act, indicated that it intended to bring forward proposals to permit councils to vary or revoke TPOs, this is not currently enacted in law.<sup>28</sup>

I would encourage all councils to review their schemes of delegation to ensure that they are satisfied that decision making processes on TPOs are given the appropriate priority. Councils should also ensure that their schemes are clear and accurate.

#### (iv) Procedural Guidance

The responses to my investigation proposal indicate that there is variation regarding the extent to which councils have developed procedural guidance to supplement the legislative framework around trees subject to TPOs and conservation area protection. Whilst it is correct that the governing statutory instruments set out the legal obligations the planning authorities must comply with, policies and procedures are necessary to outline the practical steps required to fulfil these duties. Procedural guidance helps to provide clarity and consistency in the process and supports good administration to help get decisions right.

Although some of the councils provided copies of procedural guidance documents, it is of concern that other councils do not appear to have developed any of their own procedural guidance. It is also worth highlighting that some of the guidance documents provided are outdated and contain inaccuracies. For example, a procedural document in place within one of the councils dates back to 2010 and contains incorrect references to the Department being the primary decision maker in relation to applications for works to protected trees. In another council, guidance which purports to demonstrate their procedures for dealing with applications for works to protected trees on council owned land fails to refer to the Department's decision-making role in these cases.

I consider this further evidence of why it is important that councils supplement the legislative framework in this area with up to date guidance and I strongly encourage all councils to take steps to implement detailed and accurate written procedures.

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<sup>27</sup> For example, in response to an individual complaint made against a council to this Office, the council stated that 'a decision not to place a TPO does not have to go to the Planning Committee.' The wording of the Council's Scheme of Delegation could however be interpreted that *all* requests for TPOs are considered and determined by the Committee.

<sup>28</sup> [Review of the Implementation of the Planning Act \(NI\) 2011 - Report - January 2022 \(infrastructure-ni.gov.uk\)](#) – p.66.

## 1.2 The Department

It is notable that in response to my queries some councils referred to a lack of regional support from the Department. One council referred to a lack of support in relation to tree preservation work, and another stated that there was a 'significant gap' in regional advice and guidance. Reference was also made to a loss of expertise and resource following the transfer of planning powers to local councils.

In response to my investigation proposal, the Department was asked to provide details of the guidance which it provides to support local councils in relation to the protection of trees. Some of the guidance relied upon by the Department as being available for councils is significantly outdated and does not reflect the transfer of planning powers to the councils.

This section will outline my observations in respect of the Department's:

- (i) Guidance specific to the protection of trees;
- (ii) Regional planning guidance and policies; and
- (iii) Enforcement Practice Notes.

### (i) Guidance specific to the protection of trees

In response to asking what guidance is provided to councils, the Department provided two pieces of guidance which focus on the protection of trees. Both of these documents were issued by its predecessor department, the Department of the Environment (DOE):

- Tree Preservation Orders: A Guide to Protected Trees<sup>29</sup> (the 2011 guidance), and
- Trees and Development: A Guide to Best Practice<sup>30</sup> (the 2003 guidance).

The 2011 guidance is specific to TPOs and covers a number of areas including the criteria used to assess a potential TPO and how TPOs are processed. The 2003 guidance focuses on the value of trees and how they can be accommodated in the construction process. The following areas of concern have been identified in relation to these documents:

1. **The guidance is outdated** – neither of the documents have been updated to reflect the legislative and departmental changes which have occurred since their original publication. The 2011 guidance, for example, contains several inaccurate references to the now non-existent DOE having primary responsibility for making TPOs and processing applications for works to protected trees. It has not been updated to reflect the fact that these powers now sit primarily with the local councils.
2. **The guides are aimed at members of the public rather than the councils** – although the Department highlighted these documents as being guidance which they provide to support local councils, it is clear the guides are primarily written for members of the public<sup>31</sup> and developers rather than councils. Given the intended reader is the general public, it is even more concerning that the information presented is inaccurate.

<sup>29</sup> Tree Preservation Orders - A Guide to Protecting Trees ([infrastructure-ni.gov.uk](http://infrastructure-ni.gov.uk))

<sup>30</sup> Trees and Development - A Guide to Best Practice ([infrastructure-ni.gov.uk](http://infrastructure-ni.gov.uk))

<sup>31</sup> The 2011 guidance opens with the statement, 'This leaflet is intended to provide advice for tree owners, conservation groups and the general public on protected trees.'

The Department's failure to provide an updated guide, providing clear information on the current roles and duties of the Department and councils, has the potential to cause confusion. It may further risk creating a perception that it does not view the protection of trees as an area of priority within the planning system.

I note that both guides contain explanatory notes (dated 2019) that existing guidance within the documents will cease to have effect once the councils have adopted their Plan Strategies, yet only three councils have adopted their strategies to date. Adoption across the remaining councils is likely to take some time yet. Notwithstanding that the current guides may cease to have effect, I am of the view that given its oversight and monitoring remit, the Department should have a continued role to develop best practice guidance in this area to support councils.

I also note that the Department has not developed any internal procedural guidance specific to its own responsibilities and duties within the regime to supplement the legislative framework, for e.g., should the Department be asked to revoke or amend a TPO. Nor did it issue procedures by which a council must seek consent from the Department for works, an area of concern which I discuss further within [Section 4](#).

I encourage the Department to consider how it could work more closely with the councils to provide a greater level of support and establish mechanisms for sharing good practice and expertise. A number of councils referred to participating in a council-wide Tree Forum or 'working group' following its establishment in 2017 until 2019 when meetings were postponed due to the COVID-19 pandemic and a redirection of resources. I have been advised that a meeting of this group has been recently reconvened. I welcome this development and consider that a regional Tree Forum with representatives from both the Department and the councils may be beneficial in strengthening relationships and knowledge sharing.

## (ii) Regional planning guidance and policies

In addition to the 2003 and 2011 guides outlined, the Department also provided my Office with a number of wider regional guidance documents and policies in respect of land use and planning development. Most of the councils referred to using these guidance and policy statements to assist them in setting planning conditions to protect trees. It is worth noting that some of these documents will also cease to have effect once the councils adopt their Plan Strategies whereas others will remain in force.<sup>32</sup>

<sup>32</sup> Guidance which will cease to have effect:-

- [PPS 2: Natural Heritage \(infrastructure-ni.gov.uk\)](#) (2013)
- [Planning Policy Statement 6 \(PPS 6\): Planning, Archaeology and the Built Heritage \(infrastructure-ni.gov.uk\)](#) (1999)
- [PPS 6 Addendum: Areas of Townscape Character \(infrastructure-ni.gov.uk\)](#) (2005)

Guidance which will remain in force:-

- [best\\_practice\\_guidance\\_pps23.pdf \(infrastructure-ni.gov.uk\)](#) (2014)
- [Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside \(infrastructure-ni.gov.uk\)](#) (2012)
- [Creating Places - Achieving Quality in Residential Environments \(infrastructure-ni.gov.uk\)](#) (2000)

In responding to my investigation proposal, the Department also referred to the Strategic Planning Policy Statement<sup>33</sup> (SPPS) for Northern Ireland which aims to consolidate existing planning policies and provides further information in relation to the transitional arrangements which are in place pending councils adopting their Plan Strategies.

Whilst the wider regional guidance documents do refer to the need to protect trees and woodland areas, they are very broad in scope and do not go into the specifics of how trees can be protected. Similarly to the 2003 and 2011 guidance referred to above, the wider regional guidance documents are dated and, when read in isolation from the SPPS, they do not reflect the transfer of planning powers to the local councils.

### **(iii) Enforcement Practice Notes**

The Department has also published four enforcement practice notes which are designed to guide planning officers through the enforcement process.<sup>34</sup> These practice notes deal primarily with procedural matters whilst also setting out good practice. They are not specific to the protection of trees but they do provide councils with general guidance which can be applied to the investigation of alleged tree protection breaches. Enforcement Practice Note 3 is particularly useful as it provides guidance in relation to the stages which councils should follow when carrying out enforcement investigations.<sup>35</sup> The guidance was developed in 2016 and I note there are no enforcement practice notes, or guidance issued, which outlines the procedural steps that should be taken when the planning authority (council or the Department) is suspected of the breach. I will discuss this issue further in [Section 4](#).

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<sup>33</sup> [Strategic Planning Policy Statement for Northern Ireland \(SPPS\) \(infrastructure-ni.gov.uk\) \(2015\)](#)

<sup>34</sup> [Enforcement Practice Notes | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#)

<sup>35</sup> [Enforcement Practice Note 3 Investigative Approaches \(infrastructure-ni.gov.uk\)](#)



## Section 1 Recommendations: Strategies, Policies and Procedures

**Recommendation 1:** All councils should develop and implement tree strategies which ensure the relevant functions across the council are aligned to the agreed objectives. Councils which already have tree strategies in place should review their strategies to ensure that they are comprehensive.

**Recommendation 2:** Councils should review their schemes of delegation for planning to ensure that decision making processes in respect of TPOs are being given the appropriate level of priority and are in line with the objectives set out within tree strategies. Councils should also ensure that their schemes of delegation are clear and accurate, including specifying exactly what matters are presented to, and decided by, Committee in this area.

**Recommendation 3:** Councils should ensure that they have their own procedural guidance in place to supplement the legislative framework around trees which are subject to TPOs and conservation area protection. Given the difference in the level of protection afforded, the guidance should also set out clearly the circumstances TPOs should be used instead of planning conditions to best secure the long term protection of trees.

**Recommendation 4:** The Department should update and issue guides regarding the protection of trees, to reflect the current roles and responsibilities of the Department and the councils. The Department should also develop its own procedural guidance on areas in which it has retained responsibilities.

**Recommendation 5:** The Department should consider how it could work more closely with the councils to provide a greater level of support and establish mechanisms for sharing good practice and expertise. This could include issuing best practice guidance for councils in relation to developing effective Tree Strategies and supporting a regional Tree Forum. The Department and councils should also utilise the agreed mechanism to consider my report and recommendations, and collectively develop an action plan.

## Section 2: Tree Preservation Orders

The 2011 Act provides a discretionary power for councils to make a TPO to protect a specific tree or woodland from deliberate or wilful damage. Members of the public can submit requests for TPOs to their local councils. TPOs can also be initiated by the councils themselves and the Department has the power to make TPOs in consultation with the appropriate council.<sup>36</sup>

From my enquiries I have established that across the region there are variations in how TPO records are maintained by councils, and the level of information is made available to the public. There are also variations in the processes to request a TPO and in the rates of requests received.

This section will set out my observations in respect of:

- TPO records (The Orders, Registers and Mapping);
- TPO requests and approval rates across the councils;
- Criteria for making TPOs; and
- Processes for requesting TPOs.

### 2.1 TPO records

#### THE ORDERS

It is imperative that councils make and maintain accurate TPO records so that they can easily identify protected trees to process applications for works, investigate potential breaches and monitor their overall approach to tree preservation.

The 2015 Regulations<sup>37</sup> set out the form that an Order must take. When a TPO is made it should include the following information:

- The total number of tree(s) protected by an order; and
- A map showing the precise location of the protected tree(s).

It is also good practice to regularly review the TPOs in place and evidence that the tree(s) still requires protection, for example, with an up-to-date health and condition survey.

I established from my enquiries that there were 947 TPOs in place throughout Northern Ireland in July 2022. The numbers varied across the councils, ranging from 55 in one council area to 153 in another.

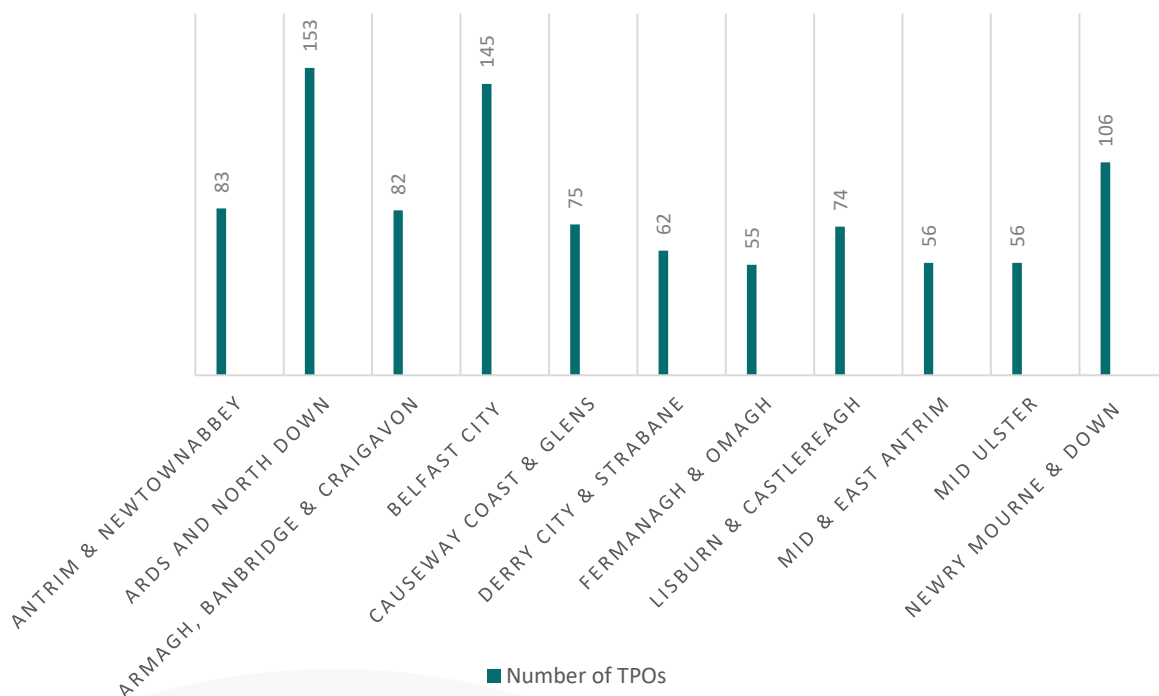
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<sup>36</sup> [Planning Act \(Northern Ireland\) 2011, s.124\(1\)](#)

<sup>37</sup> [The Planning \(Trees\) Regulations \(Northern Ireland\) 2015, S.2.](#)



Figure 4: The number of TPOs in place across the council areas in July 2022



As part of my investigation proposal, I also asked each of the councils to clarify how they maintain their TPO records. Most of the councils indicated that they maintain their records on their TPO registers. It is a requirement under the 2011 Act for all councils to keep registers containing information in relation to the TPOs within their council areas.

The councils were also asked to confirm how often they review their TPO records. There was variation in the responses received with some councils appearing to be more proactive in their reviews than others.

- **One council did not refer to carrying out any reviews** of its TPO records.
- **Two councils** stated that they **only review individual TPO records upon receipt of specific requests** such as applications to carry out works.
- **Eight councils** indicated that they have **carried out wider, proactive reviews** of all of their TPO records however the majority of these reviews appear to have been one-off exercises rather than part of a rolling review programme.



Within their responses to my investigation proposal, two councils raised concerns in relation to whether some of the TPOs which they inherited from the former DOE were legally sound. It has been suggested that some inherited TPOs had not been confirmed by the DOE. One of the two councils advised it has now rectified the issues it identified, and the other council remains in the process of doing so. This highlights the importance of ensuring there is clear procedural guidance to follow in respect of making TPOs and that records are subject to regular review.

I am concerned that the issues identified by the two councils around inherited TPOs may be a wider problem and I am not satisfied this matter has been adequately addressed at a regional level. A failure to tackle this issue has the potential to negatively impact on the regulation of works to protected trees and taking enforcement action against breaches.

I would strongly encourage all councils to carry out detailed reviews of their TPO records to ensure that all TPOs in place remain valid. Councils should also ensure that their reviews of TPO records are not stand-alone exercises and that they form part of an ongoing programme of review and monitoring of their approach to tree preservation. Councils should support the regular review of records, and adequacy of information available, by carrying out site visits to check on the health of the protected trees, or indeed whether they have been subject of harm since the order was put in place.

### TPO REGISTERS AND MAPPING

It is a requirement under the 2011 Act for all councils to keep registers containing information in relation to the TPOs within their council areas. A council's TPO register must also be available for inspection by the public at all reasonable hours.<sup>38</sup> When responding to my investigation proposal, the majority of councils confirmed that they have physical TPO registers which can be made available for public inspection at their offices.

I also made enquiries to establish if councils had mapped the TPOs within their area and what information they make available online. It should be noted that the 2004 Environmental Information Regulations made it a statutory requirement for public authorities to progressively make environmental information that they hold available by electronic means which are easily accessible.<sup>39</sup> Accessibility of this information to the public is critical in making sure they are alert to the protections that are in place, both to ensure that they do not carry out unauthorised works and to support the reporting of breaches.

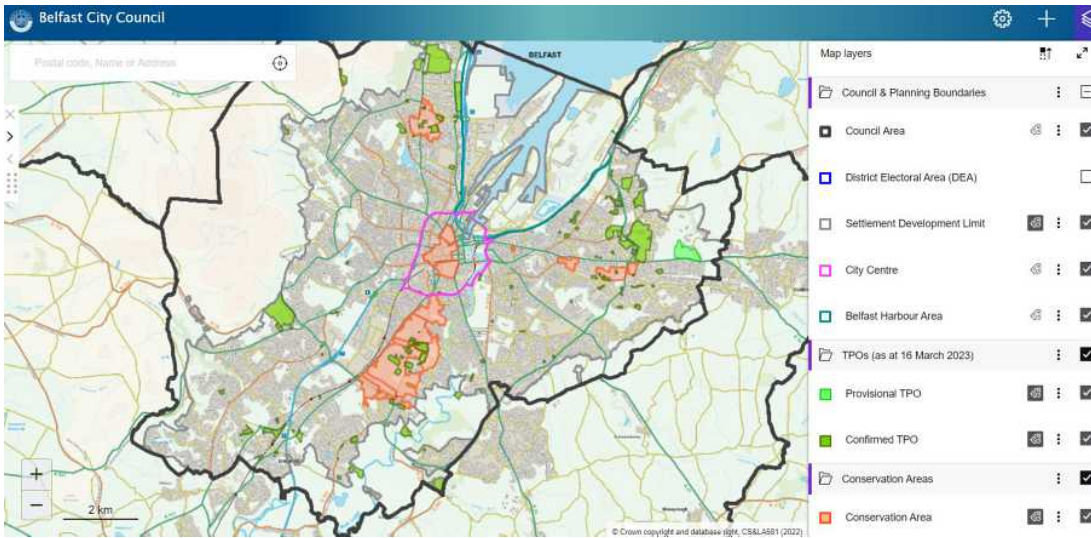
Nine out of the eleven councils have created interactive Geographic Information System (GIS) maps which display the locations of TPOs within their council areas. Six of these nine councils signpost to their maps within the tree preservation sections of their websites however the other three councils do not. Two out of these three councils advised my Office that they do not make their maps available to the public as they are for internal use only. Of the two councils which do not currently have GIS maps, one has advised that it hopes to develop one at some stage this year.

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<sup>38</sup> It is a requirement under s.242 of the 2011 Act that councils keep a planning register(s). Most of the councils set out how their registers can be accessed within their Statements of Community Involvement.

<sup>39</sup> [The Environmental Information Regulations 2004, s.4 \(1\)](#)

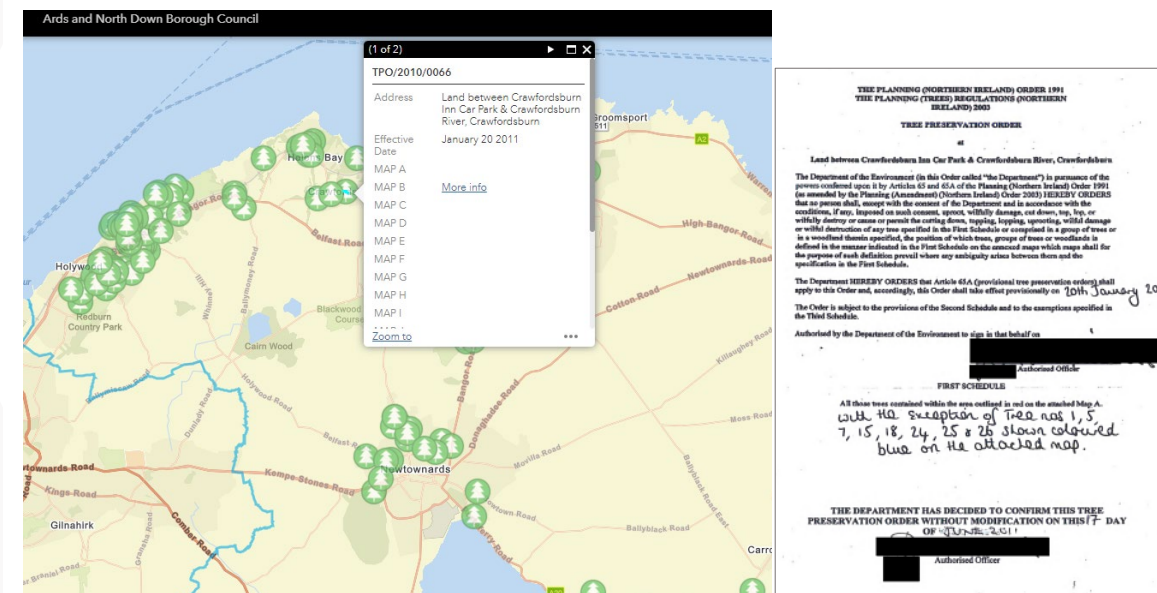
Figure 5: Belfast City Council's GIS Map (accessed 23/05/23)



There is also some variation across the councils in the information which they include within their interactive maps. Whilst all of the maps display the locations of TPOs within the council area, only three also highlight conservation areas.

I note however that only one council's map includes the facility to review the original documentation and maps associated with each TPO. The provision of this documentation online is an example of good practice. I am of the view that it would be beneficial for all councils to electronically map the TPOs within their area and provide online access to the TPO register and associated documentation.

Figure 6: Ards and North Down Borough Council's GIS Map (accessed 20/07/23)

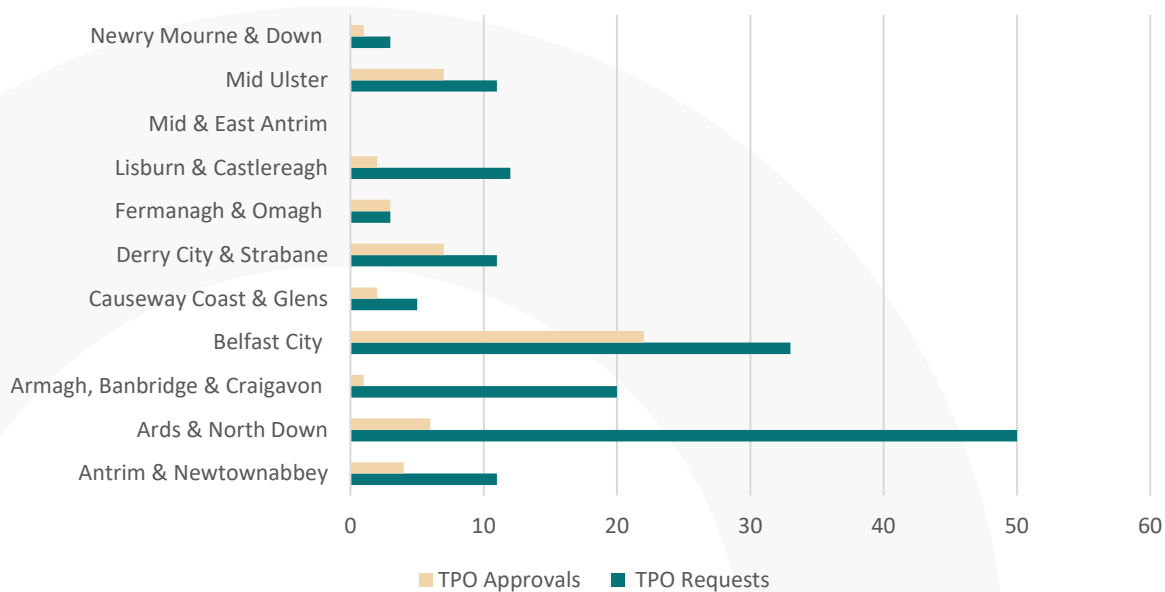


I am further of the view that a regional map may also be beneficial. I have been advised by the Department that it has engaged with the Woodland Trust on this matter. Working with interested parties, the Department as the duty bearer should take the lead in developing a regional map which displays the locations of all TPOs in Northern Ireland. The regional map should be regularly updated and easily accessible to the public in an online format.

## 2.2 TPO requests and approval rates across the councils

There is variation across the councils regarding the number of TPO requests which are received; one council reported receiving 50 requests within the last three years whilst another council did not receive any. Differences have also been identified in relation to council approval rates for TPO requests ranging from 10% to 88%. Although variation across the councils is to be expected and not in itself a cause for concern, the level of variation may benefit from having increased scrutiny and guidance at regional level.

**Figure 7: Council TPO requests and approvals over a 3-year period during 2019-2022**



## 2.3 Criteria for making TPOs

The 2011 Act provides councils with the power to make TPOs where they feel it is 'in the interests of amenity'. The term 'amenity' is not defined in the legislation and the Department has not provided any recent guidance in relation to how it should be interpreted. The former DOE did however publish a list of criteria for assessing the merits of imposing TPOs as part of its 2011 guidance.<sup>40</sup>

<sup>40</sup> See [Tree Preservation Orders - A Guide to Protecting Trees \(infrastructure-ni.gov.uk\)](https://www.infrastructure-ni.gov.uk), pg.4

**Figure 8: Criteria published by the DOE in 2011 for assessing the merits of imposing TPOs**

Within their responses to my investigation proposal, most of the councils referred to using this criteria when assessing whether or not to impose TPOs. Whilst the criteria remains valid, I note there is limited guidance provided about the factors to consider under each criterion. It may therefore be beneficial for councils to work together to further develop and document the methodology (including the potential use of valuation software<sup>41</sup>) that they use to assist in assessing the 'amenity' value of trees.

I consider that the Department also has an important role to play in providing further guidance for councils in relation to the definition of the term 'amenity' so that an appropriate methodology to assess trees is developed and applied by councils. When responding to the Department's Call for Evidence regarding its Review of the Implementation of the 2011 Planning Act, a number of councils highlighted the need for further guidance from the Department in relation to the term 'amenity'. In its response, the Department committed to considering whether there is a need for it to provide further guidance in relation to 'certain TPO terms'.<sup>42</sup> The Department has not published any further guidance or provided an update in relation to its progress.

<sup>41</sup> Some of the councils are already familiar with this type of software and methodology. In its 2022 study of Belfast's Urban Forest Belfast City Council, for example, made use of i-tree software & the CAVAT methodology – see [Belfast Technical Report \(treeconomics.co.uk\)](#)

<sup>42</sup> [Review of the Implementation of the Planning Act \(NI\) 2011 - Report - January 2022 \(infrastructure-ni.gov.uk\)](#), pg.65-66

## 2.4 Processes for Requesting TPOs

Some of the councils do not provide any information on their websites detailing the processes which should be followed by members of the public who wish to submit requests for TPOs. It is notable that the councils with no information on their websites about how to request a TPO are those which received the lowest number. Other councils do provide information however, in some cases, the detail provided is limited and does not outline the type of evidence which is required to support a request for a TPO. Only one of the councils has the facility for online submission of TPO requests via its own website and it is worth noting that this facility was only recently introduced.

None of the councils currently include any information within the TPO sections of their websites on the use of Northern Ireland's new planning portal for the online submission of TPO requests.<sup>43</sup> The new planning portal was launched by the Department in December 2022 and is currently being used by all of the councils apart from Mid Ulster. It has the functionality to accept online requests for TPOs. This development should help to standardise the TPO request process across the councils however it is disappointing that none of the councils have updated their websites to include information in relation to this new process. I would encourage all of the councils to review the content of their websites to ensure that clear and accurate information is being provided in relation to the processes which members of the public can follow when requesting TPOs. All methods for requesting TPOs, including the new online process, should be highlighted.

Councils should also ensure that, as well as dealing with requests from members of the public for TPOs, appropriate consideration is given to the initiation of TPO requests by council officers with responsibilities in this area. A proactive approach should be taken by councils to identifying trees which could benefit from protection and a strategy for identifying appropriate trees could be set out within a council's wider tree strategy.

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<sup>43</sup> Northern Ireland's new planning portal launched on 5 December 2022. It replaces the old planning portal and is currently being used by 10 out of the 11 councils. Mid Ulster launched its own separate portal in June 2022.



## Section 2 Recommendations: Tree Preservation Orders

**Recommendation 6:** Councils should carry out detailed reviews of their TPO records to ensure that all of the TPOs which are in place remain valid. Councils should also ensure that they develop and implement processes for the regular review of their TPO records which should also be supported by carrying out site visits.

**Recommendation 7:** All councils should electronically map TPOs and conservation areas within their area and provide the public with online access to the TPO register and associated documentation.

**Recommendation 8:** The Department should take the lead in developing a regional GIS map showing the locations of all TPOs and conservation areas in Northern Ireland. The regional map should be regularly updated and easily accessible to the public in an online format.

**Recommendation 9:** Councils should develop and document the methodology (including the potential use of valuation software) used to assess the 'amenity' value of trees.

**Recommendation 10:** In its 2022 Review of the Implementation of the 2011 Act, the Department committed to considering whether there is a need for it to provide further guidance for councils in relation to certain TPO terms. My report also supports the need for further guidance on key terms, and I recommend the Department proceeds to issue this.

**Recommendation 11:** All councils should review the content of their websites to ensure that they provide clear and accurate information in relation to the processes which members of the public can follow when requesting TPOs. In addition to ensuring the process to request TPOs is accessible to the public, councils should also consider what mechanisms are in place internally to initiate TPO requests effectively.

## Section 3: Applications for Works to Protected Trees

If a tree is protected by a TPO it is necessary to apply to the relevant council or, in certain circumstances, the Department for consent to carry out any felling or pruning work. The council or the Department has a range of options which are:

- grant full permission for the works;
- grant permission subject to conditions; or
- refuse consent.

There are however some exemptions to seeking consent, for example, it is not necessary to seek permission for works to trees which are dead or have become dangerous.<sup>44</sup> The owner must however ensure they have proof that the tree is dead or dangerous, and it is recommended that they make the relevant planning authority aware of the proposed works prior to them being carried out.

The process is also slightly different for trees located in conservation areas as notice of any proposed works must be served on the council or, in some cases, the Department; if the council or the Department objects to the proposed works, a TPO can be made to protect the tree(s).

I have identified examples of both good practice and concern in this area. This section will set out my observations in respect of:

- Level of applications and approval rates across the councils;
- Processes for applying for works to protected trees;
- The use of independent evidence to support applications for works to protected trees; and
- Publication and notification procedures.

### 3.1 Level of applications and approval rates across the councils

There is variation across the councils in relation to the number of applications for works to protected trees which they are receiving with some councils receiving far greater numbers than others. One council reported receiving 520 applications within the last three years whereas another council received just 18. There is less disparity in relation to approval rates for these applications as these are high across the majority of the councils, ranging from 73% to 100%.

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<sup>44</sup> [Planning Act \(Northern Ireland\) 2011, s.122 \(5\)](#)



**Figure 9: Applications for works to protected trees which were received and approved by councils over a three-year period during 2019-2022**



The following key trends have been identified from the figures reported by the councils over a three year period during 2019-22:

- **Four councils** reported **approval of all** of their decided applications.
- **Five councils** reported **approval of 90% and over** of their decided applications.
- The remaining **two councils** reported **approval of more than 70%** of their decided applications.
- The **average approval rate** across the councils during this time period was **93%**.

### 3.2 Processes for applying for works to protected trees

Decision making on works to protected trees is a delegated function<sup>45</sup> which means that for the most part council officers, and not the planning committee, will grant or refuse the applications. Within the responses to my investigation proposal, the councils provided information in relation to how they process applications for works to protected trees. Further information was also obtained from the council websites. I have identified some concerns about the variation of the level of information made available to the public on the need to apply for works to protected trees and the accessibility of the process.

<sup>45</sup> 8 councils clearly state within their schemes of delegations that this is a delegated function. The other 3 councils don't directly comment within their schemes of delegation.

Whilst most of the councils provide information on their websites detailing the processes which members of the public should follow when submitting applications for works to protected trees<sup>46</sup> some councils provide more detail than others. For example, some provide information in relation to the different procedures which apply dependent upon whether a tree is protected by a TPO or located within a conservation area whereas others do not highlight any differences. It is disappointing to note that two councils do not publish any information on their websites in respect of this matter.

Nine of the councils have developed their own application forms which applicants are required to complete when applying to carry out works to protected trees, however only seven councils make these forms available online. Furthermore, only two councils currently have facilities on their websites for online submission. Whilst it is encouraging that these councils have this facility, it is surprising that none of the other councils provide this as an option. It is also notable that only one council website directs applicants to the new planning portal which has the functionality to accept online applications for works to protected trees.

### 3.3 The use of independent evidence to support applications for works to protected trees

Concerns have also been raised with my Office in relation to councils approving applications for works to protected trees (including the felling of trees) without independent evidence to support the need for the works. Evidence to support an application could include for example, an arboricultural report assessing the health and condition of a tree, if reported to be of risk to the public or surrounding property.

The responses to my investigation proposal indicate that there is variation in the approaches being taken by the councils in this area.

- **Two councils** indicated that they **always require independent evidence** in support of applications for works to protected trees.
- **Two councils** stated that **they require independent evidence in the majority of cases**.
- The remaining **seven councils did not address** this within their responses to my investigation proposal.

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<sup>46</sup> 9 of the 11 councils provide information on their websites in relation to submitting applications for works to protected trees.

A review of the different application forms for works which are currently being used by the councils provides some further insight into the varied approaches being taken.

- **Five** of the application forms list the circumstances in which independent evidence **'must be provided'**.
- **One** application form lists the circumstances in which independent evidence should **'usually'** be provided.
- **One** application form states that independent evidence **'may be requested'**.
- **One** application form states that independent evidence is **'strongly encouraged'**.
- One application form **does not make any reference** to independent evidence.

Whilst the information available indicates that there may be some variation in the approaches councils are taking to the use of independent evidence, it has not been possible to reach any firm conclusions in relation to how the councils are acting in practice. It is my view that the councils need to review and provide clarity in relation to the circumstances in which they require independent evidence to be provided in support of applications for work to protected trees. Councils should also clarify whether the onus to provide independent evidence is always placed on the applicant or whether there are situations in which the councils themselves will obtain their own independent evidence whilst assessing applications.

Given the lack of clarity about the gathering and use of independent evidence to support applications, the high approval rates for works are a matter of concern. In my view, works to protected trees should be fully supported by independent evidence to ensure it is in the wider public interest.

### 3.4 Publication and notification procedures

#### PUBLICATION

Whilst I note that there is no statutory requirement to publish pending or concluded applications for works, I would encourage councils to explore the potential of making this information publicly available in an accessible format. It is common practice for local authorities in England to publish applications for works to protected trees via their online planning registers.<sup>47</sup> This enables members of the public to view copies of application forms, supporting evidence and details of decisions. If local councils published similar information, it might serve to increase transparency around decision making in this area.

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<sup>47</sup> Of a sample of 10 local authorities in England, 9 published applications for works on their online planning registers. It is worth noting that s.12 of the [The Town and Country Planning \(Tree Preservation\)\(England\) Regulations 2012](#) places a duty on local authorities to keep planning registers which include 'details of every application under an order and of the authority's decision'. The former Ministry of Housing, Communities and Local Government published guidance in 2014 which encouraged local authorities to make their registers available online: [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](#) (para 77).

I welcome the recent motion<sup>48</sup> passed by Ards and North Down Council 'for transparency and in response to growing public interest' for regular reports to be made to the Planning Committee to include:

- The number of applications for works to protected trees;
- Whether granted or refused; and
- The basis for the decision making.

Consideration was also to be given by the Council to uploading these details to the planning portal or its website to ensure public access. I note reports have since been submitted to the Planning Committee and are available on the website<sup>49</sup>, however navigating access is difficult. The details do not appear to have been uploaded on the planning portal. The reports also do not outline the basis for the decision made.

I note that none of the other councils publish any details of pending or concluded applications for works to protected trees.

## NOTIFICATION

It is also notable that none of the councils have processes in place for notifying local residents of pending applications for works to protected trees. Whilst it is a statutory requirement to notify any affected persons of the making of a TPO, there is no statutory requirement to notify affected persons of proposed works to protected trees.<sup>50</sup> Councils should explore whether it would be possible to introduce community notification procedures for residents likely to be affected by proposed works to protected trees. In England, whilst there is no statutory notification procedure for proposed works to protected trees, the government has issued guidance which recommends that local authorities consider displaying site notices or notifying affected residents where they are likely to be affected by an application or where there is likely to be significant public interest.<sup>51</sup>

Notifying local residents of proposed works which are likely to impact upon them could increase transparency and bolster community engagement in the application process. There has been considerable criticism of the lack of community engagement in Northern Ireland's planning system<sup>52</sup> and the Department itself has recognised that reform is required.<sup>53</sup> The Department potentially has a role to play in producing best practice guidance for councils around notification procedures.

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<sup>48</sup> [Ards & North Down Planning Committee Minutes, 1 March 2022](#)

<sup>49</sup> [Planning Committee \(06/12/2022\) \(ardsandnorthdown.gov.uk\), p77-78. Planning Committee \(07/03/2023\) \(ardsandnorthdown.gov.uk\), p52-53.](#)

<sup>50</sup> [s.3 of the 2015 Regulations](#) places an obligation on councils to notify interested persons of the making of a TPO and allow a 28 day period during which objections and representations can be submitted.

<sup>51</sup> [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](#), para 77.

<sup>52</sup> In its 2022 report, the Open Government Network was critical of the NI planning system's lack of meaningful engagement with local communities, describing it as a system which 'has evolved to prioritise efficiency and growth above community needs or environmental sustainability' (pg.5) [NIOGN-OLG-REPORT.pdf \(opengovernment.org.uk\)](#).

<sup>53</sup> In its 2022 report, the DFI's Planning Engagement Partnership set out 8 recommendations to enhance the quality and depth of community engagement in both local and regional planning – see [Planning Your Place: Getting Involved - March 2022 \(infrastructure-ni.gov.uk\)](#).

## Section 3 Recommendations: Applications for Works to Protected Trees

**Recommendation 12:** Councils which do not currently use application forms for processing applications for works to protected trees should develop standard application for works forms.

**Recommendation 13:** Councils should review the content of their websites to ensure adequate information is provided to members of the public about the requirement to apply for works to protected trees, how to apply and that the application process is accessible.

**Recommendation 14:** Councils should provide clarity in relation to the use of independent evidence to support applications for works to protected trees. The circumstances in which independent evidence is required and the parties responsible for obtaining it should be clarified.

**Recommendation 15:** Councils should explore the potential to publish details of applications for works to protected trees in an accessible format.

**Recommendation 16:** Councils should explore the potential to introduce community notification procedures for residents likely to be affected by proposed works to protected trees.

**Recommendation 17:** The Department should consider issuing best practice guidance in relation to publication and notification procedures (this could sit within the wider guidance recommended in Recommendation 5).

## Section 4: Protected Trees on Council Owned Land

If a protected tree is located on council owned land, this can result in a situation where the council itself is the applicant in a tree works request or suspected of a tree protection breach. It is crucial that cases where the council is in this position are dealt with transparently and that conflicts of interest are avoided or adequately managed. The processes and decision making in these cases must also be perceived as fair to ensure that public confidence is not negatively impacted.

I have identified a number of concerns in respect of:

- Cases in which the council is the applicant in a tree works request; and
- Cases in which the council is suspected of a breach of tree protection.

### 4.1 Cases in which the council is the applicant in a tree works request

If a council wishes to carry out work to a protected tree on land which it owns, it must seek consent from the Department rather than approving an application for works itself. This is a statutory requirement under Regulation 10 of the Planning General Regulations (Northern Ireland) 2015 which states that councils cannot seek consent from themselves.<sup>54</sup>

The responses to my investigation proposal highlighted that there is variation across the councils in relation to their awareness and interpretation of Regulation 10. Whilst some councils do appear to be aware of the need to refer, others seem to have been either unaware of or not applying Regulation 10 correctly.

- **One council does not appear to be aware of Regulation 10** and advised that it refers applications for works to protected trees on council owned land to its own senior officers or the Planning Committee.
- **Two councils** were aware of Regulation 10 but their responses to my proposal indicate that they are **not applying it correctly in practice**. One of these councils incorrectly referred to the fact that Regulation 10 only applies if a protected tree is located within a conservation area.
- **Six councils** do seem to have the **correct understanding** of the implications of Regulation 10. However, it is notable that one council stated that it only recently became aware of Regulation 10 when the Department highlighted it in connection with a high-profile case in which the council was seeking to remove a number of trees within a conservation area on council owned land.
- **Two councils did not address the approach** which they take to Regulation 10 within their responses to my investigation proposal.

<sup>54</sup> Regulation 10 states - *Where an interested council is seeking a consent of a council under Parts 3, 4 (except chapters 1 and 2 of that Part) or 5 (except sections 157 to 163) of the 2011 Act other than planning permission to develop land or a consent to display an advertisement pursuant to regulations made under section 130 and that council is itself the council by whom such consent would be given, it shall make an application for such consent to the Department.* [The Planning General Regulations \(Northern Ireland\) 2015 \(legislation.gov.uk\)](https://legislation.gov.uk)

This variation in council approaches is concerning and supports the need for the Department to provide clarity. It further demonstrates the importance, as outlined in [Section 1](#), of having clear procedural guidance that underpins the legislative framework. The Department should work with the councils on developing clear procedural guidance in relation to the processes which councils should follow when they wish to carry out works to protected trees on their own land.

## 4.2 Cases in which the council is suspected of a breach of tree protection

The councils were also asked to clarify whether they followed any different processes if the council itself was suspected of involvement in a tree protection breach. Whilst a number of the councils did not clearly address this within their responses to my investigation proposal, amongst those that did, the majority referred to following the same processes regardless of who was suspected of the breach. Only two of the councils made reference to referring enforcement cases involving the council to the Department.

- **Six councils** stated that they **follow the same processes** regardless of who is suspected of the breach.
- **Two councils** made reference to **referring these cases to the Department** however it was notable that only one of these councils indicated that this was common practice; the other council suggested that referral to the Department was optional.
- **Three councils did not clearly address** this issue within their responses.

Whilst there is no statutory requirement for enforcement cases involving the councils to be referred to the Department, I recognise and support the introduction of a mechanism to investigate these cases to manage potential conflicts of interest, whether real or perceived. I consider that there is a need for the Department to explore with the councils how best independent investigation of a reported or suspected breach by councils of tree preservation could be achieved. There is also the need for the Department to consider and set out the procedures to be followed where the Department is suspected of a breach, and how to introduce a mechanism to manage conflict of interests in such circumstances.

## Section 4 Recommendations: Protected Trees on Council Owned Land

**Recommendation 18:** The Department and councils should agree and issue clear procedural guidance in relation to the processes which councils should follow when they seek to carry out works to protected trees on their own land.

**Recommendation 19:** The Department should develop a best practice approach on the independent investigation of reported breaches of tree protection by councils. It should update its enforcement practice notes to include the procedural steps that should be taken when the planning authority (council or the Department) is suspected of the breach. The Department should also consider whether further legislation is required in this matter to provide the necessary clarity and independence in the decision making process.



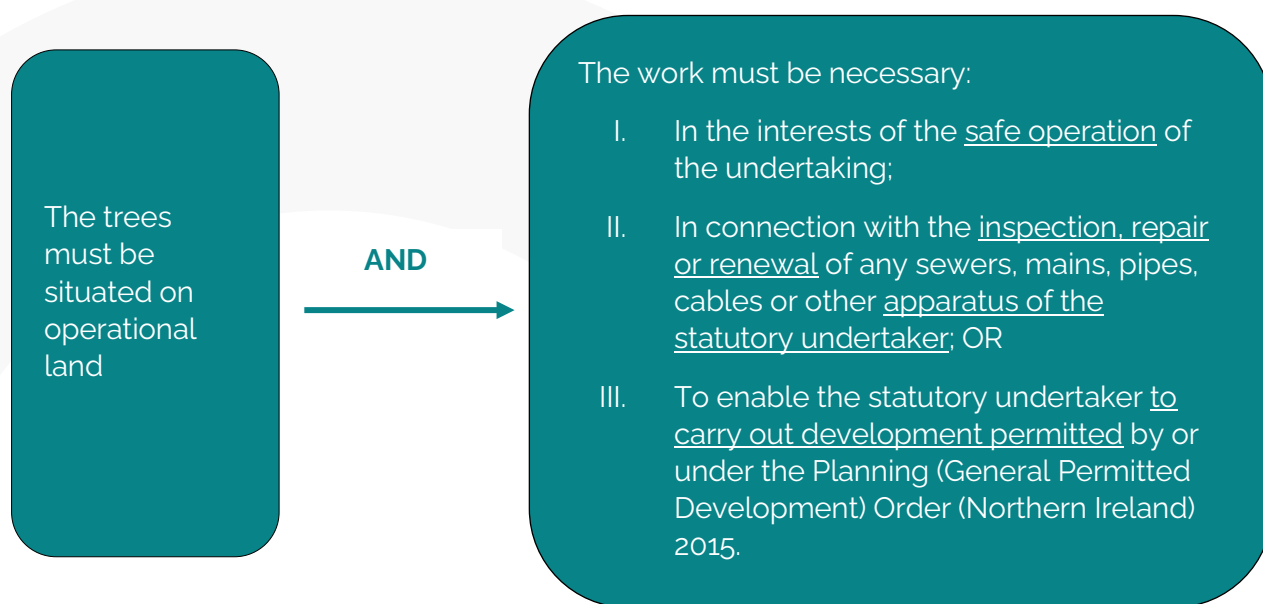
## Section 5: Statutory Undertakers

Statutory undertakers are bodies and organisations which have been given statutory powers to carry out certain public functions. Examples include transport providers and utility companies.<sup>55</sup> Concerns have been raised with my Office in relation to statutory undertakers removing protected trees and the oversight of their actions.

### 5.1 Statutory undertakers: the legislation

There are legislative provisions which enable statutory undertakers to remove protected trees without consent in certain circumstances. Schedule 3 of the 2015 Regulations enables statutory undertakers to carry out works to protected trees without council consent in specific circumstances. The trees must be situated on operational land and the work must be necessary for either safety reasons, in connection with the inspection, repair or renewal of apparatus or to enable a statutory undertaker to carry out permitted development.<sup>56</sup>

**Figure 10: The circumstances in which statutory undertakers can carry out work to protected trees without consent**



<sup>55</sup> s.250 of the 2011 Planning Act provides a definition of a statutory undertaker - [Planning Act \(Northern Ireland\) 2011 \(legislation.gov.uk\)](#)

<sup>56</sup> [2015 Regulations – Sch 3, s.2\(b\) \(i\)-\(iii\)](#)

Whilst the legislative framework sets out the circumstances in which statutory bodies can act, I am concerned there may be a lack of guidance between statutory undertakers and planning authorities to underpin this important area. I consider that effective engagement in this matter is critical as the work carried out by statutory undertakers is often significant in scale with the potential to adversely impact on the biodiversity of an area and public confidence. For example, it was reported that Translink proposed to remove 141 trees, including some protected trees, at Carnalea train station, Bangor for safety reasons.<sup>57</sup> There is therefore an onus on public bodies to examine and consult on how they can best carry out work which may necessitate the removal of trees and how any harmful impact may be mitigated.

## 5.2 Guidance and monitoring

I note that the Department has not issued any guidance for statutory undertakers in relation to how the Schedule 3 exemptions should be interpreted. Whilst I recognise that there are situations in which statutory undertakers are justified in removing protected trees, I consider that there is a need for direction from the Department in relation to best practice in this area. It is notable that guidance has been issued in other jurisdictions. In England, the former Ministry of Housing, Communities and Local Government included guidance on exceptions for tree works carried out by statutory undertakers within its 2014 guidance document on tree protection. This guidance is fairly brief but it does advise statutory undertakers to liaise with local authorities prior to carrying out any work to protected trees.<sup>58</sup>

The Department should also consider whether it could play a role in the oversight and monitoring of the activities of statutory undertakers in relation to the removal of protected trees across the region.

## 5.3 Engagement and co-operation

Councils also have a role to play in ensuring that they engage with statutory undertakers in relation to tree protection issues. It is unclear to what extent engagement and co-operation takes place, in particular where a statutory undertaker considers consent is not required for works, and I would encourage the councils and statutory undertakers to consider how it can be better facilitated. I welcome the fact that Belfast City Council has set out a number of actions aimed at increasing co-operation with utilities providers within its tree strategy. The actions put forward include the setting up of engagement workshops, the provision of training and the implementation of a tree charter.<sup>59</sup> This type of co-operation is to be encouraged as it provides councils with a good opportunity to promote the importance of tree protection to statutory undertakers.

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<sup>57</sup> [Reaction to the removal of 141 trees in Carnalea \(greenparty.org\)](https://www.greenparty.org.uk/news/2018/04/11/141-trees-removed-in-carnalea)

<sup>58</sup> [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304443/Tree_Preservation_Orders_and_trees_in_conservation_areas.pdf) – para 85

<sup>59</sup> [Belfast City Council Tree Strategy - Utilities Cooperation](#)

## Section 5 Recommendations: Statutory Undertakers

**Recommendation 20:** The Department should issue best practice guidance on the exemptions for statutory undertakers which are contained within Schedule 3 of the 2015 Regulations.

Guidance should include that statutory undertakers liaise with the relevant planning authorities prior to carrying out work to a protected tree and comply with best arboricultural practice in undertaking the work. Statutory undertakers should also report when work has been carried out without notification and review whether the work carried out was necessary and undertaken in a way that was least damaging.

**Recommendation 21:** Councils should introduce mechanisms to facilitate increased levels of engagement and co-operation with statutory undertakers in relation to the protection of trees.

## Section 6: Enforcement Activity

Planning authorities have a duty to investigate reports of alleged breaches of planning control and take formal enforcement action where it is appropriate to do so. Under the 2011 Act, local councils have primary responsibility for planning enforcement within their council areas. The Department retains certain reserve enforcement powers and is also responsible for monitoring the performance of the councils.

It is important to note that the powers available to planning authorities to take enforcement action are discretionary, and where a breach is established, the authority must consider whether it is 'expedient' to take formal action. Whilst 'expediency' in planning is not defined, the concept is described within departmental guidance as a test of whether the activity is '*causing unacceptable harm to the environment and/or public amenity, having regards to the provisions of the local development plan and to any other material considerations*'.<sup>60</sup>

Taking enforcement action which is proportionate to the seriousness of the breach, including the extent of the harm caused, is central to the effectiveness and credibility of the planning system. Whilst planning enforcement is intended to be remedial rather than punitive, it is critical that it is robust in its response and that the interests of the environment and the public are not marginalised. It is also important to highlight that unlike some other breaches of planning control, where unauthorised works to protected trees are carried out, including removal, it is not possible for the breach to be fully rectified.

It is of note that over recent years, a number of local authorities in Great Britain, have pursued significant prosecutorial action in respect of breaches of tree protection. This has included considering how the offenders (landowners and contractors) benefited from the proceeds of the crime, as well as the harm caused by the planning breach.<sup>61</sup> In contrast if enforcement is not taken seriously by local councils, or is perceived as not being taken seriously, both the effectiveness and public confidence in the planning system is undermined.

Concerns were raised with my Office that local councils appear to be reluctant to take enforcement action where tree protection breaches have been identified. I requested that all eleven councils provide relevant data on the action taken over a three year period in respect of reported tree protection breaches. This section will set out my observations and recommendations in respect of:

- Council enforcement powers in tree protection cases;
- Recent trends in tree protection enforcement cases;
- Cases closed as 'Not Expedient';
- Council enforcement strategies and procedures; and
- Monitoring of Tree Protection Enforcement Activity by the Department.

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<sup>60</sup> [Enforcement Practice Note 1 Introduction to Planning Enforcement \(infrastructure-ni.gov.uk\)](#)

<sup>61</sup> See [Landowner and contractor fined £255,000 for tree destruction | Enfield Council](#) and [Homeowner Fined Under Proceeds Of Crime Act For Cutting Back Tree - Timms Solicitors \(timms-law.com\)](#)

## 6.1 Council enforcement powers in tree protection cases

The councils have various strong enforcement powers available to them under the 2011 Act and this section will briefly outline the main enforcement powers which can be used in tree protection cases.<sup>62</sup>

### TPOs

Councils can pursue prosecutions against individuals found to be in breach of TPOs. Contravention of a TPO by undertaking unauthorised works is identified within planning enforcement guidance as a 'direct offence'. It is a criminal offence which is punishable by a fine of up to £100,000 on summary conviction or an unlimited fine on indictment.

Councils also have the responsibility to enforce measures, subject to a TPO, for the landowner to replace trees by planting a tree or trees of a specified size and species. Where this is not complied with within the specified period, councils have the power to enter onto land to replant trees subject of the TPO and recover costs.

### CONSERVATION AREA PROTECTION

Councils can also pursue prosecutions for breaches of conservation area protections. Breach of a conservation area protection by undertaking unauthorised works is also identified within planning enforcement guidance as a 'direct offence'. It is a criminal offence punishable by the same penalties which apply to TPO breaches.

Councils also have the responsibility to serve a notice on a landowner to replant a tree or trees of an appropriate size and species in the same space in a conservation area.

### PLANNING CONDITIONS

Breach of a planning condition which protects trees is not a criminal offence in itself. If a breach has been identified, a council can take formal enforcement action by issuing a breach of condition notice. Failure to comply with the requirements of a breach of condition notice is a criminal offence which is punishable by a fine of up to £1000 on summary conviction.

## 6.2 Recent trends in tree protection enforcement cases

The responses to my investigation proposal highlighted a number of trends in relation to the type and outcome of tree protection enforcement cases which were reported to the councils over a three year period, during 2019-2022. It should be noted that this data is not available centrally and had to be collated from each of the councils individually.

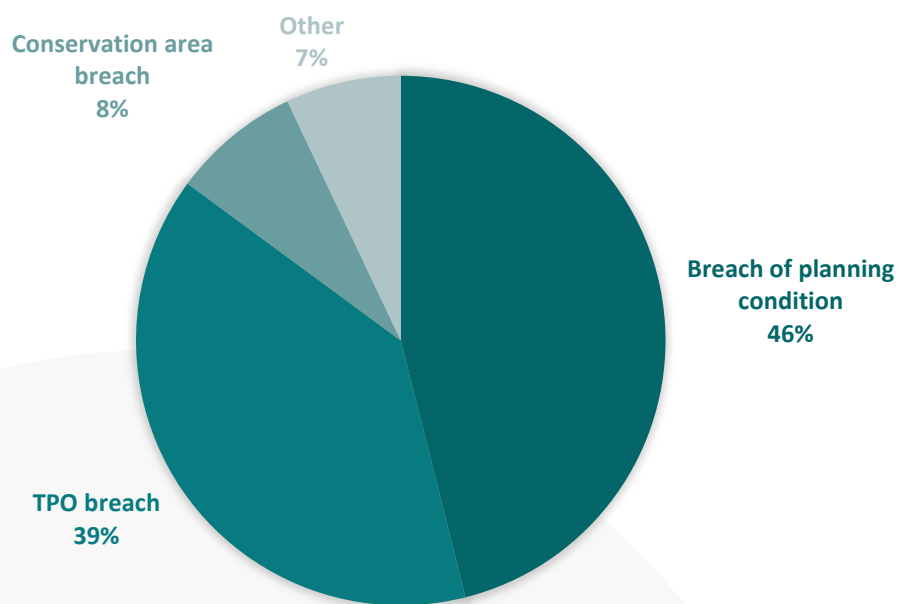
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<sup>62</sup> [Planning Act \(Northern Ireland\) 2011, s.126, 127, 152, 164, 166 & 167](#)

### TYPES OF CASES

From the data provided to my Office, it was identified that 369 tree protection breaches were reported to the councils over the three year period. The most commonly reported breaches were in relation to alleged contraventions of planning conditions with 170 reported in total. 144 of the cases which were reported related to alleged breaches of TPOs and 29 were in relation to alleged breaches of conservation area protections.

**Figure 11: Breakdown of type of tree protection cases opened by councils over the three-year period during 2019-2022**



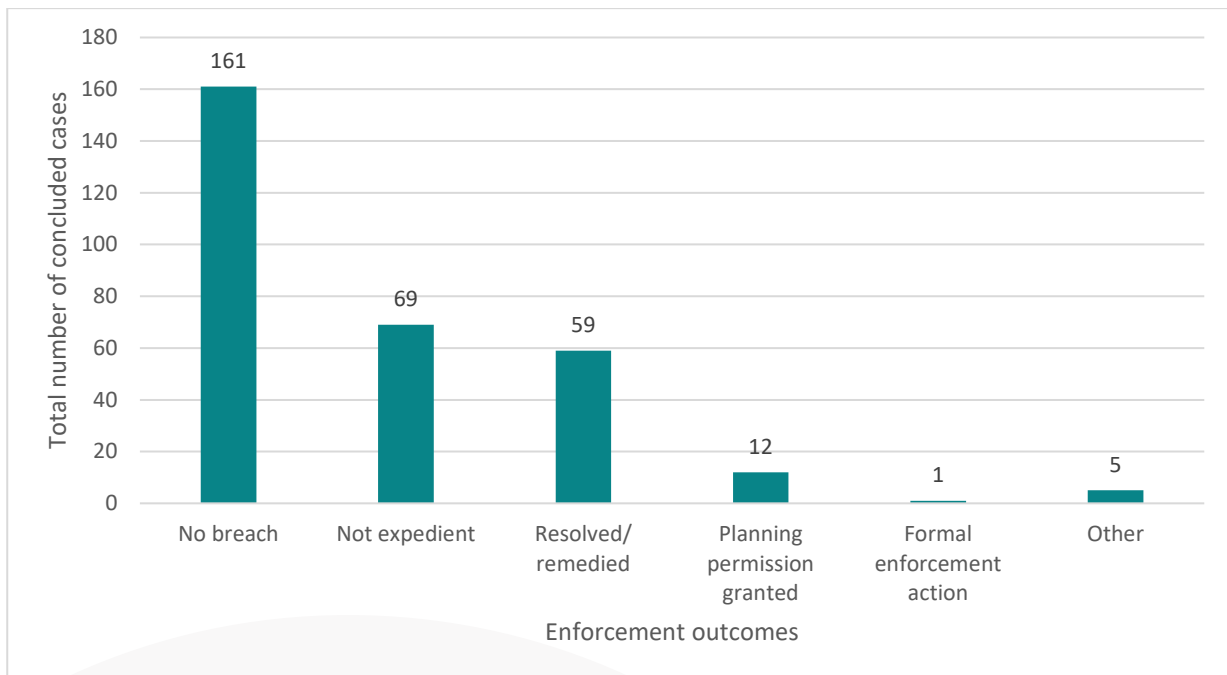
### OUTCOMES

The most frequently reported outcome in tree protection enforcement cases was a finding of no breach which was reported in 52% of cases. The second most common outcome which was reported in 22% of cases was a conclusion that it would not be 'expedient' to investigate the alleged breach any further. This was followed closely by 18% of cases which were classified as remedied or resolved.

Formal enforcement action<sup>63</sup> was only reported to have been taken in one case (a breach of condition notice was issued) and none of the councils have pursued any prosecutions within a three year period. The fact that only one council has taken formal enforcement action has the potential to support concerns about the approach of councils in this area, however this cannot be determined without review of the casework.

<sup>63</sup> The issuing of an Enforcement Notice or the service of a Breach of Conditions Notice. Failure to comply with either constitutes an offence.

**Figure 12: Breakdown of council enforcement outcomes in tree protection cases over a three-year period during 2019-2022**



### 6.3 Cases closed as 'Not Expedient'

When considering the overall outcome trends, it is worth noting that nearly one fifth of the overall number of tree protection cases were closed as 'not expedient', with percentage variation between the type of breaches reported.

Over a three year period:

- 15% of reported planning conditions breaches;
- 22% of reported TPO breaches; and
- 42% of reported conservation area breaches resulted in a 'not expedient' outcome.

This area is of particular interest, as having determined this category of outcome, it is indicative the council has established a breach but having applied the expediency test has decided not to take further action. The level of tree protection cases determined as 'not expedient' appears to sit somewhat at odds with the priority outwardly stated by councils to be given to the protection of trees. I consider that it would be valuable for the Department and councils to examine the recorded considerations and develop an analysis of whether the reasoning is in keeping with best practice in enforcement guidance and council priorities.



Furthermore, given the 'direct offence' nature of TPO and conservation area breaches, it would be useful to establish the extent to which 'expediency' should be applied and whether there are repeat issues that could be identified and acted upon. For example, whether the maintenance of records including identifying that orders had not been confirmed by the DOE (as outlined in [Section 2](#)), or a potential lack of public knowledge about the processes to apply for works to trees (as outlined in [Section 3](#)) are repeat factors.

I also consider that it would be valuable to include analysis of the small number of 'other' outcomes, in which various descriptions of outcomes were presented. It was concerning that in one reported TPO breach, the closure category of 'immune' was used when this is not an outcome that is applicable to a 'direct offence'.

There is also a notable variation across the councils in relation to the proportion of cases with the outcome 'not expedient'. One council reached this outcome in 38% of its cases whereas 3 others reported a significantly smaller proportion of 'not expedient' outcomes at just 12%. Given this level of variation I recommend that when examining the recorded reasoning and overall analysis for 'not expedient' outcomes, that the Department and councils consider whether there are differences in council approaches to apply the expediency test.

The analysis of 'not expedient' and 'other' outcomes in reported breaches of tree protection cases may also contribute to work recommended by the NIAO in the area of planning enforcement. Within its 2022 review of planning in Northern Ireland, the NIAO examined overall trends in all enforcement cases across Northern Ireland between 2015-2020.<sup>64</sup> It noted a substantial variation in percentages of outcome type across councils (including non-expedient cases) and recommended that the Department and the councils carry out further investigations to ensure that enforcement cases are being processed consistently in Northern Ireland.

## 6.4 Council enforcement strategies and procedures

As outlined in [Section 1](#), all councils have planning enforcement strategies in place and have the autonomy to set local priorities. In addition to identifying areas of concern from the data provided on enforcement activity, I note several issues that require further consideration in respect of council enforcement strategies and procedures, specific to tree protection and wider enforcement policy and practice.

### FACTORS TO BE TAKEN INTO ACCOUNT WHEN ASSESSING EXPEDIENCY

Expediency is a key concept within planning enforcement as councils only take enforcement action when they consider that it is expedient to do so. Within the enforcement strategies reviewed by my Office, it is noted that some of the councils refer to factors taken into account when assessing expediency, whereas others do not. I would encourage all councils to review their strategies to ensure clear information is provided on the expediency test, including the range of factors taken into account when assessing whether or not to take enforcement action.

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<sup>64</sup> [NIAO Report - Planning in NI.pdf \(niauditoffice.gov.uk\), p.32-34](#)



### SIGN OFF PROCEDURES FOR 'NOT EXPEDIENT' DECISIONS

None of the councils include any detail within their enforcement strategies in relation to their sign off procedures for 'not expedient' decisions. It is not clear if senior or other verifying council officers are involved in signing off or reviewing these decisions. Given the level of discretion in this area, I would encourage all councils to consider whether there is sufficient oversight of 'not expedient' decisions within their strategies and procedures.

Although not specific to breaches of tree protection, it is of note that I reported earlier this year on an enforcement planning case in which I found that the council did not document full and accurate reasons on why it did not consider it expedient to take enforcement action which I considered was maladministration.<sup>65</sup>

### TREE SPECIFIC ENFORCEMENT POLICIES

The local council enforcement strategies are broad in scope and cover all areas of planning enforcement. I note that some local authorities in England have implemented enforcement policies specific to tree protection to supplement the main council planning enforcement strategy and I would encourage local councils to consider whether it may be beneficial to implement similar policies.

### REPORTING TREE PROTECTION BREACHES

Despite having these significant enforcement powers to protect trees, I note that only five of the councils reference within their tree preservation sections that it is a criminal offence to carry out works to protected trees without consent, whereas others do not make any reference to the consequences of breaches. Furthermore, none of the councils publish any information within the tree preservation sections of their websites regarding the processes which members of the public should follow when reporting suspected tree protection breaches. Whilst most of the councils do publish information in relation to the reporting of general planning breaches within the planning enforcement sections of their websites, I consider that it is important to also include or signpost this information within the tree preservation sections of their websites.

I also note that the new planning portal has the functionality to accept online planning enforcement complaints<sup>66</sup> and some councils do refer to this within the planning enforcement sections of their websites. I would encourage all of the councils to ensure that they highlight or signpost this functionality within the tree preservation sections of their websites.

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<sup>65</sup> [NIPSO s44 Investigation Report ref 202002188 – 30 March 2023](#)

<sup>66</sup> [Northern Ireland Public Register \(planningsystemni.gov.uk\)](#)

## 6.5 Monitoring of Tree Protection Enforcement Activity by the Department

As part of its oversight and monitoring role, the Department currently publishes quarterly and annual statistical bulletins which contain data in relation to a number of aspects of planning including the following data on enforcement cases<sup>67</sup>:

- The number of enforcement cases opened by councils;
- The number of enforcement cases closed by councils;
- The number of enforcement cases concluded by councils;
- Enforcement case conclusion times;
- The percentage of enforcement cases closed by councils within 39 weeks; and
- The number of court actions taken by councils (including a breakdown of prosecutions and convictions).

This data is broken down by council area and, whilst it is useful for identifying broad overall trends, it is limited by the fact that it is not broken down by types of enforcement case. The Department do not collate or publish enforcement data which is specific to tree protection cases. I note that an Assembly Question seeking to establish regional enforcement figures on reported tree protection breaches was not answered, as the figures were available only at council level.<sup>68</sup>

The Department should consider routinely collating and publishing enforcement data which is specific to tree protection cases. As well as making it easier for the Department to carry out its monitoring role, the availability of this data may also serve to increase public confidence that enforcement in this area is being taken seriously.

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<sup>67</sup> [Planning activity statistics | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#)

<sup>68</sup> See AQW6798/12-22 - [Written Questions Search Results \(niassembly.gov.uk\)](#)

## Section 6 Recommendations: Enforcement Activity

**Recommendation 22:** The Department and councils should examine the reported tree protection breaches closed as 'not expedient' and 'other', to establish if factors relied upon within the recorded reasoning are in keeping with enforcement guidance and council priorities, and whether there are repeat issues that can be acted upon to prevent future breaches. This should include examining the rigour of the investigation and whether sufficient effort was made to establish a breach.

**Recommendation 23:** Councils should review their enforcement strategies to ensure clear information is provided on the expediency test and that oversight procedures for 'not expedient' decisions are robust.

**Recommendation 24:** Councils should consider developing specific Tree enforcement policy to supplement the overall council planning enforcement strategy.

**Recommendation 25:** Councils should update the tree preservation sections of their websites to highlight that it is a criminal offence to carry out works to protected trees without consent. The websites should also contain clear information on how members of the public can report suspected tree protection breaches.

**Recommendation 26:** The Department should collate, monitor and publish enforcement data which is specific to tree protection enforcement cases.



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## Appendix B

### NIPSO Own Initiative: Strengthening Our Roots

#### Section 1 Recommendations: Strategies, Policies and Procedures

**Recommendation 1: All councils should develop and implement Tree Strategies which ensure the relevant functions across the council are aligned to the agreed objectives. Councils which already have Tree Strategies in place should review their strategies to ensure that they are comprehensive.**

Mid Ulster District Council note NIPSO's recommendation and desire for a 'Tree Strategy' for Mid Ulster. A Council wide 'Tree Strategy' currently does not exist. The Council acknowledges that such an overarching strategy goes beyond the remit of the Planning Department in the specific context of making a Tree Protection Order (TPO). That said, there may be merit in identifying potential options to improve co-ordination, co-operation and information sharing across all relevant Council functions.

**Recommendation 2: Councils should review their schemes of delegation for planning to ensure that decision making processes in respect of TPOs are being given the appropriate level of priority and are in line with the objectives set out within tree strategies. Councils should also ensure that their schemes of delegation are clear and accurate, including specifying exactly what matters are presented to, and decided by, the Committee in this area.**

Mid Ulster District Council has published the Planning Departments Scheme of Delegation (SoC). It is available on the Council website [www.midulstercouncil.org](http://www.midulstercouncil.org) As are other relevant corporate documents including Mid Ulster District Councils Planning Protocol and Planning Enforcement Strategy.

All written requests for an assessment to consider making a Tree Preservation Order shall accord with the Scheme of Delegation.

**Recommendation 3: Councils should ensure that they have their own procedural guidance in place to supplement the legislative framework around trees which are subject to TPOs and conservation area protection. Given the difference in the level of protection afforded. The guidance should also set out clearly the circumstances TPOs should be used instead of planning conditions to best secure the long-term protection of trees.**

Mid Ulster District Council have published information on the website specific to Tree Preservation Order (TPO), [www.midulstercouncil.org](http://www.midulstercouncil.org) The webpages incorporate online application as part of the Council's Digital Transition ethos.

Mid Ulster District Council take the view that a Tree Preservation Order is a stand-alone legal mechanism. Tree Preservation Orders should not be a tool to stymie development.

In addition, Mid Ulster District Council takes the view that appropriate planning conditions specific to each case remain the best method to protect, conserve and manage existing trees.

**Recommendation 4: The Department should update and issue guides regarding the protection of trees, to reflect the current roles and responsibilities of the Department and the councils. The Department should also develop its own procedural guidance on areas in which it has retained responsibilities.**

**Recommendation 5: The Department should consider how it could work more closely with the councils to provide a greater level of support and establish mechanisms for sharing good practice and expertise. This could include issuing best practice guidance for councils in relation to developing effective Tree Strategies and supporting a regional Tree Forum. The Department and councils should also utilize the agreed mechanism to consider my report and recommendations, and collectively develop an action plan.**

NIPSO's Recommendation 4 and 5 are for the Department of Infrastructure (DfI).

## **Section 2: Tree Protection Orders**

**Recommendation 6: Councils should carry out detailed reviews of their TPO records to ensure that all the TPOs which are in place remain valid. Councils should also ensure that they develop and implement processes for the regular review of their TPO records which should also be supported by carrying out site visits.**

Since the transfer of Planning Powers to Mid Ulster District Council a review of the inherited Department of Environment (DoE) TPO records and associated documents has been completed.

Mid Ulster District Council's Planning Department is nearing completion of a review said Tree Preservation Orders and has taken remedial action with eight of the Orders as served by the Department to date.

**Recommendation 7: All councils should electronically map TPOs and conservation areas within their area and provide the public with online access to the TPO register and associated documentation.**

Mid Ulster District Council supports the transition from paper to digital records with the desire to improve public access to data and information, this includes Tree Preservation Orders. The Order itself is a legal document. The Planning Department has a hardcopy 'paper' Register available on written request from a member of the public or other interested party.

The Council continues to support a proactive use of technology to improve public access to data and information. The Planning Department will continue to endeavor to prepare a TPO Mapviewer for the Councils website, subject to availability of resources.

Designated Conservation Areas are available via the Department for Infrastructure website.

**Recommendation 8: The Department should take the lead in developing a regional GIS map showing the locations of all TPOs and conservation areas in Northern Ireland. The regional map should be regularly updated and easily accessible to the public in an online format.**

NIPSO recommendation 8 is for the Department for Infrastructure (DfI).

**Recommendation 9: Councils should develop and document the methodology (including the potential use of valuation software) used to assess the 'amenity' value of trees.**

Mid Ulster District Council already has a system of recording its consideration of tree preservation orders and decisions to serve orders are made by committee and have thorough reports attached. However, we do not agree with the ombudsman terms of using computers to evaluate trees particularly in relation to amenity. The law has been deliberately constructed to allow councils to determine what it considers important in the interests of its community, the assessment process is done professionally and is not a binary decision making process, therefore the value of a computer program is highly questionable. The Council are not aware of any systems available and do not feel it would be value for money to attempt to develop a system. This said, the Council remains open minded and if it can be demonstrated that added value can be achieved then further consideration will be given to IT solutions, in addition to the investment already made, which in Mid Ulster's view exceed other Councils to date.

**Recommendation 10: In its 2022 Review of the Implementation of the 2011 Act, the Department committed to considering whether there is a need for it to provide further guidance for councils in relation to certain TPO terms. My report also supports the need for further guidance on key terms and I recommend the Department proceeds to issue this.**

The Council would welcome progress on this recommendation by the Department for Infrastructure (DfI), provided that Mid Ulster District Council is formally consulted.

**Recommendation 11: All councils should review the content of their websites to ensure that they provide clear and accurate information in relation to the processes which members of the public can follow when requesting TPOs. In addition to ensuring the process to request TPOs is accessible to the public councils should also consider what mechanisms are in place internally to initiate TPO requests effectively.**

Mid Ulster District Council provides an online request mechanism for a written request for an assessment for a Tree Preservation Order via the website [www.midulstercouncil.org](http://www.midulstercouncil.org). In addition, information specific to Tree Preservation Order is available on said webpages.

### **Section 3: Applications for Works to Protected Trees**

**Recommendation 12: Councils which do not currently use application forms for processing applications for works to protected tree should develop standard application for works forms.**

**Recommendation 13: Councils should review the content of their websites to ensure adequate information is provided to members of the public about the requirement to apply for works to protected trees, how to apply and that the application process is accessible.**

In relation to recommendation 12 and 13, Mid Ulster District Council provides an online request mechanism for remedial tree works to a protected tree (TPO) and existing trees located within a Conservation Area. In addition, information specific to Tree Preservation Order and consent for remedial tree works is available at [www.midulstercouncil.org](http://www.midulstercouncil.org)

**Recommendation 14: Councils should provide clarity in relation to the use of independent evidence to support applications for works to protected trees. The circumstances in which independent evidence is required and the parties responsible for obtaining it should be clarified.**

Mid Ulster District Council provides an online request mechanism for remedial tree works to a protected tree (TPO) and existing trees located within a Conservation



Area. In addition, information specific to Tree Preservation Order and consent for remedial tree works is available at [www.midulstercouncil.org](http://www.midulstercouncil.org)

**Recommendation 15: Councils should explore the potential to publish details of applications for works to protected trees in an accessible format.**

Mid Ulster District Council's Planning Department shall consider potential options to improve availability of information related to a written request for remedial tree works, subject to Planning Act (NI) 2011 requirements.

**Recommendation 16: Councils should explore the potential to introduce community notification procedures for residents likely to be affected by proposed works to protected trees.**

It is the Council's view that this recommendation is beyond the remit of the Council. The Planning Department process requests 'tree works consent' as set out in the Planning Act (NI) 2011 and the relevant associated Regulations.

In addition, the Council is concerned that such measures could lead to 'nimbyism', formal complaints and alter the integrity of Tree Preservation Order. Therefore, it is the Council's opinion that this should be a matter for each Council and is a decision for the Members.

**Recommendation 17: The Department should consider issuing best practice guidance in relation to publication and notification procedures (this could sit within the wider guidance recommended in Recommendation 5).**

Mid Ulster District Council takes the view that this should be a matter for each Council and is a decision for the Members.

#### **Section 4: Protected Tree on Council Owned Land**

**Recommendation 18: The Department and councils should agree and issue clear procedural guidance in relation to the processes which councils should follow when they seek to carry out works to protected trees on their own land.**

**Recommendation 19: The Department should develop a best practice approach on the independent investigation of reported breaches of tree protection by councils.**

The Council would welcome progress on this recommendation by the Department for Infrastructure (Dfi), provided that Mid Ulster District Council is formally consulted.

## **Section 5 Statutory Undertakers**

**Recommendation 20:** The Department should issue best practice guidance on the exemptions for statutory undertakers which are contained within Schedule 3 of the 2015 Regulations.

Guidance should include that statutory undertaker's issue with the relevant planning authorities prior to carrying out work to a protected tree and comply with best arboricultural practice in undertaking the work. Statutory undertakers should also report when work has been carried out without notification and review whether the work carried out was necessary and undertaken in a way that was least damaging.

**Recommendation 21:** Councils should introduce mechanisms to facilitate increased levels of engagement and co-operation with statutory undertakers in relation to the protection of trees.

Mid Ulster District Council takes the view that this is an issue for the Department for Infrastructure (DfI) at Regional level.

## **Section 6: Enforcement Activity**

**Recommendation 22:** The Department and councils should examine the reported tree protection breaches closed as 'not expedient' and 'other', to establish of factors relied upon within the recorded reasoning are in keeping with enforcement guidance and council priorities, and whether these are repeat issues that can be acted upon to prevent future breaches. This should include examining the rigour of the investigation and whether sufficient effort was made to establish a breach.

**Recommendation 23:** Councils should review their enforcement strategies to ensure clear information is provided on the expediency test and that oversight procedures for 'not expedient' decisions are robust.

**Recommendation 24:** Councils should consider developing specific Tree Enforcement policy to supplement the overall council planning enforcement strategy.

Mid Ulster District Council takes the view that Planning Enforcement is a matter for each Council and a decision for Members in accordance with the Council's Planning Enforcement Strategy, available via [www.midulstercouncil.org](http://www.midulstercouncil.org)

**Recommendation 25: Councils should update the tree preservation sections of their websites to highlight that it is a criminal offence to carry out works to protected trees without consent. The website should also contain clear information on how members of the public can report suspected tree protection breaches.**

Mid Ulster District Council's Planning Department will consider further refinement of website information, specific to Tree Preservation Order legislation.

**Recommendation 26: The Department should collate, monitor, and publish enforcement data which is specific to tree protection enforcement cases.**

NIPSO's Recommendation 26 is for the Department of Infrastructure (DfI).



**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 9 January 2024 in Council Offices, Circular Road, Dungannon and by virtual means**

**Members Present**

Councillor S McPeake, Chair

Councillors Black\*, J Buchanan, Carney, Clarke, Cuthbertson\*, Graham, Kerr, Martin\*, McConnell, McElvogue, McFlynn\*, D McPeake\*, Robinson, Varsani

**Officers in Attendance**

Dr Boomer, Service Director of Planning (SD: PI)  
Mr Bowman, Head of Strategic Planning (HSP)\*\*  
Ms Donnelly, Council Solicitor  
Ms Doyle, Head of Local Planning (HLP)  
Mr Marrion, Senior Planning Officer (SPO)  
Ms McKinless, Senior Planning Officer  
Ms McCullagh, Senior Planning Officer (SPO)\*\*  
Mr McClean, Senior Planning Officer (SPO)\*\*  
Ms Mhic Iomhair, Planning Officer (PO)  
Ms Carson, Trainee Planning Officer (TP)  
Mr Brown, IT Support  
Mrs Grogan, Committee and Member Services Officer

**Others in Attendance**

LA09/2021/1475/F - Philip Marshall  
LA09/2022/1202/F - Christopher Quinn\*\*\*  
LA09/2023/0012/O - Philip Marshall  
LA09/2023/0640/F - Chris Cassidy\*\*\*  
LA09/2023/0930/F - Robyn Nicholl and Tom Stokes  
LA09/2023/0405/O - Christopher Quinn\*\*\*

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

\*\*\* Denotes others present by remote means

The meeting commenced at 5.05 pm.

**P001/24 Notice of Recording**

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

**P002/24 Apologies**

Councillor Mallaghan.

## **P003/24      Declarations of Interest**

The Chair, Councillor S McPeake reminded members of their responsibility with regard to declarations of interest.

Councillor S McPeake declared an interest in LA09/2023/0772/F – Change of house type from previously approved LA09/2021/1098/F and garage at approx. 180m SE of Broagh Road, Knockloughrim for Mr Aidan O'Mahony and Ms Clodagh McPeake. The member advised that the planning application related to his daughter.

## **P004/24      Chair's Business**

The Service Director of Planning (SD: PI) said that he wished to raise a few issues. He referred to matter which has been debated quite a few times in relation to Environmental Governance and their dealing of farm waste. The SD: PI advised that concerns in relation to whether adequate Environmental Governance has been carried out by DAERA or NIEA when it comes to the transportation and spreading of chicken manure. He said that members may recall over this past 3 years issues in relation to what the appropriate guidance should be, with a consultation currently taking place on what a trigger would be for an assessment, or an existing guidance at 1 or 0.1 units of ammonium nitrates. Members may recall that there was a move by Shared Environmental Service to change guidance when it did not fall under their authority as this is a matter for NIEA. A challenge by Farmers Union resulted in the Shared Environmental Service removing NIEA has now been challenged for not providing local authorities adequate support and by just relying on out of date guidance. The SD: PI stated that the Office of Environmental Protection issued a Pre-Action Protocol on the matter. This was settled without the need for court action when NIEA agreed to provide consultation responses on each planning application for intensive animal housing based on the locations and merits of the application. The SD: PI said that this was a line that this Council takes, and he welcomed the change by NIEA although he felt that this was a case of slow learning given Mid Ulster had advocated this approach for some time.

The SD: PI referred to the planning statistics and advised that the regional half yearly report was not available which showed where Mid Ulster stood in relation to other local authorities for the period September – April, it showed that Mid Ulster had received 511 applications, which represented third highest in Northern Ireland which was good as many other authorities had a significant fall in applications and was 50% more than neighbouring Councils of Fermanagh & Omagh, Antrim & Newtownabbey, Mid & East Antrim and Derry & Strabane. The SD: PI advised that planning had determined more applications than had been received, reducing the backlog. by 20% from 1062 to 839 In contrast if we look at our neighbouring Councils, six of the other Councils in Northern Ireland had their backlog increased despite the number of applications they were receiving going down. The SD: PI said that although this was good news, everything was not perfect as our average processing time was 16.7 weeks compared to the regional target of 15 weeks and felt that there was an onus on Mid Ulster to be better, but if compared to the regional average, it was sitting at 19.2 weeks we were better than more than half of the other Councils.

The SD: PI said that he wished to present a paper to the next Planning Committee on where we currently are and a few of the things which may be of concern for the future that may need to be addressed if proper progress was to be made. He said that it should come as no surprise that Mid Ulster had the highest approval rate, which may be down to having a lot of our applications deferred.

The SD: PI referred to the types of applications as last year everyone was talking about going into recession and Mid Ulster received the greatest number of applications in terms of commercial, civic and industrial which shows our strength in motoring the economy.

In relation to Enforcement, there was a backlog due to Covid and the lack of Officers coupled with other things. Strange things happened during lockdown as complaints increased on unauthorised developments in people's own areas, there was an increase in the number of cases, with 84 cases being received and 116 closed, which was good news clearing backlog.

The Chair said that this was all good news and going in the right direction. He said that he was looking forward to the paper which was to be presented next month on how we can improve further on the planning system.

The SD: PI referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for further information to be submitted for an office meeting/further consideration/withdrawn –

Agenda Item 5.5 – LA09/2023/0005/F – Dwelling and detached domestic garage at approx. 55m NE of 72 Finulagh Road, Dungannon for Michael Doran

Agenda Item 5.6 - LA09/2023/0012/O Dwelling and garage on a farm at approx. 120m W of 27 Tycanny Road, Garvaghy, Dungannon for Neville Robinson

Agenda Item 5.12 – LA09/2023/0786/F – Demolition of 1-2 William Street, retention of No.s 5-7 William Street, the erection of 14 no. residential units, including 8 no. two storey townhouses and 6 no. assisted living bungalow dwellings, car parking, alterations to an existing access, the creation of a community riverside biodiversity greenway, community open space area and all associated site works for Ballyscullion Property Investments Ltd

Agenda Item 5.14 - LA09/2023/0943/O – Site for dwelling and garage at 90m NE of 6 Anneeter Road, Moortown for Christine Toner

Agenda Item 6.2 – LA09/2020/1380/F – Retention of dwelling adjacent & 100m E of 18 Shantavny Road, Garvaghy, Ballygawley for Ciaran Owens

Agenda Item 6.3 – LA09/2020/1423/F – 1 no. two-bedroom apartment and 2 no. one-bedroom apartments at 28m NE of 30 Augher Road, Clogher for RMS Civils

Agenda Item 6.12 – LA09/2023/0405/O – Farm dwelling & domestic garage at lands 170m S of 82 Bancran Road, Draperstown for Aidan Coyle

Agenda Item 6.13 – LA09/2023/0592/F – Off-site replacement dwelling and garage adjacent and S of 5 Legane Road, Aughnacloy for Mr & Mrs Chris Potter

Proposed by Councillor Kerr  
Seconded by Councillor Clarke and

**Resolved** That the planning applications listed above be deferred for an office meeting/further consideration/withdrawn.

### **Matters for Decision**

#### **P005/24 Planning Applications for Determination**

The Chair drew Members attention to the undernoted planning applications for determination.

**LA09/2021/1435/F Housing development of 37 dwellings (7 detached & 30 semi-detached) using existing access to main road with associated landscaping at lands to the SE of Cove Close & Ashleigh Park, Ballyronan, Magherafelt for Canavan Construction Ltd**

Members considered previously circulated report on planning application LA09/2021/1435/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2021/1435/F be approved subject to conditions as per the officer's report.

**LA09/2021/1475/F Free range poultry shed with 2 feed bins, a storage shed and associated site works (Poultry shed to contain 8000 free range egg laying hens) at Land Approx. 100m NW of 9 Soarn Road, Stewartstown for Mr Jeremy Baird**

Members considered previously circulated report on planning application LA09/2021/1475/F which had a recommendation for approval.

The Strategic Director of Planning (SD: PI) said that he took the liberty of taking this application back to committee rather than a decision going out on it. He said that the reason was due to earlier discussion regarding NIEA changing its line on each and every application being considered on its own merits. The Officer's report suggested that there were particular lines and policies on things which we never sat down and agreed and wanted to make sure that there were no sweeping statements within the report which could be misconstrued, and proper line being put forward. The SD: PI advised that he seen nothing wrong with the consideration which was presented the



last time to committee, this was an approval and the key issue related to a condition. This was chicken litter which was going across the border to be dealt with by an anaerobic digester in Kildare and suggestion made that if destination of the chicken litter was to change then basically another submission would have to be made for Officers to access it. He felt that our concerns could be understood in that firstly, NIEA grant licences for the transport and storage of such things and if they were not happy with the destination, they have the ability to deal with it. Secondly, if the litter was no longer to be transported there and be spread on farms in Northern Ireland, then it would strike him that DAERA would have a responsibility and would be very important that these Government Departments take on these responsibilities. The SD: PI referred to another issue which would really concern him, the notion of jurisdictions, here we are in Northern Ireland and somehow staking our regulation towards the Republic of Ireland which where this was going, they are an independent state and also have the responsibilities under exactly the same European legislation and would find it exceptionally paternalistic for us to decide that we need to intervene in their affairs.

The SD: PI advised that Officers did consult and no objection was received. He said that members needed to bear in mind that this was the thought regarding this application, there may be another application come forward with a different situation and different set of considerations and would say to members that this needs to be considered at that time, not a policy, but more in line with reasonings for the planning application.

Proposed by Councillor Cuthbertson  
Seconded by Councillor J Buchanan and

**Resolved** That planning application LA09/2021/1475/F be approved subject to conditions as per the officer's report.

**LA09/2022/1202/F Detached dwelling at 20m E of 8 Park Avenue, Cookstown for Mr Kieran Leadon**

Members considered previously circulated report on planning application LA09/2022/1202/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2022/1202/F be approved subject to conditions as per the officer's report.

**LA09/2022/1489/O Residential development - maximum 210 units at 15m NE of 67a Donaghmore Road, Dungannon access onto Greers Road, Donaghmore Road and Quarry Lane (approved under M/2014/0572/O) at 15m NE of 67A Donaghmore Road, Dungannon for D Mallon, E Herron and R Donnelly**

Members considered previously circulated report on planning application LA09/2022/1489/O which had a recommendation for approval.

Councillor Varsani advised that there were previous applications approved over the past two decades and was great to see that this is ready and should be for approval. The member hoped that this would progress and not be held as long again for the sake of people who need homes and the whole process.

Proposed by Councillor Varsani  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2022/1489/O be approved subject to conditions as per the officer's report.

**LA09/2023/0005/F Dwelling and detached domestic garage at approx. 55m NE of 72 Finulagh Road, Dungannon for Michael Doran**

Agreed that application be deferred for further consideration earlier in the meeting.

**LA09/2023/0012/O Dwelling and garage on a farm at approx. 120m W of 27 Tycanny Road, Garvaghy, Dungannon for Neville Robinson**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2023/0208/F Function room building in substitution of previously approved marquee function room under planning reference LA09/2018/0526/F at 38 Trewmount Road, Laghey Corner, Killyman for Paul & Emma Quinn**

Members considered previously circulated report on planning application LA09/2023/0208/F which had a recommendation for approval.

Councillor Cuthbertson said that it would be useful to have some background information regarding this application and although he was aware that there were no objections made from third parties, there had been an objection received from HED and felt that it would be beneficial to get some clarity before moving on.

Mr Marrion (SPO) provided members with an overview of the application.

Proposed by Councillor Carney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0208/F be approved subject to conditions as per the officer's report.

**LA09/2023/0586/F Car parking and designated pedestrian crossing for the sole use of Tobermore Concrete Products Limited at approx. 100m NE of 2 Lisnamuck Road, Tobermore Concrete Products Limited**

Members considered previously circulated report on planning application LA09/2023/0586/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2023/0586/F be approved subject to conditions as per the officer's report.

**LA09/2023/0590/F Extension of the Tobermore offices to accommodate the growing numbers of staff for the following years at 2 Lisnamuck Road, Tobermore for Tobermore Concrete Products Ltd**

Members considered previously circulated report on planning application LA09/2023/0590/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0590/F be approved subject to conditions as per the officer's report.

**LA09/2023/0640/F Farm dwelling and garage approx. 140m S of 130 Coolreaghs Road, Cookstown for K Black**

Ms McKinless presented previously circulated report on planning application LA09/2023/0640/F which was recommended for an approval.

The Chair advised that requests to speak had been received, one in favour and one against.

The Chair invited Mr Ross to address the committee.

Ms McKinless (SPO) advised that the person speaking against the application was supposed to be at the meeting in person tonight but has not turned up. The SPO advised that she had been in touch with the agent this morning and he was aware of the venue and time of the meeting tonight.

The Strategic Director of Planning (SD: PI) advised members that as the agent representing the objector has not shown up, there should be no reason why this application be delayed any further as there was no opportunity to listen to the objector's case.

The Chair advised that as the agent for the objector hadn't attended the meeting tonight, retrospectively the decision has been made to proceed with the recommendation.

Mr Cassidy who was speaking in favour of the application said that he was happy to proceed to the recommendation.

Proposed by Councillor Clarke

Seconded by Councillor J Buchanan and

**Resolved** That planning application LA09/2023/0640/F be approved subject to conditions as per the officer's report.

**LA09/2023/0772/F Change of House Type from previously approved LA09/2021/1098/F and garage at approx 180m SE of 28 Broagh Road, Knockloughrim for Aidan O'Mahony and Clodagh McPeake**

*The Chair, Councillor S McPeake withdrew from the meeting due to declaration of interest earlier in the meeting regarding this application.*

*The Vice-Chair, Councillor Black took the Chair.*

Members considered previously circulated report on planning application LA09/2023/0772/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2023/0772/F be approved subject to conditions as per the officer's report.

*Councillor McPeake returned to the Chair.*

**LA09/2023/0786/F Demolition of 1-3 William Street, the erection of 14 no residential units, including 8no. two storey townhouses and 6 no. bungalow dwellings, car parking, alterations to an existing access, the creation of a community riverside biodiversity greenway, community open space area and all associated site works (amended description) at lands at and to the SE of 1-7 William Street, Bellaghy for Ballyscullion Property Investments Ltd**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2023/0930/F Application under Section 54 of the Planning Act (Northern Ireland) 2011 to vary condition 17 of planning permission ref: LA09/2022/0600/F - erection of a battery energy storage system facility 100MW (BESS) and associated 33KV transformers, including 2 switch houses with control rooms lighting and closed-circuit television (CCTV) columns, new site boundary fencing and landscaping proposals, use of existing access and ancillary development works, including underground cabling route linking the site to Tamnamore main substation to the W at lands immediately East of Tamnamore Substation and Circa 260m SW of 167 Ballynakilly Road, Coalisland, for Heron Storage Ltd**

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2023/0930/F which had a recommendation for approval.

Councillor Varsani said that she wished to speak on this particular application. The member said that she understood that there have been amendments from previous applications and also the consultation response from the Fire Service included in tonight's documentation as a late addendum and all of that seems to be in order. The member advised that she wished to seek some reassurance on behalf of the nearby residents that all measures have been taken to make sure that any noise or humming or any other issues have been and will be monitored for the future.

The Strategic Director of Planning (SD: PI) stated that this was a good point raised by the Member as there was a growing misconception that planning permission is allowed, similar to chicken litter, noise etc. and planning looks after it thereafter. If there was a nuisance which had occurred, the normal route would be involving Environmental Health Department, but felt that this was a good question as there could be a situation of a humming noise from an electricity line. There could be an instance of a humming noise but may not be necessarily refused due to the fact that it being an annoyance to one person and not being noticed by others. There has been nothing raised at Officer level to say that there is a concern, but if there was a situation that there were sparks, noise and loud bangs etc. it would not be planning that would step in but Environmental Health. One of the things that would concern him which would be addressed in the paper being brought to the next committee meeting, would be the increasing tendency to see if planning were using conditions on things to sort out everything for the future which would be of a concern as planning wouldn't have the adequate expertise on things.

Proposed by Councillor Varsani  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0930/F be approved subject to conditions as per the officer's report.

**LA09/2023/0943/O Site for dwelling and garage at 90m NE of 6 Anneeter Road, Moortown for Christine Toner**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2023/0981/O 2no. semi-detached dwellings with car parking and rear amenity space to be booked ended by the main A505 roadway within an existing cluster of development at lands directly adjacent and S of 1 Oakland Villas, Drum Road, Cookstown for Mr Ryan Glasgow**

Members considered previously circulated report on planning application LA09/2023/0981/O which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor J Buchanan and

**Resolved** That planning application LA09/2023/0981/O be approved subject to conditions as per the officer's report.

**LA09/2020/0896/O Infill dwelling and garage at 20m W of 6 Five Mile Straight, Draperstown for Joe McWilliams**

Members considered previously circulated report on planning application LA09/2020/0896/O which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2020/0896/O be approved subject to conditions as per the officer's report.

**LA09/2020/1380/F Retention of dwelling adjacent & 100m E of 18 Shantavny Road, Garvaghy for Ciaran Owens**

Agreed that application be deferred for further consideration earlier in the meeting.

**LA09/2020/1423/F 1no. two-bedroom apartment and 2no. one-bedroom apartments at 28m NE of 30 Augher Road, Clogher for RMS Civils**

Agreed that application be withdrawn earlier in the meeting.

**LA09/2021/0719/F Farm dwelling and garage at approx. 25m E of 25 Creagh Hill Road, Toomebridge for Brendan Mulholland**

Ms Doyle (HLP) presented a report on planning application LA09/2021/0719/F advising that it was recommended for refusal.

Councillor Cuthbertson said that by listening to the report that it was clear that the application does not meet policy and proposed to accept the recommendation.

The Chair said that although the case officer raised some valid points regarding the distance from site, advised that he had attended the site meeting and felt that the position below the road adjacent to other housing wasn't have been a bad site. He said that he did take on board HLP's point regarding the distance from the cluster but did feel that the site did sit below the road.

The Strategic Director of Planning (SD: PI) advised that the problem is not whether it integrates, but the judgement of it being a cluster and whether it meets the policy, there is always some leeway but perhaps not as much as people think. All of the policies for development in the countryside are under the umbrella of CTY1 and this tells us that you can get approval if you meet those, and if you don't you have to demonstrate that this is essential. The policy test of the cluster says that it has to be identifiable identity and although there may be focal points within the area, but if not in that cluster you can take it which is one of the reasons why we have dispersed

rural communities and certain areas in the rural countryside which are recognised and a special policy for those areas. The SD: PI said that he understood the frustration of members but would ask them to trust the Officer's recommendation.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Graham and

**Resolved** That planning application LA09/2021/0719/F be refused.

**LA09/2021/1106/O Single storey dwelling & garage (sight lines added) at approx. 60m NW of 45 Lisnastrane Road, Coalisland for Niall O'Neill**

Members considered previously circulated report on planning application LA09/2021/1106/O which had a recommendation for approval.

Proposed by Councillor Carney  
Seconded by Councillor Kerr and

**Resolved** That planning application LA09/2021/1106/O be approved subject to conditions as per the officer's report.

**LA09/2022/0112/O Dwelling & garage at 60m S of 29 Lisnagowan Road, Feroy, Dungannon for Mr Derek Montgomery**

Members considered previously circulated report on planning application LA09/2022/0112/O which had a recommendation for approval.

Proposed by Councillor J Buchanan  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2022/0112/O be approved subject to conditions as per the officer's report.

**LA09/2022/0201/O Single storey dwelling adjacent to 64 Reaskmore Road, Reaskmore, Dungannon for Kieran MC Gartland**

Members considered previously circulated report on planning application LA09/2022/0201/O which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2022/0201/O be approved subject to conditions as per the officer's report.

**LA09/2022/0670/F Dwelling and garage on a farm at 151m N of 36 Keady Road, Swatragh for Declan McNicholl**

Members considered previously circulated report on planning application LA09/2022/0670/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/0670/F be approved subject to conditions as per the officer's report.

**LA09/2022/1413/O Site for a dwelling and garage on a farm at 90m N of 2A Brackaghreilly Road, Maghera for Thomas Convery**

Members considered previously circulated report on planning application LA09/2022/1413/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/1413/O be approved subject to conditions as per the officer's report.

**LA09/2022/1743/O Dwelling and garage at approx. 30m W of 5 Carrydarragh Road, Moneymore for Randall Crooks**

Members considered previously circulated report on planning application LA09/2022/1743/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/1743/O be approved subject to conditions as per the officer's report.

**LA09/2022/1777/O 2 storey dwelling and detached garage on a farm adjacent to and S of 14 Tullylinton Road, Dungannon for R Hopper**

Members considered previously circulated report on planning application LA09/2022/1777/O which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McElvogue and

**Resolved** That planning application LA09/2022/1777/O be approved subject to conditions as per the officer's report.

**LA09/2023/0405/O Farm dwelling & domestic garage at Lands 170m S of 82 Bancran Road, Draperstown for Aidan Coyle**



Ms McKinless (SPO) presented a report on planning application LA09/2023/0405/O advising that it was recommended for refusal.

The Strategic Director of Planning (SD: PI) said that these were quite difficult applications and was aware that the agent Mr Quinn was in attendance to provide his summary in favour of the application but suggested it may be helpful for him to hear what he had to say first.

The SD: PI advised that the first real concern was that there was only one building there and by looking at it asked if there was any reason why it looks like a quite an old building but could safely say that there was one building at the location. This was very frustrating for members as it looks like it's not a bad site to go next to that building from what the SPO was saying, but we also know of legal cases, one affecting a Belfast authority and one affecting ourselves and you cannot turn around and say "that's harsh, that building is good enough" you have to have a very good reason why only one was being accepted. Policy states you need buildings in the plural and are onto that awful fallback position where you don't meet what the policy says, you are then down to a test why this is essential. The SD: PI felt that it was useful to bring this to the fore primarily as it gives the person representing the chance to say something in response.

The Chair advised that a request to speak in support of the application had been received and invited Mr Quinn to address the committee.

Mr Quinn thanked the SD: PI for the advice and said that he had some notes written down but felt that Ms McKinless (SPO) had covered most of them. He wished to reinforce that it is the applicant's intention to develop the farm site as it is at the minute and intention to erect a 30x60 ft dry bedding and machinery shed on the site. He said that it would be greatly appreciated if time was allocated to submit a planning application in which they were in the process of preparing for submission and hopefully mean that the application would be viewed more favourably.

Mr Quinn advised that they would be open to a pre-commencement condition if it was possible to be put on the application that the development of the dwelling could not be done until a group of buildings had been established at the site and the applicant is happy to accept that if there was a possibility or a mechanism to get the application over the line. He also stated that the applicant would be open to a site meeting if it was deemed necessary.

The SD: PI referred to the proposed building and asked Mr Quinn where he was proposing it should go.

Mr Quinn advised that the building was proposed to be erected adjacent to the existing livestock shed.

The SD: PI enquired if the applicant was ready to submit that as a planning application.

Mr Quinn advised that this could be prioritised and anticipated having this submitted by the end of the month if possible.

The SD: PI felt that there was a problem which the applicant may face in that the policy when applying for a farm building it is supposed to be going next to buildings on the farm, but by listening to the debate he felt it would be reasonable to allow a couple of months to submit the planning application for assessment without any commitment one way or another to the outcome of either the application or this.

The Chair enquired if it was not the case that the first farm building up is permitted development for any subsequent buildings.

The SD: PI said that there is permitted development where you go next to existing buildings on the farm where you demonstrate that there is a need for it.

The Chair said that it was his understanding that you only need permission for the first one providing there was so many metres from the road neighbouring properties.

Mr Marrion (SPO) presented policy on Planning General Permission on Permitted Development Class A – (Development Not Permitted) part A1(c) *the nearest part of any building or structure so erected or extended is more than 75m from the nearest part of a group of principle farm buildings*. The SPO advised that buildings related to the plural.

The SD: PI doesn't necessarily mean to say that there is only one group of principal buildings on a farm but didn't think that it meets the permitted developments regulations. He felt that it may still be reasonable to allow the opportunity to make that application.

Councillor Clarke felt that this was a good way forward and by looking at the farm maps, it looks to be a scattered farm with fields in different places. The proposed site seems to be in the location of the largest part of the farm, a bigger area than any other part of the fields and would propose to what has been discussed and move forward on that basis.

Councillor Cuthbertson said that he was happy enough for it to wait but sought clarification on whether the application would be sufficient, or would it have to be approved and the shed actually built, or could it be taken into consideration that it may never be erected.

The SD: PI advised that the policy is what is written which is clear. We have the ability to give consideration to other factors which are material, but what we cannot do is write policy of the tops of our heads and only assess what is put before us. The SD: PI said for example it could be stated one building and there could be a couple of small buildings which qualifies, but there could be a massive building and then claim it didn't qualify and whilst you could take into consideration the size of the structure, but in this instance what he was basically saying was if there was a proper operational requirement to put a building there and a proper operational requirement in relation to the farmhouse being built where that group is to be, then consideration can be given to that. What he wouldn't be doing would be giving what the consideration outcome would be as it would be pre-exempt what the judgement of the application would be as it would be making policy here.

Councillor Cuthbertson said that he was content with the clarification given as he remembered before discussion taking place on an infill site, where there was permission for other sites and consideration was not permitted to be given as they were not built.

Proposed by Councillor Clarke  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2023/0405/O be held pending the submission of a planning application for a new farm building.

**LA09/2023/0592/F Off-site replacement dwelling and garage adjacent and S of 5 Legane Road, Aughnacloy for Mr & Mrs Chris Potter**

Agreed that application be deferred for further consideration earlier in the meeting.

### **Matters for Information**

**P006/24 Minutes of Planning Committee Meeting held on 5 December 2023**

Members noted previously circulated minutes of Planning Committee held on 5 December 2023.

**P007/24 Receive Appeal Decision**

Members noted update regarding dismissal of appeal for 6 dwellings approximately 90m east of 96 Davagh Road by Planning Appeals Commission following a decision by the Planning Committee to refuse planning permission for the proposed development.

The Chair wished to state his personal point of view and the appreciation of the committee in the work Ms Doyle and Ms McKinless carried out in defending our position on this as it wasn't an easy decision at the time, but we all listened attentively, and he believed the decision which had been taken were vindicated by the PAC. The Chair wished to place on record our thanks to the Officers for carrying out the diligent work on behalf of the Committee and on behalf of the Council in defending it.

Councillor Clarke agreed that this was a difficult decision for Planning Committee to take at that time, we talked long and hard about it and discussed it at length, a decision was taken which was vindicated when it was taken to planning appeal. The member on his own behalf as a member of the Planning Committee wished to congratulate this Committee on their original decision and evidently with hindsight now of planning appeal decision, which was also a wise decision. The member wished to place on record his thanks to the Planning officials who carried out the work on defending the case and being very successful.

The SD: PI said that it was always important to recognise that our Planning Officers are professionals and remember saying to them before the appeal, not to be concerned regardless of whatever if there may be a difference on the Committee's view and what an Officer's view may be, but were there to represent the Committee and the Council, which is to be expected from a professional.

The Chair said that it would be interesting to see sometime the PAC different ratios in terms of ourselves and all other cases in which were taken.

The SD: PI advised that he wasn't aware of any stats, but we have the lowest number of planning appeals in Northern Ireland, given our high approval rate there were cases brought where appeals have been upheld, however these were few and far between. If an appeal was upheld, it would change our interpretation of policy, then Officers would advise Committee on the interpretation of policies of Planning Appeals and Commission in this way. What we are most active in is Enforcement, not always but sometimes, that when an Enforcement Notice is served, we get a planning appeal and from memory only a couple cases were lost because new information had been submitted in which we Planning didn't have in the first instance. The SD: PI would say to Planning Committee to not put too much interpretation on this as people always have the right to planning appeal. It is much easier to make a planning appeal than put a case forward, due to the fact that something is appeal and it's contested, this can only be done in courts which is very intimidating and could end up very expensive.

*Live broadcast ended at 6.20 pm.*

## **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Kerr

Seconded by Councillor Clarke and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P008/24 to P012/24.

### **Matters for Decision**

P008/24 Receive Report on Modification of a Planning Approval

### **Matters for Information**

P009/24 Confidential Minutes of Planning Committee held on 5 December 2023

P010/24 Enforcement Cases Opened

P011/24 Enforcement Cases Closed  
P012/24 Any Other Business

**P013/24 Duration of Meeting**

The meeting was called for 5 pm and concluded at 6.35 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Dungannon and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting.
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute.
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item.
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.

- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.



## ADDENDUM TO PLANNING COMMITTEE AGENDA

**FOR PLANNING COMMITTEE MEETING ON: 9 January 2024**

**Additional information has been received on the following items since the agenda was issued.**

**Chairs Business – performance statistics**

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<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
5.13	Response from NIFRS Received	Members to note, NIFRS comment remains the same as for the previous batteries.
6.12	Late Supporting Information	Members to note



<b>Report on</b>	Findings from the Planning Customer Survey
<b>Date of Meeting</b>	6 <sup>th</sup> February 2024
<b>Reporting Officer</b>	Ellen Gilbert
<b>Contact Officer</b>	Dr Chris Boomer.

<b>Is this report restricted for confidential business?</b>  If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To inform members of the results and findings from the Planning Customer survey which was distributed to agents via email and advertised on social media. The findings from the survey will feed into the service improvement plan for Development Management and it is important that Mid Ulster District Council Planning department keeps abreast of the thoughts and views of the agents who engage with the planning system.
<b>2.0</b>	<b>Background</b>
2.1	Members will be aware that a pilot survey was distributed to a select number of agents to gain feedback and allow questions to be altered before the survey became finalised. These agents provided good observations and several changes were implemented so providing agents more opportunities to provide comments on each question.
2.2	The survey was then officially opened for responses on 17 <sup>th</sup> November 2023. An email with the link to access the survey and an image with the QR code was attached and was sent to 121 agents. The list of agents who received this email was obtained from Uniform and was based on agents who had included their email address in the contact section with their planning application.
2.3	The survey was closed on 19 <sup>th</sup> December 2023 which gave agents just over 4 weeks to complete their responses. Extending the deadline any longer was thought to have no further gain as agents would close for Christmas and would have no desire to complete a survey during this time.
2.4	The total number of completed responses was 27 which was a response rate of 22%. This included 4 from the pilot survey, where the agents filled in the survey as if they were officially completing it.

<p>2.5</p> <p>2.6</p> <p>2.7</p>	<p>The survey was created on Survey Monkey but could also be completed as a hard copy if so desired. No agents completed this as a hard copy and all responses were digitally collated. The finalised survey is attached in Appendix 1.</p> <p>The questions followed 4 key themes which were;</p> <ul style="list-style-type: none"> <li>• Processing times</li> <li>• IT computer system</li> <li>• Transparency and decision making</li> <li>• Communication</li> </ul> <p>The results from the survey were analysed according to each of these themes and provides an opportunity for the planning department to see in what area we can better ourselves.</p>
<p><b>3.0</b></p>	<p><b>Main Report</b></p>
<p>3.1</p> <p>3.2</p> <p>3.3</p> <p>3.4</p> <p>3.5</p> <p>3.6</p>	<p>The survey provided an opportunity for agents to express their views on how Mid Ulster District Council planning department is operating and their honest opinions according to each of the 4 themes addressed above. A response rate of 22% was considered a success in this instance and leads to believe that those who chose not to respond have no problems with the operations of the planning department.</p> <p>The survey was formatted so allowing agents to provide a comment if they wished to further expand on their answer after every question. This provided quantitative data through recording the number of agents who ticked each of the answers as well as qualitative data through reading their feedback and grouping similar comments together.</p> <p>The results from the survey are broken down by each theme as follows;</p> <p><u>Processing times</u></p> <p>The first question asked in the survey was to gage the overall level of satisfaction which agents had with the planning department. 81% of respondents answered that they were “Very satisfied” or “Satisfied”. This question gave an appreciation for how the agents would answer the rest of the questions.</p> <p>The second question focused on the timeframe of the processing of applications from validation to date of decision. The two most common answers were “Satisfied” and “Neither satisfied nor dissatisfied” which again accounted for 81% of those who answered this question. When agents were considering the answer to this question it would include consultee response times which are outside the control of the planning department.</p> <p>Further within the survey a question was asked specifically related to the consultee response times and if the agents were satisfied with these. There was a range of answers given here indicating that agents have all had different experiences. 44% were “Satisfied”, followed by 30% who are “Neither satisfied nor dissatisfied”. 15% of respondents answered that they are “Dissatisfied” along with 2 agents indicating</p>

	<p>they were “Very satisfied” which is positive that some people have experienced fast consultee response times, although one person ticked that they were “Very dissatisfied”. This question was also met with agents writing in the comment box the specific consultees which they had concerns about and further commenting on how slow response times were.</p>
3.7	<p>A final question within this theme overlaps with transparency and decision making and asked the agent if they agreed or disagreed with the decision to limit agents revising plans to speed up decision making. The overwhelming response was to “Disagree” with this statement with 81% ticking this answer. Within the comment box some agents had strong opinions regarding this statement and noted that revisions to plans were part of the process in architecture and this should not be removed. This helps the planning department to recognise that agents would rather have an opportunity to revise plans, and these be approved in a longer time frame than plans be refused quickly with limited opportunities for revisions.</p>
	<p><u>IT</u></p>
3.8	<p>Members are aware that Mid Ulster District Council is operating a different planning IT system compared to the 10 other councils in Northern Ireland. This survey gave the planning department an opportunity to find out what agents thought of the IT system and ways in which it could be bettered to give an enhanced user-friendly service.</p>
3.9	<p>The first question within this theme was for agents to give an overall satisfaction rating for provision and usability of the IT system. The response was very positive with 69% answering either that they are “Very satisfied” or “Satisfied”. 5 agents ticked that they were “Neither satisfied nor dissatisfied” and a further 3 indicated they were “Dissatisfied”. Two agents provided comments to this question, but several different points were including within them with some positive remarks relating to the map tool for searching planning histories was an asset to the portal. The comments also provided ways in which the portal could be improved with clickable headings on the forms being a reoccurring comment throughout other answers, as well as agents needing to provide neighbours addresses on forms when agents believed planners should be doing this.</p>
3.10	<p>When respondents were asked in question 7 if they had submitted a planning application online through the planning portal 93% answered “Yes”. 2 agents answered that they had not and within the comment section there were 2 comments from these responses indicating that they preferred to submit their planning application as a hard copy. The planning department will take this into consideration in the development of the planning portal as to how to accommodate those who don’t use the portal.</p>
3.11	<p>The results from question 10 provide an overlap with that of the above question as agents were asked if submitting applications online through MUDC planning portal was their preferred submission method; 89% agreed whilst 2 respondents ticked “No”. No additional comments were provided to this question as their views were already discussed in question 7.</p>

3.12	A question was then asked if the agents found the online forms easy to complete. The overwhelming majority answered “Yes” which accounted for 88% of responses. A further 2 agents indicated that this was not applicable to them and 1 answered that the forms were not easy to complete. Interestingly within the comment box there were 2 separate pieces of feedback which both gave a suggestion that form filling would be sped up if there were clickable headings for each section to be filled in. This comment was replicated across other questions, so this is a shared opportunity for improvement.
3.13	The easiness of making an online payment was then asked in question 9 which gave rise to 69% ticking the “Yes” box. 5 respondents ticked “No” and there was a similar theme of feedback given in the comments section with no BACs payment and an option to forward electronic payment to the applicant as the main ways agents thought the online payments could be improved.
3.14	Question 11 was different to all other questions as there was no tick box and instead only a comment box for agents to include any improvements or any technical issues they have experienced with the planning portal. Similar answers as already discussed were provided with the forwarding of electronic payments to applications a reoccurring point as well as clickable headings provided in the online forms. One comment called for more direct communication with planners through the portal with feedback from group being viewable on the portal for agents to see.
3.15	The next section of questions in relation to IT focused on the Public Access System. 96% of respondents use this system with 88% finding the tools to track and receive updates on applications useful. However, some comments highlighted that agents would prefer to receive an email when their tracked application has an update or if it is going to planning committee.
3.16	A further part of the Public Access System is the tools to view, search and comment on planning applications with only 1 person ticking that they were not useful.
3.17	When asked to compare MUDC planning portal and the system used by the other 10 councils over half of the respondents answered that it was “Much better”. Over 70% concluded by giving the view that MUDC planning portal was either “Much better” or “Better”. This is a very positive outcome and is encouraging to knowing that agents are largely satisfied with the IT systems we provide.
	<u>Transparency and decision making</u>
3.18	The first question related to this theme gave agents an opportunity to confirm how satisfied they are with decision making process of planning applications in MUDC. The most common answer ticked was that agents were “Satisfied” followed by “Very satisfied”. Which converting to a percentage, 73% of agents view the decision-making process positively.
3.19	The answers to question 15 were spilt with 50% of agents agreeing that an application should be made invalid when insufficient detail is provided. On the other hand, 42% disagreed with this statement and 2 agents ticked that they did not know. Reviewing the comments section to provide clarity, the majority of agents called for an opportunity to communicate with the planer before the application is made

	invalid which could lead to issues being rectified instead of the application being immediately classed as invalid. This theme of communication is discussed later in the survey but was a key theme agents referred to throughout the entirety of their answers.
3.20	The revisions of plans were discussed next with 81% agreeing that MUDC provide adequate opportunity to allow revisions of plans to obtain planning permission. The amending of plans as requested by consultees was discussed with over $\frac{3}{4}$ of respondents agreeing that amendments should be requested as and when consultees require them. Although, some of the comments called for amendments to be asked for all at once instead of multiple over a longer time period.
3.21	Question 18 then went on to ask if amendments should be requested after all consultees have replied and a group decision has been made. 56% "Disagreed" and when reading the comments there was a range of responses with some agents calling for all issues to be resolved before taking the application to group, whilst others wished all amendments to be submitted before consultations were sent. This indicates that agents would prefer amendment to plans being made known to them earlier in the application process.
3.22	Referring to surveys, 56% of agents "Agreed" that additional surveys should only be requested after all consultees had replied and a group decision made. Although, $\frac{1}{4}$ of respondents did "Disagree" with this statement and a number of comments wished that the need for additional surveys was made aware to the agent as soon as possible as they take time and money to be fulfilled.
3.23	The next selection of questions encouraged agents to "Agree" or "Disagree" with statements provided. 70% agreed that they had adequate opportunity to present their views to the Service Director of Planning or at Planning Committee. This is encouraging, as agents are given a chance to voice the reasons for their choices in the planning application.
3.24	Question 24 does not have an overall majority and was a split decision with 41% "Agreeing" that planning applications with an objection should be presented at planning committee whilst 44% "Disagreed". The comments generally referred to the instances they have experienced when objections to applications are received but are not for a valid planning reason. Other comments suggested that applications with "significant" reasons in objections should only go to planning committee and others should have the decision delegated.
3.25	The following question related to allowing applications which are due to be refused an opportunity to be deferred. The majority at 93% "Agreed" with this statement as agents see this as an opportunity to further detail their plans. The next question further asks if applications should only be deferred if there is additional information presented. Both "Agree" and "Disagree" had an overall majority of 44% with the comments choosing to discuss how a deferral meeting provides clarity for the planners and can help with decision making.
3.26	The transparency and decision making of MUDC was asked to be compared with the other 10 councils in Northern Ireland. The most common answer from agents

	<p>was that this is “About the same”. 41% answered this way with 26% ticking that it was “Much better” and 30% ticking “Better”. This is a positive description but does allow scope for improvement which the service improvement plan being formulated in the coming months.</p>
3.27	<p><u>Communication</u></p>
3.27	<p>The satisfaction of the communication within the planning department is important to be monitored to ensure external parties are given a sufficient level of advice and response to queries and issues. 89% of agents who completed the survey described themselves as “Very satisfied” or “Satisfied” with the communication they receive. This reflects positively on the staff and is an encouraging statistic to take away from the survey.</p>
3.28	<p>Breaking this down further, when agents were asked if the advice planning staff gave was helpful, again a highly respectable 88% of agents agreed.</p>
3.29	<p>Question 22 asked the respondents to “Agree” or “Disagree” as to whether staff return calls and emails. 59% “Agreed”, 19% “Disagreed”, with 2 individuals ticking the “Don’t know” box and a further 4 choosing to provide a comment instead of the other 3 options. The comments within this question were an opportunity for agents to vent and there may be times when a case officer has no reason to reply to an agent if the work has been completed.</p>
3.30	<p>The communication compared to the other 10 councils in Northern Ireland was questioned in the survey and 81% gave their answer as “Much better” or “Better”. This again shows the approachability of staff and the consideration they have for helping agents through the planning application process. Feedback from the comments section was positive and indicated staff are very helpful and efficient with their advice and communication.</p>
3.31	<p>The final question to the survey was a general overview for the planning department and asked agents to rate the overall service provided compared to the 10 other councils. The tally of results concluded that 48% viewed MUDC as “Better” and a further 26% as “Much better”. No further comments were recorded for this question, but this stands as a positive description of the planning department within MUDC.</p>
	<p><b>Conclusion</b></p>
3.32	<p>The planning customer survey was able to explore the four key themes in an in depth and non-evasive way for agents as they could choose whether to complete the survey anonymously or provide their name at the end. The results from the survey shed a positive light on the planning department in MUDC and it also provided agents an opportunity to record how the planning service could be improved. Some of the suggestions for improvement in relation to online forms and payments and the scheme of delegation deserve further consideration and it may be useful to convene an information meeting with agents at which the results of the survey could form part of the agenda.</p>

3.33	The committee is asked to consider the results from the survey and extend their thoughts and views to the Service Director.
<b>4.0</b>	<b>Other Considerations</b>
4.1	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: N/A
	Human: N/A
	Risk Management: N/A
4.2	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: N/A
	Rural Needs Implications: N/A
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	That the results of the survey are taken into account when devising the service improvement plan.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	Appendix 1 – Final Customer Survey questions
6.2	Appendix 2 – Tabular and graphical breakdown of survey answers

## Mid Ulster District Council Planning Survey

**Within Mid Ulster District Council, we strive to continually improve our Planning Department by gaining feedback. With the installation of our new Planning Portal last year, we are seeing continuous changes towards IT and how this can benefit those working within the Planning Department, as well as our customers. We wish to gain a greater insight into how agents are using the IT system alongside the submission and processing of planning applications.**

**We ask that you complete the questions below open and honestly so we can strive to make meaningful changes to the systems and services we offer.**

1. How satisfied are you with the service provided by the Planning Department of Mid Ulster District Council

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why

2. How satisfied are you with the time taken to process planning applications from date validated to date of decision?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why



3. How satisfied are you with the provision and usability of the new IT system incorporating planning portal and public access system?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why

4. How satisfied are you with the communication you receive from Mid Ulster District Council Planning Department?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied
- If you are not satisfied, please explain why

5. How satisfied are you with the transparency of the decision-making process used by Mid Ulster District Council to determine planning applications?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why.

6. How satisfied are you with consultee response times?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why / identify any consultee(s) of concern:

7. Have you submitted a planning application online through the Planning Portal on the Mid Ulster District Council website?

- Yes
- No

If not, please explain why

8. Do you find our online forms easy to complete?

- Yes
- No
- Not applicable

If not, please explain why

9. Do you find it easy to make a payment online to accompany a planning application through the Planning Portal?

- Yes
- No
- Not applicable

If not, please explain why

10. Is the submission of applications online through the Mid Ulster Planning Portal your preferred method compared to submission in hard copy?

- Yes
- No
- Not applicable

If not, please explain why

11. Can you make any suggested improvements to the planning portal including online forms, payment system and/or technical issues that you may have experienced which have not been resolved?

12. Are you registered to use Mid Ulster District Council's Public Access System for Planning?

- Yes
- No

If not, please explain why

13. Do you find the tools to track and receive updates on planning applications via the Public Access System useful?

- Yes
- No

If not, please explain why

14. Do you find the tools to view, search and comment on planning applications via Public Access useful?

Yes

No

If not, please explain why

15. Do you agree or disagree with the following statement?

A planning application submitted to Mid Ulster District Council's Planning department should be made invalid when insufficient detail or information to access the application is provided.

Agree

Disagree

Don't know

Any comments:

16. Do you agree or disagree with the following statement?

Mid Ulster District Council provides adequate opportunity to allow agents to revise plans in order to obtain planning permission.

Agree

Disagree

Don't know

Any comments:

17. Do you agree or disagree with the following statement?

The Case Officer should request amendments to plans as and when requested by consultee bodies.

Agree

Disagree

Don't know

Any comments:

18. Do you agree or disagree with the following statement?

Revisions to plans should only be requested after all consultee replies are returned and a group decision has been made.

- Agree
- Disagree
- Don't know

Any comments:

19. Do you agree or disagree with the following statement?

Additional surveys should only be requested after all consultee replies are returned and a group decision has been made.

- Agree
- Disagree
- Don't know

Any comments:

20. Do you agree or disagree with the following statement?

It would be better if decision making was sped up by further limiting agents opportunities to provide revised plans.

- Agree
- Disagree
- Don't know

Any comments:

21. Do you agree or disagree with the following statement?

Professional planning staff generally provide helpful advice.

- Agree
- Disagree
- Don't know

Any comments:

22. Do you agree or disagree with the following statement?

Staff within the planning department return my calls and emails.

- Agree
- Disagree
- Don't know
- Any comments:

23. Do you agree or disagree with the following statement?

Agents and objectors have adequate opportunity to present their views to the Service Director of Planning and/or at Planning Committee meetings.

- Agree
- Disagree
- Don't know

Any comments:

24. Do you agree or disagree with the following statement?

Planning Applications with an objection should be presented at Planning Committee.

- Agree
- Disagree
- Don't know

Any comments:

25. Do you agree or disagree with the following statement?

Applications recommended for refusal should be given the opportunity to be deferred for further consideration before a decision is made.

- Agree
- Disagree
- Don't know

Any comments:

26. Do you agree or disagree with the following statement?

Applications should only be deferred where there is additional information presented which has not already been considered.

- Agree
- Disagree
- Don't know

Any comments:

27. Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in the approachability of its staff and availability of advice?

- Much better
- Better
- About the same
- Worse
- Much worse

Any comments:

28. Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in the transparency of its decision making and how it makes sure everyone's views are considered?

- Much better
- Better
- About the same
- Worse
- Much worse

Any comments:

29. Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in terms of the ease of use of the Planning Portal and Public Access.

- Much better
- Better
- About the same
- Worse
- Much worse

Any comments:

30. Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in terms of the overall service provided?

- Much better
- Better
- About the same
- Worse
- Much worse

Any comments:

31. Any other comments or suggestions for improvement can be noted here:

32. Thank you for completing this survey. The answers will be treated anonymously. However, if you wish to leave your name and email address to receive additional information or feedback regarding the survey you are welcome to do so below.

**Name**

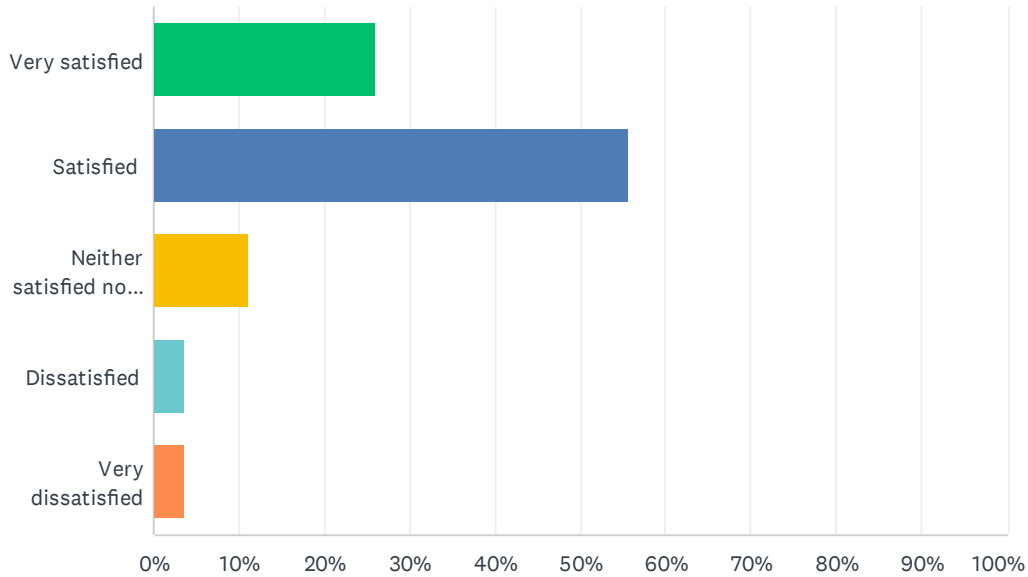
**Company**

**Email Address**



# Q1 How satisfied are you with the service provided by the Planning Department of Mid Ulster District Council

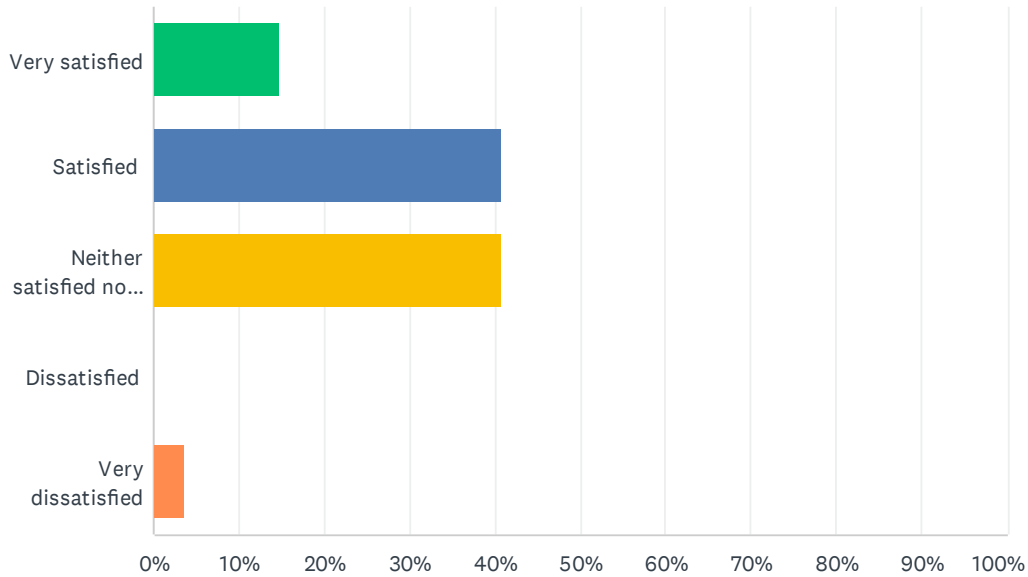
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very satisfied	25.93%	7
Satisfied	55.56%	15
Neither satisfied nor dissatisfied	11.11%	3
Dissatisfied	3.70%	1
Very dissatisfied	3.70%	1
<b>TOTAL</b>		<b>27</b>

## Q2 How satisfied are you with the time taken to process planning applications from date validated to date of decision?

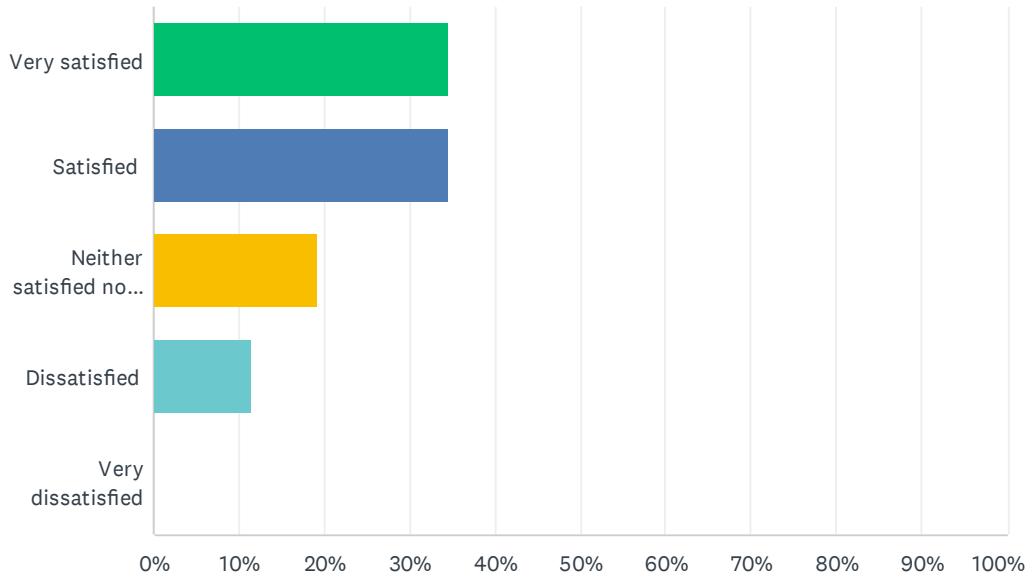
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very satisfied	14.81%	4
Satisfied	40.74%	11
Neither satisfied nor dissatisfied	40.74%	11
Dissatisfied	0.00%	0
Very dissatisfied	3.70%	1
<b>TOTAL</b>		<b>27</b>

### Q3 How satisfied are you with the provision and usability of the new IT system incorporating planning portal and public access system?

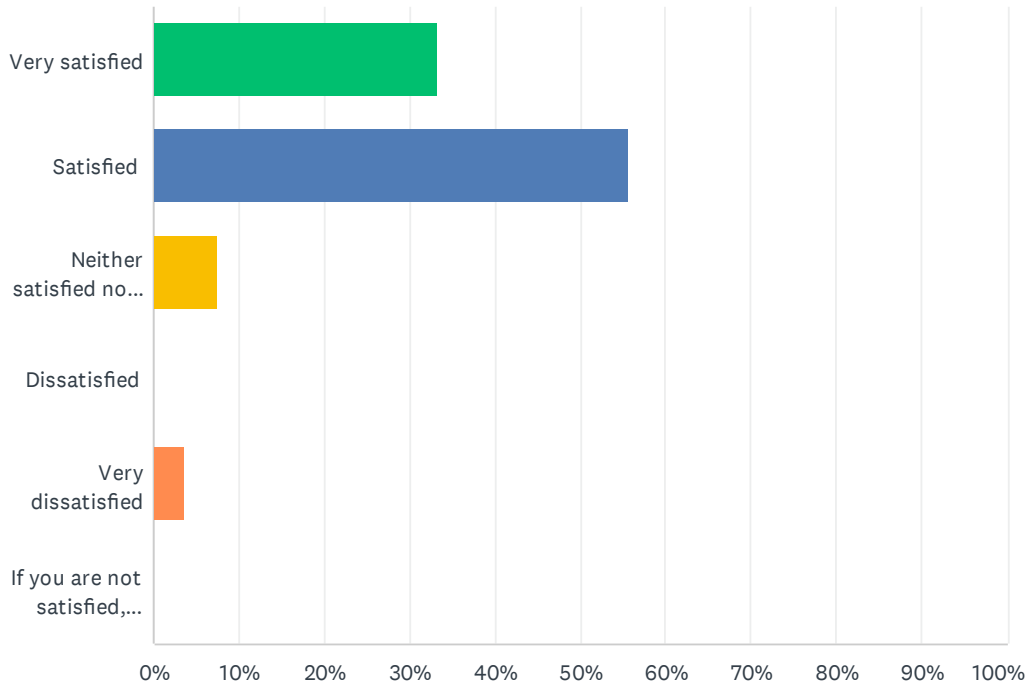
Answered: 26 Skipped: 1



ANSWER CHOICES	RESPONSES	
Very satisfied	34.62%	9
Satisfied	34.62%	9
Neither satisfied nor dissatisfied	19.23%	5
Dissatisfied	11.54%	3
Very dissatisfied	0.00%	0
<b>TOTAL</b>		<b>26</b>

### Q4 How satisfied are you with the communication you receive from Mid Ulster District Council Planning Department?

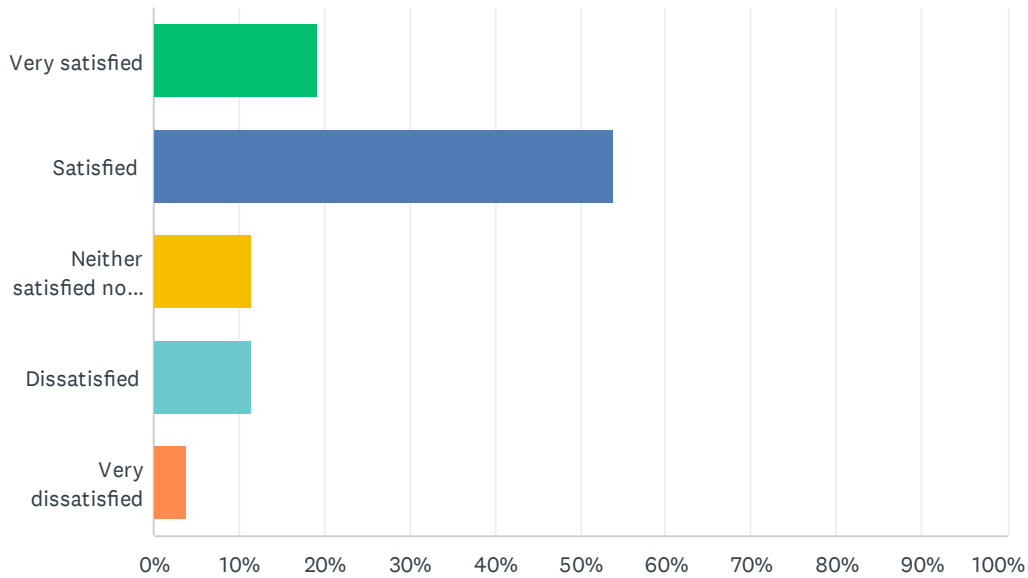
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very satisfied	33.33%	9
Satisfied	55.56%	15
Neither satisfied nor dissatisfied	7.41%	2
Dissatisfied	0.00%	0
Very dissatisfied	3.70%	1
If you are not satisfied, please explain why	0.00%	0
<b>TOTAL</b>		<b>27</b>

### Q5 How satisfied are you with the transparency of the decision-making process used by Mid Ulster District Council to determine planning applications?

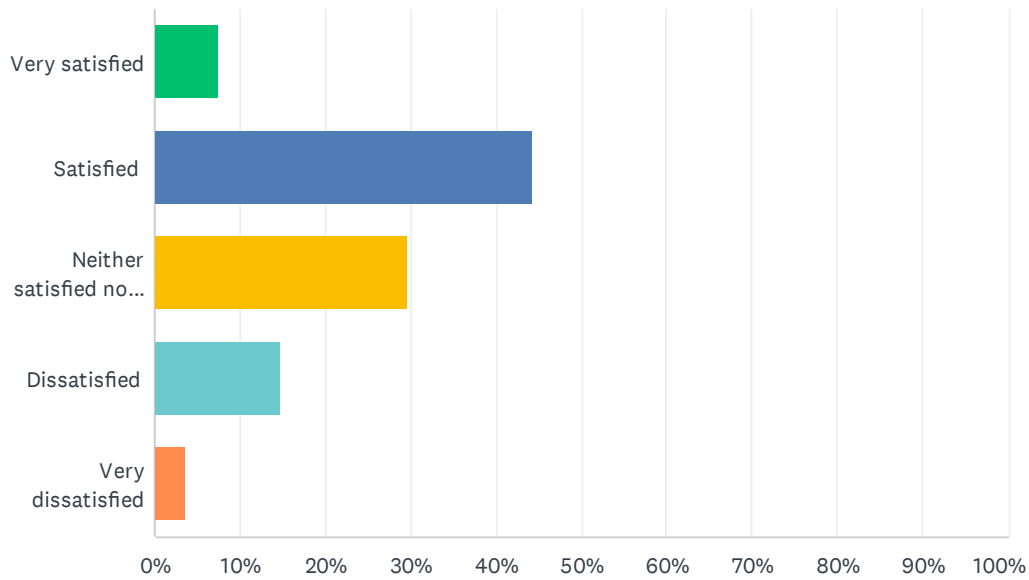
Answered: 26 Skipped: 1



ANSWER CHOICES	RESPONSES	
Very satisfied	19.23%	5
Satisfied	53.85%	14
Neither satisfied nor dissatisfied	11.54%	3
Dissatisfied	11.54%	3
Very dissatisfied	3.85%	1
<b>TOTAL</b>		<b>26</b>

## Q6 How satisfied are you with consultee response times?

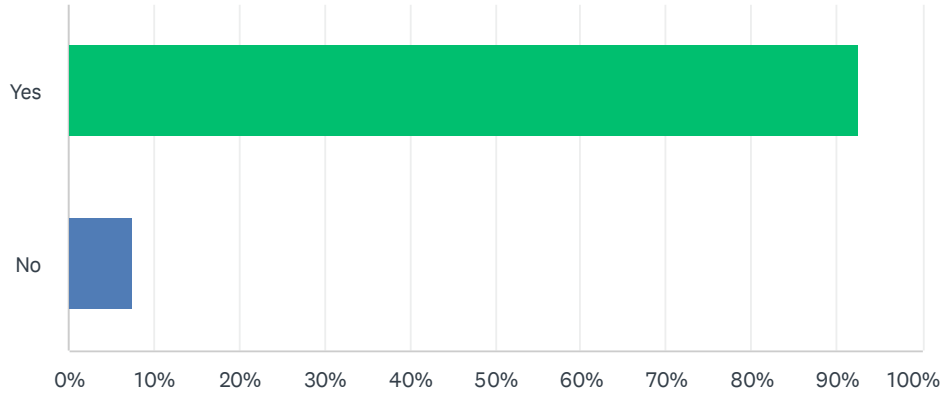
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Very satisfied	7.41%	2
Satisfied	44.44%	12
Neither satisfied nor dissatisfied	29.63%	8
Dissatisfied	14.81%	4
Very dissatisfied	3.70%	1
<b>TOTAL</b>		<b>27</b>

## Q7 Have you submitted a planning application online through the Planning Portal on the Mid Ulster District Council website?

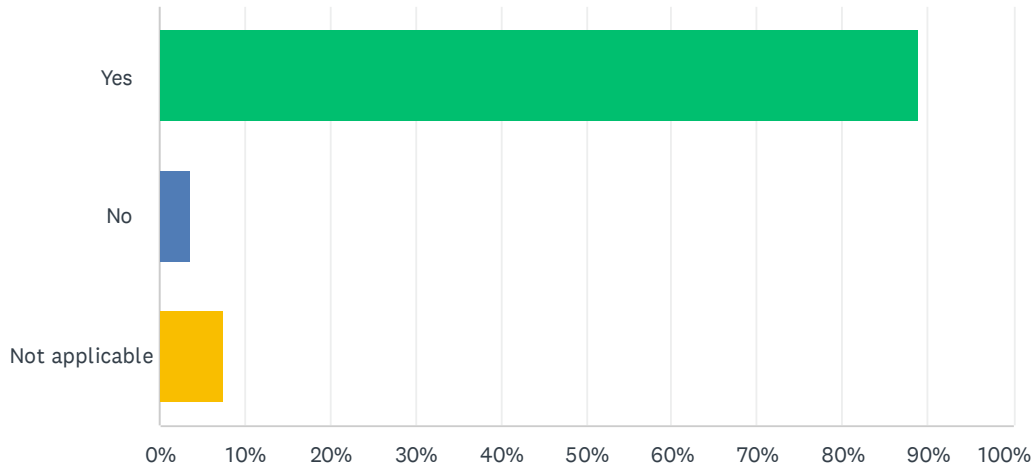
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	92.59%	25
No	7.41%	2
TOTAL		27

## Q8 Do you find our online forms easy to complete?

Answered: 27 Skipped: 0

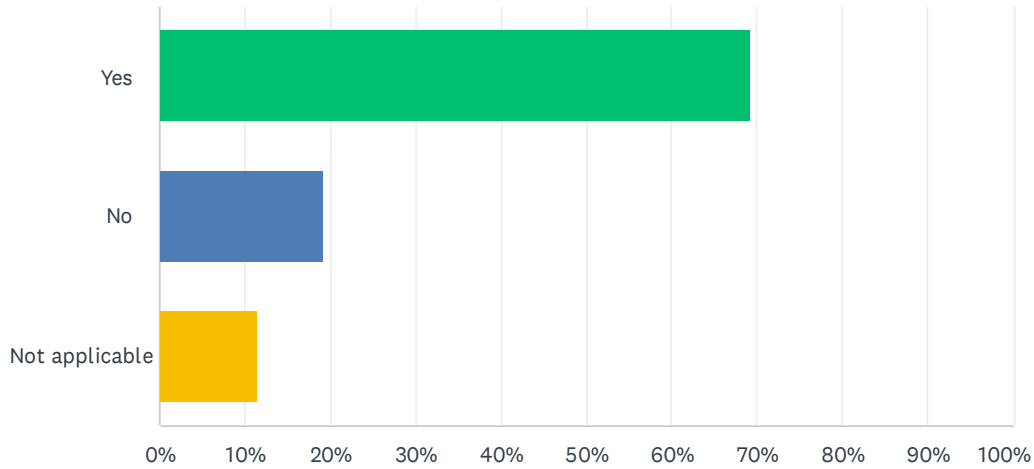


ANSWER CHOICES	RESPONSES	
Yes	88.89%	24
No	3.70%	1
Not applicable	7.41%	2
<b>TOTAL</b>		<b>27</b>



### Q9 Do you find it easy to make a payment online to accompany a planning application through the Planning Portal?

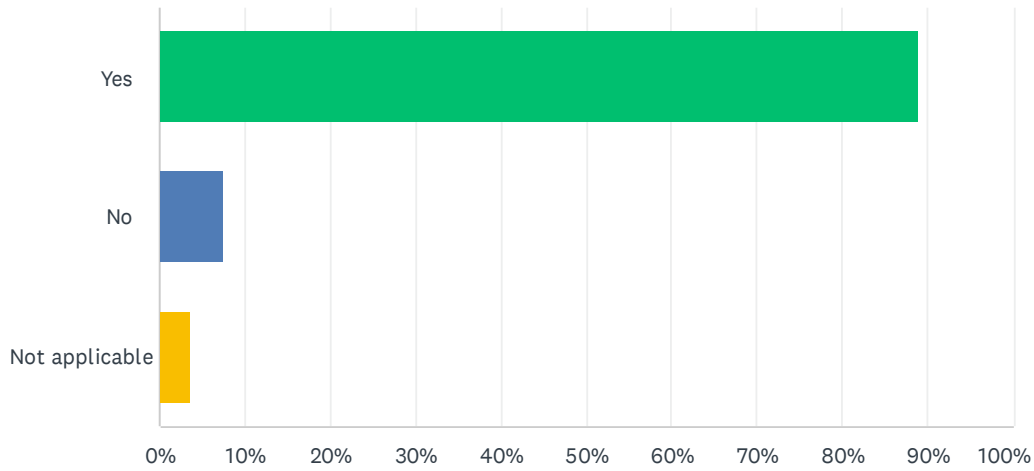
Answered: 26 Skipped: 1



ANSWER CHOICES	RESPONSES
Yes	69.23% 18
No	19.23% 5
Not applicable	11.54% 3
<b>TOTAL</b>	<b>26</b>

### Q10 Is the submission of applications online through the Mid Ulster Planning Portal your preferred method compared to submission in hard copy?

Answered: 27 Skipped: 0



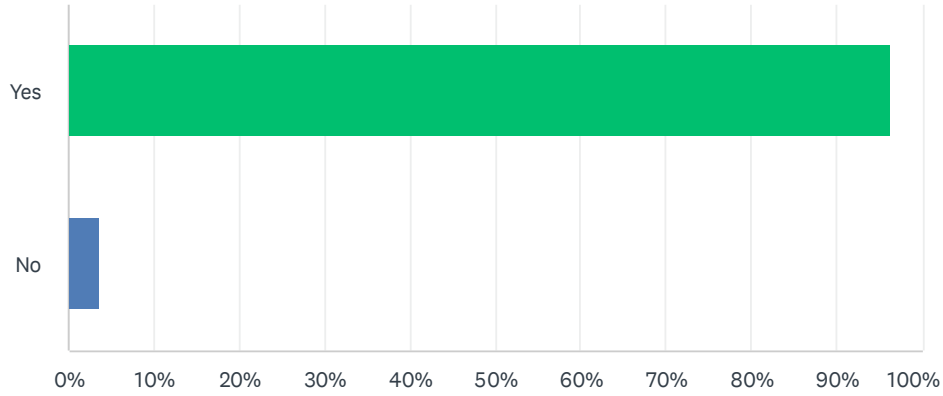
ANSWER CHOICES	RESPONSES	
Yes	88.89%	24
No	7.41%	2
Not applicable	3.70%	1
<b>TOTAL</b>		<b>27</b>

**Q11 Can you make any suggested improvements to the planning portal including online forms, payment system and/or technical issues that you may have experienced which have not been resolved?**

Answered: 13 Skipped: 14

## Q12 Are you registered to use Mid Ulster District Council's Public Access System for Planning?

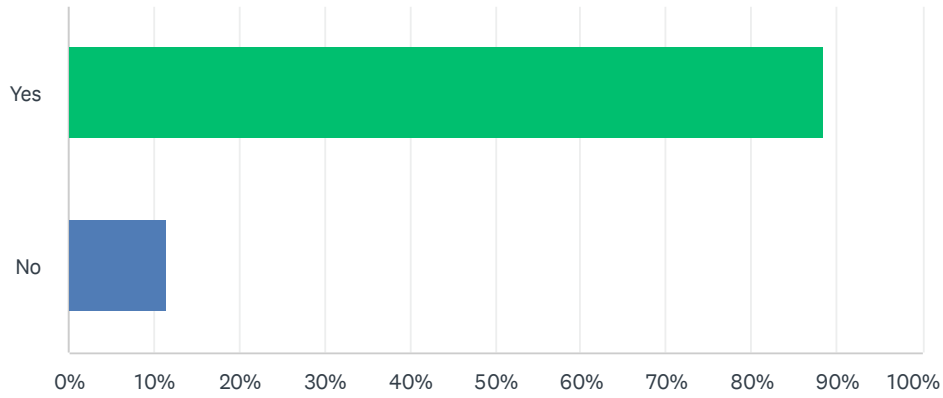
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	96.30%	26
No	3.70%	1
TOTAL		27

### Q13 Do you find the tools to track and receive updates on planning applications via the Public Access System useful?

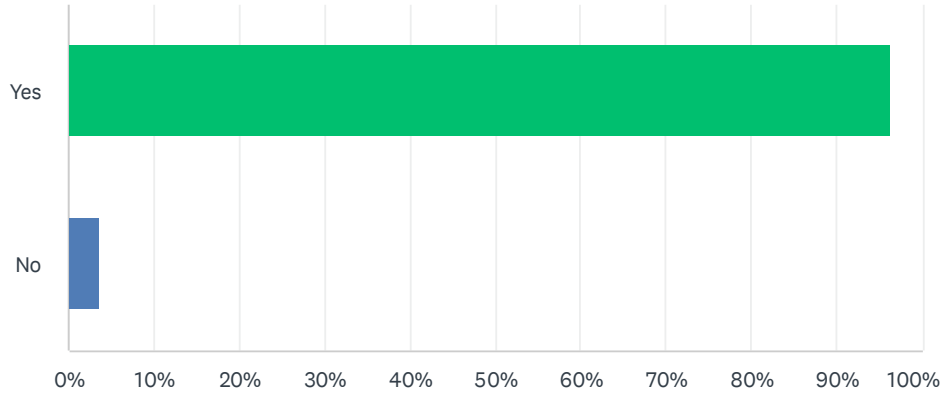
Answered: 26 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	88.46%	23
No	11.54%	3
TOTAL		26

### Q14 Do you find the tools to view, search and comment on planning applications via Public Access useful?

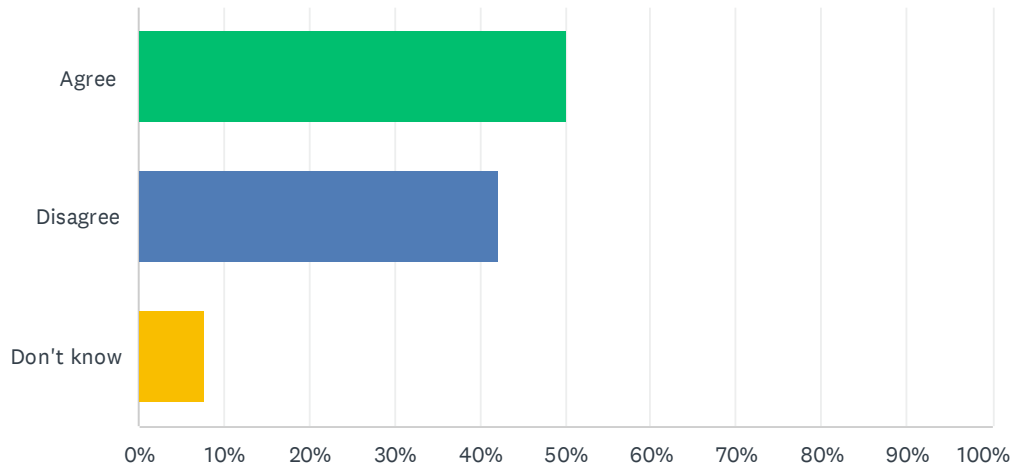
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	96.30%	26
No	3.70%	1
TOTAL		27

**Q15 Do you agree or disagree with the following statement? A planning application submitted to Mid Ulster District Council's Planning department should be made invalid when insufficient detail or information to access the application is provided.**

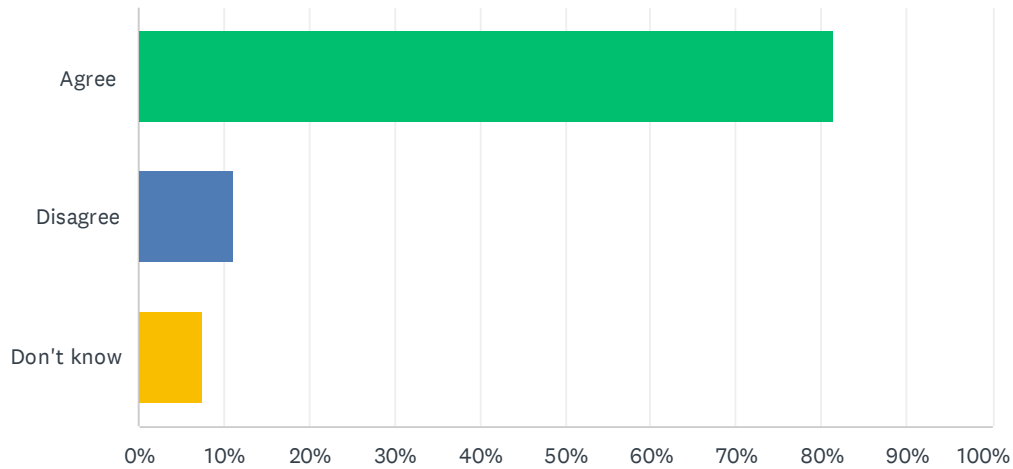
Answered: 26 Skipped: 1



ANSWER CHOICES	RESPONSES
Agree	50.00% 13
Disagree	42.31% 11
Don't know	7.69% 2
<b>TOTAL</b>	<b>26</b>

### Q16 Do you agree or disagree with the following statement?Mid Ulster District Council provides adequate opportunity to allow agents to revise plans in order to obtain planning permission.

Answered: 27 Skipped: 0

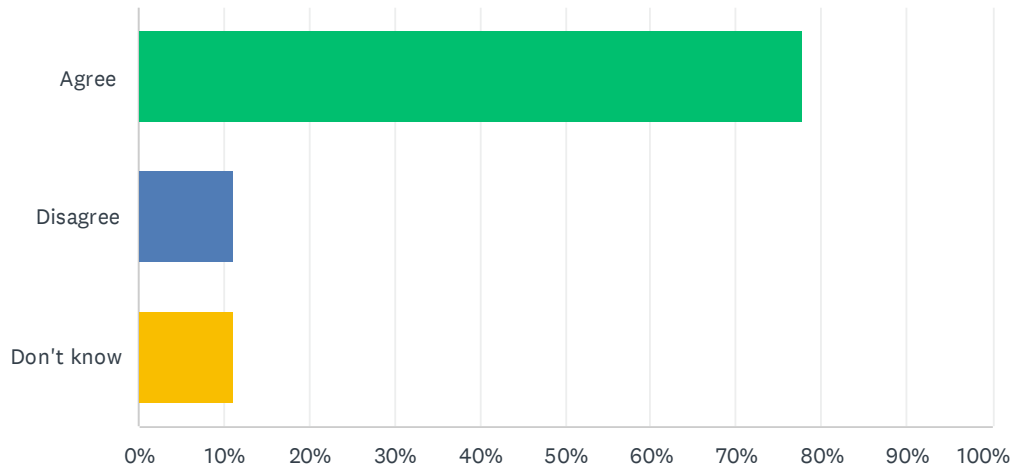


ANSWER CHOICES	RESPONSES	
Agree	81.48%	22
Disagree	11.11%	3
Don't know	7.41%	2
<b>TOTAL</b>		<b>27</b>



### Q17 Do you agree or disagree with the following statement?The Case Officer should request amendments to plans as and when requested by consultee bodies.

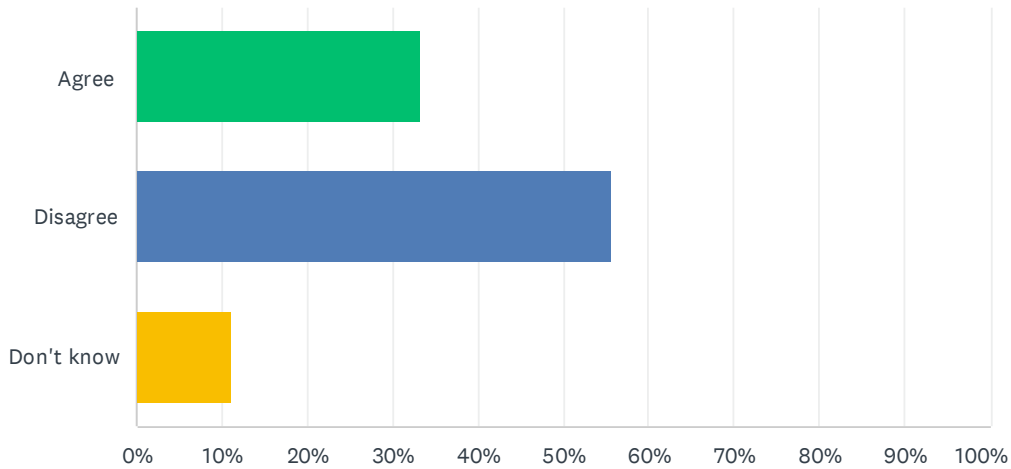
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Agree	77.78%	21
Disagree	11.11%	3
Don't know	11.11%	3
<b>TOTAL</b>		<b>27</b>

**Q18 Do you agree or disagree with the following statement?Revisions to plans should only be requested after all consultee replies are returned and a group decision has been made.**

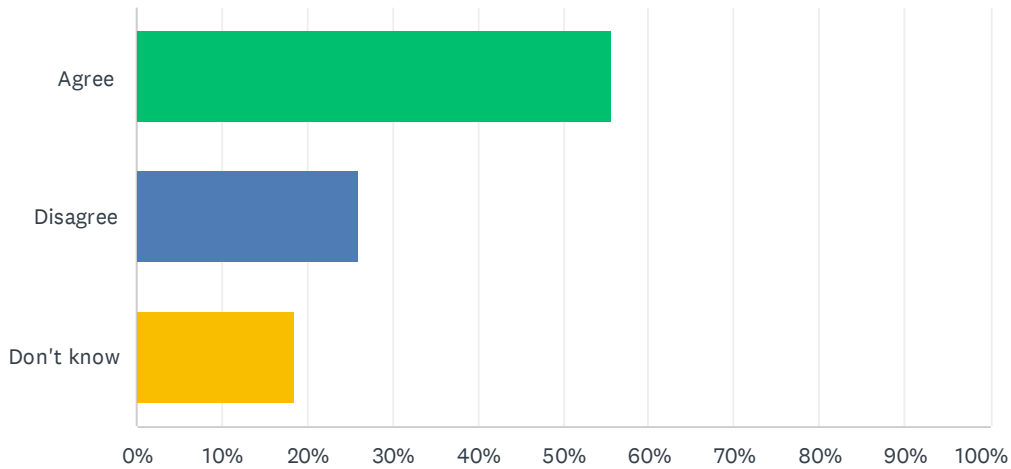
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Agree	33.33%	9
Disagree	55.56%	15
Don't know	11.11%	3
<b>TOTAL</b>		<b>27</b>

**Q19 Do you agree or disagree with the following statement?Additional surveys should only be requested after all consultee replies are returned and a group decision has been made.**

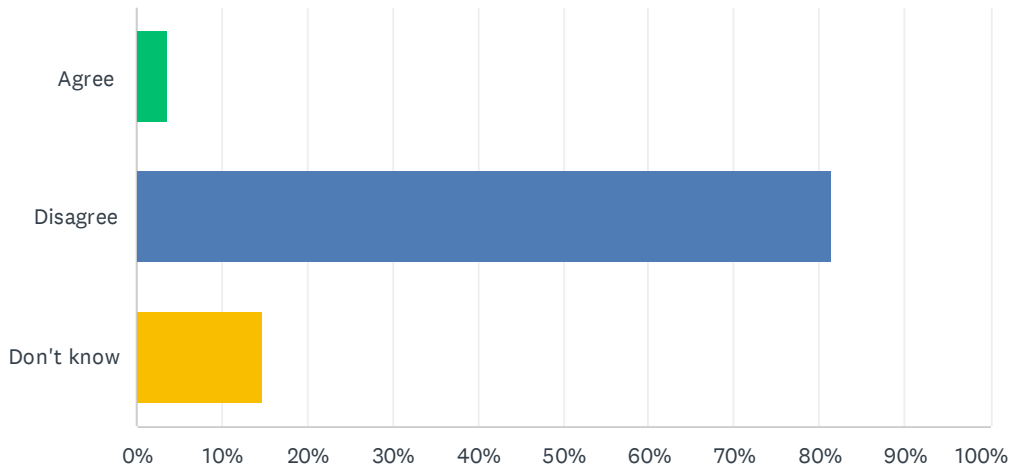
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Agree	55.56%	15
Disagree	25.93%	7
Don't know	18.52%	5
<b>TOTAL</b>		<b>27</b>

### Q20 Do you agree or disagree with the following statement? It would be better if decision making was sped up by further limiting agents opportunities to provide revised plans.

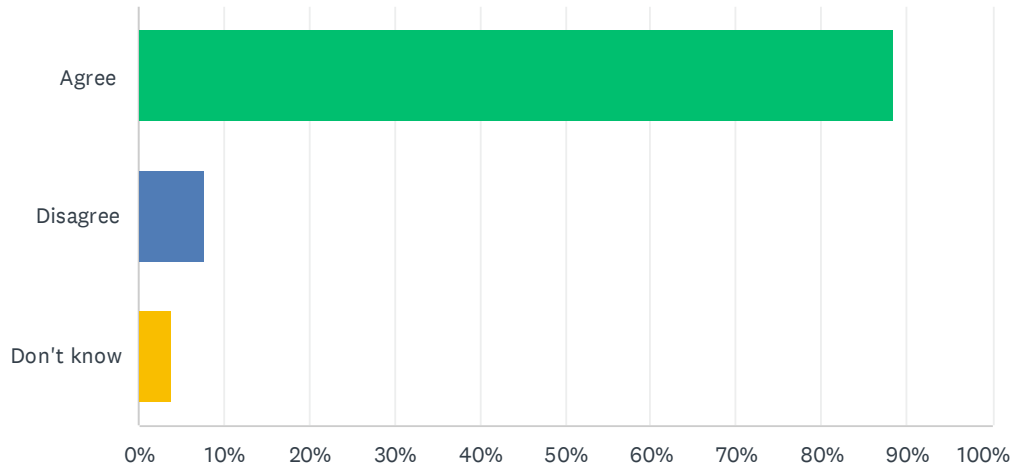
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Agree	3.70%	1
Disagree	81.48%	22
Don't know	14.81%	4
<b>TOTAL</b>		<b>27</b>

### Q21 Do you agree or disagree with the following statement? Professional planning staff generally provide helpful advice.

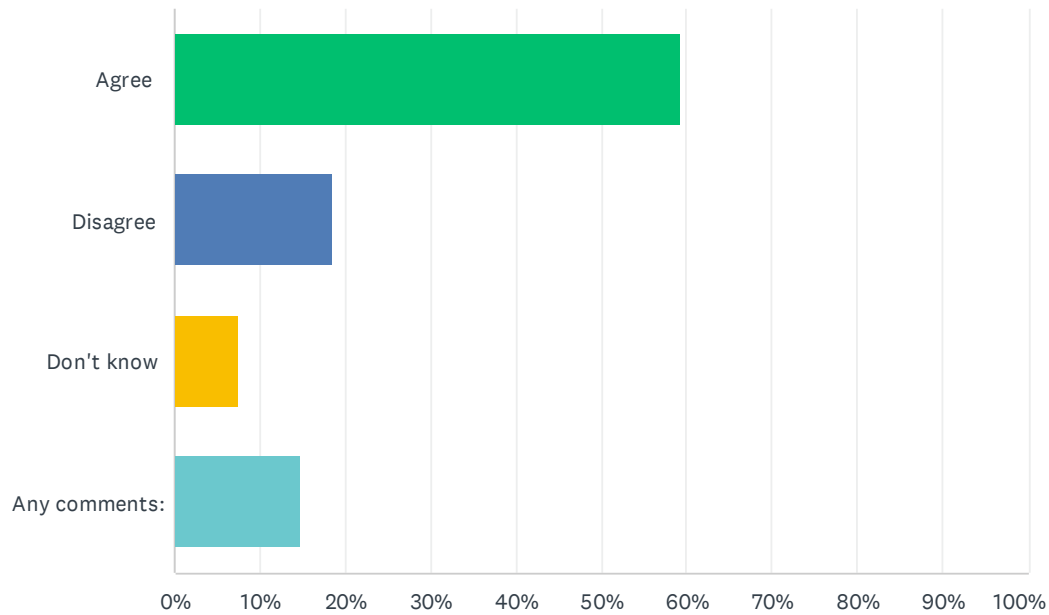
Answered: 26 Skipped: 1



ANSWER CHOICES	RESPONSES
Agree	88.46% 23
Disagree	7.69% 2
Don't know	3.85% 1
TOTAL	26

### Q22 Do you agree or disagree with the following statement? Staff within the planning department return my calls and emails.

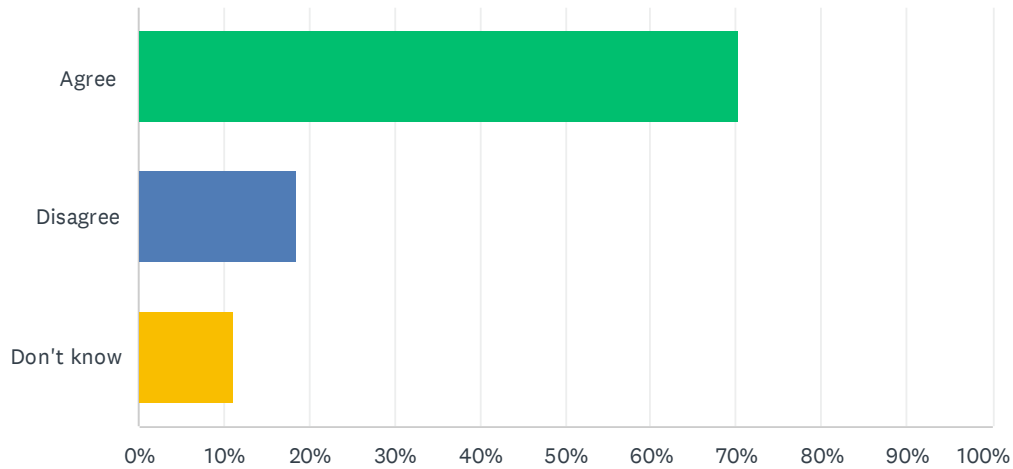
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Agree	59.26%	16
Disagree	18.52%	5
Don't know	7.41%	2
Any comments:	14.81%	4
<b>TOTAL</b>		<b>27</b>

### Q23 Do you agree or disagree with the following statement? Agents and objectors have adequate opportunity to present their views to the Service Director of Planning and/or at Planning Committee meetings.

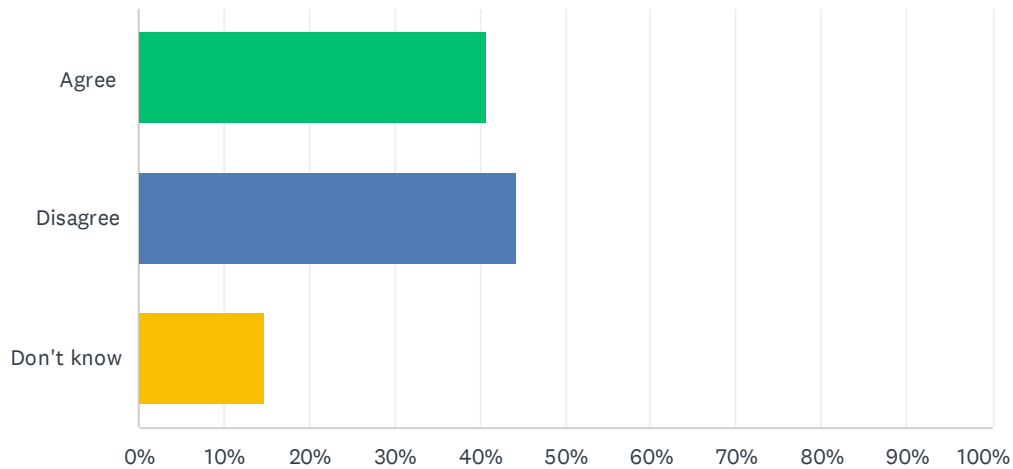
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Agree	70.37%	19
Disagree	18.52%	5
Don't know	11.11%	3
<b>TOTAL</b>		<b>27</b>

### Q24 Do you agree or disagree with the following statement? Planning Applications with an objection should be presented at Planning Committee.

Answered: 27 Skipped: 0

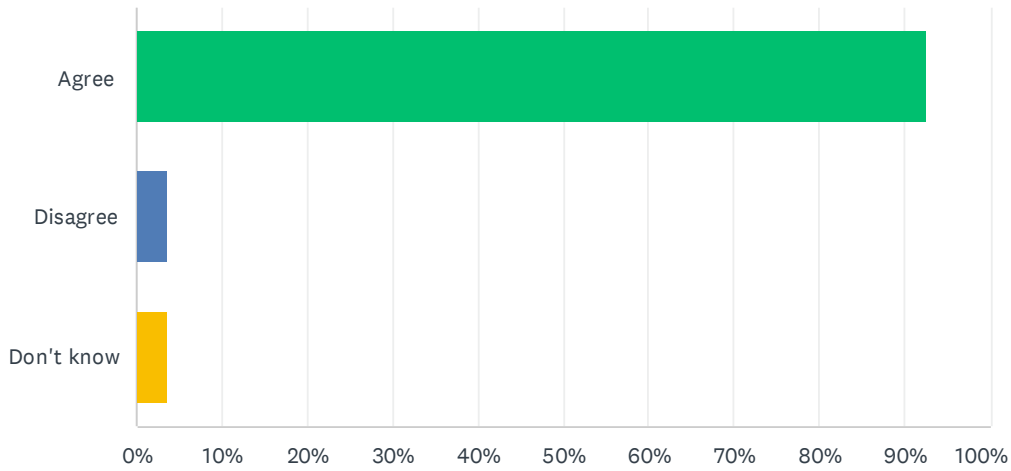


ANSWER CHOICES	RESPONSES
Agree	40.74% 11
Disagree	44.44% 12
Don't know	14.81% 4
<b>TOTAL</b>	<b>27</b>



**Q25 Do you agree or disagree with the following statement? Applications recommended for refusal should be given the opportunity to be deferred for further consideration before a decision is made.**

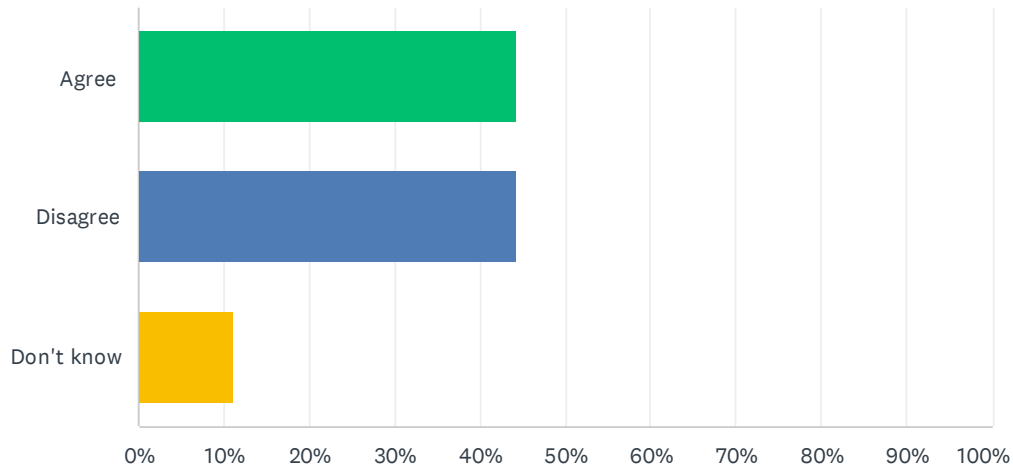
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Agree	92.59%	25
Disagree	3.70%	1
Don't know	3.70%	1
<b>TOTAL</b>		<b>27</b>

### Q26 Do you agree or disagree with the following statement? Applications should only be deferred where there is additional information presented which has not already been considered.

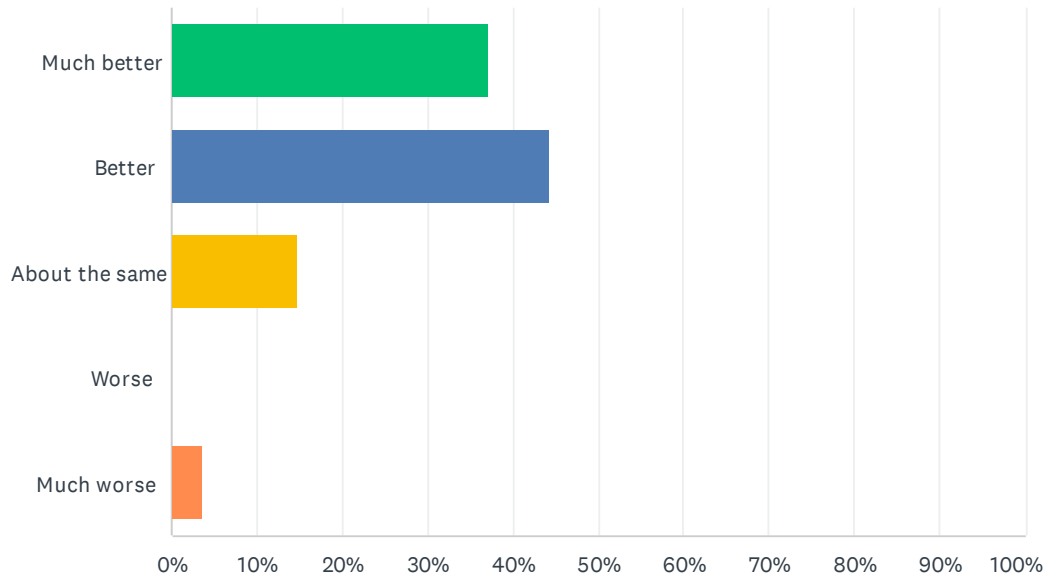
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Agree	44.44%	12
Disagree	44.44%	12
Don't know	11.11%	3
<b>TOTAL</b>		<b>27</b>

### Q27 Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council’s planning department in the approachability of its staff and availability of advice?

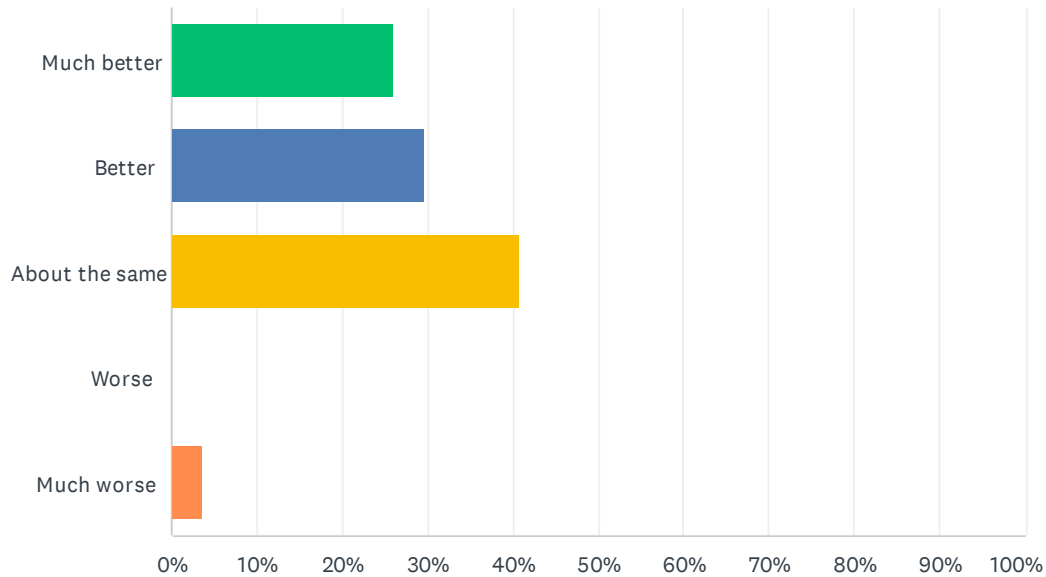
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Much better	37.04%	10
Better	44.44%	12
About the same	14.81%	4
Worse	0.00%	0
Much worse	3.70%	1
<b>TOTAL</b>		<b>27</b>

### Q28 Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council’s planning department in the transparency of its decision making and how it makes sure everyone's views are considered?

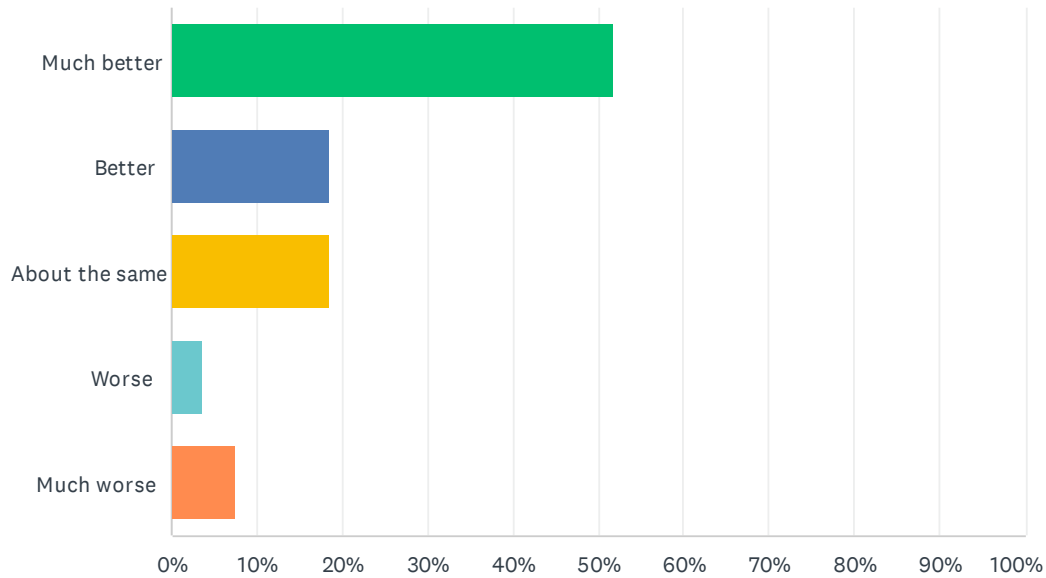
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES	
Much better	25.93%	7
Better	29.63%	8
About the same	40.74%	11
Worse	0.00%	0
Much worse	3.70%	1
<b>TOTAL</b>		<b>27</b>

### Q29 Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in terms of the ease of use of the Planning Portal and Public Access.

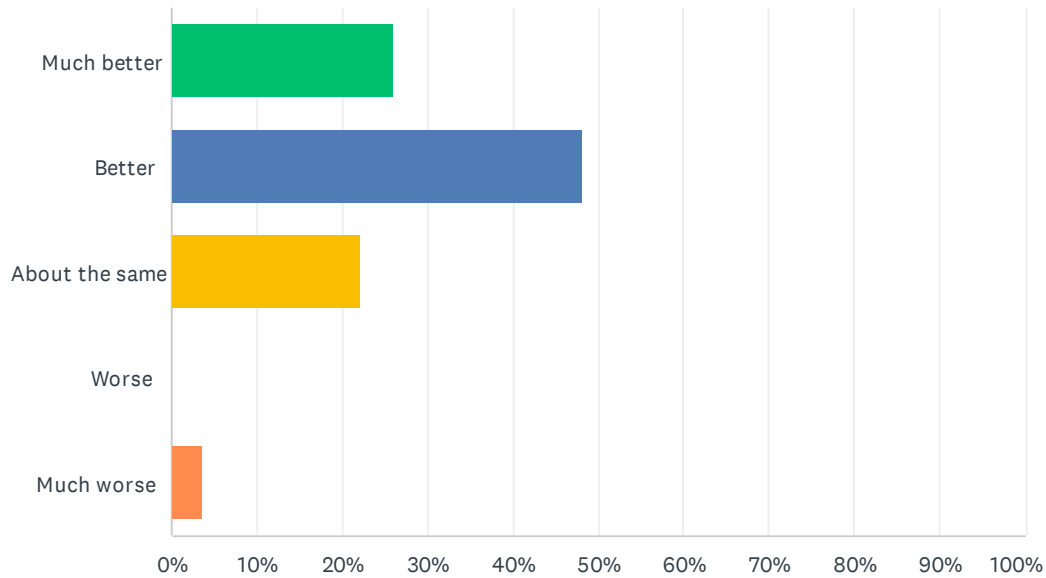
Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES
Much better	51.85% 14
Better	18.52% 5
About the same	18.52% 5
Worse	3.70% 1
Much worse	7.41% 2
<b>TOTAL</b>	<b>27</b>

### Q30 Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in terms of the overall service provided?

Answered: 27 Skipped: 0



ANSWER CHOICES	RESPONSES
Much better	25.93% 7
Better	48.15% 13
About the same	22.22% 6
Worse	0.00% 0
Much worse	3.70% 1
<b>TOTAL</b>	<b>27</b>

**Q31 Any other comments or suggestions for improvement can be noted here:**

Answered: 8 Skipped: 19

**Q32 Thank you for completing this survey. The answers will be treated anonymously. However, if you wish to leave your name and email address to receive additional information or feedback regarding the survey you are welcome to do so below.**

Answered: 13 Skipped: 14

ANSWER CHOICES	RESPONSES	
Name	100.00%	13
Company	100.00%	13
Address	0.00%	0
Address 2	0.00%	0
City/Town	0.00%	0
State/Province	0.00%	0
ZIP/Postal Code	0.00%	0
Country	0.00%	0
Email Address	100.00%	13
Phone Number	0.00%	0