



01 August 2023

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Dungannon and by virtual means Council Offices, Circular Road, Dungannon, BT71 6DT on Tuesday, 01 August 2023 at 19:00 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

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 5 - 94

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2022/0528/RM	Dwelling & garage at 20m S of no.2 Kinturk Road, Moortown. for Colm Hagan	APPROVE

5.2.	LA09/2022/1400/O	Housing Development at lands opposite 56 Castlecaulfield Road, Donaghmore, Dungannon for Trustees of Donaghmore Parish	APPROVE
5.3.	LA09/2022/1470/F	Compost manufacturing facility unit at 10A Ferry Road, Coalisland for Evergreen Horticulture	APPROVE
5.4.	LA09/2022/1475/F	The application forms part of the overall Clogher Active travel scheme being developed by MUDC & DFI. The scheme will link existing footpaths on the station road and the Ballymagowan Road to create a link around the area. This application contains the formalisation of 2 existing entrances along this section being changed into vehicle entrances as part of the works. D01 & D01A - Change of an existing pedestrian entrance into a vehicle entrance D02 & D02A - Change of an existing field entrance gate into vehicle & commercial vehicle entrance for HGV's/timber lorries to access the existing timber yard business at 2 Properties Entrance Formalisations - One At 47 Station Road Clogher and the other at 57A Station Road for Mid Ulster District Council	APPROVE
5.5.	LA09/2023/0025/F	Retention of agricultural shed to store machinery adjacent to 26A Brookmount Road, Ballinderry Bridge, Cookstown for Francis Rocks	REFUSE
5.6.	LA09/2023/0066/RM	Two storey dwelling & detached garage at 70m SE of 43 Fallylea Lane, Maghera for Mr Michael & Leanne Warnock & McCrystal	APPROVE
5.7.	LA09/2023/0087/O	Dwelling with detached domestic garage at site approx 50m E of 90 Screeby Road, Fivemiletown for Mr Ian & Gillian Browne	APPROVE
5.8.	LA09/2023/0170/O	Site for new replacement dwelling to the rear of and approx 30m E	REFUSE

		of 87 Kinrush Road, Cookstown for Maurice McKenna	
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6. Receive Deferred Applications

95 - 224

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2019/0179/F	To continue use of the land and factory without complying with condition 12 of M/2011/0126/F seeking variation of opening hours condition Monday - Friday from 6am - 8pm (Clarification of Operations to be carried out before and after 7am) at lands 70m S of 177 Annagher Road, Coalisland. for Dmac Engineering	REFUSE
6.2.	LA09/2021/1083/F	Two storey with lower ground floor replacement dwelling and associated courtyard domestic garages and outbuildings at 9 Mackenny Road, Cookstown for Mrs Wilma Brownlee	APPROVE
6.3.	LA09/2022/0194/F	2 Agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs at approx 40m SW of 14 Bancran Road, Draperstown for Mr D Hegarty	APPROVE
6.4.	LA09/2022/0314/F	Retention of 2 additional fun farm buildings with the reconfiguration of parking and turning areas (approved LA09/2017/1704/F) and the utilisation of the existing access lane, with improvements to the existing access, to serve the business (lane approved under LA09/2017/1704/F not to be built) at 250m NE of 260 Drum Road, Cookstown for Martin McDonald	APPROVE
6.5.	LA09/2022/0624/F	Section 54 application for approval LA09/2017/0487/F to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been	APPROVE

		provided in accordance with the approved stamped drawings. at Clonoe O'Rahilly GFC, 93 Washingbay Road, Coalisland, for Clonoe O'Rahilly GFC	
6.6.	LA09/2022/1106/F	Replacement Dwelling and Carport at 5 Greenvale, Cookstown, for Mr Odhran McCracken	APPROVE
6.7.	LA09/2022/1288/O	Replacement dwelling as a result of a fire damaged house at 15 Finulagh Road, Castlecaulfield for Ryan McGurk	APPROVE
6.8.	LA09/2022/1419/O	Single detached Bungalow with associated external private amenity space and garage at lands to the W of 4,5, 6 & 7 Riverdale Drive, Cookstown for Mr Sammy Lyle	REFUSE

7. Receive Report on Dfl Notice of Opinion on LA03/2021/0940/F 225 - 300

Matters for Information

- 8 Minutes of Planning Committee held on 4 July 2023 301 - 316

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

9. Confidential Minutes of Planning Committee held on 4 July 2023
10. Enforcement Cases Opened
11. Enforcement Cases Closed



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 August 2023	Item Number: 5.1
Application ID: LA09/2022/0528/RM	Target Date: 17 June 2022
Proposal: Proposed dwelling & garage.	Location: 20M South Of NO2. Kinturk Road Moortown.
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Colm Hagan 2 Kinturk Road Moortown Cookstown	Agent Name and Address: No Agent
Executive Summary: HED have asked that planning make the decision on the siting of the garage, they welcome its removal from beside the listed building and movement away from it. Siting is just outside the setting as previously agreed.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	Historic Environment Division (HED)	Substantive: TBCResponseType: PR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	Historic Environment Division (HED)	

Representations:

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

Summary of Issues

No issues. No representations received.

Characteristics of the Site and Area

The application site is a 0.2 hectare plot of land located approx. 20m South of a dwelling at number 2 Kinturk Road, Moortown. It is outside the development limits of any settlement defined in the Cookstown Area Plan 2010 (CAP). There is a small cottage located along the Northern boundary, a bungalow along the Western boundary and a laneway, a dwelling and outbuildings along the Southern boundary. Along the Eastern boundary at the opposite side of the Kinturk Road, is Coyles Cottage, a Listed Building and a detached bungalow. This area is rural in character however it has experienced a substantial build up of development in recent years, the predominant form of development being single dwellings and agricultural buildings. Kinturk Cultural Centre is also located in the immediate area. The area is not subject to any Area Plan designations or zonings.

Description of Proposal

The planning application seeks approval of matters reserved from previous outline planning consent re. LA09/2018/1601/O. Outline planning permission was granted for "Proposed dwelling and garage in a cluster" on 3rd May 2019, therefore the principle of development has already been established on this site with a number of conditions set out on the approval. This current application seeks consent for a number of matters which were reserved at the outline stage.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 1, 2, 4 Kinturk Road, 89, 90 Anneeter Road, 1 Anneeter Lane and 56, 57 Annaghmore Road. At the time of writing, no third party representations have been received.

Planning History

LA09/2018/1601/O - Proposed dwelling and garage in a cluster - 20M South Of NO2 Kinturk Road, Moortown – PERMISSION GRANTED

Planning Assessment of Policy and Other Material Considerations

- Cookstown 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

When outline planning permission was granted re. LA09/2018/1601/O a number of conditions were imposed. There were concerns raised by HED in relation to the validity of the application given it did not strictly meet with the siting condition which was applied to the outline hence why this application is being presented to the committee. Following internal discussions and discussions with HED who have assessed the development as it currently is on the ground, we are content to allow the application. HED have asked that planning make the decision on the siting of the garage and they welcome its removal from beside the listed building and movement away from it which is just outside the setting as previously agreed.

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 site is located in the open countryside as defined by the Cookstown Area Plan and has no other zonings or designations within the plan.

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. The general planning principles with respect to this proposal have been complied with.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. The principle of development for a replacement dwelling under CTY 3 has already been agreed at this site. Policy CTY 13 – Integration and Design of Buildings in the Countryside and Policy CTY 14 – Rural Character of PPS 21 are 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.

The proposed dwelling is single storey and is modest in size and scale. It is not considered to be inappropriate for the site or its locality and the materials include render finish to the walls and slate tiles to the roof, both considered to be acceptable in the countryside. The proposal is thought to be respectful of the existing pattern of settlement found in the surrounding area as it is similar in size and scale and it would not create or add to a ribbon of development. There is a single storey garage proposed also which has a metal cladding finish and a typical design of garage and therefore is considered acceptable. HED were consulted on the proposal and as discussed previously, they initially raised concern relating to the validity of the application but were asked if they

were content with the proposal, particularly its impact on Coyle's Cottage which is listed. They have advised that it is up to the Council to make a fair and balanced judgement on the application and their response is advice. They have welcomed the relocation of the garage and as such I am content that on balance the proposal is acceptable and will not adversely affect on the setting of the listed building adjacent.

The proposal intends to alter the existing access onto Kinturk Road. DfI Roads were consulted and raised no concern with the proposal subject to condition.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

The development to which this approval relates must be begun by whichever is the later of the following dates:-

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

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

Condition 2

All landscaping comprised in the approved details of landscaping shall be carried out in the first planting season following the commencement of the construction of the development hereby approved and any trees or shrubs which, within a period of five years from the completion of the development, die are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of visual amenity.

Condition 3

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 01a bearing the date stamp 04/11/2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

and the convenience of road users.

Signature(s): Sarah Duggan

Date: 18 July 2023

ANNEX	
Date Valid	22 April 2022
Date First Advertised	3 May 2022
Date Last Advertised	3 May 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 4 Kinturk Road, Cookstown, Tyrone, BT80 0JD The Owner / Occupier 90 Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 1 Anneeter Lane, Cookstown, Tyrone, BT80 0JB The Owner / Occupier 2 Kinturk Road Cookstown Tyrone BT80 0JD The Owner / Occupier 89 Anneeter Road, Cookstown, Tyrone, BT80 0HZ The Owner / Occupier 1 Kinturk Road, Cookstown, Tyrone, BT80 0JD The Owner / Occupier 57 Annaghmore Road Ardboe Cookstown Tyrone BT80 0JA The Owner / Occupier 56 Annaghmore Road Ardboe Cookstown Tyrone BT80 0JA</p>	
Date of Last Neighbour Notification	4 May 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>Historic Environment Division (HED)-Substantive: TBCResponseType: PR DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR Historic Environment Division (HED)- Historic Environment Division (HED)-</p>	

Drawing Numbers and Title

Proposed Plans Plan Ref: 01
Proposed Elevations

Notification to Department (if relevant)

Not Applicable

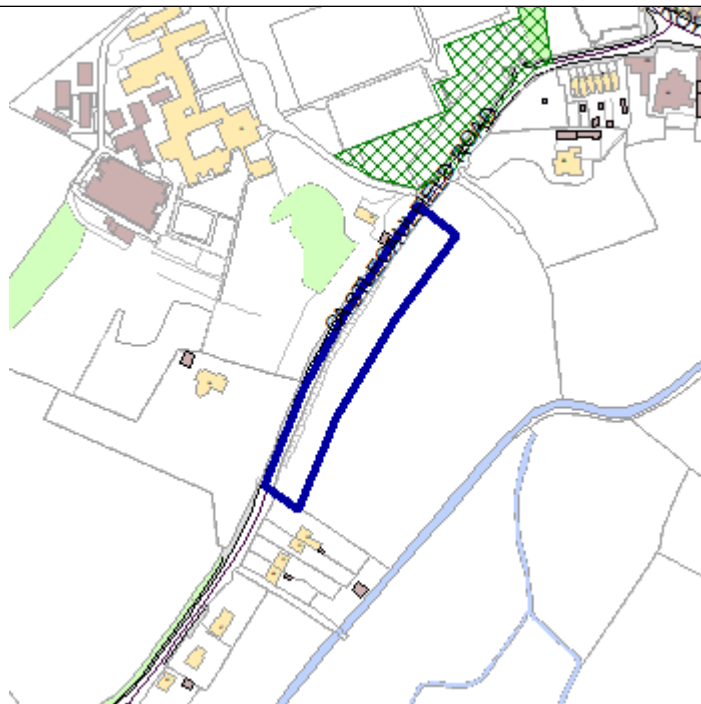


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 August 2023	Item Number: 5.2
Application ID: LA09/2022/1400/O	Target Date: 3 January 2023
Proposal: Housing Development	Location: Lands Opposite 56 Castlecaulfield Road Donaghmore Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Trustees Of Donaghmore Parish C/o Parochial House 61 Castlecaulfield Road Donaghmore	Agent Name and Address: McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
Executive Summary: A neighbouring resident submitted objections to the proposal.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-22-1400.pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	NIEA	PRT LA09-2022-1400-O.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	RS1 Form.docConditions.docx
Statutory Consultee	Rivers Agency	745050 final.pdf
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-1400-O.pdf
	Historic Environment Division (HED)	
	Environmental Health Mid Ulster Council	

Representations:

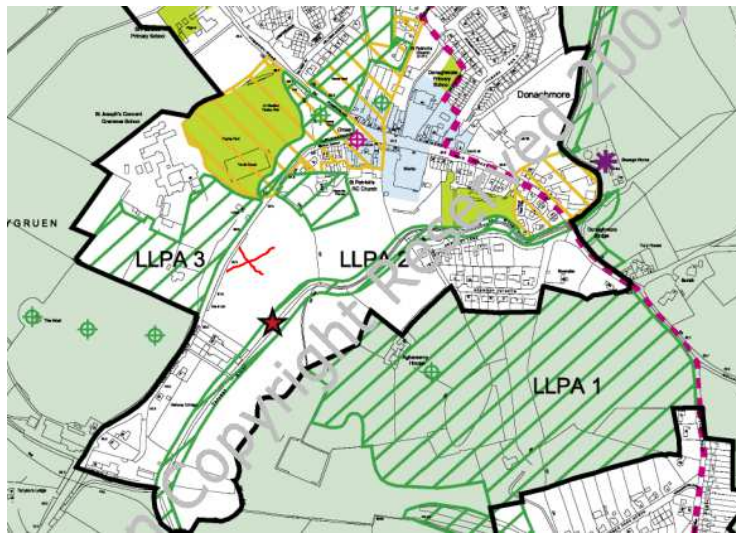
Letters of Support	0
Letters Non Committal	0
Letters of Objection	3
Number of Support Petitions and	

signatures	
Number of Petitions of Objection and signatures	

Summary of Issues

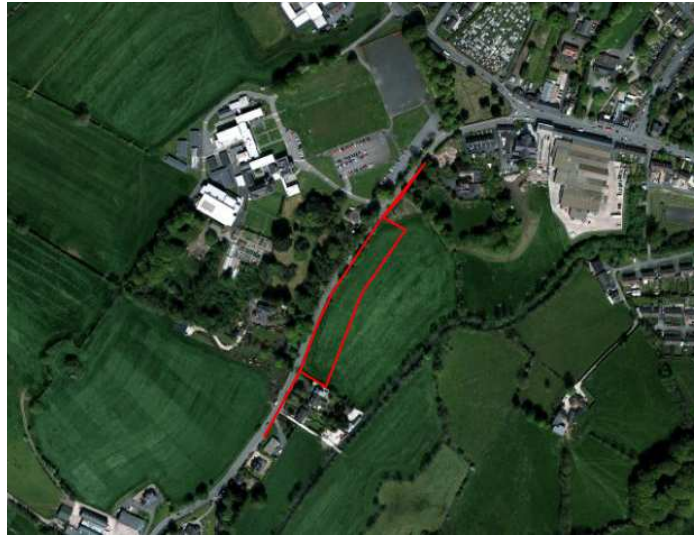
Characteristics of the Site and Area

This application site is a rectangular plot of land which is opposite No 56 Castlecaulfield Road in Donaghmore. It occupies the western portion of an agricultural field and sits alongside and to the east of the Castlecaulfield Road. It is located in the south western part of Donaghmore village and is whiteland in the Dungannon and South Tyrone Area Plan (DSTAP). St Joseph’s Convent School and grounds are on the opposite side of the road of this site which is part of Local Landscape Policy Area (LLPA) 3, as well as St Patrick’s Parochial House and St Patrick’s RC Church. The Torrent River to the east of the site is designated as LLPA 2 and is also part of the larger Site of Local Nature Conservation Interest (SLNCI) in DSTAP.



This application site is 40 metres deep, has a frontage of approximately 210 metres and is 0.81 hectares. The southern boundary of the site forms the curtilage of No 55 Castlecaulfield Road and is a hedgerow with some trees. Adjacent to this boundary to the south of the site are 2 pairs of two storey semi-detached dwellings, with 3 detached 2 storeys beyond this. The western roadside boundary is a low hedgerow with a grassed verge and the northern boundary is undefined on the ground. Beyond this northern boundary is a triangular portion of land which has been planted at some stage, with a post and wire road frontage which continues approximately 20 metres to the north of the site’s boundary to where an access leads down to a gated barrier. St Patrick’s Parochial

House and grounds sits to the north of this access laneway. The eastern boundary of the application site is undefined as the land falls to the where the Torrent River runs approximately 60 metres from the rear of the site.



Planning History

LA09/2017/1595/O - Proposed Housing Development - Lands Opposite 56 Castlecaulfield Road, Donaghmore – Approval - 24.05.2019

Description of Proposal

This application seeks outline planning permission for Housing Development on lands opposite No 56 Castlecaulfield Road, Donaghmore.

Consultations and Representations

NI Water were consulted and have stated there is available capacity at the Donaghmore WWTW for a maximum period of 18 months from the date of their consultation response. They confirmed there is no public foul sewer within 20m of the proposed development boundary however access is available via extension of the existing foul sewerage network and this can be requested by NI Water in accordance with Article 154 of the Water and Sewerage Services (Northern Ireland) Order 2006.

DfI Rivers were consulted to provide comment on the Flood Risk Assessment (FRA) submitted with this application. As the FRA states the site lies outside of the 1 in 100-year fluvial flood plain and therefore DFI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. However due to its location close to the flood plain, they advise all finished floor levels (including gardens,

driveways and paths) should be placed at a minimum of 600mm above the predicted 1 in 100-year fluvial flood level. The FRA refers to a Drainage Assessment which was submitted as part of the previous application is incomplete, however a pre-commencement condition to submit an up-to-date Drainage Assessment can be attached to any permission granted.

The Environmental Health section of mid Ulster District Council have noted that connection to the main sewer must be via an extension of the existing foul sewerage network and there is the potential for this pump causing issues in relations to noise. They advise the agent to adhere to the Clean Neighbourhood and Environment Act (NI) 2011 to ensure all plant and equipment is situated, operated and maintained as to prevent the transmission of noise.

The Water Management Unit (WMU) of NIEA have no objection to this proposal, subject to the inclusion of a condition regarding sewage disposal for the proposed development.

DfI Roads were consulted and have no objection subject to the provision of 2.4 metres by 70 metres in both directions and a forward sight distance of 70 metres to be detailed on a scale plan as part of any subsequent application.

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All 14 relevant neighbouring properties have been notified of this planning application.

There were 2 objections to this proposal from a neighbouring resident highlighting a number of concerns,

- The proposal has not taken into consideration the impact of traffic and congestion which already exists on the Castlecaulfield Road due to the “unmanaged entrance” of St Joseph’s Grammar School on a Monday – Friday.
- There is concern over having to set back the walls and pillars of the Parochial House in order to provide visibility splays.
- Absence of additional traffic speed bumps
- Increase in traffic will have pollution and environmental impacts
- Inadequate up-to-date information within the Flood Risk Assessment.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the

application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS outlines the aim to providing sustainable development and with respect to that should have regard to the Development Plan and any other material considerations. It retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. As this application site is located the settlement limits of Donaghmore as defined in the DSTAP, SETT 1 is a relevant policy. I am content that if the proposal complies with PPS7, it will also comply with SETT 1.

Policy QD1 - Quality in New Residential Development in PPS7 - Quality Residential Environments states all proposals for residential development will be expected to conform to a list of criteria. As this site is located within the development limits of Donaghmore on whiteland, there is a presumption for development. This part of Donaghmore includes St Joseph's Grammar School and a number of residential properties. The site itself is currently a visual gap on the outskirts of the village but within the settlement limits. The agricultural fields included in this application site and those beyond to the east gave this part of the village a strong rural appearance.

The premise of residential development has already been granted on this site in May 2019 under application LA09/2017/1595/O. As this proposal is only an outline planning application, there are no details provided to determine if the development does respect the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions. Full details on the density, design, layout, appearance of buildings, amount of landscaped and hard surfaced area will be a matter for consideration for any subsequent application on this site.

In this part of Donaghmore village, there are 2 features close to this site which are of special architectural and historic interest and thereby protected by Section 80 of the Planning Act (NI) 2011. The Historic and Environmental Division (HED) of NIEA were

consulted and the Archaeology and Built Heritage section identified the Grade B+ Listed Building of St. Joseph's Convent Grammar School - HB13/15/001 and the Grade B2 East Gate Lodge at St Joseph's Convent - HB13/15/016.

HED (Historic Buildings) have agreed in principle with this residential development but require further information on the scale, height, massing and alignment shown in context with the listed buildings. As this application seeks outline permission, specific details are not required at this stage. If this application is granted permission, the details mentioned above can be assessed by HED at Reserved Matters stage to determine if this proposed development integrates successfully with these protected features. Overall HED have no concerns subject to pre-commencement conditions regarding Archaeological Works in line with BH 4 – Archaeological Mitigation in PPS 6 Planning, Archaeology and the Built Heritage.

The provision for landscaped areas as well as public and private open space associated with each individual dwelling will be assessed at Reserved Matters stage taking into consideration the standards in Creating Places. Boundary treatment of each individual property and all landscaping details must be clearly identified on the drawings and can be conditioned. I feel it is necessary to ensure the eastern boundary to the rear of the site is planted to provide some degree of enclosure, while softening the visual impact of the development and assisting in its integration with the surrounding area.

There is no requirement for the developer to provide local neighbourhood facilities as part of this planning application due to its scale of the proposed development. However potential occupants will be able to access a range of existing facilities provided in the village. The location of this site within the development limits means most methods of movement and transport connections are readily accessible. There is currently a footpath on the opposite side of the road which continues on to the edge of the settlement limits of the village to the south of the site.

The desired amount of parking space that must be provided is dependent on the number of dwellings and the number of bedrooms each dwelling provides. These details are not known at this time and will be assessed at a later stage taking Creating Places into consideration, as will the design features and details of the development.

Due to the location of this site along the roadside in an agricultural field, I do not think there would be any overlooking or overshadowing issues. However at this outline application stage of the decision-making process, there is not available information whereby to determine if there could be any conflict with adjacent land uses and that there will be no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

I am satisfied the proposed residential development on this application site will consider ways to deter crime and promote personal safety through its design process and layout configuration. These details can be fully assessed at Reserved Matters stage.

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 the creation of a new access off the Castlecaulfield Road into the site.

The objector's main concerns were regarding road safety and the ongoing congestion problems of the village. This site lies within the 40 miles per hour speed limits which facilitates a reduction in speed already. The ongoing traffic issues in the village are a result of increased traffic journeys by car and the organic configuration of the village does not help this. In the interests of road safety and the regulation of traffic flow, DfI Roads were consulted and have no objection subject to the provision of 2.4 metres by 70 metres in both directions and a forward sight distance of 70 metres to be detailed on a scale plan as part of any subsequent application. They also stated the access shall be at a right angle to the public road over a distance of 5.0 metres as measured from the near edge of the public road and to be paired. The public road fronting site must be widened to a minimum width of 6.0 metres and a footway 2 metres in width shall be provided along the site frontage and connect to the existing footway network.

PPS 15 - Planning and Flood Risk

This application was submitted with a Flood Risk Assessment (FRA) and DfI Rivers were consulted to provide comment. The FRA demonstrated the site lies outside of the 1 in 100-year fluvial flood plain. However due to the site's location close to the flood plain, DFI Rivers advise that all finished floor levels (including gardens, driveways and paths) should be placed at a minimum of 600mm above the predicted 1 in 100-year fluvial flood level. They also commented on the incomplete Drainage Assessment which was submitted as part of the original application in 2017. DFI Rivers have no objections from a drainage or flood risk perspective and recommend approval, subject to a pre-commencement condition requiring the developer to submit an up-to-date Drainage Assessment be attached to any permission granted. This condition should also help alleviate any concerns the objector raised regarding this issue and safeguard against flood risk to the proposed development and elsewhere.

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

Summary of Recommendation:

Approve is recommended

As there was an objector to this development proposal, it cannot be dealt with through

the Council's Scheme of Delegation and must be decided by the Mid Ulster District Council's Planning Committee.

Having taken into consideration the objector's concerns identified above, I am satisfied this proposed residential development proposal complies with the provisions of the SPPS, Dungannon and South Tyrone Area Plan as well as PPS 3, 7 and 15. I would also refer the members to the planning history on this application site which has already established the suitability of this site for residential development, therefore I recommend permission is granted, subject to conditions.

Approval Conditions

Condition 1

Application for approval of the reserved matters shall be made to Mid Ulster District 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 Mid Ulster District Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of Mid Ulster District 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 reserved matters submission shall include a plan of the site indicating the existing

and proposed contours, the finished floor level(s) of the proposed building(s) and the position, height and materials of any retaining walls.

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 scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1 dated 29th November 2022 and as generally indicated on the approved drawings.

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

Condition 6

No development should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure protection to the aquatic environment.

Condition 7

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

The POW shall provide for:

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

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

Condition 8

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under Condition 7.

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

Condition 9

A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under Condition 7.

These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

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

Condition10

Prior to the commencement of any approved development on site, a final Drainage Assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to Mid Ulster District Council for its consideration and approval in consultation with DfI Rivers.

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

Condition11

All finished floor levels (including gardens, driveways and paths) of each proposed building should be placed at a minimum of 600mm above the predicted 1 in 100-year fluvial flood level.

Reason: To prevent damage from potential flooding.

Condition12

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. The scheme shall include details of those trees to be retained and measures for their protection during the course of development. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

Condition13

A Landscape Management Plan shall be submitted to include details of all existing vegetation within the site indicating those trees 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.

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

Condition14

Details of the maintenance and management in perpetuity of the open space and landscaped areas by a Management Company supported by a charitable trust or properly constituted residents association with associated management arrangements, or other such arrangements agreeable to Mid Ulster District Council, including a signed copy of the Memorandum and Articles of Association in accordance with the Landscape Management Plan shall be submitted to and agreed in writing, prior to the occupation of the first dwelling hereby permitted and finalised to the satisfaction of Mid Ulster District Council.

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

Signature(s): Cathy Hughes

Date: 18 July 2023

ANNEX	
Date Valid	20 September 2022
Date First Advertised	4 October 2022
Date Last Advertised	4 October 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 56 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier 47 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier 49 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier 51 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier 53 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier 55 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier 50 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier St Joseph's Convent School, 58 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier 61 Castlecaulfield Road Donaghmore Dungannon The Owner / Occupier RNN - 67 Castlecaulfield Road Donaghmore Dungannon</p>	
Date of Last Neighbour Notification	12 October 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/2004/0969/Q Proposals: New School Buildings Decision: 300</p>	

Decision Date: 19-JAN-05

Ref: M/2014/0502/LBC

Proposals: Alterations to reinstate gate lodge to original detail and character

Decision: CG

Decision Date: 28-JAN-15

Ref: M/1992/0571

Proposals: Erection of Dwelling

Decision: PG

Decision Date:

Ref: M/2010/0307/F

Proposals: Conversion of existing single storey outhouse/garage to dwelling with single storey side and rear extensions

Decision: PG

Decision Date: 03-JUN-10

Ref: M/1992/0571B

Proposals: Erection of Dwelling

Decision: PG

Decision Date:

Ref: M/2003/0877/F

Proposals: Domestic garage and store

Decision: PG

Decision Date: 14-OCT-03

Ref: LA09/2022/1400/O

Proposals: Housing Development

Decision:

Decision Date:

Ref: M/2012/0526/F

Proposals: Two storey side kitchen/living and bedroom extension with new covered area to front door

Decision: PG

Decision Date: 09-NOV-12

Ref: LA09/2017/1595/O

Proposals: Proposed Housing Development

Decision: PG

Decision Date: 02-AUG-19

Ref: M/1997/0793

Proposals: Dwelling

Decision: PG
Decision Date:

Ref: M/2012/0158/F
Proposals: First Floor Copper Clad Bathroom Extension to Rear
Decision: PG
Decision Date: 08-MAY-12

Ref: M/2005/0652/F
Proposals: New replacement school.
Decision: PG
Decision Date: 13-JUN-06

Ref: LA09/2018/1482/LBC
Proposals: Priority 1 remedial works
Decision: CG
Decision Date: 28-JUN-19

Ref: M/2012/0062/F
Proposals: Proposed 2 no. stand alone classrooms of modular construction. Music classroom with associated group rooms and ancillary accommodation. Art room with associated ICT room and ancillary accommodation
Decision: PG
Decision Date: 26-MAR-12

Ref: LA09/2020/0129/F
Proposals: Proposed Alterations & Extension to include a Kitchen and a living area to 50 Castlecaulfield Road, Donaghmore, Co Tyrone
Decision: PG
Decision Date: 16-APR-20

Ref: M/1993/6002
Proposals: Proposed uses and history of land Castlecaulfield Road Donaghmore
Decision: QL
Decision Date:

Summary of Consultee Responses

Environmental Health Mid Ulster Council-Planning Response LA09-22-1400.pdf
Historic Environment Division (HED)-
NIEA-PRT LA09-2022-1400-O.PDF
DFI Roads - Enniskillen Office-RS1 Form.docConditions.docx
Rivers Agency-745050 final.pdf
NI Water - Multiple Units West-LA09-2022-1400-O.pdf
Historic Environment Division (HED)-
Environmental Health Mid Ulster Council-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01 Rev 1
Site Layout or Block Plan Plan Ref: 02 Rev 1
Site Layout or Block Plan Plan Ref: 03 Rev 1
Site Location Plan Plan Ref: JA1066 / 101 / A1
Site Layout or Block Plan Plan Ref: JA1066 / 103 / A2
Site Layout or Block Plan Plan Ref: JA1066 / 104 / A2

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 August 2023	Item Number: 5.3
Application ID: LA09/2022/1470/F	Target Date: 20 January 2023
Proposal: Compost manufacturing facility unit	Location: 10A Ferry Road, Coalisland
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Evergreen Horticulture 10A Ferry Road Coalisland BT71 4QT	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Shared Environmental Services	LA09-2022-1470-F HRA_Stage_2_AA_080320 23.pdf
Statutory Consultee	Rivers Agency	460720 - Final reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist.doc Roads Consultation blank.docx
Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	NIEA	PRT - LA09-2022-1470-F.PDF
Statutory Consultee	NIEA	PRT LA09-2022-1470-F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response 4.pdf
Statutory Consultee	NIEA	PRT LA09-2022-1470-F.PDF
Statutory Consultee	Rivers Agency	
Non Statutory Consultee	NIEA	PRT LA09-2022-1470-F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response (2).pdf

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	11
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 in the open countryside just a short distance to the East of the settlement limits of Clonoe and on the shores of Lough Neagh to the East. The area is defined by a mix of detached dwellings and indigenous businesses. Land is mostly agriculture. The Washingbay Centre and Playing Fields are located

to the north.



The site is located along Ferry Road, and includes an existing peat business Evergreen Horticulture and to the east a modest detached bungalow. The site is accessed via a concrete laneway which has two large pillars and a double gated entrance.



Inside the gates there was a large concreted yard filled with piles of loos peat and palletes of pre packaged peat as well as numerous bits of machinery and vehicles.

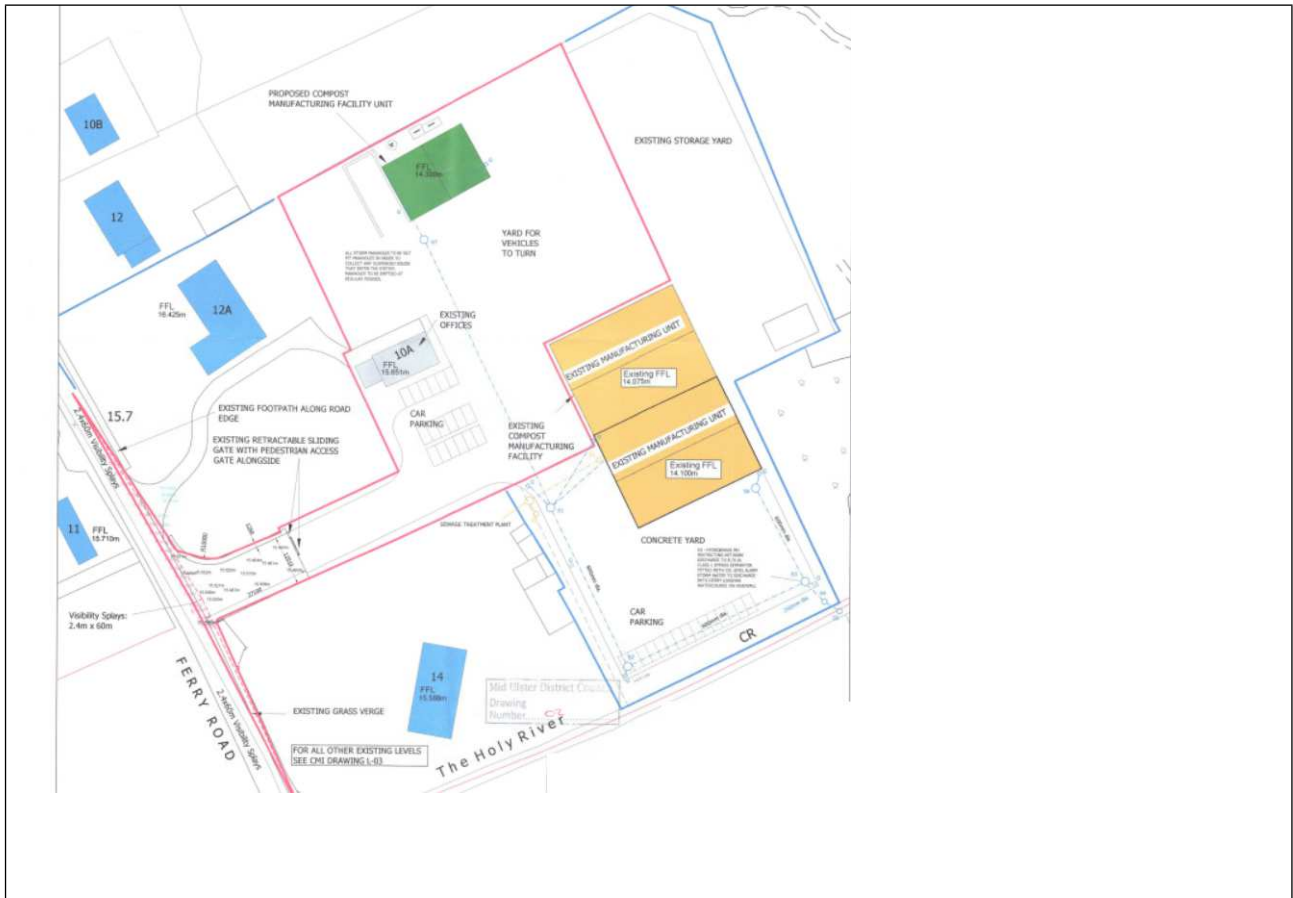


The existing large shed acts as the eastern boundary, the southern boundary here is a wire mesh fence and outhouse between the site and the neighbouring dwelling.

The Holy River which drains into Lough Neagh runs just south of the site. There is also a row of mature trees along this boundary. The shores of Lough Neagh lie approx. 100m east of the site and there is a copse of mature trees between the site and the Lough.

Description of Proposal

The proposal seeks full planning permission for a compost manufacturing facility unit.



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.

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

This is the extant plan for this area. 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.

The proposal is located in the open countryside. There are no specific plan policies that are relevant to this proposal. The policy provisions of SPPS, PPS21 and PPS4 apply.

Key Planning Policy

Regional Development Strategy 2035

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Policy Statement 4- Planning and Economic Development.

Planning Policy Statement 3: Access, Movement and Parking

PPS 15: Planning and Flood Risk (revised)

Relevant Planning history

M/1983/0455- Peat manufacturing plant and store, permission granted.

M/2000/0400/F- Commercial offices to service adjoining peat processing and packaging factory, granted 09.11.2000

LA09/2020/1196/f - Extension to existing compost manufacturing facility to facilitate the relocation of existing bagging plant – Granted 13/04/22

Third Party Representations

The proposal was advertised in the local press and neighbour notification carried out in line with Council's statutory duties.

A number of 3rd party objections have been received, and the issues are summarised below. The full objections can be viewed on the planning portal;

- Concerns raised over actual vehicle movements, questioning the validity of the TAF.
- Currently vehicles from the existing development are parking on the public road, and that the development will exacerbate the problem, causing road safety concerns to all existing road users;
- Build up of traffic on unsuitable road network including forklift journeys between site and 245 Washingbay Rd;
- Red line across the road
- the development will have a detrimental impact on the natural habitat and wildlife, including potential pollution to the nearby Holy River and Lough Neagh and on the bird and bat population;
- development not needed as peat extraction coming to an end in Ireland soon.
- NIE issues/power shortages

Consideration

SPPS

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. 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. There is no conflict between SPPS and retained policy in this case.

PPS21

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

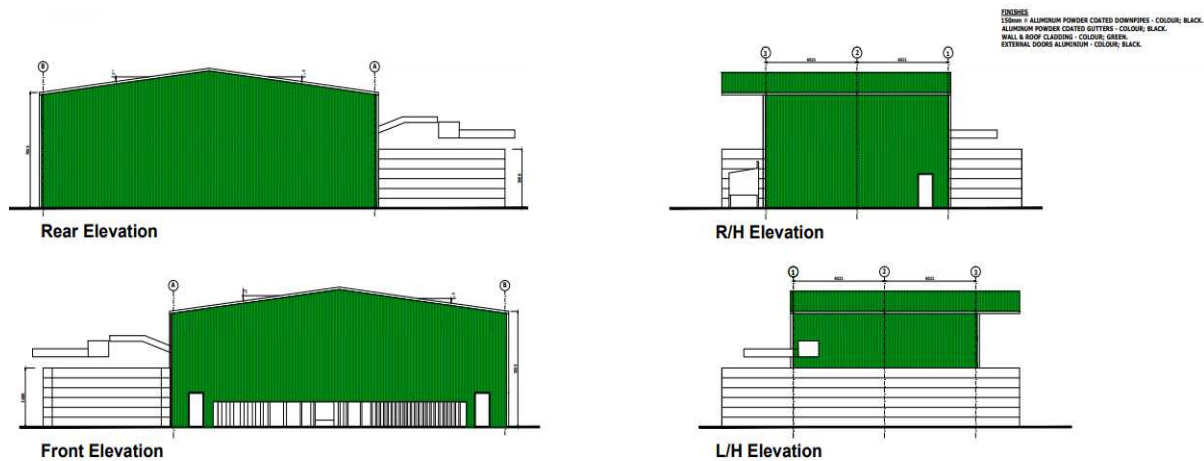
It is clear from the previous planning history that there is an existing established commercial peat processing and packaging factory and yard at this site. This proposal aims to expand the existing peat business by adding a new compost manufacturing facility unit.

The applicant has clarified by email that this proposal does not involve any increase in peat brought onto the site, the compost will be processed from recycled wood chippings. An objector raised concern over the need for this peat facility as peat extraction in Ireland is coming to an end. The demonstration of need in this particular case is not a policy requirement. As with all businesses, they adopt to change or diversify where obstacles and challenges are met. I do not find the objectors concerns in this regard to be determining to this application.

Policy PED 3- Expansion of an Established Economic development Use in the Countryside of PPS4 is the appropriate policy in which to assess this application.

PED 3 allows for the expansion of an established economic development use in the countryside where the scale and nature of the proposal will not harm the rural character of the area or appearance of the local area and there is no major increase in the site area of the enterprise.

The applicant’s intentions are to build a new unit in the North portion of the site, the main body of the unit measures 12m x 22m with a chip store to the side measuring 8m x 20m. The unit is also 7 metres high. The proposed building will match the size, scale and design of the existing building, in fact will be somewhat smaller in scale than the existing and the ridge will not be higher than the building on site.



The building will be well enclosed with existing hedgerows and boundary fences and screened from the public road by existing development. Environmental Health do not raise any concern over odour and

noise issues. In my view the proposed extension will not ruin the harm or rural character of this area and does not represent any increase to the site area in this case.



The policy states that proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. As the two existing buildings were full to capacity at the time of site visit it is clear this is not possible. This part of the policy is met.

One objection raised the issue of the red line of the site including an area across the main road, this was raised with the applicant and the red line was then reduced. I find the proposal to be of scale and nature that is acceptable for this site and area and will not have a detrimental impact on the appearance of the local area and does not represent a major increase in the site area of the enterprise. PED 3 is met.

All proposals for economic development use will be required to meet criteria contained within policy PED 9 General Criteria of Economic Development Use.

Criteria a. There is an established economic development use that is being extended. While the proposal is close to the rear boundary of No. 12, Environmental Health raise no concerns subject to the acoustic fence. I find the use to be compatible with it's surroundings.

Criteria b. Environmental Health were consulted on this proposal and advise that acoustic conditions be attached to any permission. The existing factory is also beside No. 12 and EHD have not raised any history of noise complaints in their consultation reply. There will be no issues of overlooking or overshadowing of neighbouring property. I am satisfied that the development will not harm the amenities of nearby residents subject to noise mitigation conditions being attached.

Criteria c. The site is not located within or beside any known area that is protected for it's built heritage. The site is located adjacent to Holy River, and close to the shores of Lough Neagh ASSI/SAC. Consultation was carried out with NIEA and SES on this proposal and the agent has provided environmental reports

and information to demonstrate that the proposal will not have a negative impact on the natural environment and wildlife. A flood risk and drainage assessment were also provided, and all consultees are now content with this proposal subject to conditions. I am satisfied that the objectors concerns are not determining in this instance and that it has been demonstrated by the agent that the development will not have a detrimental impact on the environment.

Criteria d. The agent has provided information to show that the development is not located within the 1:100 floodplain of Lough Neagh, and Rivers Agency have accepted this. Rivers Agency are content that the development will not cause flooding elsewhere.

Criteria e. I am satisfied that the proposal will not cause a noise nuisance to surrounding residential properties.

Criteria f. On the P1 form the agent has indicated that sewage from the site will be dealt with through existing septic tank arrangements. Other waste streams will be dealt with through removal by licensed contractors. Discharge consent of storm water will be applied for under separate legislation. No consultees have raised any concern over other emissions or effluent from the site. I am content that all emissions or effluent from the site can be dealt with.

Criteria g. One of the main concerns relayed in the objections received were surrounding vehicle movement, parking, road safety concerns, traffic build up, unsuitable road network and inaccuracies within the TAF.

DfI Roads were consulted on this proposal and raise no objections over access to the site, or the capacity of the road network in safely handling extra vehicles. There is acceptable parking, access and manoeuvring of vehicles and DfI Roads have no concerns in this regard subject to planning conditions which will be listed later in my report. I visited the site three times over a six month period and I didn't experience an unacceptable level of road traffic. On all occasions there was enough space with the parking area, and I had no issues in turning. In this respect I am also satisfied that the policy provisions contained within PP3 have been met, and that a safe and satisfactory access to the site can be achieved. In my view 3rd party objections in relation to road safety issues are not determining in this instance.

Criteria h and i. Access to the site, is mostly by private or service vehicles. DfI Roads raised no requirement for foot path provision. Due to the location of the site, I am satisfied that appropriate access can be obtained by those using or visiting the site.

Criteria j. I am satisfied that most existing trees and hedgerows can be retained, and that the development represents a sustainable design, respectful of the environment.

Criteria k and m. Existing natural boundaries that are important for screening the site can be retained and will help integrate the site into the landscape. Most natural screening to the site falls outside the site boundaries.

Criteria l. The perimeter of the site will be enclosed by hedging or fencing which will deter crime and promote personal safety.

I am satisfied that the spirit of this policy is met.

Other Consideration

No land contamination issues have been identified.

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

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 3

Within 4 weeks from planning approval, the 3.5m high acoustic barrier with a surface weight of at least 30kg/m2 or greater, shall be erected, maintained and permanently retained, as indicated on drawing 02RevB, date stamped 08 MAR 2023.

Reason: To protect nearby residential amenity from noise.

Condition 4

All walls and roof facades of the buildings hereby approved shall be constructed using the below building material or equivalent and shall achieve a minimum sound Reduction Index of at least those values set out in Table 1:

Table 1:

Name	Octave Spectrum (dB)								
	31.5	63	125	250	500	1000	2000	4000	Rw
Kingspan KS1000 RW	-	13.0	16.0	21.0	24.0	20.0	25.0	42.0	24.0

Reason: To protect nearby residential amenity from noise.

Condition 5

The level of noise from the generator shall not exceed 51dB(A) as measured at 7 metres.

Reason: To protect nearby residential amenity from noise

Condition 6

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 compliance with predicted noise levels stated within the Grainger Acoustics Ltd, Acoustic Report, dated March 2023 revised, Version v 03 iss. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council 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.

Informative 1

Water Management Unit are satisfied that the applicant has made the necessary revisions to the Construction Environmental Management Plan (CEMP) to protect the local water environment.

The applicant must refer to and adhere to all the relevant precepts contained in DAERA Standing Advice Pollution Prevention Guidelines paying particular regard to:

- o Their responsibilities regarding oil storage
- o The use of oil separators in surface water drainage systems

Water Management Unit recommends the storm drainage of the site (where appropriate) should be designed to the principles of Sustainable Drainage Systems (SuDS).

The contractor / person carrying out the works is responsible for ensuring that any and all required mitigation measures are in place and ultimately under the Water (Northern Ireland) Order 1999 is liable for any discharge or deposit, whether knowingly or otherwise, of any poisonous, noxious, or polluting matter so that it enters a waterway or water in any underground strata.

The applicant should note discharge consent, issued under the Water (Northern Ireland) Order

1999, is required for any discharges to the aquatic environment and may be required for

site drainage during the construction phase and may be required during the operational phase of the development.

Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications.

It should be noted that Discharge Consent can only be assessed whenever the department has received an application deemed complete as a number of site-specific factors need to be taken into account in assessing the suitability of the proposed means of effluent disposal and the applicant should note there is no guarantee that Discharge Consent will be granted.

No development should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

This condition is to ensure protection to the aquatic environment and to help the applicant avoid incurring unnecessary expense before it can be ascertained that a feasible method of sewage disposal is available. This includes the purchase of any wastewater treatment plant.

Signature(s): Peter Hughes

Date: 10 July 2023

ANNEX	
Date Valid	7 October 2022
Date First Advertised	18 October 2022
Date Last Advertised	18 October 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 12 Ferry Road Coalisland Tyrone BT71 4QT The Owner / Occupier 10A Ferry Road Coalisland Tyrone BT71 4QT The Owner / Occupier 12A Ferry Road Coalisland Tyrone BT71 4QT The Owner / Occupier 14 Ferry Road Coalisland Tyrone BT71 4QT	
Date of Last Neighbour Notification	13 October 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses Shared Environmental Services-LA09-2022-1470-F HRA_Stage_2_AA_08032023.pdf Rivers Agency-460720 - Final reply.pdf DFI Roads - Enniskillen Office-DC Checklist.docRoads Consultation blank.docx	

Environmental Health Mid Ulster Council-Planning response.pdf
NIEA-PRT - LA09-2022-1470-F.PDF
NIEA-PRT LA09-2022-1470-F.PDF
Environmental Health Mid Ulster Council-Planning response 4.pdf
NIEA-PRT LA09-2022-1470-F.PDF
Rivers Agency-
NIEA-PRT LA09-2022-1470-F.PDF
Environmental Health Mid Ulster Council-Planning response (2).pdf

Drawing Numbers and Title

Site Layout or Block Plan Plan Ref: L02 B
Site Location Plan Plan Ref: 01 Rev A
Site Location Plan Plan Ref: 01
Site Layout or Block Plan Plan Ref: 02
Site Layout or Block Plan Plan Ref: 03
Existing Plans Plan Ref: 04
Existing Plans Plan Ref: 04A

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 August 2023	Item Number: 5.4
Application ID: LA09/2022/1475/F	Target Date: 30 January 2023
Proposal: The application forms part of the overall Clogher Active travel scheme being developed by MUDC & DFI. The scheme will link existing footpaths on the station road and the ballymagowan road to create a link around the area. This application contains the formalisation of 2 existing entrances along this section being changed into vehicle entrances as part of the works. D01 & D01A - Change of an existing pedestrian entrance into a vehicle entrance D02 & D02A - Change of an existing field entrance gate into vehicle & commercial vehicle entrance for HGV's/timber lorries to access the existing timber yard business	Location: 2 Properties Entrance Formalisations - One At 47 Station Road Clogher Co.Tyrone Bt760aq And The Other At 57A Station Road Clogher
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: MUDC Burn Road Cookstown BT80 8DT	Agent Name and Address: No Agent
Executive Summary: This application is being presented to the Planning Committee for determination as the application is being made on behalf of Mid Ulster District Council.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 2.docx
Statutory Consultee	DFI Roads - Enniskillen Office	previously answered
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 2.docx
Statutory Consultee	Historic Environment Division (HED)	

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site is located within the development limits of Clogher as identified in the Dungannon and South Tyrone Area Plan 2010. The application site relates to two strips of land, one on the Station Road and another on the Ballymagowan Road.

The surrounding area has a mixture of uses including residential and commercial given its location within Clogher. Clogher Mart lies to the west of the site on the Station Road.

Description of Proposal

The application forms part of the overall Clogher Active travel scheme being developed by MUDC & DFI. The scheme will link existing footpaths on the station road and the Ballymagowan road to create a link around the area. This application contains the formalisation of 2 existing entrances along this section being changed into vehicle entrances as part of the works. D01 & D01A - Change of an existing pedestrian entrance into a vehicle entrance D02 & D02A - Change of an existing field entrance gate into vehicle & commercial vehicle entrance for HGV's/timber lorries to access the existing timber yard business

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Representations

Nine (9) no. neighbour notifications have 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.

Relevant Planning History

There are no relevant histories pertinent to this application.

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 Clogher which gives favourable consideration to proposals, subject to criteria outlined within the plan policy. There are no other specific

designations or zonings. Policy SETT 1 is relevant.

Plan Policy SETT 1 – Settlement Limits states that 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.

I feel that the proposal is sensitive to the size, character and function of Clogher in terms of scale, form, design and use of materials as it is minor in nature and will link existing footpaths on the Station Road and Ballymagowan Road to create a link around the area. I do not consider there will be a significant detrimental affect on amenities, nor is there any conflict with recognised conservation interests.

Local Development Plan 2030 - Draft Plan Strategy

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

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.

Paragraph 2.1 states the planning system should positively and proactively facilitate

development that contributes to a more socially economically and environmentally sustainable Northern Ireland. The guiding principle of the SPPS 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.

Paragraph 6.293 further states that the successful integration of transport and land use is fundamental to the objective of furthering sustainable development. Planning has a vital contributing role for improving connectivity and promoting more sustainable patterns of transport and travel. Consequently, the relevant policy context is provided by Planning Policy Statement 3 – Access, Movement and Parking. I am content that as the proposal complies with SETT 1 the main consideration is now PPS 3.

PPS 3 - Access, Movement and Parking

This application contains the formalisation of 2 existing entrances along this section being changed into vehicle entrances as part of the works. On the Station Road it involves the change of an existing pedestrian entrance into a vehicle entrance. On the Ballymagowan Road it involves the change of an existing field entrance gate into vehicle & commercial vehicle entrance for HGV's/timber lorries to access the existing timber yard business. New footpaths and grass verges will be provided at both points. The overall scheme will link existing footpaths on the Station road and the Ballymagowan road to create a link around the area. This introduces a degree of betterment in accordance with the provisions of Policy AMP 1 and AMP 2 of PPS 3.

DFI Roads were consulted on this application and responded that it is recommended and good practice in accordance with guidelines to keep the number of accesses to a minimum. If the additional access is to be approved by Council, then the applicant should be informed of the following conditions/informatives. The condition will state that the vehicular access (es) including visibility splays shall be provided in accordance with the approved drawings prior to the commencement of any other footway construction Works associated with the Clogher Active Travel Scheme.

PPS 6 - Planning, Archaeology & the Built Heritage

HED (Historic Buildings) were also consulted on the application due to the proximity of Listed buildings on the Station Road, in accordance with the requirements of Policy BH11 – Development affecting the Setting of a Listed Building. Their remit is in relation to aspects of the proposals which are situated within the setting of the above-mentioned listed buildings i.e., on Station Road.

In their previous response dated 16th December 2022, they had concerns in relation to the proposal. However following communication with the Agent via email in May 2023 and submission of revised drawings, they can confirm that they consider the proposal now satisfies policy, and they request the following condition:

The proposal shall be strictly in accordance with the planning drawings published to the MUDC planning portal on 24th May 2023.

Reasons:

1. To ensure that the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the buildings.
2. To ensure the nature of the use proposed respects the character of the setting of the buildings.

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 I have no flooding concerns.

I am satisfied that having considered the SPPS and criterion set out in SETT 1 in the Dungannon and South Tyrone Area Plan, this proposal meets the policy requirements and is compatible with the surrounding land uses. I also have no flooding, ecological or residential amenity concerns and therefore I recommend 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.

Condition 2

The vehicular access (es) including visibility splays shall be provided in accordance with the approved drawings prior to the commencement of any other footway construction Works associated with the Clogher Active Travel Scheme. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level

of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

The proposal shall be strictly in accordance with the planning drawings published to the MUDC planning portal on 24th May 2023.

Reasons:

1. To ensure that the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the buildings.
2. To ensure the nature of the use proposed respects the character of the setting of the buildings.

Signature(s): Deirdre Laverty

Date: 5 July 2023

ANNEX	
Date Valid	17 October 2022
Date First Advertised	3 November 2022
Date Last Advertised	3 November 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 6 Ballymagowan Road Clogher BT76 0AG The Owner / Occupier 7 Ballymagowan Road Clogher BT76 0AG The Owner / Occupier 8 Ballymagowan Road Clogher BT76 0AG The Owner / Occupier 8A Ballymagowan Road Clogher BT76 0AG The Owner / Occupier 47 Station Road Clogher BT76 0AQ The Owner / Occupier 57 Station Road Clogher BT76 0AQ The Owner / Occupier 57A Station Road Clogher BT76 0AQ The Owner / Occupier 57B Station Road Clogher BT76 0AQ The Owner / Occupier 57C Station Road Clogher BT76 0AQ The Owner / Occupier Clogher Valley Livestock Mart 44 Station Road Clogher BT76 0AQ</p>	
Date of Last Neighbour Notification	20 June 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/1993/0444 Proposals: Canteen for Clogher Cattle Mart Decision: PG Decision Date:</p> <p>Ref: M/2013/0008/LBC Proposals: Proposed alterations and improvements to existing dwelling</p>	

Decision: CG
Decision Date: 08-JUL-13

Ref: LA09/2020/1274/F
Proposals: Change of use from Sawmill and Timber Product manufacturing business to Car Wash and Car valet service

Decision: WDN
Decision Date: 18-JAN-22

Ref: LA09/2022/1475/F
Proposals: The application forms part of the overall Clogher Active travel scheme being developed by MUDC & DFI. The scheme will link existing footpaths on the station road and the ballymagowan road to create a link around the area. This application contains the formalisation of 2 existing entrances along this section being changed into vehicle entrances as part of the works. D01 & D01A - Change of an existing pedestrian entrance into a vehicle entrance D02 & D02A - Change of an existing field entrance gate into vehicle & commercial vehicle entrance for HGV's/timber lorries to access the existing timber yard business

Decision:
Decision Date:

Ref: M/2006/1226/F
Proposals: Proposed covering of existing cattle holding pens
Decision: PG
Decision Date: 13-JUN-06

Ref: M/2013/0264/F
Proposals: Alterations and improvements to listed railway house
Decision: PG
Decision Date: 08-JUL-13

Ref: LA09/2020/1409/F
Proposals: Retrospective change of use from work shop to veterinary surgeons office, with proposed alterations
Decision:
Decision Date:

Ref: LA09/2021/0008/LBC
Proposals: Retrospective change of use from work shop to veterinary surgeons office, with proposed alterations
Decision:
Decision Date:

Ref: LA09/2020/1268/A
Proposals: Double sided hoarding type sign, yellow background with red lettering
Decision: WDN

Decision Date: 18-JAN-22

Ref: LA09/2022/0209/PAD

Proposals: Proposed residential development - 46 no dwellings

Decision: PAD

Decision Date: 26-AUG-22

Ref: M/1980/0499

Proposals: NEW SALE RING AND OFFICE EXTENSION

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Consultation.docx
Historic Environment Division (HED)-
DFI Roads - Enniskillen Office-Roads Consultation 2.docx
DFI Roads - Enniskillen Office-previously answered
DFI Roads - Enniskillen Office-Roads Consultation 2.docx
Historic Environment Division (HED)-

Drawing Numbers and Title

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

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 August 2023	Item Number: 5.5
Application ID: LA09/2023/0025/F	Target Date: 24 April 2023
Proposal: Retention of Agricultural Shed to store machinery	Location: Adjacent to 26A Brookmount Road Ballinderry Bridge Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Francis Rocks 26A Brookmount Road Ballinderry Bridge BT80 0BB	Agent Name and Address: Manor Architects Ltd Stable Buildings 30A High Street Moneymore BT45 7PD
Executive Summary: <p>The proposal has been assessed against under all relevant policy including the Cookstown Area Plan, SPPS, PPS 21, PPS 2 and PPS 3. It is my opinion that the proposal fails to comply with PPS 21 policy CTY 12 in that it has not been demonstrated that the development is on an active and established agricultural holding. The agent contends that the landowner rents fields out on conacre, but no evidence has been provided by way of a conacre agreement and this has been requested previously.</p> <p>The agent also contends the building is to store agricultural vehicles & machinery used for the maintenance and upkeep of field boundary hedgerows, fences & gates. However, it is my opinion that the building larger than what is required for this work. There was a previous approval granted on the site for a domestic shed however, this shed was built instead and is of a larger scale. This application has been made retrospectively to retain the shed built without planning permission. An enforcement case is currently live on the site, with enforcement proceedings on hold pending the outcome of this planning application, as if this application was approved it would rectify the breach.</p> <p>Two letters of objection have been received from one neighbour and have been considered fully in the body of this report and consultee advice sought where necessary.</p>	

Points raised in the objections relate to the scale of the building, the proposed use of the building not relating to agricultural use, drainage arrangements including discharge to a nearby watercourse and health and safety issues regarding the laneway.

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2023-0025-F.DOCX
Non Statutory Consultee	Rivers Agency	75584 - Final Response.pdf
Non Statutory Consultee	NIEA	PRT LA09-2023-0025-F.PDF
Non Statutory Consultee	NIEA	PRT LA09-2023-0025-F.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Full response.docxDC Checklist 1.doc

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

Two letters of objection received. The proposal is contrary to policy CTY 1, CTY 12 & CTY 13.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits and outside any other designations as per the Cookstown Area Plan 2010. The red line of the application site includes part of an existing shared laneway which extends south from Brookmount Road until it meets the site of the building which is located in an existing yard to the rear of 26A Brookmount Road. At the time of the site visit the building was completed with the top of the building finished with metal cladding and block work with smooth render on the bottom half of the building. The yard is relatively flat with the existing shared laneway located adjacent to the southern boundary and travelling west, with the lane rising to a level above the ground level of the building. The southern boundary was defined by a post and wire fence with a low level wall being built at the corner of the laneway. The northern boundary is defined by an existing mature laurel hedgerow with the western boundary defined by a post and wire fence. The surrounding area is rural in nature with the predominant land use being agricultural fields and dispersed dwellings.

Description of Proposal

This is a full planning application for the retention of Agricultural Shed to store machinery

Site History

LA09/2021/0011/F- Replacement shed Adjacent To 26A Brookmount Road Ballinderry Bridge. Permission Granted 4th March 2021.

This shed was approved with the condition that the shed shall be used only for purposes ancillary to the residential use of the dwelling known as No.26a Brookmount Road. Below is an image of the previous approval and another image shown the building on site at the time of the site visit. The building subject to this application is located at the same location within the yard as the previous approval, however it has a larger footprint.



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 2: Natural Heritage
 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 2005 but it has since been closed because it has no agricultural activity for the last five years. The agent then provided a statement of case in which he advised the applicant does not currently use the land for agricultural activity but instead hires it out to two other farmers (David Porte & Andrew Paterson) under conacre. They state further that under this agreement the applicant is obliged to maintain the boundaries, fences and gates and this building is to store the machinery needed. However, no evidence of the conacre agreement was provided to indicate that the business has been active and established for the last 6 years. The agent was asked for evidence of this conacre agreement on 7th June and nothing has been received to date. From this the proposal is contrary to Policy CTY 12 in that it has not been demonstrated the farm holding is active and established.

Although it hasn't been demonstrated that the farm holding is active and established the proposal will be further assessed under Policy CTY 12.

Regarding the policy requirement stating it should be necessary for the efficient use of the holding, following internal group discussions I believe the building on site is not necessary. The agent has stated its purpose is for the storage of agricultural vehicles and machinery used for the maintenance and upkeep of field boundaries and hedges on the farm holding. The farm maps provided (which aren't up-to-date as no single farm payment has been claimed so up-to-date farm maps are not provided by DAERA) show the holding being a modest 8.2hectare and no evidence of the machinery has been provided to justify a building of this size. It should be noted that the previous approval for a domestic shed with a footprint of 132sqm with the new building measuring 181sqm with the ridge height measuring similar to what was approved.

In terms of the character and scale of the building I am not satisfied it is appropriate for its location given the applicant hasn't justified the need for the building to be this large and it is not located on an active and established farm holding, it is therefore contrary to criteria B.

With regards to the building visually integrating, the building is visible when travelling north western on Brookmount Road however given how far it is set back from the road I am content it will integrate. Additional planting would be required on the southern and

western boundaries which has not been shown on the plans but could be addressed by way of a condition.

With regards to the impact on natural or built heritage the objector raised concerns regarding the development a trench being dug and pipes laid running in the direction of a watercourse. NIEA were consulted as a result of these comments and responded to state, "Water Management Unit note the letter of objection and advise that NIEA do not consent storm water discharges to the environment but do, where appropriate, consent discharges of effluents and potentially contaminated site drainage generated during construction or due to the activity taking place at the site." The applicant must refer to and adhere to relevant precepts in DAERA Standing Advice Discharges to the Water. They also stated Discharge to Consent may be required for the development. I am content as NIEA did not raise any planning concerns that the development will not have an adverse impact on the natural or built environment.

In terms of any impact on neighbouring amenity I am content that the proposal is far enough removed from any third party dwellings as to avoid any nuisance. The objector raised concerns regarding the use of the building was not for agricultural purposes but this can be dealt with by way of a planning condition should the application be approved to ensure it is only used for the storage of agricultural machinery and no livestock or business operations should take place in the premises.

As the proposal is for a new building, the applicant is also required 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 or forestry 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.

As the proposal is to be the first agricultural building on the holding, the proposal cannot comply with the above policy requirements. The policy is silent on the provision for first agricultural buildings and as such this proposal fails to meet the policy criteria.

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 am content the building integrates into the landscape but does require additional planting however does not rely solely on this new planting in order to integrate. As previously mentioned, I am not satisfied the design of the building is appropriate for the site and its locality as it is a large building and a strong enough case has been put forward justifying the need for a building of this size. As such fails to comply with 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 previously mentioned, I am content the proposal will not be a prominent feature in the landscape.

PPS 3: Access, Movement and Parking

DFI Roads development control offer no objection to the above mentioned proposal on the condition that it is constructed and maintained to that detailed on plan No 02. The vehicular access is existing and sight visibility lines of 2.4 x 60m are insitu and in place, to be maintained.

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.

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.

Signature(s): Ciaran Devlin

Date: 7 July 2023

ANNEX	
Date Valid	9 January 2023
Date First Advertised	14 March 2023
Date Last Advertised	24 January 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 26A Brookmount Road Cookstown Londonderry BT80 0BB</p>	
Date of Last Neighbour Notification	3 March 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2023/0025/F Proposals: Replacement Agricultural Shed Decision: Decision Date:</p>	
<p>Ref: I/1977/0095 Proposals: BUNGALOW Decision: PG Decision Date:</p>	
<p>Ref: I/1977/009501 Proposals: ERECTION OF FARMHOUSE BUNGALOW. Decision: PG Decision Date:</p>	
<p>Ref: I/1999/0641/F Proposals: Extension to dwelling to provide seperate accommodation. Decision: PG Decision Date: 04-MAY-00</p>	
<p>Ref: LA09/2021/0011/F Proposals: Replacement Shed</p>	

Decision: PG
Decision Date: 04-MAR-21

Ref: I/2005/0047/F
Proposals: Proposed single storey dwelling & domestic garage.
Decision: PG
Decision Date: 15-MAR-05

Ref: I/2004/0432/RM
Proposals: Proposed Domestic Dwelling & Garage
Decision: PG
Decision Date: 17-JUN-04

Ref: I/2003/1042/O
Proposals: New Dwelling
Decision: PG
Decision Date: 21-JAN-04

Ref: I/2004/0675/O
Proposals: Proposed dwelling & domestic garage
Decision: PG
Decision Date: 29-SEP-04

Summary of Consultee Responses

DAERA - Coleraine-Consultee Response LA09-2023-0025-F.DOCX
Rivers Agency-75584 - Final Response.pdf
NIEA-PRT LA09-2023-0025-F.PDF
NIEA-PRT LA09-2023-0025-F.PDF
DFI Roads - Enniskillen Office-Roads Consultation - Full response.docxDC Checklist
1.doc

Drawing Numbers and Title

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

Notification to Department (if relevant)

Not Applicable

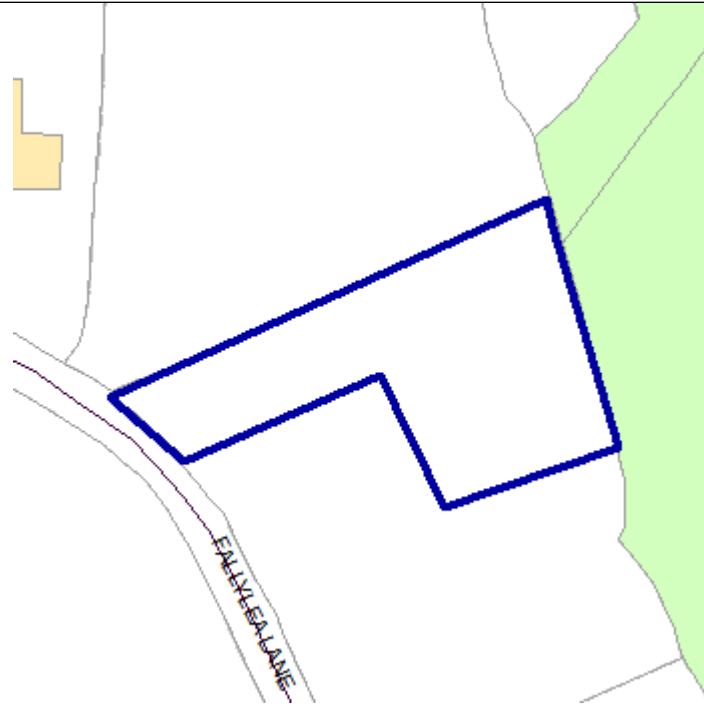


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 August 2023	Item Number: 5.6
Application ID: LA09/2023/0066/RM	Target Date: 5 May 2023
Proposal: Two Storey Dwelling & Detached Garage	Location: 70M South East of 43 Fallylea Lane Maghera
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Michael & Leanne Warnock & McCrystal 22 Tirgan Road Moneymore Magherafelt BT45 7RZ	Agent Name and Address: Mr Joe Diamond 77 Main Street Maghera BT46 5AB
Executive Summary: The applicant is relative of a staff member of the Planning Section of Mid Ulster Council - Malachy Mc Crystal.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	RM 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

This application site is located 70 metres south east of No 43 Fallylea Lane, Maghera. It sits over 3.5 kilometres to the north west of Maghera village, with the Glenshane Road 800 metres to the south of the site. The site lies in the countryside as designated in the Magherafelt Area Plan, with the edge of the Sperrins AONB sitting approximately 200 metres to the north west. The surrounding area is typically rural with single dwellings

dispersed throughout and agricultural fields the dominant landuse.

The site occupies almost half of a flat agricultural field which sits alongside and to the east of Fallylea Lane. The existing agricultural entrance to the field is on the outer corner of a slight bend on this minor road. At the time of the site inspection, some round bales were stored in the field close to the gate. A triangular shaped field occupies a position to the north of the application site and has a very small opening where it accesses the public road. This field separates the site from No 43 Fallylea Lane which sits approximately 60 metres to the north west. A bungalow at No 39 sits approximately 100 metres to the south of the site.



The western boundary of the host field which runs along the roadside is an established hedgerow with gorse interspersed. The northern boundary of the site is hedgerow and some trees, with a post and wire fence securing the field. The western and southern boundaries are undefined as the site occupies the northern section of a field. The eastern boundary of the site is treed and beyond which runs a watercourse, located approximately 35 metres away at its closest.

Planning History

LA09/2021/1604/O - Site for a two-storey dwelling with a ridge height of 8.5m - 70M SE of 43 Fallylea Lane, Fallylea, Maghera – Approval - 18.08.2022

Description of Proposal

This application seeks Reserved Matters for a Two Storey Dwelling & Detached Garage on land 70M South East of 43 Fallylea Lane, Maghera.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th of 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.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. In particular Policy CTY 13 - Integration and Design of Buildings in the Countryside and Policy CTY 14 - Rural Character of PPS 21 are 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.

As stated above, this application site benefits from outline planning permission under LA09/2021/1604/O which was granted permission in August 2022. The purpose of this application is to assess if the proposed dwelling complies with the conditions which were set out as part of the approved outline permission, along with CTY 13 and 14. This application has met the time constraints as set out in Condition 1 of the outline permission LA09/2021/1604/O as well as Condition 2 and 3 requirements. Condition No 4 which sets out the visibility splays of 2.4 metres by 45 metres in both directions and a forward sight distance of 45 metres has been achieved. Landscaping was covered in Condition 5 which required a native species hedgerow to the rear of the visibility splays, the planting of the southern and western boundaries, as well as the southern boundary of the new access. These have been shown on the Site Plan as well as a timber post and wire fence and it is therefore in compliance with this condition.

The permanent retention of the northern and eastern boundaries of the site was conditioned under No 6 and is also shown on the submitted Site Plan as below. Condition No 7 restricted the curtilage of the dwelling to a yellow shaded area in the

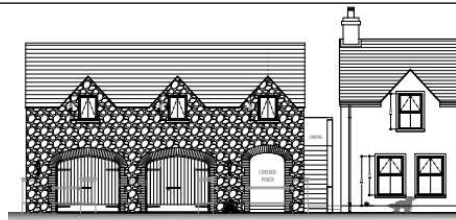
northern corner of the site while the remainder of the site shaded in orange is to be permanently retained for agricultural purposes. This condition has also been complied with.



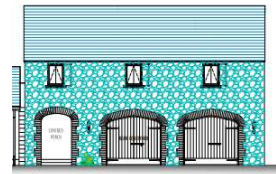
Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This dwelling as discussed above has adhered to the siting restriction which was a part of the permission granted at outline stage. As this site is cut out of a larger field and as is required by Conditions 5 and 6 of the outline application, I feel that the implementation of the landscaping as indicated on the submitted drawings along the southern and western boundaries and the entire access laneway as well the retention of the existing boundaries will aid the integration of this development into the surroundings.

This application includes a large 2 storey dwelling with a detached garage. The main bulk of the dwelling is symmetrical in appearance and has a ridge height of 8.5m FFL with a chimney located at each end of the roof ridge. A flat roof single storey porch projection is centrally positioned on the front elevation and to the rear is a single-story return. A projection on the northern gable has a 7 metre ridge height FFL with a chimney at the end and a single storey projection at the southern gable has a ridge height of 4 metres FFL.

The garage is located north of the dwelling, covering a footprint of 92 sq. metres and measures 11.8 metres wide and 7.8 metres deep. It has a ridge height of 7.5 metres FGL with a set of external steps to the room at first floor level as seen below. This double garage proposes 2 arched double hardwood doors with a small arched feature allowing access to a covered porch as well as 3 v-shaped wall dormers on the front elevation facing the road. There are 2 windows at ground level, 1 v-shaped wall dormers and 2 roof lights to the rear elevation of the garage. The front elevation and the external steps are finished in basalt stone while remaining elevations are smooth painted render.



Initial



Amended

Following discussion of this proposal internally at Group, there were concerns regarding the bulk and mass of this development. The proposed garage and dwelling as initially configured gave the impression of a continuous built-up frontage of 38 metres in length. Although the garage was sited to the rear of the dwelling, it did not lessen the impression of this building mass.

In order to break up this undesirable appearance, the agent was asked to remove the dormers on the garage and to turn the orientation of the garage so the gable is facing the road. It resulted in the garage being sited further back into the corner of the site so as to allow for a courtyard area with an increased garden space to the rear of the dwelling. This created a more desirable frontage for this rural location and the finishes of smooth render walls with basalt stone to the single storey projection as well as the southern elevation and external stairs to the garage are deemed suitable.



In terms of Policy CTY 14, 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 surrounding area to this site is characterised by single detached dwellings and I am content this proposed dwelling and garage respects the pattern of development within the local area and will not damage the rural character of the area. There would be limited long term views of this site due to the intervening vegetation in the area and the minor road network. The existing treed boundary to the rear of the site provides a suitable backdrop and enclosure for the buildings.

I am satisfied the overall design is acceptable for this rural area and I am content this proposed dwelling complies with Policy CTY 13. It also meets the policy requirements of CTY 14 as it will not cause a detrimental change to the rural character of this immediate area. I am content the amenity of neighbouring properties will not be adversely impacted by this proposal in terms of overlooking or overshadowing as there is more than a

reasonable distance from the nearest dwellings to this site.

This application was advertised in the local press and three neighbours were notified, in line with the Council's statutory duty. No objections were received for this application.

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

Summary of Recommendation:

Approve is recommended

I am satisfied this proposal meets the policy requirements of PPS 21 and therefore approval is recommended.

Approval Conditions

Condition 1

The development to which this approval relates must be begun by whichever is the later of the following dates:-

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

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

Condition 2

The vehicular accesses, including visibility splays of 2.4 metres by 60 metres in both directions, shall be provided in accordance with Drawing No 01 Rev 2 date stamp 14th April 2021 prior to the commencement 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 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

Condition 3

The access gradient shall not exceed 4% (1 in 25) over the first 10 metres outside the road boundary. Where the vehicular access crosses footway or verge, the access

gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

Condition 4

All existing trees and hedges along the southern boundary of the site shall be permanently retained, hedges to their existing height and the trees to a minimum height of 3 metres, 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: In the interests of visual amenity and to ensure the maintenance of screening to the site.

Condition 5

During the first available planting season following the occupation of the dwelling hereby approved, the landscaping scheme as agreed on Drawing No 01 REV 2 date stamp received 14th April 2021 shall be implemented and all trees and hedges are to be permanently retained thereafter. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure the provision of a high standard of landscape and to safeguard biodiversity.

Signature(s): Cathy Hughes

Date: 19 July 2023

ANNEX	
Date Valid	20 January 2023
Date First Advertised	31 January 2023
Date Last Advertised	31 January 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 43 Fallylea Lane, Fallylea, Maghera.,	
Date of Last Neighbour Notification	20 January 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2021/1604/O Proposals: Site for a two storey dwelling with a ridge height of 8.5m. Decision: PG Decision Date: 29-SEP-22 Ref: H/2004/1326/F Proposals: 11 KV Supply Decision: PG Decision Date: 30-DEC-04 Ref: LA09/2023/0066/RM Proposals: Two Storey Dwelling & Detached Garage Decision: Decision Date:	
Summary of Consultee Responses DFI Roads - Enniskillen Office-RM Response.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	
Committee Meeting Date: 1 August 2023	Item Number: 5.7
Application ID: LA09/2023/0087/O	Target Date: 11 May 2023
Proposal: Proposed dwelling with detached domestic garage	Location: Site Approx 50M East of 90 Screeby Road Fivemiletown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Ian & Gillian Browne 47 Screeby Road Fivemiletown BT75 0LF	Agent Name and Address: Mr Neil Irvine 132 Main Street Unit 5 The Buttermarket Fivemiletown BT75 0PW
Executive Summary: <p>This proposal is essentially a renewal of planning permission LA09/2016/0235/O. The applicant is a Category 1 farmer with only one building to site with. The applicant is unable to site beside the group of buildings associated with the chicken house on the farm holding due to bio-security issues. There are no other groups of buildings on the farm, and although there is only one building here it has previously been accepted under CTY 10 with the approval of LA09/2016/0235/O. The site has not altered since this approval. I consider this application should be approved as an exception within policy CTY 10 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	Outline resp.docx
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0087-O.docx

Representations:

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

Summary of Issues

No objections or representations received.

Characteristics of the Site and Area



The site is located within the rural area approximately 2.2km north-east of Fivemiletown along Screeby Road and is outwith any settlement limits as set down in the Dungannon and South Tyrone Area Plan 2010. The site is a 0.35ha parcel of land, located to the east of No. 90 Screeby Road which is not associated with this site. The site is an agricultural field which rises slightly from the road, with an agricultural building in the rear corner of the site. A dwelling and agricultural buildings lie to the immediate west of the site. The site is roughly square shaped, with the northern and eastern boundaries of the site defined by a post and wire fence. The southern (roadside) boundary is defined by deciduous hedging with 3 no. mature trees along it. Conifers define the western boundary as well as along the southern boundary and within the SW corner of the site. There is little recent development pressure in the area, with existing development taking the form of mostly single dwellings with associated outhouses.

Description of Proposal

Proposed dwelling with detached domestic 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 history

Ref: LA09/2016/0235/O

Proposals: Proposed dwelling with domestic detached garage

Decision: PG

Decision Date: 02-AUG-16

Representations

One (1) neighbouring property was identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. I spoke with the occupier of No. 90 at the time of my site inspection and he advised they are not associated with the site, but are aware of this planning application. To date no letters of representation have been received.

Dungannon and South Tyrone Area Plan 2010

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

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto Screeby Road. DFI Roads have been consulted and have no objections subject to a plan at 1:500 scale to be submitted as part of the reserved matters application, showing sightlines of 2.4m x 60m in both directions and a forward sight distance of 60m as per the RS1 form. This will involve the set back of the existing hedge

to achieve these visibility splays.

Planning Policy Statement 21 - Sustainable Development in the Countryside

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside in the following cases:

- a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;
- a replacement dwelling in accordance with Policy CTY 3;
- a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;
- a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;
- the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or
- a dwelling on a farm in accordance with Policy CTY 10.

CTY 10 of PPS21 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

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

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

I have carried out a planning history search of the applicants holding and I am satisfied there are no planning approvals that could be considered as development opportunities to be sold/transferred off within the past ten years. As some of the farm holding is within Fermanagh Omagh District Council, the agent was asked to advise if there are any relevant planning applications within the last ten years on the lands owned by the applicant which are not within the Mid Ulster District Council area. He has confirmed there have been no relevant domestic dwelling planning applications within the last ten years on all lands owned by the applicant.

(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.

There is an agricultural building within the red outline of the site which comprises

an open silo pit, a closed silo pit, a 4 bay cattle shed, crush and pen. Approximately 200m from the site, on the other side of the public road, is a free range poultry house with a litter store, 2no meal storage bins and a wash water storage tank shown under the applicant's control and within their ownership. These were approved under LA09/2017/1668/F. Although there is now a group of buildings on the farm holding I do not consider it would be possible to site beside these buildings due to bio-security issues. There are no other groups of buildings on the farm.

It was assessed under LA09/2016/0235/O that a dwelling on this site would visually link and cluster with the farm building on site as well as with other agricultural buildings adjacent to the site (albeit not a group of buildings on this particular farm) and was granted permission under CTY 10 of PPS21. The approval on site is a relevant material consideration given there has been no change in policy since this approval was granted. I feel it would be unduly harsh to refuse this application given the previous approval on site, as this application is essentially a renewal of LA09/2016/0235/O. For these reasons I consider this application could be considered an exception to policy. A new access is proposed as it is not practicable to obtain access from an existing lane.

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

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application. I do not deem it necessary to put a ridge height condition on any new dwelling as none was considered necessary under LA09/2016/0235/O and the site has not altered significantly in the meantime. There is a two storey dwelling adjacent to the site. There are no long term critical views of the site when travelling east along the public road due to the existing development to the west of the site. When travelling west a dwelling here will read with the existing development to the west. A new dwelling here will not be a prominent feature in this landscape and will be in keeping with the existing character of the area. I am of the opinion that a dwelling here will integrate and will not be prominent in the countryside. I am satisfied the proposal meets policy CTY 13. Existing and proposed levels will have to be provided with any approval, along with a comprehensive landscaping plan, including details of what vegetation will have to be removed, what is to be retained and what additional planting to mitigate against any removal is proposed.

CTY 14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A proposed dwelling on this site will not be unduly prominent in the landscape as it will be screened from any long term views. A dwelling here will not contribute to a localised sense of build-up and respects the tradition pattern of

settlement. I have no concerns with the creation of ribboning and am content that the proposed dwelling in this location will not erode the rural character of this area. I consider the proposal complies with CTY 14.

Other Considerations

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

In addition to checks on the planning portal, Natural Environment Division (NED) map viewer available online has been checked and did not identify any natural heritage interests on site to raise any concerns in relation this proposal and I have no ecological or residential amenity concerns.

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns. In addition, I have no ecological or residential amenity concerns.

I consider that giving determining weight to the recent approval on site LA09/2016/0235/O which was approved under this same policy, and the bio-security issues with siting with the exiting group of buildings on the farm, this application should be approved as an exception to policy.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

The development to which this approval relates must be begun by whichever is the later of the following dates:-

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

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

Condition 2

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved

matters"), shall be obtained from the Council, in writing, before any development is commenced.

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

Condition 3

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 60.0m and a forward sight distance of 60.0m shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter. This plan shall show the access to be constructed and other requirements in accordance with the RS1 form uploaded to the planning portal.

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

Condition 4

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

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

Condition 5

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

Signature(s): Deirdre Laverty

Date: 30 June 2023

ANNEX	
Date Valid	26 January 2023
Date First Advertised	9 February 2023
Date Last Advertised	9 February 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 90 Screeby Road Fivemiletown BT75 0LG	
Date of Last Neighbour Notification	31 January 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2016/0235/O Proposals: Proposed dwelling with domestic detached garage Decision: PG Decision Date: 02-AUG-16</p> <p>Ref: M/2009/0265/O Proposals: Site for farm dwelling house with detached domestic garage Decision: PG Decision Date: 15-OCT-09</p> <p>Ref: M/2004/1323/F Proposals: Extension to dwelling Decision: PG Decision Date: 12-OCT-04</p> <p>Ref: M/1993/0675 Proposals: Site for replacement Dwelling Decision: PG Decision Date:</p> <p>Ref: M/1993/0675B Proposals: Replacement dwelling</p>	

Decision: PG
Decision Date:

Ref: M/2000/0217/F
Proposals: Double Garage with store room.
Decision: PG
Decision Date: 13-APR-00

Ref: LA09/2023/0087/O
Proposals: Proposed dwelling with detached domestic garage
Decision:
Decision Date:

Ref: M/2000/0288/F
Proposals: Rural Spur.
Decision: PG
Decision Date: 15-MAY-00

Ref: M/1991/4034
Proposals: Improvements to dwelling
Decision: PDNOAP
Decision Date:

Ref: M/2011/0138/F
Proposals: Erection of dwelling house with detached double domestic garage
Decision: PG
Decision Date: 13-APR-11

Ref: LA09/2017/1668/F
Proposals: Proposed 1 free range poultry house with Litter Store, 2no meal storage bins, wash water storage tank and associated access & turning area (to contain 16,000 free range egg laying hens) - details and locations of perimeter fences
Decision: PG
Decision Date: 08-MAR-19

Ref: M/1999/0337
Proposals: Site for dwelling house and garage
Decision: PG
Decision Date:

Ref: M/1999/0898/F
Proposals: One and a half storey dwelling with domestic garage
Decision: PG
Decision Date: 11-JAN-00

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx
DAERA - Omagh-LA09-2023-0087-O.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01 Rev 1
Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 August 2023	Item Number: 5.8
Application ID: LA09/2023/0170/O	Target Date: 31 May 2023
Proposal: Proposed site for new replacement dwelling	Location: To The rear of and Approx 30M East of 87 Kinrush Road Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Maurice McKenna 87 Kinrush Road Coagh Cookstown BT80 0HP	Agent Name and Address: Gibson Design & Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
Executive Summary: Contrary to CTY 3 of 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 red line of the site includes a portion of lands set back slightly from the Kinrush Road. The lands directly to the west of the site are outlined in blue, indicating ownership and include an existing dwelling and garage. The lands are generally flat throughout and within the red line of the site is an existing mobile home. There is existing trees and

landscaping to the south of the site with the remainder of the boundaries being defined by post and wire fencing. The surrounding area is rural in nature, scattered with single dwellings and associated outbuildings.

Description of Proposal

Outline planning permission is sought for a proposed site for new replacement dwelling.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 87 Kinrush Road. At the time of writing, no third party representations were received.

Planning History

There is not considered to be any relevant planning history associated with this site.

Planning Assessment of Policy and Other Material Considerations

- Cookstown 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 site is located outside any defined Settlement Limit in the rural countryside and the site has no other zonings or designations related to the site.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and 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. It doesn't offer any change in policy direction with regards to replacement dwellings.

Policy CTY 1 states that there are a range of types of development which in principle are considered to be acceptable in the countryside, one of these being a replacement

dwelling in accordance with Policy CTY 3. Policy CTY 3 of PPS 21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact. The structure in question is shown below in figure 1. CTY 3 notes that **“buildings of a temporary construction will not be eligible for replacement under this policy”** and as such the proposal is deemed contrary to policy and is recommended for refusal. As seen in figure 1 below, the structure is clearly a mobile home and thus cannot be considered as a permanent structure for which is what this policy caters for.



Figure 1 – Mobile home to be replaced.

The agent referred to a different case approved in MUDC, LA09/2017/0896/O and LA09/2018/0363/RM. I have looked into the circumstances surrounding this case and would note that the building was considered a more permanent construction given that it was able to function and operate as a lawful dwelling as a result of an approval for the certificate of lawfulness at this site, LA09/2017/0279/LDE. Looking at google street view, it is evident that a mobile home has been located at this site for over the last 10 years. It appears there has been a change in the mobile home during this time, however it appears to be located roughly in the same location. Even if a CLUD were to be granted at this site for the mobile home as a result of immunity, there are no guarantees that this would result in a replacement opportunity as each application is assessed on its own merits and again CTY 3 is clear in its policy noting that buildings of a temporary

construction are not eligible for replacement.

CTY 3 goes on to note a further five criterion which all must be met also, however, as this is an outline application the details of the siting, design and size etc have not been provided at this time and thus it is hard to assess against each of these criterion. The site location plan would suggest that the siting would be immediately east of the structure and thus is just outside the existing curtilage. In terms of size and scale, if approval were to be forthcoming, I would recommend that a ridge height restriction would be attached, given the surrounding properties and the structure to be replaced. Policy 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. I would have some concern relating to the natural boundaries which would surround the site and if there is a suitable degree of enclosure for the building to integrate into the landscape.

The applicant/agent has indicated on the P1 form that the proposal intends to utilise the existing access onto Kinrush Road. DfI Roads were not consulted as the proposal is for a replacement dwelling which is using an existing access arrangement.

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 Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building is of a temporary construction.

Signature(s): Sarah Duggan

Date: 19 July 2023

ANNEX	
Date Valid	15 February 2023
Date First Advertised	28 February 2023
Date Last Advertised	28 February 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 87 Kinrush Road, Cookstown, Tyrone, BT80 0HP	
Date of Last Neighbour Notification	21 February 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: I/1999/0781/O Proposals: Site for Dwelling Decision: PG Decision Date: 09-FEB-00</p> <p>Ref: I/1994/0409 Proposals: Site for Dwelling Decision: PG Decision Date:</p> <p>Ref: I/1994/6084 Proposals: Site Ardboe airfield Decision: QL Decision Date:</p> <p>Ref: I/1994/0410 Proposals: Site for Bungalow Decision: PG Decision Date:</p> <p>Ref: I/1999/0780/O Proposals: Site for Dwelling</p>	

Decision: PG
Decision Date: 09-FEB-00

Ref: I/1999/0530/O
Proposals: Dwelling
Decision: PG
Decision Date: 04-JAN-00

Ref: I/2001/0164/F
Proposals: One and a half storey dwelling and garage
Decision: PG
Decision Date: 18-JUN-01

Ref: I/2007/0361/F
Proposals: Disabled bathroom extension at rear single storey dwelling, disabled access ramp to rear and side of dwelling, minor works also(internal)
Decision: PG
Decision Date: 22-JUN-07

Ref: LA09/2021/1274/F
Proposals: Proposed dwelling with 6.5m Ridge height
Decision: PG
Decision Date: 11-MAY-22

Ref: I/1976/0097
Proposals: RECONDITIONING FARMHOUSE
Decision: PG
Decision Date:

Ref: LA09/2021/0057/O
Proposals: Infill site for dwelling & garage
Decision: PG
Decision Date: 22-JUN-21

Ref: I/2005/0858/O
Proposals: Proposed dwelling house and garage
Decision: PG
Decision Date: 08-MAR-06

Ref: I/2006/0682/RM
Proposals: Proposed dwelling house & garage
Decision: PG
Decision Date: 20-DEC-06

Ref: I/1998/0510
Proposals: Proposed Site for Dwelling

Decision: PG
Decision Date:

Ref: I/2002/0329/O
Proposals: Proposed Dwelling
Decision: PR
Decision Date: 14-MAR-03

Ref: I/2004/0746/O
Proposals: Proposed domestic dwelling and domestic garage
Decision: PR
Decision Date: 14-OCT-04

Ref: I/2000/0444/F
Proposals: Dwelling and domestic store/garage
Decision: PG
Decision Date: 31-JUL-00

Ref: I/1976/0279
Proposals: II KV O/H LINE
Decision: PG
Decision Date:

Ref: I/2000/0472/O
Proposals: Site for dwelling
Decision: PG
Decision Date: 22-JUN-01

Ref: LA09/2023/0170/O
Proposals: Proposed site for new replacement dwelling
Decision:
Decision Date:

Summary of Consultee Responses

-

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	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/0179/F	Target Date: <add date>
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm (Amended Noise Impact Assessment)	Location: Lands 70m South of 177 Annagher Road Coalisland.
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Summary of Issues: The proposed hours of operation extend into that is common night-time hours and could result in nuisance to neighbouring residential properties. Operator has implemented procedures they say limit any noise and impact on neighbouring properties.	
Summary of Consultee Responses: EHO – met with the applicants noise consultants on site and undertook visits to the site. Note that ambient noise levels can be affected by various factors at different times of the year, the proposal could affect residential amenity during quiet sleep hours (23:0 – 07:00)	
Characteristics of the Site and Area: This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage. The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect	

residential amenity further to the south. Beyond the earth bund to the south is the area of drainage which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Description of Proposal

This is an application for variation of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Deferred Consideration:

This application was recommend as a refusal to the Planning Committee in September 2021 and October 2022 where it was deferred to allow further consideration of mitigation to prevent noise at neighbouring properties before 7.00 am, nighttime hours.

The operator advises that only activities that do not create noise will occur before 7.00am, these include, pre-heating metal for spraying, mixing paint for spraying, spraying and welding. The operator advises that all doors will remain closed until 7:00am to prevent any noise escaping and that no movement of the products will occur during these times as the jigs for welding and products for spraying will have been moved into position the evening before, therefore minimising the risk of noise from them being moved. The operator also advised one person has the keys to all the main doors and is responsible for ensuring these are not opened before 7:00am. The operator also advises that fans associated with the spray booths are on timers and do not activate until 8:00am. As already stated the operator advises they need to change the hours to retain staff as the working pattern is shifting to a 4 day week, though they stress that not all staff work this pattern and it is only some of the staff who work this pattern.

Members are advised the operator has indicated they already do these processes to limit the noise, however there are still concerns from local residents who have recently advised:

- they live close to the factory and are disturbed in the morning and wish to have some quiet time in the evening
- the factory is operating from 5:30am and after 8:00pm and is causing nuisance to them due to noise, smell, fumes, loss of air quality and residue from paint spraying.

This application is under Section 54 of the Planning Act (NI) 2011 which allows the Council to consider removing, amending or retaining conditions of planning permissions issued. The Council may add conditions that are considered relevant to the condition that

it is being asked to amend but cannot amend any time commencement conditions. In this case if the Council were to decide to amend the condition about the hours of operation, additional conditions limiting the activities to be carried out before 7:00am could be attached. The Council could also attach conditions about other operations or activities that should be restricted before this time in the interests of the amenity of the adjoining residents.

This site has had a long history with the Planning Department and breaches of planning control, before and after it was granted planning permission. The Council is being asked to weight up the business interests and ongoing employment of workers at this site against the amenity of neighbouring properties who live close to this industrial development. The operator has given assurances they have put processes in place to limit the impacts on the residents, however the residents are advising they are still experiencing nuisances. In view of the continued objections from the neighbours and EHO not being in support of the extended hours of operation, I consider the proposal should be refused and the hours of operation not extended.

Refusal Reasons:

1. The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal;

- will not harm the amenities of nearby residents;
- will not create a noise nuisance.

2. The proposal is contrary to paragraph 3.8 of SPPS in that it has not been demonstrated that proposal will not cause harm to interests of acknowledged importance, namely rural character and residential amenity. The proposal could, if granted permission, result in a detrimental impact to residential amenity through impacts from noise, nuisance and general disturbance.



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	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/0179/F	Target Date: <add date>
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm (Amended Noise Impact Assessment)	Location: Lands 70m South of 177 Annagher Road Coalisland.
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Summary of Issues: The proposed hours of operation extend into that is common night-time hours and result in nuisance to neighbouring residential properties.	
Summary of Consultee Responses: EHO – met with the applicants noise consultants on site and undertook visits to the site. Note that ambient noise levels can be affected by various factors at different times of the year, the proposal could affect residential amenity during quiet sleep hours (23:0 – 07:00)	
Characteristics of the Site and Area: This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage. The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage	

which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Description of Proposal

This is an application for variation of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Deferred Consideration:

This application was recommend as a refusal to the Planning Committee in September 2021 and was deferred to allow a meeting with the Planning Manager and Environmental Health Officers.

At the meeting a number of proposals were put forward by the applicants for ways to reduce the noise between 6 – 7 am and to provide constant monitoring equipment in the site. Following the meeting the applicant advise they have appointed a Compliance Manager whose role is to ensure doors are closed, forklifts do not operate outside and that noise generating activities are not carried out or impact on neighbours. A revised noise assessment was also submitted by Grainger Associates on 12 December 2021 and this indicated significantly lower levels of noise at the nearest properties than shown in the previous report in March 2021. Neighbours were notified of the revised report and there were 2 additional comments received objecting to the proposals as it will impact on sleeping times in the morning and peaceful times in the evening and that no regard has been had to the other application for the revised car park which will reduce the effect of the buffer mound.

Due to the significant differences Environmental Health Officers carried out their own survey between 06:45 – 07:30 on 18 January 2022 and noise measurements obtained by EH show noise levels similar to those outlined within the March 2021 report and noise from DMAC was clearly audible and noted to consist of constant fan noise, FLT movements, reverse alarms and banging & clanging of metal/steel.

A further report was submitted (24 March 2022) which outlined a number of Pre and post 07:00hrs activities along with a number of other noise management proposals and included a summary of joint monitoring visit which took place on 22 March 2022. EHO have noted the noise that was witnessed at the neighbouring property on 22 March 2022 would be unlikely to impact residential amenity.

EH carried out a further visit at 6:30am on 5th May 2022 and noted the environment was dominated by birdsong though occasional impulsive noises (bangs/clangs) were heard above the ambient noise.

In response to EHO comments the applicants have advised the was agreement at a site meeting on 22 March that noise heard could not impact residents, DMAC have a stringent monitoring plan and procedures to limit activity and ensure all doors are kept closed until 7:00am with no outdoor activity taking place. They note there may be noise from sources not associated with DMAC eg thunder, passing lorries which are occasional. They also set out there may be very occasional sounds from DMAC.

Mr Daniel McShane indicates that without the earlier opening hours DMAC may have problems retaining staff who may move to other organisations that can provide this 4 day week work pattern. This may have an impact on the continued operations of the business at this site.

Following the receipt of the additional noise reports, neighbours were notified and 2 additional letters of objection were received which raise the following points:

- Health Implications
 - World Health Organisation guidelines recommend night time (11pm to 7:00am) exposure to noise is limited to 40dB
 - research indicates that nighttime exposure above 55dB can raised blood pressure and lead to heart attacks, some residents have these conditions
- Noise coming from DMAC every day before they should, as early as 5:30am

In light of the Environmental Health Officers findings and following DMACs changes to the operations and employment of a Compliance Officer, there is the potential for the earlier opening hours to effect the amenity of nearby residents. In the opinion of the Environmental Health Officers, the operations could, at certain times of the year adversely impact on the amenity of the nearby residents. The applicants have indicated they have put in place stringent measures to control noise and activities, they also note there may be very occasional sounds from DMAC site. EH Department has noted noises from the site following these mitigation measures being put in place as such I recommend the proposed extension to the hours of operation is refused.

Refusal Reasons:

1. The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal;
-will not harm the amenities of nearby residents;
-will not create a noise nuisance.

2. The proposal is contrary to paragraph 3.8 of SPPS in that it has not been demonstrated that proposal will not cause harm to interests of acknowledged importance, namely rural character and residential amenity. The proposal could, if granted permission, result in a detrimental impact to residential amenity through impacts from noise, nuisance and general disturbance.



**Development Management Officer Report
 Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0179/F	Target Date:
Proposal: To continue use of the land and factory without complying with condition 12 of planning approval (M/2011/0126/F) - seeking variation of opening hours condition Monday - Friday from 6am - 8pm	Location: Lands 70m South of 177 Annagher Road Coalisland.
Referral Route: Recommendation to refuse, objections.	
Recommendation:	Refuse
Applicant Name and Address: DMAC Engineering 177 Annagher Road Coalisland	Agent Name and Address: CMI Planners Ltd 38 Airfiled Road Toomebridge
Executive Summary: It has not been demonstrated by the applicant/agent that this proposal will not result in detrimental impacts to residential amenity, especially in the morning time between the hours of 6am and 7am Monday to Friday.	
Signature(s):	

Case Officer Report

Site Location Plan: 01



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

A number of objections have been received and issues raised include;

- the extension of opening hours would have an adverse affect on health and well being;
- noise that is currently experienced all day long would be extended in the morning time and would have a detrimental impact on peace and private amenity;
- currently already in breach of opening hours (enforcement are aware);
- extended opening hours would result in more noise and fumes from the factory;
- the reason for the condition being added was to protect private amenity, however as applicant has not stuck to this condition and as a result private amenity is currently being adversely impacted.

Description of proposal

This is an application for non-compliance of condition 12 of planning approval M/2011/0126/F - seeking variation of opening hours condition Monday - Friday from 6am - 8pm.

Condition 12 of M/2011/0126/F reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

Characteristics of site and area

This site is that which relates to the permission M/2011/0126/F, and incorporates the DMAC Factory building, associated circulation, parking and hardstand areas, finished product storage areas and an area to the south of the site (beyond the large earth bund) which is used to control and regulate site drainage.

The sizable earth bund, approx 5-7m high, to the south of the site acts as a sound buffer to protect residential amenity further to the south. Beyond the earth bund to the south is the area of drainage which is relatively flat and defined by bare earth/soil.

There is also earth banking and mature landscaping along the NE boundary of the site.

Topography within the factory site is relatively flat, however Annagher Road to the north is elevated well above the site, leaving little views of the large factory from the public road.

In the locality there are detached single dwellings to the south, east and north of the site. Land to the east and NE is agricultural in nature. Annagher Road is located to the north, with Coalisland Town located further to the west.

Planning Assessment of Policy and Other Material Considerations

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 South Tyrone Area Plan 2010- The site is located just outside the development limits of Coalisland, in the countryside. The policy provisions of SPPS and PPS21 apply.

Relevant Planning Policy

SPPS- Strategic Planning Policy Statement
PPS21- Sustainable Development in the Countryside
PPS4- Planning and Economic Development

Relevant Planning History

M/2011/0126/F- permission granted for a small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland, for DMAC on 13.04.2015.

Condition 12 of this permission reads;

The development hereby permitted shall not remain open for business prior to 07:00 hrs nor after 20:00hrs Monday to Friday, 08:00 hrs to 14:00hrs on Saturdays nor at any time on a Sunday.

Reason: In the interests of residential amenity.

M/2006/2126/F- Retention of Replacement shed for the purpose of paint spraying machine components, permission was refused on 22.06.2017.

An enforcement notice was served on this site for unauthorised breached in planning control and the offender fined 15,000. These buildings have now been removed and this part of land now lies bare with exposed soil. This site also contains drainage for the adjacent DMAC Factory site, and is the subject to two current application where decisions are pending (see below);

-LA09/2019/0838/F- Hobby/Storage shed, porta cabin to be used as a canteen and recreation room, raised flower beds, poly tunnels and car parking associated with Coalisland mens shed club, permission granted 09.03.2021.

-LA09/2018/0943/F- Extension to existing factory premises to provide staff car parking (under consideration- deferred for further consideration).

There is also some current enforcement action on the DMAC site relating to hours of operation and unauthorised chimney flues with associated odour.

3rd Party Objections

A number of objections have been received and issues raised include;

- the extension of opening hours would have an adverse affect on health and well being;
- noise that is currently experienced all day long would be extended in the morning time and would have a detrimental impact on peace and private amenity;
- currently already in breach of opening hours (enforcement are aware);
- extended opening hours would result in more noise and fumes from the factory;
- the reason for the condition being added was to protect private amenity, however as applicant has not stuck to this condition and as a result private amenity is currently being adversely impacted.

Consideration

The applicant wants to amend condition 12 of planning ref M/2011/0126/F, to extend hours of operation from 7am-8pm Mon-Fri to 6am-8pm Mon-Fri. It has been raised by objectors that DMAC may already be in breach of this condition, and this is being investigated by the Planning Enforcement Team.

The reason for the condition is to protect existing residential amenity. Objectors currently complain about noise levels, especially early in the morning. To consider the impacts of noise, nuisance and general disturbance I consulted Environmental Health. On 21st June 19 Environmental Health provided comment stating that commencement of operations would impinge on what is generally regarded as quiet sleeping hours (11pm-7am) where a higher level of protection is afforded to residential amenity to facilitate sleep between these hours. Environmental Health go on to say that two objectors have stated that current noise levels are impacting their amenity and extension of operating hours to 6am would further impact them and for this reason the applicant is required to provide a noise impact assessment and/or mitigation measures to control noise emissions from the premises.

Following on from this the agent then provided a Noise Impact Assessment and on 10.08.2021 Environmental Health provided a response. Environmental Health conclude that the Noise Impact Assessment shows that the impact of amending opening hours to 6am would have an excess of rating noise level over background noise level of +7 dB. BS 4142 states that a difference of +5 dB is likely to be an indication of adverse impact, depending on context, whilst a difference of +10 dB or more is likely to be an indication of significant adverse impact.

Environmental Health conclude that this difference of + 7 dB indicates that variation of the opening hours is likely to impact neighbouring residential amenity.

In response to Environmental Health comments the agent has provided an e-mail to put forward his interpretation of how he envisages this change in opening hours will impact on nearby residents. This e-mail is only his view, and an my opinion should not override the concerns of Council's Environmental Health Department.

In my view, I would have significant concern about allowing the factory to open at 6am. This would mean machines, extractor fans, vehicles, welding, metal work, spraying etc. starting before 7am. Plus employees would be arriving to the site by car before 6am, and would involve the starting and stopping of engines, and the opening and slamming of doors. It is difficult to see how noise, nuisance or general disturbance could be mitigated against so as not to cause detriment to residential amenity, given that current noise levels are found by objectors to be having detriment to their existing residential amenity.

The agent states that only 5 people would be arriving at 6am to turn on machines etc. I am not sure that Council could appropriately control this. A variance of condition can only consider the condition itself, and I am not sure if it would be lawful to control numbers of people attending the site or noise levels, as it is only hours of operation that are being considered.

I find it important to note that there is a pending application for the extension of a staff carpark to the south of the existing DMAC factory. This proposal will involve the cutting through of an existing earth bund that currently acts as a noise buffer to properties to the

south. Should both proposal be granted then this will mean factory noise escaping through a hole in an earth bund, and cars parking closer to where current objectors live. In my view both proposals need to be looked at carefully to consider both scenarios, given the sensitivities currently experienced at the site.

The applicant/agent has been provided with ample opportunity to demonstrate that earlier opening hours would not have a detrimental impact on existing residential amenity and this has not been demonstrated.

I recommend to Members that this application is refused as it will result in detrimental impacts to nearby residential amenity.

Under paragraph 3.8 of SPPS the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. I contend that, on current information before me, that it has not been clearly demonstrated that harm to interests of acknowledged importance (i.e. residential amenity) will not occur. The applicant/agent has been given a fair chance to demonstrate otherwise, and has failed to do so. I advise Members to refuse this proposal. At this time and in absence of any additional information I find the objectors concerns to be determining.

PPS21 Sustainable Development in the Countryside states that there are a range of types of development which in principle considered to be acceptable in the countryside, one is industry and business uses in accordance with PPS4.

Policy PED 9- General Criteria for Economic Development of PPS4 has a number of criteria that have to be met including criteria;

- (b) does not harm the amenities of nearby residents;
- (e) does not create a noise nuisance.

In my view the applicant/agent has failed to demonstrate these points, and that the condition as stands meets the lawful tests of a condition and is necessary to control the impacts of current operations on this site on nearby residential amenity.

The proposal is contrary to SPPS paragraph 3.8, PPS21 policy CTY1 and PPS4 policy PED9 in that it has not been demonstrated that the proposed hours of operation will not have a detrimental impact to existing residential amenity.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission is refused for the following reasons;

Reasons for Refusal:

- 1.The proposal is contrary to policy CTY1 of PPS21 Sustainable Development in the Countryside and Policy PED9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrate that the proposal;

-will not harm the amenities of nearby residents;
-will not create a noise nuisance.

2. The proposal is contrary to paragraph 3.8 of SPPS in that it has not been demonstrated that proposal will not cause harm to interests of acknowledged importance, namely rural character and residential amenity. The proposal will, if granted permission, result in a detrimental impact to existing residential amenity through impacts noise, nuisance and general disturbance.

ANNEX

Date Valid	8th February 2019
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Date First Advertised	21st February 2019
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Date Last Advertised	
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Details of Neighbour Notification (all addresses)

The Owner/Occupier,
161 Annagher Road, Coalisland, Tyrone, BT71 4NF
The Owner/Occupier,
172 Annagher Road, Coalisland, Tyrone, BT71 4NF
The Owner/Occupier,
174 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
175 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
175a ,Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
177 Annagher Road, Coalisland, Tyrone, BT71 5DA
Martin Dooey
181 Annagher Road, Coalisland, BT71 5DA
The Owner/Occupier,
181 Annagher Road, Coalisland, Tyrone, BT71 5DA
The Owner/Occupier,
32 Washingbay Road, Coalisland, Tyrone, BT71 4PU
The Owner/Occupier,
36 Washingbay Road Coalisland Tyrone
James Hughes

Date of Last Neighbour Notification	
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Date of EIA Determination	N/A
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ES Requested	No
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Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2021/1083/F Recommendation: Approve	Target Date: 17 September 2021
Proposal: Proposed two storey with lower ground floor replacement dwelling and associated courtyard domestic garages and outbuildings	Location: 9 Mackenny Road Cookstown
Applicant Name and Address: Mrs Wilma Brownlee 9 Mackenny Road Cookstown BT80 9RR	Agent name and Address: Studiofortyfour - Town And Country Planning 44A New Street Enniskillen BT74 6AH
Summary of Issues: This application was presented to Members as a refusal at November 2022 Planning Committee as it was considered the proposal failed to comply with Policies CTY 3 and CTY 13 of PPS 21. The replacement dwelling was deemed to have a significantly greater visual impact than the existing dwelling and the design was considered inappropriate to the rural locality. The application was deferred for an office meeting with Dr Boomer. Following a site visit, the submission of a revised scheme and additional information to deal with Natural Heritage Concerns the proposal is now being recommended for Approval and the justification for this is detailed further in this report.	
Summary of Consultee Responses:	
Characteristics of the Site and Area The red line of the site includes a roadside portion of lands which includes No.9 Mackenny Road. Within the red line is the dwellign to be replaced, a number of existing outbuildings. To the south of the site is lands outlined in blue indicating ownership. The dwelling sits at a level similar to the roadside, however it sits at higher ground when travelling along the Mackenny Road in a easterly direction. Ballinderry river runs to the west of the site. The lands are well landscaped, with a number of existing trees and mature vegetation throughout the site. The surrounding area is rural in nature, scattered with single dwellings and their associated	

outbuildings.

Description of Proposal

Full planning permission is sought for a proposed two storey with lower ground floor replacement dwelling and associated courtyard domestic garages and outbuildings.

Deferred Consideration:

This is an application for a proposed replacement dwelling. The dwelling to be replaced represents a valid replacement opportunity and is currently occupied. It is not listed nor is it considered to be vernacular. The design and its visual impact was contested in the initial assessment of the application. At the deferred office meeting the applicant was advised that the concern was primarily about the massing of the dwelling and the fenestration. The applicant has submitted a revised scheme in which the overall massing of the dwelling has been reduced. This in turn has resulted in more acceptable fenestration. A courtyard element of the scheme has been introduced. Following a site inspection I am now convinced that the revised scheme, in which the dwelling is set back off the road and will sit at a lower level than road, will not have a significantly greater visual impact than the existing dwelling. This is further supported by the fact that the curvature in the public road when travelling in a Westerly direction, will only result in short term views of the dwelling and when travelling in an Easterly direction the presence of mature vegetation along with the curvature of the road, will also only result in short term views of the dwelling. There will be no visual appreciation of the three storey element of the dwelling to the rear.

As referred to above, the presence of mature vegetation in the Western portion of the site, adjacent to the river, is integral in the integration of this dwelling and its overall setting in the local landscape. It is important that this vegetation is conditioned to be retained. It is acknowledged that the applicant has gained planning approval for a dwelling in this particular section of the site (LA09/2019/0522/F) which expires on 7th Oct 2024. If erected it would result in the loss of a considerable amount of the existing tree cover. At the deferred office meeting it was agreed that if the applicant gained approval under this application for a dwelling which afforded him the floorspace he required, then he would accept a condition that only one dwelling could be erected within the application site. I am recommending that this condition be attached to this decision, if approved by Members tonight.

The site is adjacent to the Upper Ballinderry River (SAC, ASSI) - a designated European Site. A Construction Environmental Management Plan was submitted as part of the deferred consideration in order for NIEA to consider any potential pathways for deleterious materials entering the Upper Ballinderry River and impacting on priority species. A biodiversity checklist and PEA was also submitted with the application.

SES have been consulted and following consideration of all supporting information have no objections. MUDC in its role as the competent Authority under the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and in accordance with its duty under Regulation 43, has adopted the HRA report prepared by SES (Dated 20/4/203 - on public access). This found that this development would not have an adverse effect on the integrity of

any European Site. NIEA (NED) have also been consulted with all supporting information and are satisfied with all pollution prevention measures and mitigation proposed. Both NIEA and SES have recommended conditions to be attached to any favourable decision. On the basis of this expert advice I am satisfied that the proposal is not at conflict with any PPS 2 (Natural Heritage) Policies.

Historic Environment Division, DFI Roads have no objections to the proposal. There have been no objections from any other third party.

It is recommended that Members Approve this application subject to the conditions detailed below.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

Condition 2

Only one dwelling shall be erected with the redline boundary of the application site, as indicated on drawing 01 rev 2, uploaded on public access on 26th April 2023.

Reason: To prevent an accumulation of dwellings on the site and to ensure the retention of existing vegetation.

Condition 3

The dwelling hereby permitted shall not be occupied until the existing building identified on the site location plan, 01 rev 2 and uploaded on public access on 26th April 2023, is demolished, all rubble and foundations have been removed in accordance with the details on the approved plans

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site

Condition 4

Prior to works commencing the site should be re-examined by a suitability experienced surveyor for any diagnostic signs relating to the presence of otters. If a new holt or couch is found within 30m of the proposed development, all work must cease immediately and further advice must be sought from the NIEA Wildlife Officer.

Reason: To prevent adverse impacts on the features of the designated sites

Condition 5

There shall be no direct discharge of untreated surface water run-off during the construction phase into any watercourse hydrologically connected to Upper Ballinderry River SAC/ASSI.

Reason: To prevent adverse impacts on the features of the designated sites

Condition 6

Discharges from the septic tank should be via a soakaway directed away from the designated site and/or any watercourse; a buffer of 10m must be maintained between the septic tank and soakaway and any watercourse.

Reason: To prevent adverse impacts on the features of the designated sites

Condition 7

No demolition of buildings or structures shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority of MUDC within 6 weeks of works commencing.

Reason: To protect breeding birds.

Condition 8

A suitable and clearly defined buffer of at least 10m shall be maintained between the location for refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. and the Ballinderry River bordering the western edge of the red line boundary.

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

Condition 9

Prior to and for the duration of all construction works a sedimentation barrier and otter proof fence will be installed and maintained along the western red line boundary of the site.

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

Condition 10

The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 01 rev 2 uploaded on public access on 26th April 2023 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.

Signature(s):Karla McKinless

Date: 18 July 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 November 2022	Item Number: 5.03
Application ID: LA09/2021/1083/F	Target Date: 17 September 2021
Proposal: Proposed two storey with lower ground floor replacement dwelling and associated courtyard domestic garages and outbuildings	Location: 9 Mackenny Road Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mrs Wilma Brownlee 9 Mackenny Road Cookstown BT80 9RR	Agent Name and Address: Studiofortyfour - Town And Country Planning 44A New Street Enniskillen BT74 6AH
Executive Summary:	

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	Shared Environmental Services	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: TBC
	NIEA	Substantive: TBCResponseType: PR

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	
<p>Summary of Issues</p> <p>There were no representations recieved.</p> <p>The proposal is considered to be contrary to some of the policies contained within PPS 21 which will be discussed in detail later in the report.</p>	
<p>Characteristics of the Site and Area</p> <p>The red line of the site includes a roadside portion of lands which includes No.9 Mackenny Road. Within the red line is the dwellign to be replaced, a number of existing outbuildings. To the south of the site is lands outlined in blue indicating ownership. The dwelling sits at a level similar to the roadside, however it sits at higher ground when travelling along the Mackenny Road in a easterly direction. Ballinderry river runs to the west of the site. The lands are well landscaped, with a number of existing trees and mature vegetation throughout the site. The surrounding area is rural in nature, scattered with single dwellings and their associated outbuildings.</p>	
<p>Description of Proposal</p> <p>Full planning permission is sought for a proposed two storey with lower ground floor replacement dwelling and associated courtyard domestic garages and outbuildings.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p><u>Policy Consideration</u></p> <p>Representations Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 26, 29, 30 and 31 Mackenny Road. At the time of writing, no third party representations have been received.</p> <p>Planning History There is no planning history in relation to the dwelling to be replaced however the following applications were approved under the dwelling on a farm policy.</p> <p>LA09/2015/0292/O - Proposed Farm Dwelling and Garage - 20M SW Of 9 Mackenny Road Cookstown - PERMISSION GRANTED</p> <p>LA09/2019/0522/F - Proposed dwelling and garage block - 20M South West Of 9 Mackenny Road Cookstown - PERMISSION GRANTED</p> <p>Planning Assessment of Policy and Other Material Considerations</p> <ul style="list-style-type: none"> o Cookstown Area Plan 2010 	

- o Strategic Planning Policy Statement (SPPS)
- o PPS 21: Sustainable Development in the Countryside
- o PPS 3: Access, Movement and Parking
- o Building on Tradition Design Guide
- o The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy

Cookstown Area Plan 2010 - unzoned land located within the countryside. Policy provisions of SPPS and PPS21 apply.

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

Policy CTY 1 states that there are a range of types of development which in principle are considered to be acceptable in the countryside, one of these being a replacement dwelling in accordance with Policy CTY 3. Policy CTY 3 of PPS 21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact. The dwelling to be replaced exhibits the essential characteristics of a dwelling, in that a chimney, a fireplace, windows and door openings are all visible and all the walls are fully intact, in fact the dwelling appears habitable. I am content that this is a genuine replacement opportunity.

The concern surrounding this application is with the proposed design. Amended plans were received and although we recognise that it is an improvement from the original proposal, we are still not convinced that the proposed design is acceptable at this site. The size and scale of the proposal is contrary to CTY 3 in that the dwelling would appear to have a visual impact greater than the existing dwelling on site. The dwelling proposed is not considered to be a simple rural form and as such is recommended for refusal.

CTY 3 notes that all replacement dwellings will only be permitted where a number of criteria are met. The proposal is within the existing curtilage and I have no concerns relating to the access arrangement nor is there any concern that necessary services would be available at the site. However, the 2nd and 3rd criterion relate to the design and overall size of the replacement dwelling. It notes that the dwelling should not have a visual impact greater than the existing dwelling which is considered to be the case in this instance. CTY 13 and 14 are also applicable to the proposal. In my opinion the dwelling fails on some of the criterion within these policies in that the design is not appropriate for this rural location and would appear prominent.

The agent has submitted a supporting statement which goes through each of the policy requirements of CTY 3. They recognise within their report that the proposal is larger than existing but refer to the landscaping and the minimal critical views of the site. I accept

that there is good landscaping around the site, however this doesn't negate that the proposal remains excessive in terms of its size and scale and the design is not simple rural form. CTY 3 Views of the site will still be possible along Mackenny Road, given the roadside location. I spoke with the agent on 12/10/22 where I made him aware of our concerns, he said that he would be asking for a meeting with the Planning Manager. I advised that the Planning Manager would not normally grant a meeting for individual cases until after the application has been through Committee.

HED were consulted on the proposal and have noted they are content the proposal is satisfactory to SPPS and PPS 6 requirements. NIEA have been consulted on the application and have noted that WMU are content subject to any discharge consent conditions agreed and that the applicant refers to and adheres to standing advice. NED notes they would require further information to determine whether the proposal is likely to have a significant impact on a protected site. Given that the design is considered the main concern here and therefore the principle is not acceptable, the impact that an amended design/site layout may have on their responses - no further information was sought at this time. If an amended scheme is received at a later date, SES, NIEA and HED may need reconsulted.

The P1 form notes the applicant wishes to use an existing access, therefore it was not considered necessary to consult with DfI Roads on this proposal.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building and the design of the replacement dwelling is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.

Reason 2

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.

Case Officer: Sarah Duggan

Date: 17 October 2022

ANNEX	
Date Valid	23 July 2021
Date First Advertised	3 August 2021
Date Last Advertised	3 August 2021
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 30 Mackenny Road, Cookstown, BT80 9NF The Owner / Occupier 29 Mackenny Road, Cookstown, BT80 9NF The Owner / Occupier 31 Mackenny Road, Cookstown, BT80 9NF The Owner / Occupier 26 Mackenny Road, Cookstown, BT80 9NF</p>	
Date of Last Neighbour Notification	3 March 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>Shared Environmental Services-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Historic Environment Division (HED)-Substantive: YResponseType: FR NIEA-Substantive: YResponseType: FR NIEA-Substantive: TBC NIEA-Substantive: TBCResponseType: PR</p>	

Drawing Numbers and Title

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

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/0194/F Recommendation: Approve	Target Date: 11 April 2022
Proposal: Proposed 2 No. Agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs.	Location: Approximately 40M South West Of 14 Bancran Road Draperstown
Applicant Name and Address: Mr D Hegarty 16 Bancran Road Draperstown	Agent Name and Address: Henry Murray 37C Claggan Road Cookstown BT80 9XJ
Summary of Issues: <p>The application was presented to Members as a refusal at January 2023 Planning Committee as it was considered that the proposal failed to comply with Policy CTY 12 of PPS 21 (part e) in that the development has the potential to result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution. The application was deferred for an office meeting with Dr Boomer. The proposal is now being recommended for Approval and the justification for this is detailed further in this report.</p>	
Summary of Consultee Responses: <p>Following submission of amended drawings and further third party objection a re-consultation was issued to Environmental Health who have advised that as the sheds are within 75m of a third party residential property they would still have concerns about the impact of the proposal on residential amenity. They did however recommend conditions relating to what the sheds should be used for, if Members were to approve the application.</p>	
Description of Proposal <p>This application seeks full planning permission for a proposed 2 No agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs.</p>	

Deferred Consideration:

This is an application for 2 agricultural buildings which will be used to store machinery and animal feed/crops associated with an adjacent farm business at 14 Bancran Road. The applicant has 1 existing farm shed but requires 2 additional sheds as he intends to carry out more farming activities as he approaches his retirement from being an electrician. At the deferred office meeting he provided a list of farm machinery owned by him which he requires storage for.

Additional third party objection has been received from the occupants of numbers 19, 20 and 22 Bancran Road since this application was first before Members in January 2023. Issues raised in these recent objections are summarised as follows:

- o Impact from noise, odours, disturbance.
- o Proximity of buildings to third party dwellings and recently approved replacement dwelling (LA09/2021/0390/F)/inappropriate siting of buildings
- o Unacceptable change of use from agricultural land to farm buildings
- o Requirement for submission of a Drainage Assessment and consultation with Rivers Agency.
- o Query over who would regulate activities associated with buildings if approved
- o Lack of detail provided in respect of the type of feed that will be stored.
- o Impact on privacy
- o Request to remove all reference to any access coming off the lane controlled by the occupants of number 20 Bancran Road.
- o Prominence and over bearing. Impact on character of area.

I will deal with these issues in my policy consideration below.

The primary policy test in assessing this application is CTY 12 of PP21. CTY 12 requires the applicant to be an active and established farmer, which is not being disputed and he is proposing to site the 2 new buildings beside his existing farm building and dwelling. The area of contention is the proximity of these sheds to third party dwellings along the Bancran Road and the impact of their siting on the residential amenity of these properties. This was the basis of the refusal reason presented to Members at January 2023 Planning Committee. No other policy reason formed part of the refusal reason.

Criteria (e) of CTY 12 states that permission will be granted for agricultural buildings where it is demonstrated that they will not result in detrimental impact on the amenity of residential dwellings outside the holding including potential problems arising from noise, smell and pollution.

EH in their latest consultation response advised that "given the proximity of this proposal there is potential for residential amenity to be adversely impacted due to activities associated with the business. In light of this, the EH department recommends that in order to maintain quality

residential amenity and not place restrictions on farm activity that a suitable separation distance is provided. It is difficult to be prescriptive in relation to the distance to be applied but in this departments view a minimum separation distance of 75m should be applied. In the supporting statement from Henry Murray Architectural Services dated 10th November 22, it states that the applicant proposes to use the sheds for storage purposes only ie. machinery & feed/crops. It is acknowledged that environmental impacts from such use would be reduced. However, due to the potential for odour and noise pollution, Environmental Health cannot support this application given at the current separation distance. However, if planning service are minded to grant planning permission for the development the EH Department would recommend the following conditions

1. The proposed will be used for machinery and feed/crop storage purposes only.
2. There shall be no storage of slurry/manure/silage within the curtilage of the proposed development"

At the office meeting the applicant advised that he was more than happy to accept a planning condition be attached to a decision that restricted the use of both sheds for the storage of machinery and feed/crops. It is my opinion that if this condition is attached, even with the separation distances involved, it will prevent the applicant from using his shed for any other noise/odour generating activities (eg housing of livestock) and thus protecting the amenity of the adjacent properties. The applicant has specified the type of crops he intends to store - wheat, barley, oats and willows. No detail has been provided in respect of feed. The sheds are proposed to have double skin insulated panel which will help absorb any sound within or in front of the sheds. A properly worded condition must be enforceable and if the applicant was ever in breach of a specified condition our enforcement team, if notified, would take the appropriate action. Reference was made by an objector to a recent replacement approval and the proximity of it to these sheds. I would advise members that the approved siting of the replacement dwelling is of a similar distance (approx. 80m) from existing farm buildings to the NW which have no condition attached in respect of their use and which may in fact have a greater impact on amenity.

Part (e) of CTY 12 is also used to consider general amenity issues such as privacy, over dominance etc. Having carried out a site inspection and having stood at the entrance of the closest property, number 19 Bancran Road, I am satisfied that the erection of these sheds will not impact of the privacy of number 19 or any other third party dwellings in the area. This is based on several reasons - their proposed storage use, the fact that they will sit at a lower level than the Bancran Road (3m lower) and they are not directly in front of number 19. They will not be over bearing nor be over dominant. It is also important to keep in mind that this a very rural area which is characterised by a mix of single dwellings and agricultural buildings. These buildings will not be out of character in this location. It is in areas like this where agricultural buildings should be located - not in settlements where there are higher density residential developments and less separation distances achievable. I am now content the the proposal is not at conflict with Part (e) of CTY 12.

Other Issues:

The applicant had previously shown a new agricultural field gate on his plans (outside the red line of the application but within blue lands). An agricultural access does not always require planning approval and in some circumstances can be considered permitted development under

Part 7 of the Permitted Development Regulations 2015. This was annotated on the plans however this has now been removed and the applicant has been advised that he will only get confirmation that it is considered permitted development by way of a Certificate of Lawfulness. Any issues raised by objectors in respect of the use of the third party laneway located adjacent to the site is a civil matter between the applicant and whoever controls the laneway and is not a reason for refusing this application. The applicant has not claimed to have any control over or a right of way over this lane so I am satisfied that the correct certificate has been completed in terms of the validity of the application.

Erecting agricultural buildings on agricultural lands does not constitute a change of use. The primary use remains agricultural. For this reason a Drainage Assessment is not required under Policy FLD 3 of PPS 15. FLD 3 requires submission of a drainage assessment if there is a "change of use" involving new buildings and/or hard surfacing exceeding 1000 sqm. Whilst both buildings and hard surfacing do equate to more than 100sqm there is no change of use involved in this instance. The applicant did submit a revised site layout which indicates drainage within the site. Rivers were not consulted with this as the proposal is not in conflict with any PPS 15 policies.

On the basis of my assessment I recommend the application be approved subject to a condition relating to use as per EH advice.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

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

Condition 2

The proposed agricultural buildings as shown on drawing 02 Rev D, uploaded on Public Access on 6th July 2023 shall be used only for machinery and feed/crop storage purposes only. There shall be no storage of slurry/manure/silage within the curtilage of the proposed development.

Reason: To protect adjacent residential amenity

Condition 3

The existing natural screenings of the site, as shown on drawing 02 Rev D and uploaded on Public Access on 6th July 2023 shall be permanently retained.

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.

Signature(s):Karla McKinless

Date: 6 July 2023

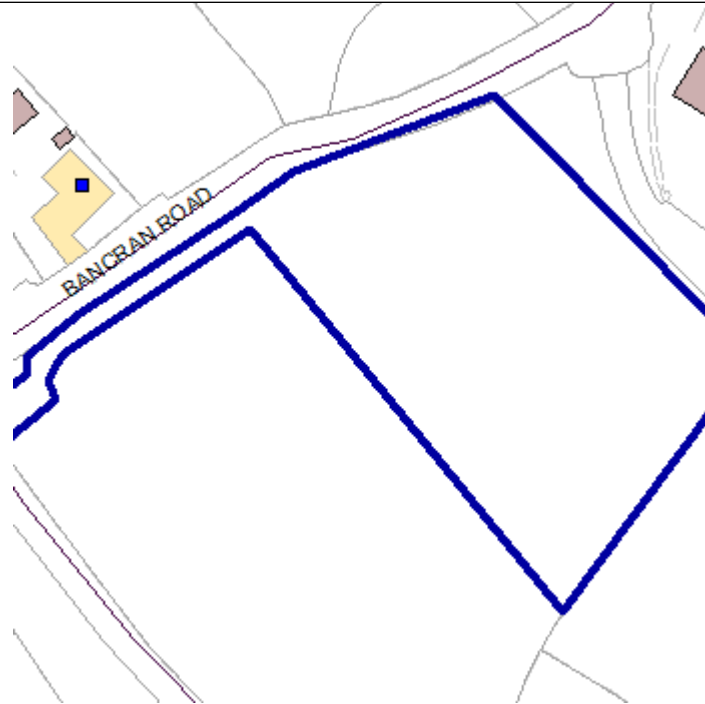


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 January 2023	Item Number: 5
Application ID: LA09/2022/0194/F	Target Date: 11 April 2022
Proposal: Proposed 2 No. Agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs.	Location: Approximately 40M South West Of 14 Bancran Road Draperstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr D Hegarty 16 Bancran Road Draperstown	Agent Name and Address: Henry Murray 37C Claggan Road Cookstown BT80 9XJ
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DAERA - Coleraine	Substantive: TBCResponseType: FR
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2022 0194 F Agricultural sheds 14 Bancra Road, Draperstown.odt
Statutory Consultee	DFI Roads - Enniskillen Office	
Non Statutory Consultee	DFI Roads - Enniskillen Office	Full & RM 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

All material considerations have been addressed within the determination below. 1 No objection has been received.

Characteristics of the Site and Area

The site is located approximately 40M South West of 14 Bancran Road, Draperstown and is located in the rural country side, outside any settlement limits defined in the Magherafelt Area Plan, 2015.

The site comprises a portion of a large agricultural, roadside field. The properties of No 14 and No 16 Bancran Road are within the applicant's ownership as indicated by the blue line . There is an existing agricultural building located adjacent to the site and within the curtilage of No 14 Bancran Road. The Northern, eastern and southern boundaries are defined by existing mature vegetation, whilst the western boundary is currently undefined. The surrounding area appears to be rural in character with the predominant land use being agricultural and dispersed detach dwellings and farm holdings.

Description of Proposal

This application seeks full planning permission for a proposed 2 No agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

Planning Policy Statement 21 - Sustainable development in the countryside.

Planning Policy Statement 3 – Access, Movement and Parking

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) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal.

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 Representation closed on 18th December 2020. On 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.

Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one objection had been received, the details of the objection will be dealt with later in this report.

Planning History

LA09/2021/0803/LDP – Proposed agricultural shed, approx. 60m SW of 14 Bancran Road, Draperstown, for Mr Danny Hegarty, Permission Granted

Magherafelt Area Plan, 2015

The site lies in the rural countryside, outside any designated settlement with no other specific designations or zoning.

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. 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. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside – PPS21. According to CTY 12 of PPS21 planning permission will be granted for development on an active and established agricultural 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;
- 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 necessary to first consider if the farm business is both active and established for more than the required period of 6 years. DAERA, have confirmed that the farm business ID stated on the P1C form has been established for more than six years and that it has claimed payments in each of the last 6 years. Therefore I am satisfied that the farm business is both active and established.

Subsequently it is necessary to assess the proposal against each of the policy tests as follows:

a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;

The agent has confirmed that the sheds are necessary for the storage of machinery and feed storage, One shed to be used for the secure storage of farm Machinery (Shed A) and the second shed (shed B) is required for storage of agricultural machinery and feed (for cows. Sheep and hay). The agent has confirmed that the applicant has got a substantial amount of machinery that he wants to keep under lock and key for security reasons and he also wishes to protect from the inclement weather as well. The applicant has spent a considerable time over the past few years upgrading lands through drainage , levelling , fencing , reseeding etc and still has a lot more to do , so depending on crop rotations within the large acreage that he owns, he needs to have adequate internal storage space to house any crops / feeds as & when required and also drainage pipes , fencing posts etc to be securely stored , while future land upgrades are being carried out. Having considered this information, I am content that this policy criterion is met.

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

The surrounding area is rural in character with disperse farm holdings with associated farm buildings in the locality. The proposed floor space of the 2no sheds 279m² and 216m² respectively and the design and materials are typical of agricultural buildings. The scale and design are similar to that of existing farm buildings. The proposed sheds have a degree of visual linkage with the existing farm buildings.

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

It is considered the proposed agricultural sheds by their nature (~including design, size, scale and materials) integrate into the site and into the surrounding rural landscape without detriment to the character of the area. The application site is on land which falls away from the Bancran road and sits at a lower level to the houses directly opposite the site. There is an approved farm shed to the rear of the site which was the subject of a CLUD application LA09/2021/0803/LDP. The existing established vegetation along the site boundaries is to be retained and will integration and the proposal is grouped with existing buildings. Overall, it is considered the proposal will visually integrate successfully into the landscape.

d) it will not have an adverse impact on the natural or built heritage;

No built or natural heritage interests have been identified on or in close proximity of the site have been identified, which may be impacted upon by this proposal.

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 properties of No 14 and No 21 are outlined in blue under the applicants control, therefore the closest third party residential dwelling is No 19 (submitted an objection) which is located to the north west of the site, which sits at a slightly higher level than the application site. The dwelling is approx. 30m from the proposed sheds. The recommended separation distance would commonly be within the region of 75m. The agent was asked if they could relocate the sheds to overcome this however they did not wish to do this. As the sheds are located relatively close to a third party dwelling this could potentially have a detrimental impact on residential amenity in terms of noise and odour. I therefore believe that the development will result in detrimental impact on the amenity of residential dwellings outside the holding and therefore fails to meet this criteria of the policy.

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 applicant has one other farm shed but requires the additional sheds for secure storage purposes.

- the design and materials to be used are sympathetic to the locality and adjacent buildings;

The proposed design and materials are of a typically agricultural design and are acceptable to its rural setting.

- the proposal is sited beside existing farm or forestry buildings;

The proposal is sited adjacent to an existing farm buildings on the holding and it is considered there will be clear visual linkage with these buildings

In addition, it is necessary to consider the proposal against the criteria of CTY 13 of PPS21 where it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is my consideration that the proposed buildings would be visually acceptable in the proposed location in terms of its design and scale and would not be a prominent feature in the surrounding landscape and would be satisfactorily integrated into the existing landscape and rural setting. The finishes are of a traditional agricultural nature.

Finally this proposal should be considered against the criteria set out in CTY 14 of PPS21 whereby it 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 my consideration that this proposal would not cause a detrimental change to the character of the surrounding area or erode the rural character

as it is rural in nature and design and of an acceptable scale.

Planning Policy Statement 3 (PPS3) Access, Movement and Parking.

On the P1 form submitted with this application, it states that the applicant proposes to use an existing unaltered access to a public road. However, there are three different access points noted on the drawing no 02 RevA dated 14th Nov 2022. There is an access from the Western side via a shared laneway and from the Eastern side from the applicants laneway to the existing farm business at house No 16 which also serves the farm shed application LA09/2021/0803/LDP. A this new access(new farm gate) is also noted on drawing No 02Rev A date stamped 14th Nov 2022. DFI Roads were consulted on the application and made comment on the three access points, they stated that in order to achieve the proposed new access, in order to create the visibility splays, the applicant would be required to remove/set back the entire existing hedge with a 2 metre flat verge and a substantial embankment constructed along the length of the road frontage to accommodate the significant difference between the road and the new farmyard levels. Due to the farm sheds close proximity to the Bancran Road and proposed site levels the applicant may be required to provide a vehicle restraint system on the new embankment. DFI Roads would recommend access only via The Western agricultural laneway to minimise the number of access points to this farm. The access arrangements were discussed with the agent and he confirmed that the new access was preferably and was for convenience to move livestock across the road from the field gate directly opposite.

Objections

1 no objections have been received on this application, from No 19 Bancran Road.

The objector raised a number of points as follows

- 1) *'This seems quite a significant proposal and with such a sizeable increase to any agricultural holding in this area we would enquire if an environmental impact assessment is required'* – The application was considered against The Planning (Environmental Impact Assessment) Regulations 2017, however as the proposal is not considered 'intensive' agriculture it does not require EIA Screening or considered EIA schedule 2 development. The environmental impacts of the proposal have been considered and it is not considered there will be detrimental impacts to the surrounding environment.

- 2) *'There also seems to be a sizeable new farm yard shown on the site plan but the description makes no reference to agricultural lands being changed into a farm yard'* – the description was reviewed and was considered to be adequate as the proposal is for storage purposes only, and will not be used for animal housing.

- 3) *'As the proposal changes a sizeable area from green lands to hard surface we would enquire if a drainage assessment is required for the proposal.'* – according to the Planning Policy Statement 15 Planning and Flood Risk, Policy FLD 3, a drainage assessment is only required if the proposal exceeds the threshold as follows: change of use involving new buildings and or hard surfacing exceeding 1000m² in area. The proposal does not exceed this area (area measured as

279m2 and 216m2), therefore a drainage assessment is not required.

- 4) *‘There are no drainage proposals shown on the drawings, with such a vast amount of hard surfacing now proposed, what is the proposal for the discharge of storm water especially in times of heavy rainfall, we would enquire is there a need in this instance to consult Rivers Agency’*- a hazards and constraints check has been carried out for the application site and no hazards were flagged up, there for it was not deemed necessary to consult Rivers Agency. The applicant has stated in the P1 form submitted with the application that surface water will be disposed of by soakaways.
- 5) Concerns raised about the siting of the proposal
- 6) *‘With the siting of the sheds so close to my dwelling there is going to be considerable noise and nuisance with a proposal of this size, have environmental health been informed of the proposal and we would enquire if a noise impact survey and assessment report is required for this proposal’*- Environmental Health were consulted on the application
- 7) *‘The proposal makes reference to the storage of machinery and feed storage, there is no further detail given on this as to what type of feed is to be stored, we would enquire if an odour assessment is required for this proposal’* – The agent has confirmed that the feed to be stored will be meal for cows and sheep and hay.
- 8) *‘Due to the siting of the shed this proposal will have a direct impact on my dwelling affecting our privacy’*
- 9) *‘The site plan submitted with the application shows 3 separate access points to this proposal we would enquire as to why so many accesses are required and has Transport NI been asked for their comments in relation to this point’* – Transport Ni were consulted on the application.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to CTY 12 of PPS21 (part e)- The proposal may result in detrimental impact on the amenity of residential dwellings outside the holding or

enterprise including potential problems arising from noise, smell and pollution. The proposal is located only 30m away from a third party dwelling (No19).

Signature(s): Siobhan Farrell

Date: 19 December 2022

ANNEX	
Date Valid	14 February 2022
Date First Advertised	3 March 2022
Date Last Advertised	3 March 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 19 Bancran Road Draperstown Londonderry BT45 7DT The Owner / Occupier 21A Bancran Road Draperstown Londonderry BT45 7DA The Owner / Occupier 22 Bancran Road Draperstown Londonderry BT45 7DA The Owner / Occupier 23 Bancran Road Draperstown Londonderry BT45 7DA The Owner / Occupier 21 Bancran Road Draperstown Londonderry BT45 7DA</p>	
Date of Last Neighbour Notification	25 February 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>DAERA - Coleraine-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-LA09 2022 0194 F Agricultural sheds 14 Bancran Road, Draperstown.odt DFI Roads - Enniskillen Office- DFI Roads - Enniskillen Office-Full & RM Resp.docx</p>	

Drawing Numbers and Title

Site Location Plan Plan Ref: 01 REVA Version: 01 REVA
Site Layout or Block Plan Plan Ref: 02 RevA Version: 02 RevA
Proposed Plans Plan Ref: 04
Proposed Plans Plan Ref: 03
Site Layout or Block Plan Plan Ref: 02 Version: S/S
Site Location Plan Plan Ref: 01 Version: S/S

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/0314/F Recommendation: Approve	Target Date: 5 May 2022
Proposal: Retention of 2 additional fun farm buildings with the reconfiguration of parking and turning areas approved under LA09/2017/1704/F and the proposed utilisation of the existing access lane, with improvements to the existing access, to serve the business (lane approved under LA09/2017/1704/F not to be built)	Location: 250M Ne Of 260 Drum Road Cookstown
Applicant Name and Address: Martin McDonald 395 Crockaboy Road Creggan Omagh	Agent name and Address: C.Mcllvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
Summary of Issues: This application was first presented to Members as an Approval at April 2023 Planning Committee. It was however agreed to defer the application so that consideration could be given to advice provided by our Health and Safety, Public Safety and Licensing Department. The application is before Members again with a recommendation to Approve, with the justification provided further in this report.	
Summary of Consultee Responses:	
Characteristics of the Site and Area The site is located within an undulating landscape in the rural area and is accessed via an existing laneway. The lane accesses off the Drum Road which is a protected route with wide verges and a right turn lane in place. The laneway, which is a single track laneway, also provides access to a former sand and gravel pit which appears to be redundant in addition to third party farmlands. There are no passing bays on the laneway and this is bounded by mature	

trees to the south east and a semi-mature woodland/former landfill site to the north west. There is a steep drop of approximately 6m-8m from the laneway into the field to the south east which is the line of the previously approved laneway. The previously approved visibility splays would appear to be in place, however, at the time of site inspection, these were covered by tall uncut grass.

There is a modest 3 bay portal framed shed on the site with a small extension to the rear already in place. The shed has a roller shutter door at the gable end with a double pedestrian doorway on the southern elevation which leads into a café/ice cream parlour area. This café ice cream parlour area accounts for approximately a third of the floorspace of the shed, with the remainder being used by inflatable bouncy castles etc. The café area has picnic type tables and chairs with a service area/counter with kitchen facilities and customer toilets.

There are two additional small buildings on site and are located to the south east of the main building towards the end of the car park. Both of these buildings are used as animal shelter for pigs, rabbits and hamsters with hay and a quad bike and other accessories are also parked in the buildings. A hardcored pathway extends southwards from the car park to provide access to animal pens on either side of the path. The path extends to the mature hedge along the southern boundary from where there is an access into the adjoining field. A large poly tunnel measuring 12m x 8m exists in the adjoining field to the south west of the animal pens and is used for storage of quad trailers, wheel barrows etc. in association with the fun farm. There are limited critical views of the poly tunnel from the main Drum Road, however the main fun farm buildings are more well screened by the intervening hedgerow.

The laneway previously approved under LA09/2017/1704/F has not been provided and sits approximately 6m - 8m below the level of the existing access laneway. The reception building as approved under La09/2017/1704/F has also not been provided. The access works as required under LA09/2017/1704/F, which included the widening of the first 20m to a width of 8.0m as per Condition 05, have not been provided.

Description of Proposal

Proposed alterations and additions to fun farm approved under LA09/2017/1704/F. Proposed utilisation of existing access lane to serve business (lane approved under LA09/2017/1704/F not to be built). Reconfiguration of parking and turning areas approved under LA09/2017/1704/F. Retention of two additional fun farm buildings.

The two buildings proposed measure 6.1m x 6.0m with 4.0m ridge height and a 3.2m eaves height and 5.6m x 4.6m with a mono-pitched roof falling from 3.1m to 2.3m. The external finishes of the sheds area concrete blockwork with corrugated/profiled iron cladding and timber boards spaced.

Deferred Consideration:

The farm diversification business at this site was approved under planning application LA09/2017/1704/F. This current application was submitted to regulate 2 additional fun farm buildings along with the reconfiguration of parking and turning areas. It is also proposed to utilise the existing access lane, with improvements to the existing access, to serve the business.

The application was recommended for approval at April 2023 Planning Committee as the

proposal was considered to comply with the SPPS, the Cookstown Area Plan 2010, PPS 3 (policies AMP 2 and AMP 3) and Policy CTY 11 of PPS 21. It was presented to committee as 4 objections had been received. Prior to April Planning Committee advice was emailed to the Planning Department from Environmental Health and in order to give full consideration of this advice, the application was deferred.

EH explained that concern had been raised with them about the proximity to the adjacent working quarry and absence of suitable arrangements to prevent a child or vulnerable adults entering the quarry or coming into contact with quarry traffic on the laneway. EH went on to confirm that both the quarry operator and the fun farm operator have duties under Article 5 of the Health and Safety at Work (NI) Order 1978 which places a duty on them to conduct their undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety. The enforcement of health and safety legislation is shared between Council and Health and Safety Executive (HSE) depending on the main activity. Quarrying falls to HSE and therefore EH concerns were referred to HSE for them to address with the quarry operator. As the enforcing authority for visitor attractions the fun farm falls to Council and the operator of the fun farm was written to outlining EH concerns and his duties under Article 5. A number of enforcement options were considered by EH including issuing a prohibition notice. A prohibition notice was not issued, instead the operator identified and implemented a number of physical and managerial controls to reduce the risk. It was recognised that restricting access to the quarry is difficult given that it is under different ownership. However there is an expectation that both the quarry and fun farm operators liaise to ensure satisfactory arrangements are in place. EH did not offer any reason to refuse this application on Health and Safety Grounds.

A total of 7 objections have been received in respect of the application. The issues raised are summarised as follows:

Traffic turning into the proposed entrance - DFI Roads did not raise any concerns regarding the proposed access. If the proposed development were to be approved and conditioned that the access is widened to 6m for the first 20m as per the proposed site plan, then a car turning into the access meeting a lorry exiting the laneway, would have adequate space to safely stop clear off the public road without prejudicing the free flow of traffic and/or road safety.

Estimated vehicle usage - DFI Roads did not raise any objections to the levels of traffic estimated to be attending the site as per the information provided at Q25 on the application form.

Visitors to the fun farm turning to entrance to a private dwelling - Council nor DFI Roads do not have any control over traffic stopping to turn at a private entrance.

The use of the existing lane to serve the fun farm business as it already serves a quarry and two separate agricultural holdings - As referred to above, if the access to the laneway were to be widened as per the site plan, this would provide an area for vehicles to pass safely clear of the public road.

Full access has not been able to be viewed via the planning portal - All documents in connection with this proposed development are available to view on Public Access.

Public safety in terms of the fun farm operating in the immediate vicinity of an active quarry - Public safety within the perimeter of the quarry is a matter of concern for the owners/operators of that quarry in line with Health and Safety Legislation.

The application is for a fun farm in the immediate vicinity of, and alongside the commercial quarry - The fun farm has already been approved under planning application LA09/2017/1704/F. This application is for an extension to that, retention of buildings with alterations to the approved access. Concerns as to how the proposed development could comply with PPS3 - This is detailed in the report below.

Unacceptable intensification on the laneway - DFI roads have raised no concerns regarding the standard and use of the existing laneway.

Ownership of the laneway - A revised certificate was submitted during the processing of the application and proper notice has been served on all owners.

Other issues were raised by objectors but are considered non-material to the assessment of the application.

DFI Roads were consulted as part of the original assessment and advised that PPS 3 Policy AMP 3: Access to protected routes and its consequential amendment under PPS 21 is a material consideration for this planning application in addition to Policy AMP 2: Access to Public Roads.

Policy AMP 2 - Access to Public Roads states that 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.

Policy AMP 3 advises that the Department will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes as follows:- On other protected routes outside settlement limits planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access for some categories of development other than dwellings. In such cases approval may be justified for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road.

The proposal is to use an existing access point onto a protected route. There is no intensification to that considered and accepted under LA09/2017/1704/F. The access point is the same access point which the initial diversification project was approved to use. There is no alternative road which the existing fun farm business can access onto. As referred to above, if the proposed development were to be approved and conditioned that the access is widened to 6m for the first 20m as per the proposed site plan, then a car turning into the access meeting a lorry exiting the laneway, would have adequate space to safely stop clear off the public road without prejudicing the free flow of traffic and/or road safety. I am therefore satisfied that the proposal is compliant with Policies AMP 2 and AMP 3 of PPS 3.

PPS 21 CTY 11 - Farm Diversification has a presumption in favour of farm or forestry

diversification projects where it has been demonstrated that the proposal will be run in conjunction with the agricultural operations on the farm. The following criteria all need to be addressed:-

- o The farm business is currently active and is established;
- o It is appropriate in terms of character and scale;
- o It will not have a detrimental impact on nearby residential properties by way of noise, smell and pollution.

Proposals will only be acceptable where they involve the reuse or adaptation of existing farm buildings. Exceptionally a new building may be acceptable where there are no existing buildings available either because they are required for the existing farm enterprise, are unsuitable for adaptation or reuse or other agency requirements render them unsuitable. Any new building must achieve a suitable degree of integration with an existing group of buildings.

The principle of the farm diversification scheme under CTY 11 has already been accepted under LA09/2017/1704/F so that is not being contested. The 2 new buildings will cluster with existing buildings on the farm and their scale and design give me no concern in respect of rural character. They are sited more the 75m from any third party residential property and so I have no concern regarding impact on residential amenity. It is evident that the 2 new buildings are being used in conjunction with the fun farm for storage and keeping of petting animals. All other buildings on the site are being utilised for other purposes related to the fun farm. I am therefore satisfied that this proposal is not in conflict with the provisions of CTY 11 of PPS21.

No additional consultations were issued to informed this deferred consideration. The Councils Health and Safety, Public Safety and Licensing Department were not consulted with the proposal however provided advice, which has been made available to view on Public Access.

Members should note that in the interests of trying to mediate in this case, I did request that the applicant consider constructing the access which was approved under LA09/2017/1704/F but this was declined. As there are no Road Safety concerns highlighted by DFI Roads and no PPS 21 policy concerns I am recommending that Members approve this application subject to standard conditions.

Conditions/Reasons for Refusal:

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 use of the buildings hereby approved shall be used only for Use Class B1: Business, in connection with the applicant's farm diversification project 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.

Condition 3

The vehicular access including visibility splays, any forward sight distance and the widening of the access shall be provided in accordance with Drawing No 02/1 bearing the date stamp 24th October 2022 within 3 months of the date of this decision. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Signature(s):Karla McKinless

Date: 6 July 2023



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 April 2023	Item Number: 5.5
Application ID: LA09/2022/0314/F	Target Date: 5 May 2022
Proposal: Retention of 2 additional fun farm buildings with the reconfiguration of parking and turning areas approved under LA09/2017/1704/F and the proposed utilisation of the existing access lane, with improvements to the existing access, to serve the business (lane approved under LA09/2017/1704/F not to be built)	Location: 250M Ne Of 260 Drum Road Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Martin McDonald 395 Crockaboy Road Creggan Omagh	Agent Name and Address: C.Mcllvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
Executive Summary:	

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	Historic Environment Division (HED)	Substantive: YResponseType: FR
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx

Representations:

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

Summary of Issues

Issues raised

Four representations have been received in relation to this planning application and relate to the following:-

- o Traffic turning into the proposed entrance;

Dfl Roads did not raise any concerns regarding the proposed access. If the proposed development were to be approved and conditioned that the access is widened to 6m for the first 20m as per the proposed site plan, then a car turning into the access meeting a lorry exiting the laneway, would have adequate space to safely stop clear off the public road without prejudicing the free flow of traffic and/or road safety.

- o Estimated vehicle usage;

Dfl Roads did not raise any objections to the levels of traffic estimated to be attending the site as per Q25 on the application form.

- o Visitors to the fun farm turning to entrance to a private dwelling;

Council nor Dfl Roads have any control over traffic stopping to turn at a private entrance. Therefore this is not an issue which can be addressed via this planning application.

- o The use of the existing lane to serve the fun farm business as it already serves a quarry and two separate agricultural holdings;

As discussed above, if the access to the laneway were to be widened as per the site plan, this would provide an area for vehicles to pass safely clear of the public road.

- o Full access has not been able to be viewed via the planning portal;

I viewed the application via Mid Ulster Council's public access system and am able to view all documents in connection with this proposed development.

- o Public safety in terms of the fun farm operating in the immediate vicinity of an active quarry;

Public safety within the perimeter of the quarry is a matter of concern for the owners/operators of that quarry. In my opinion, it would be incumbent on the owners/operators of the quarry to ensure that the quarry is secure and that it cannot, and is, not accessed by children.

- o The application is for a fun farm in the immediate vicinity of, and alongside the commercial quarry;

This is incorrect as the fun farm has already been approved under planning application La09/2017/1704/F. This application is for an extension to that with alterations to the approved access.

- o The objector and their planning advisors have concerns as to how the proposed development could comply with PPS3.

This is detailed in the report below.

Characteristics of the Site and Area

The site is located within an undulating landscape in the rural area and is accessed via an existing laneway. The lane accesses off the Drum Road which is a protected route with wide verges and a right turn lane in place. The laneway, which is a single track laneway, also provides access to a former sand and gravel pit which appears to be redundant in addition to third party farmlands. There are no passing bays on the laneway and this is bounded by mature trees to the south east and a semi-mature woodland/former landfill site to the north west. There is a steep drop of approximately 6m-8m from the laneway into the field to the south east which is the line of the previously approved laneway. The previously approved visibility splays would appear to be in place, however, at the time of site inspection, these were covered by tall uncut grass.

There is a modest 3 bay portal framed shed on the site with a small extension to the rear already in place. The shed has a roller shutter door at the gable end with a double

pedestrian doorway on the southern elevation which leads into a café/ice cream parlour area. This café ice cream parlour area accounts for approximately a third of the floorspace of the shed, with the remainder being used by inflatable bouncy castles etc. The café area has picnic type tables and chairs with a service area/counter with kitchen facilities and customer toilets.

There are two additional small buildings on site and are located to the south east of the main building towards the end of the car park. Both of these buildings are used as animal shelter for pigs, rabbits and hamsters with hay and a quad bike and other accessories are also parked in the buildings. A hardcored pathway extends southwards from the car park to provide access to animal pens on either side of the path. The path extends to the mature hedge along the southern boundary from where there is an access into the adjoining field. A large poly tunnel measuring 12m x 8m exists in the adjoining field to the south west of the animal pens and is used for storage of quad trailers, wheel barrows etc. in association with the fun farm. There are limited critical views of the poly tunnel from the main Drum Road, however the main fun farm buildings are more well screened by the intervening hedgerow.

The laneway previously approved under LA09/2017/1704/F has not been provided and sits approximately 6m - 8m below the level of the existing access laneway. The reception building as approved under La09/2017/1704/F has also not been provided. The access works as required under LA09/2017/1704/F, which included the widening of the first 20m to a width of 8.0m as per Condition 05, have not been provided.

Description of Proposal

Proposed alterations and additions to fun farm approved under LA09/2017/1704/F. Proposed utilisation of existing access lane to serve business (lane approved under LA09/2017/1704/F not to be built). Reconfiguration of parking and turning areas approved under LA09/2017/1704/F. Retention of two additional fun farm buildings.

The two buildings proposed measure 6.1m x 6.0m with 4.0m ridge height and a 3.2m eaves height and 5.6m x 4.6m with a mono-pitched roof falling from 3.1m to 2.3m. The external finishes of the sheds area concrete blockwork with corrugated/profiled iron cladding and timber boards spaced.

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 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 accords with the Cookstown Area Plan 2010 insofar as it is linked to a farm diversification scheme for a registered a farm business. The farm diversification business was approved under LA09/2017/1704/F.

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

PPS 3 - Access, Movement and Parking;

Transport NI were consulted and advised that PPS 3 Policy AMP 3: Access to protected routes and its consequential amendment under PPS 21 is a material consideration for this planning application in addition to PPS 3 Policy AMP 2 Access to Public Roads. In the event that PPS 21 being considered applicable it is proposed to make use of an existing access onto a protected route.

In the event that Council consider this application to be compliant with PPS 3 Policy AMP 3 then the suggested conditions would be appropriate.

PPS 21 CTY 11 - Farm Diversification has a presumption in favour of farm or forestry diversification projects where it has been demonstrated that the proposal will be run in conjunction with the agricultural operations on the farm. The following criteria need to be addressed:-

- o The farm business is currently active and is established;
- o It is appropriate in terms of character and scale;
- o It will not have a detrimental impact on nearby residential properties by way of noise, smell and pollution.

However, proposals will only be acceptable where they involve the reuse or adaptation of existing farm buildings. Although a new building may be acceptable where there are no existing buildings available either because they are required for the existing farm enterprise, are unsuitable for adaptation or reuse or other agency requirements render them unsuitable. Any new building must achieve a suitable degree of integration with existing farm buildings.

The proposal is for an extension to an approved farm diversification project. The original diversification scheme was approved as it was linked to the farm business and was to supplement the income of the applicant, who is the farmers son and who is involved in the existing farm business. He proposed to take over the running of the farm business from his father who was retiring. Given the distance the site is located off the public road and the existing mature vegetation, it is acceptable in terms of the visual impact as the site is well screened when viewed from the public road. Furthermore, the mature hedgerows between the road and the site effectively screen the site from public view and so there is little perception of the existing building and/or the proposed buildings.

PPS 3 - Access, Movement and Parking

Policy AMP 2 - Access to Public Roads

States that 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.

This proposal involves the intensification of an existing access onto a protected route and is therefore subject to the tests in policy AMP 3. The existing access appears to be used to access a sand and gravel quarry, approved under I/1998/0436, and also to serve the surrounding farmland.

Policy AMP 3 advises that the Department will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes as follows:-
On other protected routes outside settlement limits planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access for some categories of development other than dwellings. In such cases approval may be justified for other developments which would meet the criteria for development within a Green Belt or Countryside Policy Area where access cannot reasonably be obtained from an adjacent minor road.

DfI Roads advised that in the event of Planning considering the proposal to be compliant with Policy AMP 3 then the suggested condition would be appropriate.

The proposal is to use an existing access point onto a protected route. That access point is the same access point which the initial diversification project was approved to use. There is no alternative road which the existing fun farm business can access onto. Therefore the proposal is compliant with PPS 3 Policies AMP 2 and AMP 3.

Consideration

Therefore on balance it is my considered opinion that, the proposal is considered to be acceptable and the application should be approved 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 use of the buildings hereby approved shall be used only for Use Class B1: Business, in connection with the applicant's farm diversification project 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.

Condition 3

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02/1 bearing the date stamp 24th October 2022 within 3 months of the date of this decision. 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.

Case Officer: Malachy McCrystal

Date: 21 February 2023

ANNEX	
Date Valid	10 March 2022
Date First Advertised	22 March 2022
Date Last Advertised	22 March 2022
Details of Neighbour Notification (all addresses)	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>DFI Roads - Enniskillen Office-Substantive: TBC Historic Environment Division (HED)-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Roads Consultation full approval.docx</p>	
Drawing Numbers and Title	
<p>Site Layout or Block Plan Plan Ref: 02 Site Layout or Block Plan Plan Ref: 02/1 Site Location Plan Plan Ref: 01 Proposed Plans Plan Ref: 03</p>	
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	
Case Officer: Phelim Marrion	
Application ID: LA09/2022/0624/F	Target Date: 8 July 2022
Proposal: This is a section 54 application for approval LA09/2017/0487/F Requesting to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings.	Location: Clonoe O'Rahilly GFC 93 Washingbay Road Coalisland BT71 4PU
Applicant Name and Address: Clonoe O'Rahilly GFC 93 Washingbay Road Coalisland BT71 4PU	Agent Name and Address: McKeown & Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
Summary of Issues: This application is to remove the pre-commencement conditions (6 & 7 of LA09/2017/0487/F) relating to the provision of a 2m wide footpath along the entire frontage of Washingbay Road. The applicants have provided pedestrian links to the site from both directions but have not provided a footpath cross the entire frontage onto Washingbay Road. DFI Roads have indicated they require the footpath to be provided but are willing to reduce the width of the footpath to the existing verge width.	
Summary of Consultee Responses: DFI Roads – consistent approach to require footpath to be provided, have carried out traffic calming measures in the area and would allow the footpath width to be reduced subject to detailed design consideration.	

Characteristics of the Site and Area:

The application site is located at 93 Washingbay Road, Coalisland. The site is located within the settlement limits of Annaghmore as identified within the Dungannon and South Tyrone Area Plan 2010. The immediate surrounding lands include a strip of land along the roadside either side of the existing access to the Clonoe GAA Community building and a football pitches. Beyond the site there is a mix of uses including residential, commercial and agricultural. As the site is a strip along the roadside there are unobstructed views when travelling along the Washingbay road from both sides.

Description of Proposal

This is a section 54 application for approval LA09/2017/0487/F Requesting to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings. (Conditions 6 & 7)

Deferred Consideration:

This application was before the Planning Committee in June 2023 where it was deferred for a meeting with the Service Director for Planning. At the meeting elected representatives and the applicants set out the reasons for not providing the footpath as submitted and approved with the original application:

- the scheme has been amended and is for less than was originally approved (NMC approved)
- suitable pedestrian access has been provided to the grounds from the east and the west
- DFI Roads should be providing the footpath along the frontage, if it is required, under their statutory provisions
- the provision of a reduced standard footpath would not be safe
- the pedestrian accesses have been signed off by DFI Roads in accordance with the Active Travel Scheme

Members are advised that AMP1 of PPS3 is the only policy, in my view, that refers to pedestrian accesses to developments and this is primarily aimed at ensuring access for all for new buildings. The DRD publication 'Ensuring a Sustainable Transport Future: A New Approach to Regional Transportation' does not provide any direction, as far as I am aware that requires provision of footpaths in association with this type of development and the SPPS does not provide any new or additional policies for consideration.

The issues here relate to the provision of appropriate pedestrian access to this site, as the other issues about vehicular access, design and the uses have already been assessed under the parent application, LA09/2017/0487/F (for the Multi-Sports and Community Hub, to include playing and training pitches, all weather skills training area multi sports games area ,bowling green,tennis courts,allotment plots area ,sensory garden,walking track and associated lighting and car parking.) DFI Roads have advised that it is standard practice for them to request developers provide footpath links across their frontage to facilitate and provide continuity for pedestrians and so requested the footpath provision was conditioned as part of the original approval. (Fig 1)

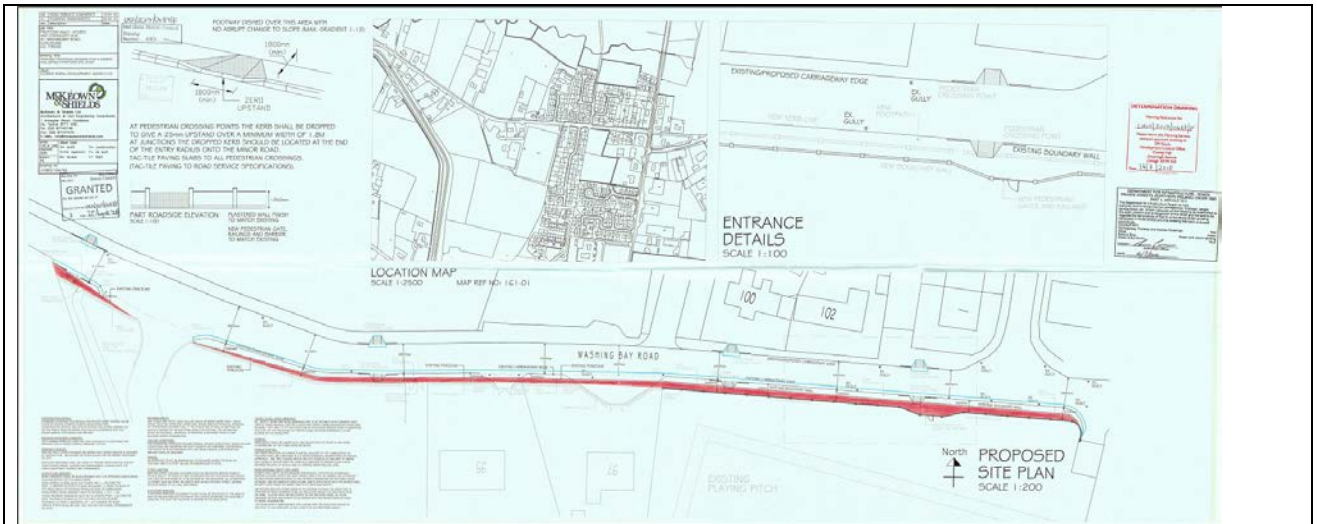


Fig 1 – approved access and footpath arrangements

The applicant's, in conjunction with the Council under the auspices of the Active Travel Scheme, have set back part of the boundary wall and provide the footpath links to the site from the west and the east. (Figs 2 – 5)



Fig 2 – as built access arrangements



Fig 3 and Fig 4 – pedestrian access as built to east (Annaghmore side)



Fig 5 – pedestrian access as built to west (Coalisland side)

DFI Roads have requested the footpath is extended along the frontage of the road to link between these 2 points where there is currently a narrow verge (Figs 6 & 7). DFI had requested the footpath was 2.0m wide but have advised they would accept a narrower footpath subject to detailed drawings.



Fig 6 & Fig 7 – verge between pedestrian access points

Members are advised that conditions must meet 6 tests (as set out in Development Management Practice Note 20), these are that conditions must be:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

In the case of this development, there is an existing community centre and football pitch already here. While the applicants have advised they intend to reduce the overall scheme from that originally approved, there is nothing to prevent them from developing the site as previously approved. Those proposals to increase the provisions on the site are likely to increase the amount of visitors to the site. DFI Roads have no objections to the vehicular access to the site, the only issue they have is that a continuous footpath should be provided along the south side of Washingbay Road for the convenience and safety of pedestrians.

Members are asked to note the following:

- access to the grounds has been provided for pedestrians approaching from the village to the east
- the settlement limits for Annaghmore do not extend beyond the west boundary of the grounds for the football club to the west(Fig 8).

- there is no footpath on this side of the road towards Coalisland, beyond the football club,
- there is a footpath on the opposite side of the road that provides a continuous link to Coalisland and crossing points have been provided to link with the footpaths that have been provided by the club under the Active Travel Scheme
- DFI Roads have carried out road improvements along Washingbay Road with resurfacing of the carriage, speed control devices and it would appear resurfacing part of the verge along the front of the retained boundary wall at the football club. (Figs 4 and 7).

It would be logical to provide a 2m wide footpath along this side of Washingbay Road to future proof and have provision for pedestrians. However that is not the question that should be asked. Referring to the tests for conditions, I consider the question should be is it necessary for this development to have this footpath linkage. From the information provided it would appear that pedestrians accessing the site are well provided for with safe pedestrian accesses from both directions. In the event of any future development to the east, this is a matter than can be addressed at that time and if there is a need for a footpath link, any future developer may have to provide this. I do not consider it is necessary to provide the footpath link and subject to DFI Roads signing off the current provision for the pedestrian railings and crossing points are to their standards I consider condition 7 of Planning Permission LA09/2017/0487/F could be amended to take account of this.

There was a suggestion that an assisted crossing point at the east side pedestrian gate could make it safer for pedestrians. At that location the crossing point is between speed control cushions, there are pedestrian railings to try to ensure users do not run straight out through the gate onto the road, and it is a straight stretch of road free from obstructions for pedestrians or vehicle users line of sight. I consider anyone using the crossing in a reasonable manner would not be in any danger from anyone using the road in a reasonable manner. I do not feel it is necessary to provide any further devices at the crossing point, however if DFI Roads wish to investigate these further, they have processes to bring these forward.

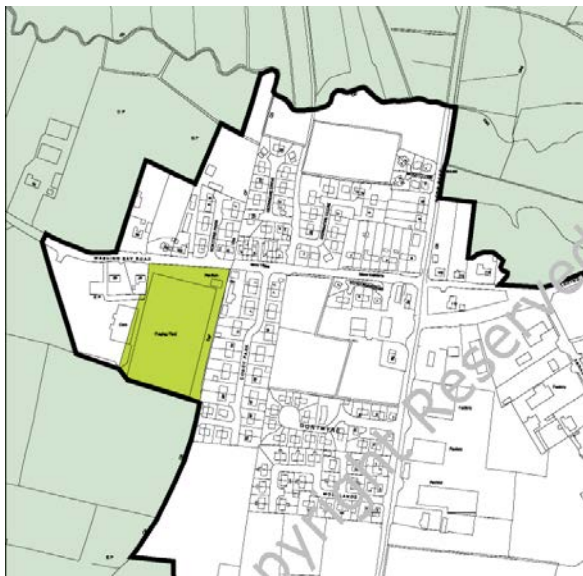


Fig 8 – settlement limits for Annaghmore, taken from Dungannon & South Tyrone Area Plan 2010

In light of the above considerations of how necessary the footpath linkage is, I do not consider it is necessary for this development and recommend that members approve the

change to the condition as set out below (Condition 4)

Conditions/Reasons for Refusal:

1. The limitations on the exterior lighting detailed in the table below shall apply at the following dwellings: 9-40 Coney Park inclusive, 14-31 Canal Meadows inclusive, 76, 76a & 78 Gortgonis Road

Environmental Zone Light Intrusion (into Windows) Ev [lux]	
Pre-curfew	Post-curfew
E3 10	2

(The time of the curfew shall be 10pm)

Reason: to protect the amenity of the above named properties.

2. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities Historic Environment Division to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

3. The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

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

Prior to the development hereby approved becoming operational, the developer shall submit drawings for assessment under the Private Streets Order for the works that have been carried out on drawing No 01 received 9 May 2022. The development shall not become operational until the Council has provided written confirmation that DFI Roads have accepted the works are in accordance with their requirements or do not require a determination.

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)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 12 June 2023	Item Number: 5.21
Application ID: LA09/2022/0624/F	Target Date: 8 July 2022
Proposal: This is a section 54 application for approval LA09/2017/0487/F Requesting to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings.	Location: Clonoe O'Rahilly GFC 93 Washingbay Road Coalisland BT71 4PU
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Clonoe O'Rahilly GFC 93 Washingbay Road Coalisland	Agent Name and Address: McKeown & Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
Executive Summary:	

Case Officer Report

Site Location Plan

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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	03-08-2022.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation.docx

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The application site is located at 93 Washingbay Road, Coalisland. The site is located within the settlement limits of Annaghmore as identified within the Dungannon and South Tyrone Area Plan 2010. The immediate surrounding lands include a strip of land along the roadside either side of the existing access to the Clonoe GAA Community building and a football pitches. (see below map). Beyond the site there is a mix of uses including residential, commercial and agricultural. As the site is a strip along the roadside there are unobstructed views when travelling along the Washingbay road from both sides.

Description of Proposal

This is a section 54 application for approval LA09/2017/0487/F Requesting to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Regional Development Strategy Dungannon and South Tyrone Area Plan (DSTAP) 2010 Mid Ulster Local Development Plan 2030 - Draft StrategyPPS3 – Access movement and parkingStrategic Planning Policy Statement (SPPS) This is a section 54 application for

approval LA09/2017/0487/F, requesting to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings. This proposal is referring to conditions 6 and 7 of LA09/2017/0487/F. These conditions were; Cond 6 The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 03/3 bearing the date stamp 26th June 2018. 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. Cond 7 The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road (including provision of a 2.0 metre wide footway along site frontage) have been completed in accordance with the details outlined blue on Drawing Number 03/3 bearing the date stamp 26th June 2018. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an 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. The application is under Section 54 of the Planning Act (NI) 2011 and is solely to deal with the issue of varying conditions 6 and 7 of Planning Permission LA09/2017/0487/F. Section 54 allows the Council to consider the variation of conditions of planning permission. The rationale behind this application is as stated by the agent that the purpose of the conditions were to provide proper safe access to the site. The applicant has stated in their proposed description that in their opinion safe access on both approaches to the development have now been provided. Given the circumstances of the application a consultation was sent to DfI Roads, in their response they stated; 'It is a consistent approach that within settlement limits, road improvements including footway provision is provided to an appropriate standard in conjunction with development. The road widening and footway provision is considered the appropriate works necessary to provide a proper safe and convenient means of access to the development.' 'the provision of a frontage and connecting footway by the applicant is considered a requirement to provide sustainable means of travel to and along the application site' It is clear from their response that the applicant must provide a foot path along the remainder of the site frontage, (see below [picture]), however, the final paragraph of the DfI Roads response did offer a reduced footpath. 'To avoid alteration works to the existing frontage boundaries, DfI Roads would consider reduced footway widths as a relaxation in standard from that previously approved so that a footway can be provided within the existing verges. This however would be subject to a detailed design indicating what can be achieved.' In conclusion the Council is not able to remove the condition as it is DfI Roads position that a safe and convenient access has not been achieved and therefore the original conditions must be complied with.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposed development is contrary to PPS 3 - Access, Movement and Parking in that it would, if permitted, prejudice the safety and convenience of road users since an adequate means of travel to and from the application site has not been achieved.

Signature(s): Peter Hughes

Date: 22 May 2023

ANNEX	
Date Valid	13 May 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 96 Washingbay Road Coalisland Tyrone BT71 4PU The Owner / Occupier 95 Washingbay Road Coalisland Tyrone BT71 4PU The Owner / Occupier 102 Washingbay Road Coalisland Tyrone BT71 4PU The Owner / Occupier 100 Washingbay Road Coalisland Tyrone BT71 4PU The Owner / Occupier 97 Washingbay Road Coalisland Tyrone BT71 4PU</p>	
Date of Last Neighbour Notification	30 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/1987/0031B Type: RM Status: PCO</p> <p>Ref: M/2014/0396/F Type: F Status: PG</p> <p>Ref: M/2014/0242/PREAPP Type: PREAPP Status: EOLI</p> <p>Ref: M/1978/0101 Type: H13 Status: PG</p>	

Ref: M/2004/0603/Q
Type: PREAPP
Status: 360

Ref: M/2000/1027/Q
Type: PREAPP
Status: PCO

Ref: M/1995/0586
Type: O
Status: PCO

Ref: M/1998/0369
Type: F
Status: PCO

Ref: M/1994/0261
Type: F
Status: PCO

Ref: M/1996/0600
Type: F
Status: PCO

Ref: LA09/2020/0854/F
Type: F
Status: PG

Ref: M/1982/016701
Type: H13
Status: PG

Ref: M/1982/0167
Type: H13
Status: PG

Ref: LA09/2022/0624/F
Type: F
Status: PCO

Ref: M/2011/0198/F
Type: F
Status: PG

Ref: M/1994/6069
Type: PREAPP

Status: PCO

Ref: M/2003/1128/F

Type: F

Status: PG

Ref: M/2008/0977/F

Type: F

Status: PG

Ref: M/2010/0803/F

Type: F

Status: PG

Ref: M/2004/1941

Type: F

Status: APPRET

Ref: M/2013/0235/F

Type: F

Status: PG

Ref: M/2002/1155/F

Type: F

Status: PG

Ref: M/2010/0653/Q

Type: PREAPP

Status: EOLI

Ref: M/1999/0681/F

Type: F

Status: PG

Ref: M/2000/0742

Type: F

Status: APPRET

Ref: M/2002/0607/F

Type: F

Status: PG

Ref: M/1996/0217%

Type: F

Status: PCO

Ref: M/1998/0873

Type: F

Status: PCO

Ref: M/2005/1753/Q

Type: PREAPP

Status: PCO

Ref: M/1987/0031

Type: O

Status: PG

Ref: M/2007/0648/F

Type: F

Status: PG

Ref: M/1987/056601

Type: H13

Status: PG

Ref: M/1987/0566

Type: RM

Status: PG

Ref: M/2003/0618/F

Type: F

Status: PG

Ref: M/1994/6063

Type: PREAPP

Status: PCO

Ref: M/1994/0474

Type: F

Status: PCO

Ref: M/1988/0384

Type: RM

Status: PCO

Ref: M/1998/4043

Type: P

Status: PCO

Ref: M/2006/1601/F

Type: F

Status: PG

Ref: M/2005/2408/LDP

Type: LDP

Status: PG

Ref: M/2006/1285/F

Type: F

Status: PG

Ref: M/2005/1767/F

Type: F

Status: PG

Ref: M/2005/2155/F

Type: F

Status: PG

Ref: M/1990/0658

Type: F

Status: PCO

Ref: M/2009/0544/F

Type: F

Status: PG

Ref: M/1999/0713/A41

Type: A41

Status: PDE

Ref: M/1985/0180

Type: H13

Status: PG

Ref: M/2004/0599/F

Type: F

Status: PG

Ref: LA09/2018/0188/O

Type: O

Status: PG

Ref: M/2005/0612/O

Type: O

Status: APPRET

Ref: M/1974/0192

Type: H13

Status: PG

Ref: M/1982/0072

Type: H13

Status: PR

Ref: LA09/2018/1364/RM

Type: RM

Status: PG

Ref: M/2009/0998/F

Type: F

Status: PG

Ref: M/1989/0218

Type: F

Status: PCO

Ref: M/1976/0100

Type: H13

Status: PG

Ref: M/2015/0142/F

Type: F

Status: PG

Summary of Consultee Responses

DFI Roads - Enniskillen Office-03-08-2022.docx

DFI Roads - Enniskillen Office-Roads Consultation.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1106/F Recommendation: Approve	Target Date: 17 October 2022
Proposal: Proposed Replacement Dwelling and Carport	Location: 5 Greenvale Cookstown BT80 8QS
Applicant Name and Address: Mr Odhran McCracken 4 Westwood Park Cookstown BT80 8YX	Agent Name and Address: Mr Peter Hampsey 35 OLD RECTORY PARK COOKSTOWN BT80 9XR
Summary of Issues: <p>This application was first presented to Members at January 2023 Planning Committee with a recommendation to Approve. Following concerns raised by an objector on the night, Members agreed to defer the application for further consideration by the Senior Officer. The application is before Members again with a recommendation to approve, with the justification set out in this report.</p>	
Summary of Consultee Responses: <p>No consultations were issued to inform this deferred consideration</p>	
Description of Proposal <p>This is a full application for a proposed replacement dwelling and carport at No. 5 Greenvale, Cookstown.</p>	

Deferred Consideration:

This is an application for a replacement dwelling within the settlement limits of Cookstown. There are no concerns about the principle of the development or the design of the dwelling. The application was deferred at January Committee so that a revised layout could be submitted removing planting from the rear portion of site which runs along the boundary with an objector who resides at number 11 Drumvale Avenue. A revised site layout was submitted on the 30th January 2023 which removes planting from along this boundary. It also shows that the right of way that runs along the rear of the site is not being blocked in any way by planting.

Since this application was last before Members in January 2023 a further 5 objections have been received, 1 from the occupants of 1 Greenvale Drive which was subsequently withdrawn and the other 4 from the occupant of 11 Drumvale Avenue. The applicant has also submitted a letter which details events and exchanges between interested parties on dates from the 3rd October 2022 to 13th Feb 2023.

The objector from 11 Drumvale Drive has raised concern that lands adjacent to his boundary have been raised 450mm-600mm in places and raised some 600mm-900mm in places and requested that this should be rectified by the applicant by way of reinstating levels so that the foundations of the boundary retaining wall are not effected. The applicant has submitted a layout plan showing existing ground levels.

Members are advised that it is clearly evident from this case that there is a civil dispute between the applicant and the resident of number 11 Drumvale Avenue, in which the Council should not be expected to mediate in. Whether or not ground levels have been increased in these areas cannot be confirmed with 100% certainty and as such, this issue is not material to the assessment of the application. The proposal for a replacement dwelling is not at conflict with any planning policy and it is recommended that Members approve this application. A condition can be attached that will ensure that no landscaping be introduced along the boundary with number 11 Drumvale Avenue or along the right of way.

Conditions/Reasons for Refusal:**Approval Conditions****Condition 1**

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

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

Condition 2

All landscaping comprised in the approved details of landscaping on drawing 02 Rev D uploaded to Public Access on 23 May 2023 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: In the interest of visual amenity and to ensure the development integrates.

Condition 3

There shall be no landscaping along the Northern boundary of the site as indicated in green on drawing 01 rev A uploaded on Public Access on 26th September 2022.

Reason: To ensure the right of way is not obstructed

Signature(s):Karla McKinless

Date: 18 July 2023

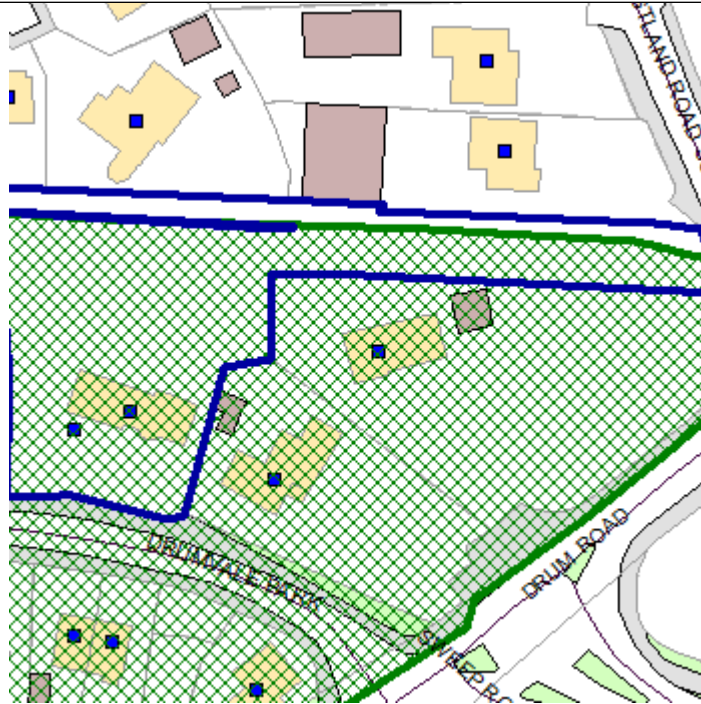


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2022/1106/F	Target Date: 17 October 2022
Proposal: Proposed Replacement Dwelling and Carport	Location: 5 Greenvale Cookstown BT80 8QS
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Odhran McCracken 4 Westwood Park Cookstown BT80 8YX	Agent Name and Address: Mr Peter Hampsey 35 OLD RECTORY PARK COOKSTOWN BT80 9XR
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval - Recon response.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist.doc Roads Consultation full approval.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

The current application is presented as an approval; however, it is being presented at Committee following objections from two neighbours.

Concerns are addressed below:

Submitted plans do not reflect what is on the ground, right of way not shown – A land registry check has confirmed that there is no public right of way on this land.

Proposed garage blocks right of way – Garage has been removed entirely from the proposal.

Ground level to the right of way has been raised, existing levels of right of way should be maintained – Site visits were carried out on 15/09/22 and 17/11/22 and I am content that the ground level has not been raised. A number of tree stumps had been removed in the north-western corner of the site and the soil had subsequently been flattened, however no infilling has occurred.

Queries over the legality of granting permission for trees and hedges in a public right of way as the amended block plan (uploaded to Public Access on 26/09/22) shows a hedge blocking right of way – As mentioned previously, there is no formal right of way on this land however a section of the proposed hedging to the north-western corner of the site has been removed to address this concern.

Lack of detail regarding species and height of proposed hedges – A condition has been added to specify native species hedging not to exceed 2m in height.

Characteristics of the Site and Area

The application site is located at No. 5 Greenvale within the settlement limits of Cookstown as per the Cookstown Area Plan 2010. The site is accessed from Drumvale Park and features a two-storey dwelling with an attached single storey garage projecting from the eastern elevation. The site rises gently from south to north. Parking is currently accommodated within the curtilage of the site and there is a generous amount of grassed amenity space, particularly to the rear of the dwelling.

The front boundary of the site is defined by a mature hedgerow with a gated vehicular access point. The side boundaries feature a mixture of fencing and vegetation and along the rear boundary there is a 1m retaining wall with fencing panels on top separating the application site from the dwellings to the north.

The area is predominately residential and there are two hotels, the Greenvale and the Glenavon, within the vicinity of the application site.



Consultations

TPO Officer consulted internally as area was identified as a TPO area – responded requesting additional information, further investigation showed relevant trees had been removed prior to the applicant purchasing the site therefore the group are content that no additional information is required.

Dfl Roads – responded advising they offer no objection on the basis that the proposed development is built in accordance with the approved drawings.

Site History

There is no relevant site history for this application site.

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. This application was initially advertised in the local press on 19/07/2022. Eleven neighbouring properties were notified in relation to this application and two objectors have submitted correspondence.

Description of Proposal

This is a full application for a proposed replacement dwelling and carport at No. 5 Greenvale, Cookstown.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010

The site falls within the Cookstown development limit as defined in the Cookstown Area Plan 2010. The application site was identified as falling within a TPO area.

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.

The SPPS outlines the aims 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. It does not offer any change in policy direction regarding replacement dwellings.

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

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

Planning Policy Statement 7 – Quality Residential Environments

The Strategic Planning Statement which was published in September 2015 retained a number of existing policies, of which PPS 7 was one and is the relevant policy in this application proposal.

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

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

The immediate surrounding area is mostly residential with a variety of single storey and two storey detached dwellings with community and local facilities available close by. The principle of residential development is generally acceptable within the development limit of Cookstown, and this proposal respects the use of the surrounding area which is mainly residential. I am content that the layout, scale, proportions, and massing of the dwelling are similar to that of the existing dwelling to be replaced. The proposal is for a replacement dwelling therefore there will be intensification of development on the site.

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

There are no archaeological features in the immediate vicinity of the site.

- 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;

The application is for a replacement dwelling which is sited largely in the footprint of the existing dwelling, Existing and proposed landscaping will soften the visual impact of the proposal.

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

Given the nature, scale and location of the development, there is no requirement for public open space to be provided as part of this application.

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

The location of this site within the town of Cookstown supports walking and cycling and

there is convenient access to public transport.

- Adequate and appropriate provision is made for parking;

There appears to be adequate space for parking at the front of the dwelling.

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

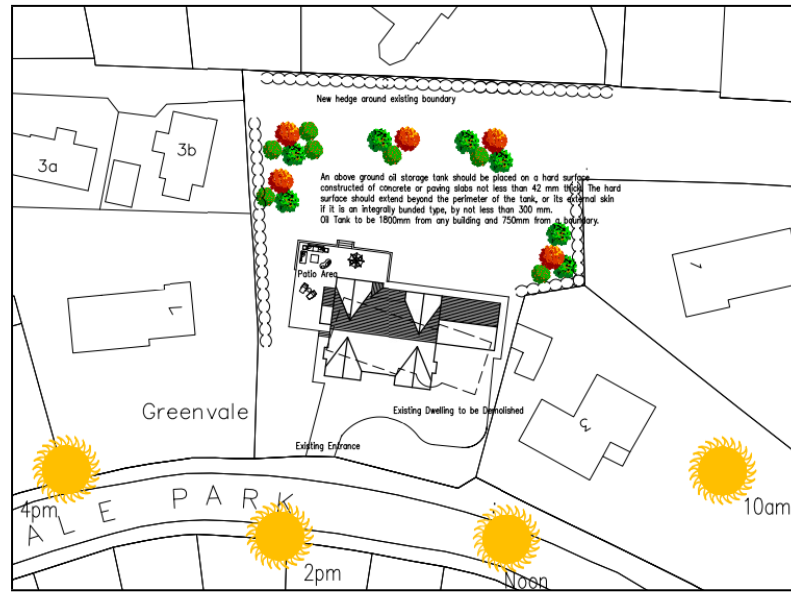
The dwelling has a proposed ridge height of 6m, 14.5m in length, and a gable depth of 8.7m with an additional 1.4m porch projection and 4.2m rear outshot. The walls are to be finished with a smooth painted render with locally sourced stone to the front porch. The proposed dwelling is similar in scale to those in the surrounding area, and finishes are not out of character for the area. Sections of natural stone cladding are evident at neighbouring dwellings including No. 3 Greenvale to the east of the application site. I am content that the proposal is acceptable in this regard.



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

The proposed dwelling is to be sited in the footprint of the existing dwelling and within the existing curtilage. The application proposes a two-storey dwelling to replace the existing two-storey dwelling. I am content that sufficient separation exists between the application site and neighbouring plots to ensure there are no adverse impacts on

neighbouring dwellings.



- The development is designed to deter crime and promote personal safety.

Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas

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, & 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 application is for a replacement dwelling therefore there will be no intensification of development within the established residential area.

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

The pattern of development in the immediate area is detached dwellings on large plots

and considering the proposal is for a replacement dwelling and carport with a similar footprint, it is consistent with the overall character and environmental quality of this established residential area.

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

The proposed dwelling exceeds the minimum Space Standards as set out in Annex A of Addendum to PPS 7 – Safeguarding the Character of Established Residential Areas. The proposed dwelling is therefore acceptable in this regard.

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

All landscaping comprised in the approved details of landscaping on drawing 02 Rev A uploaded to Public Access on 26/09/22 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved. Hedging shall be of a native species and shall not exceed 2m in height.

Reason: In the interest of visual amenity and to ensure the development integrates.

Signature(s): Zoe Douglas

Date: 21 December 2022

ANNEX	
Date Valid	4 July 2022
Date First Advertised	19 July 2022
Date Last Advertised	19 July 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 51 Drum Road Cookstown Tyrone BT80 8JQ The Owner / Occupier 125 Westland Road South Cookstown Tyrone BT80 8JN The Owner / Occupier 11 Drumvale Avenue Cookstown Tyrone BT80 8QZ The Owner / Occupier 9 Drumvale Avenue Cookstown Tyrone BT80 8QZ The Owner / Occupier 3B Drumvale Avenue Cookstown Tyrone BT80 8QZ The Owner / Occupier 7 Greenvale Cookstown Tyrone BT80 8QS The Owner / Occupier 3 Drumvale Park Cookstown Tyrone BT80 8QY The Owner / Occupier 2 Drumvale Park Cookstown Tyrone BT80 8QY The Owner / Occupier 1 Drumvale Park Cookstown Tyrone BT80 8QY The Owner / Occupier 3 Greenvale Cookstown Tyrone BT80 8QS The Owner / Occupier Downhill Lodge 1 Greenvale Drum Road Cookstown BT80 8QS</p>	
Date of Last Neighbour Notification	24 November 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: I/1990/0011 Proposals: 2 No Semi_Detached Dwellings Decision: WITHDR Decision Date:</p>	

Ref: I/1977/0078

Proposals: CONVERSION OF LICENSED RESTAURANT TO HOTEL

Decision: PG

Decision Date:

Ref: I/1977/0258

Proposals: 4 NO BUNGALOWS

Decision: WITHDR

Decision Date:

Ref: I/1977/007801

Proposals: CONVERSION OF LICENSED RESTAURANT TO HOTEL

Decision: PG

Decision Date:

Ref: I/1986/0322

Proposals: EXTENSION TO HOTEL

Decision: WITHDR

Decision Date:

Ref: LA09/2022/1106/F

Proposals: Proposed Replacement Dwelling and Carport with detached Garage and Store

Decision:

Decision Date:

Ref: I/1991/0397

Proposals: Boundary Wall

Decision: PG

Decision Date:

Ref: I/2002/0841/F

Proposals: Proposed extension and alterations to dwelling

Decision: PG

Decision Date: 22-FEB-03

Ref: I/1977/0298

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/1977/029802

Proposals: SITE FOR DWELLING

Decision: PG

Decision Date:

Ref: I/1977/029801
Proposals: 2 NON-SUBSIDY BUNGALOWS
Decision: PG
Decision Date:

Ref: I/2007/0512/O
Proposals: Demolition of existing dwelling and replacement with 2 no. semi-detached dwellings and 2 no. detached dwellings
Decision: PG
Decision Date: 27-APR-09

Ref: I/2002/0185/F
Proposals: Extension to dwelling, garage, wall raised
Decision:
Decision Date:

Ref: LA09/2017/1286/F
Proposals: Proposed retention of change of use from Retail Sales and plant hire back to its former use as Vehicle Repair Garage
Decision: PG
Decision Date: 27-MAR-18

Ref: I/2011/0496/F
Proposals: Retention of change of use from domestic store to fuel sales and hire business including retention of office building used in conjunction with business
Decision:
Decision Date:

Ref: I/2014/0022/LDE
Proposals: Retail sales & plant hire with ancillary storage & distribution
Decision: PG
Decision Date: 02-APR-14

Ref: I/1977/0138
Proposals: TWO NON-SUBSIDY BUNGALOWS
Decision: WITHDR
Decision Date:

Ref: LA09/2019/1339/TPO
Proposals: Consent for works to a TPO
Decision: WTPOG
Decision Date: 14-NOV-19

Ref: I/1977/0150
Proposals: EXTEND EXISTING GARDEN CENTRE
Decision: PG

Decision Date:

Ref: I/1978/0172

Proposals: EXTENSION TO GARDEN CENTRE

Decision: PG

Decision Date:

Ref: I/1994/0401

Proposals: Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1995/0413

Proposals: Proposed 2 No.dwellings and garages

Decision: WITHDR

Decision Date:

Ref: I/2004/0341/F

Proposals: Proposed 2no two storey dwellings, one with integral garage and one with detached garage

Decision: PG

Decision Date: 18-SEP-04

Ref: I/2002/0367/O

Proposals: Proposed site for dwelling

Decision: PG

Decision Date: 15-AUG-02

Ref: I/1996/0540

Proposals: Site for dwelling

Decision: PG

Decision Date:

Ref: I/1980/0232

Proposals: TWO NO NON-SUBSIDY DWELLING HOUSES

Decision: PG

Decision Date:

Ref: I/1992/0466

Proposals: Domestic Garage

Decision: PG

Decision Date:

Ref: I/1986/0033

Proposals: CONVERSION OF EXISTING GARAGE TO PLAYROOM AND ERECTION OF NEW GARAGE

Decision: PG
Decision Date:

Ref: I/1981/0102
Proposals: MEETING ROOM AND OFFICE
Decision: PG
Decision Date:

Ref: I/1986/0362
Proposals: NEW ENTRANCE
Decision: PG
Decision Date:

Ref: I/1980/0251
Proposals: PROPOSED STORE
Decision: PG
Decision Date:

Ref: I/1986/0310
Proposals: EXTENSION TO FUNCTION ROOM
Decision: WITHDR
Decision Date:

Ref: I/1998/0044
Proposals: Erection of Dwelling and Garage
Decision: PG
Decision Date:

Ref: I/1991/6076
Proposals: Residential Development Westland Road South / Drum Road Cookstown
Decision: QL
Decision Date:

Ref: I/1990/0195
Proposals: Erection of wall to front of Historic Building
Decision: PG
Decision Date:

Ref: I/1990/0196
Proposals: Alterations to existing estate entrance and erection of wall to the front of Historic Building
Decision: PG
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Consultation full approval - Recon response.docx
DFI Roads - Enniskillen Office-DC Checklist.docRoads Consultation full approval.docx

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

Further Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2022/1288/O	Target Date: 2 December 2022
Proposal: Proposed replacement dwelling as a result of a fire damaged house	Location: 15 Finulagh Road Castlecaulfield
Applicant Name and Address: Ryan McGurk 25 Finulagh Road Castlecaulfield Dungannon	Agent Name and Address: McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
Summary of Issues: <p>This application was submitted as an infill dwelling and recommended as refusal, following an office meeting the application was amended to reflect the previous history in the site for a replacement dwelling that was destroyed by a fire. The proposal does not meet all the requirement of CTY3 for a replacement fire damaged dwelling, additional information has been provided setting out the specific matters with this site which justify setting aside the policy.</p>	
Summary of Consultee Responses: DFI Rivers - ½ site lies within 1 in 100 year flood area, only exceptions allowed to be developed in flood plain DFI Roads - 2.4m x 80.0m sight lines and 80.0m forward sight line	
Characteristics of the Site and Area: <p>The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is 0.67km northwest of the settlement of Castlecaulfield. The surrounding area is rural in character and the predominant land uses are agricultural fields, rural dwellings on single plots and groups of farm buildings. There is minimal development pressure in the immediate area along Finulagh Road from the construction of single dwellings. 82m west of the site are two</p>	

poultry sheds. The application site are the lower portions of two agricultural fields and the topography rises up by a couple of metres from the road to the back of the site. At the site are two small sheds and a concrete yard and there is established hedging along the roadside boundary.

Description of Proposal

Proposed replacement dwelling as a result of a fire damaged house

Deferred Consideration:

This application was before the Planning Committee in March 2023 and July 2023 where additional information about the condition of the dwelling and this site were presented for consideration.

The additional information presented shows:

- an undated aerial photograph of the site with a 2 storey dwelling, outbuildings, access and landscaping in situ (fig 1), and



Fig 1 – aerial photograph of the site showing the dwelling and buildings in situ

- undated photographs that show one of the original buildings remaining on site, the site cleared, the access, entrance and laneway in situ, some of the trees still in place and the septic tank for the original dwelling still in place

At a site visit on 7 July 2023 it was noted the yard is being used for the storage of round bales, however the entrance, trees, septic tank and one of the original buildings are still in situ. (Fig 2 and 3)



Fig 2 entrance to site with original building to right hand side, Fig 3 shows cover over septic tank both photographs taken 7 July 2023

From the above information I am of the view that no changes have occurred to the site since the old dwelling was demolished. The applicant and agent have been unable to provide any evidence from the fire service to substantiate and date they say the old house was destroyed by the fire. Members could on this basis refuse the proposal as it does not meet the policy where a dwelling has **recently** been destroyed by accident and no evidence has been presented to demonstrate this.

That said, the photograph at fig1 shows a substantial dwelling and group of buildings which appears to have been well cared for at that time. It is a fact the dwelling is no longer there and I have no reason to doubt the applicant and agent in that it was destroyed as a result of a fire. In this case, the clearing of the site and its retention in the current unchanged state for a considerable number of years is indicative of the intent to replace the house.

I am satisfied there was a dwelling here and that it was destroyed by a fire. The fire was not recent and this is where I consider Policy CTY3 has not been met. I do consider weight may be given to the planning history and the sites characteristics which have unchanged for a long period of time. Members will remember there were 2 applications to replace the dwelling on the site (M/1992/0652 and Reserved Matters application M/1992/0652B and M/1995/0450) within a short space of time of each other. It was, in my opinion, obviously the intent to replace the old dwelling and rebuild here at some stage,

As this is not meeting the policy for a replacement dwelling, I consider it is appropriate to assess the access arrangements. DFI Roads have advise the access needs to provide 2.4m x 80.0 m sight lines where it meets the road. I visited the site and these are not in place and are necessary as the hedge at the roadside and blocks the sight lines in both directions. A condition to provide these is necessary in my opinion.



Fig 4 – site in 2021 – google image

Members are advised that chicken houses are located to the west of the site and there could be potential for nuisance from them. A dwelling can be sited over 100 metres from the chicken house which would alleviate some of the concerns about impacts on residential amenity. I do not consider this should prevent planning permission from being granted here and a condition should be attached to ensure the dwelling is sited at least 100m from these buildings.

The front part of the site is within the floodplain (fig 5), however the north, higher part is outside the area that floods and therefore does not need to meet the exception to FLD1 if a dwelling was sited there. It is proposed to use the existing access and laneway, I consider it is necessary to attach a condition that prevents any development or raising of the ground levels in the flood plain to prevent flooding occurring elsewhere due to displacement of the floodwaters.



(Fig 5 – site and floodplain)

In light of the above, I am of the opinion that while the proposal does not meet policy CTY3 as the dwelling was not recently destroyed by fire. The planning history and the site conditions have indicated the intention was there to replace the old dwelling and that an exception to CTY3 can be made in this instance. I recommend that planning permission is granted.

Conditions:

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

Reason: This is outline permission only and these matters have been reserved for the

subsequent approval of the Council.

3. Details of existing and proposed levels within the site, levels along the roadside, and the finished floor level of the proposed dwelling shall be submitted for approval at Reserved Matters stage. The dwelling shall be built in accordance with levels agreed at Reserved Matters stage.

Reason: To ensure that the dwelling integrates into the surrounding countryside.

4. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All existing boundaries shall be retained and augmented with trees and native species hedging. All new curtilage boundaries including both sides of any proposed access laneway shall also be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage. During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

Reason: In the interest of visual amenity and to assist with integration.

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

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

6. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the uploaded form RS1 including sight lines of 2.4m by 80.0m and a forward sight distance of 80.0m where the access meets the public road. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

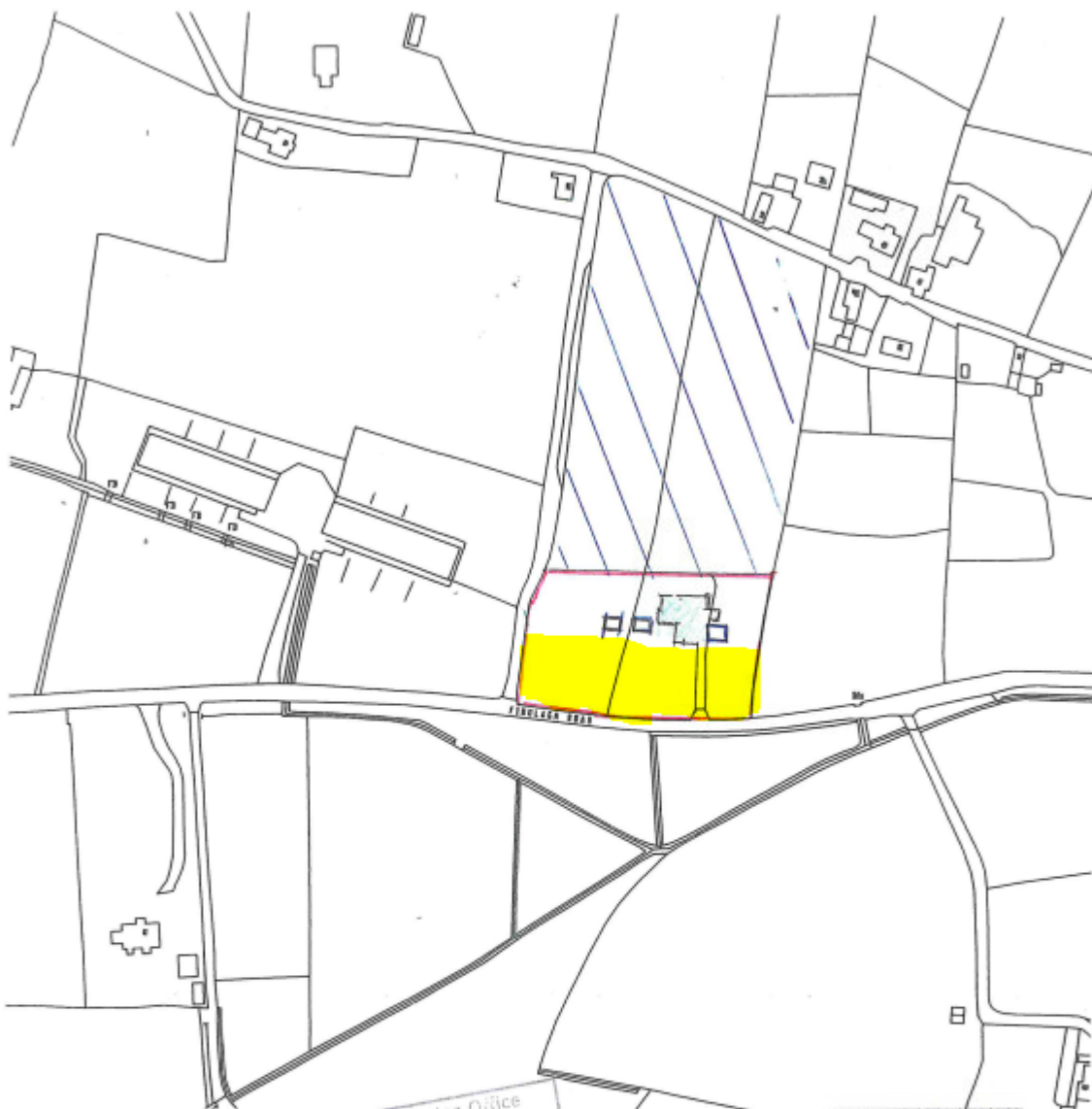
7. The dwelling hereby approved shall be sited not less than 100metres from the nearest part of the chicken houses that are located to the west of the site.

Reason: To protected the amenity of the residents of the proposed dwelling.

8. The dwelling hereby approved shall not be sited within, and no development or raising of the ground levels shall occur within the area identified in yellow on the approved drawing No 01 bearing the stamp dated 19 AUG 2022.

Reason: To ensure the dwelling hereby approved does not flood and to prevent flooding occurring elsewhere.

Signature(s)
Date:



3 Planning Office
RECEIVED
19 AUG 2022
File No.
Mid Ulster District Council

Mid Ulster District Council
Drawing
Number. 01

Proposed Dwelling in Compliance with
Planning Policy 23 & (Infill Gap Site)
at 15 Fintona Rd Ardaraughfield
Dungannon for Mr Ryan McGee

DATE August 2022
SCALE 1/2500
O.S. GRID REF: 159:12
AND 160-09



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	
Case Officer: Phelim Marrion	
Application ID: LA09/2022/1288/O	Target Date: 2 December 2022
Proposal: Proposed replacement dwelling as a result of a fire damaged house	Location: 15 Finulagh Road Castlecaulfield
Applicant Name and Address: Ryan McGurk 25 Finulagh Road Castlecaulfield Dungannon	Agent Name and Address: McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
Summary of Issues: <p>This application was submitted as an infill dwelling and recommended as refusal, following an office meeting the application was amended to reflect the previous history in the site for a replacement dwelling that was destroyed by a fire. The proposal does not meet all the requirements of CTY3 for a replacement fire damaged dwelling and no additional information has been provided to justify setting aside the policy.</p>	
Summary of Consultee Responses: DFI Rivers - ½ site lies within 1 in 100 year flood area, only exceptions allowed to be developed in flood plain DFI Roads - 2.4m x 80.0m sight lines and 80.0m forward sight line	
Characteristics of the Site and Area: <p>The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is 0.67km northwest of the settlement of Castlecaulfield. The surrounding area is rural in character and the predominant land uses are agricultural fields, rural dwellings on single plots and groups of farm buildings. There is minimal development pressure in the immediate area along Finulagh Road from the construction of single dwellings. 82m west of the site are two poultry sheds. The application site are the lower portions of two agricultural fields and</p>	

the topography rises up by a couple of metres from the road to the back of the site. At the site are two small sheds and a concrete yard and there is established hedging along the roadside boundary.

Description of Proposal

Proposed replacement dwelling as a result of a fire damaged house

Deferred Consideration:

This application was before the Planning Committee in March 2023 for a dwelling I a gap site, it was deferred for a meeting with he Service Director for Planning. At the meeting he agent outlined the history of the site and advised:

- planning permission was granted for a replacement dwelling in 1995 and it was the applicants intention to enact this permission
- a fire damaged the house in 1997 and the owners, who were elderly moved away and did not rebuild, have been unable to obtain any report from the fire service to support this but M Nugent grew up not far away from here and remembers being in the house many times before it was destroyed
- the site has remained as it was when the house was demolished and it is clear to see the original footprint of the dwelling, its curtilage and the access lane to it

The site has a history of applications:

M/1992/0652 - Outline Planning Permission for a replacement dwelling was approved on 5 February 1993 (as stated on the application form for M/1995/0450)

M/1992/0652B - Reserved Matters were applied for on 21 April 1993 and subsequently withdrawn

M/1995/0450 was submitted on 18 July 1995 (within the 3 years for submission of the Reserved Matters for M/1992/0652) for renewal of the OPP for the replacement dwelling and was granted on 2 November 1995.

I am unable to find any further applications for this development, an RM application, or renewal of the OPP would have had to be submitted by 2 November 1998. It is worth noting the site is relatively unchanged from the original permission, as can be seen in the approved map for M/1995/0450 (Fig 1).

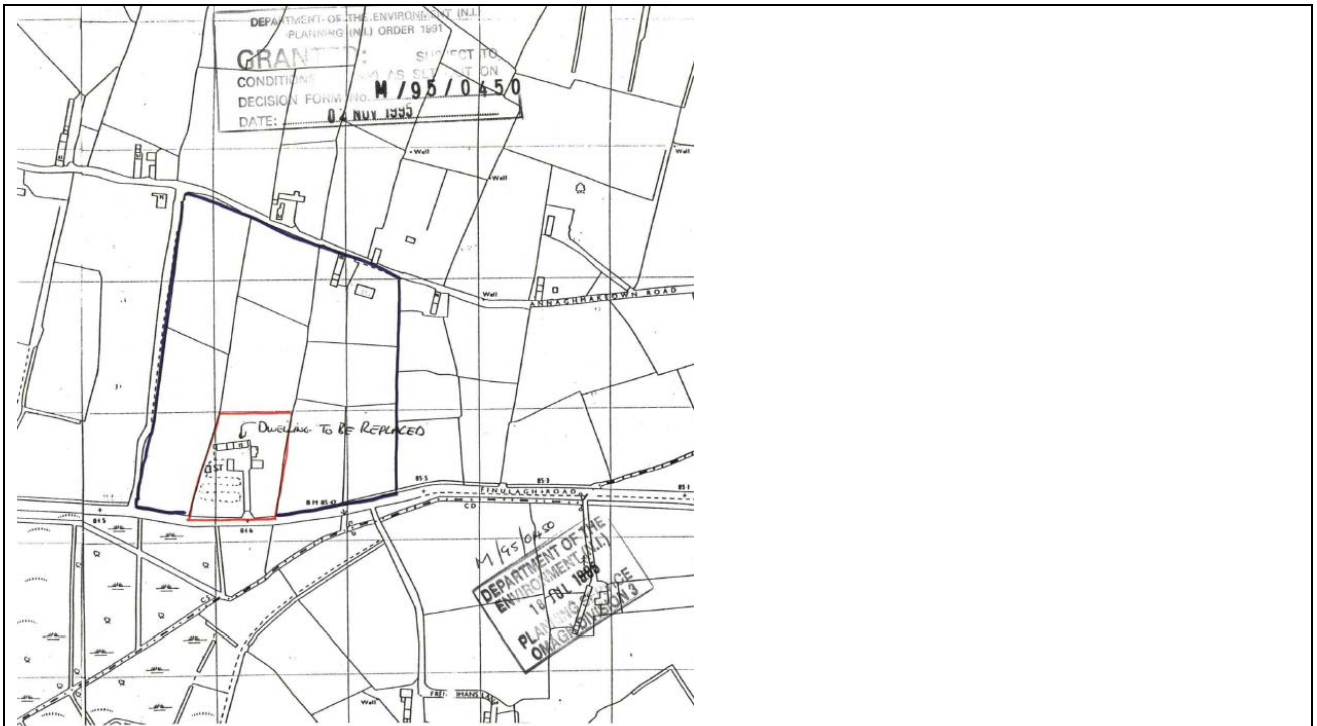


Fig 1 – stamped approved drawing for M/1995/0450

The case officer in the first report is correct that CTY3 allows for the replacement of a dwelling that has recently been destroyed and it gives the examples of an accident or a fire. This is subject to evidence about the status and previous condition of the building and the cause and extent of damage must be provided. There is nothing to indicate what is meant by ‘recently’, though it is commonly understood to be not long ago. This is also consistent with the policy that was in place in 1997, HOU13 Replacement Dwellings in A Planning Strategy for Rural Northern Ireland. That policy also referred to recently inhabited or habitable dwellings that had been destroyed by an accident, presumably instead of just deteriorating through neglect. Members could therefore justify refusing planning permission here as the proposal does not meet the stated policy for a replacement dwelling.

That said it is noted that OPP for the replacement of a dwelling on this site was applied for and a renewal of that original permission for a replacement dwelling was also applied for. I would consider this showed the applicants intent at that time was to replace the house. In the interim period the agent states the house was destroyed in a fire and the occupants, who were elderly, had to move out. It is entirely reasonable to conclude that had the house not been destroyed in a fire, it would still be standing (the original outbuilding is still there) or would have been the subject of another application to renew the permission/submit full detailed plans and a new house constructed. Members may wish to take account of the intent when making a decision on this application, though it is recognised there is no fallback position as full details were never actually passed.

In light of the above, I am of the opinion that planning permission should be refused for the development as it does not meet the policy for a replacement dwelling and there is no fallback position that would allow a replacement dwelling to be constructed.

Conditions/Reasons for Refusal:

1. Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the development cannot be located within a settlement. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.
2. Contrary to CTY 3 - Replacement Dwellings in PPS 21 Sustainable Development in the Countryside in that there is no dwelling to be replaced and the dwelling that was previously on site was not recently destroyed and no evidence about the extent of the fire damage has been provided.

Signature(s)

Date:

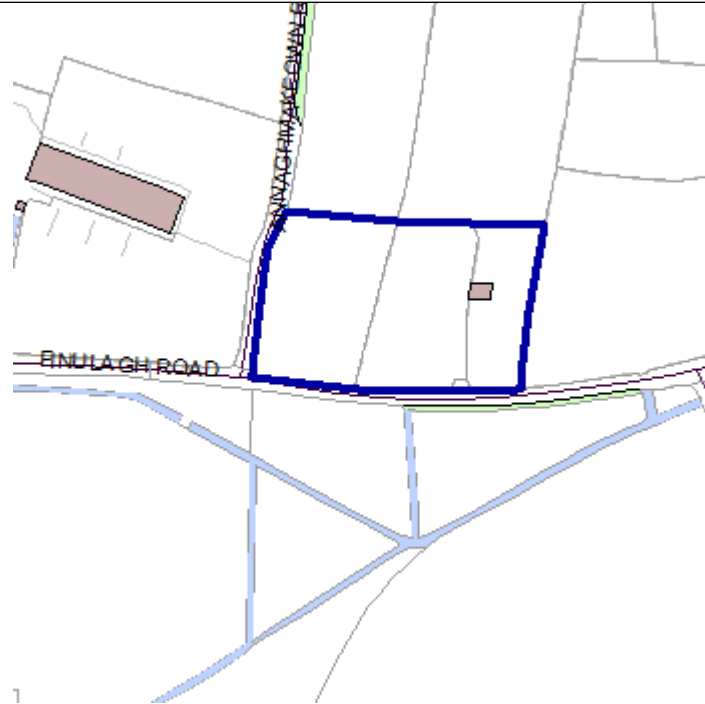


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 March 2023	Item Number: 5.20
Application ID: LA09/2022/1288/O	Target Date: 2 December 2022
Proposal: Dwelling in Compliance with policy (CTY 8) ie, (Infil Gap Site)	Location: 15 Finulagh Road Castlecaulfield
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Ryan McGurk 25 Finulagh Road Castlecaulfield Dungannon	Agent Name and Address: McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
Executive Summary: There is no dwelling on the site to be replaced and the dwelling was fire damaged over 20 years ago so does not meet CTY 3. There are not three or more buildings along the road with a frontage to be considered an exception in CTY 8.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.doc Roads outline.docx Roads outline.docx FORM RS1 STANDARD.doc
Statutory Consultee	Rivers Agency	745051-06 Final Planning Authority reply.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is 0.67km northwest of the settlement of Castlecaulfield. The surrounding area is rural in character and the predominant land uses are agricultural fields, rural dwellings on single plots and groups of farm buildings. There is minimal development pressure in the immediate area along Finulagh Road from the construction of single dwellings. 82m west of the site are two poultry sheds. The application site are the lower portions of two agricultural fields and the topography rises up by a couple of metres from the road to the back of the site. At the site are two small sheds and a concrete yard and there is established hedging along the roadside boundary.

Description of Proposal

This is an outline application for Dwelling in Compliance with policy (CTY 8) ie, (Infill Gap Site) at 15 Finulagh Road, Castlecaulfield.

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 has been carried out in line with the Council's statutory duty and there are no notifiable neighbours abutting the site. At the time of writing, no third-party objections have been received.

Planning History

M/1992/0652 - Replacement Dwelling – 15 Finulagh Road Castlecaulfield Dungannon – permission granted

M/1995/0450 - Replacement Dwelling – 15 Finulagh Road Castlecaulfield Dungannon – permission granted

LA09/2021/0160/O - Proposed farm dwelling - 15 Finulagh Road Castlecaulfield

Dungannon – application withdrawn

Mid Ulster Development Plan 2030 – Draft Plan Strategy

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

Dungannon and South Tyrone Area Plan 2010

The site is in the countryside and 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.

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 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

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. As this proposal is for an infill dwelling CTY 8 is the relevant policy in the assessment.

CTY 8 – Infill Dwellings

The application site is the lower portion of two agricultural fields. At the time of my site visit there were three sheds and a concrete yard with access fronting to the road. On the concrete yard were silage round bales as shown in figure 2. As shown below on the google maps from April 2021 two of the sheds to the west were not in place. Also, the shed furthest west does not have a frontage to the road in the form of a concrete yard and I consider this as an agricultural field.



Figure 1 – Image from April 2021

I do not consider there is a substantial and built-up frontage with a line of three or more buildings. There are no buildings with a frontage to the road on either side of the sheds and concrete yard. Figure 3 shows that has been submitted in this application.



Figure 2 – Image from the site visit

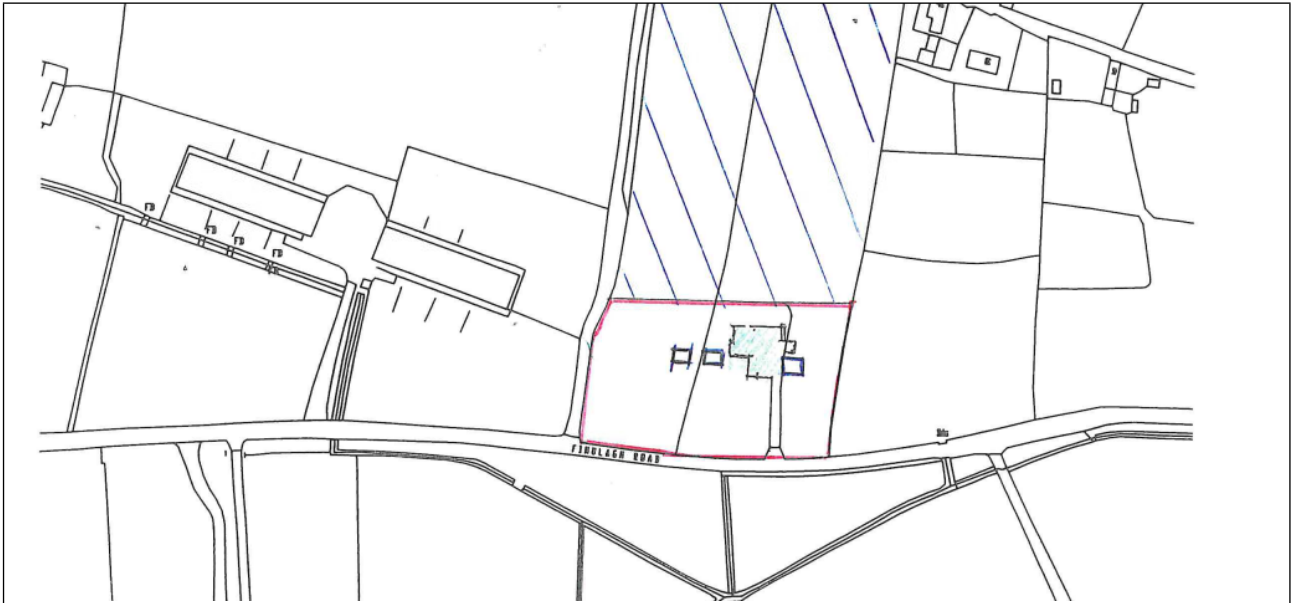


Figure 3 – snapshot from submitted plan

There are no other dwellings along this side of Finulagh Road but across the road from the poultry houses there are two dwellings at 16 and 18 Finulagh Road. The frontages of these dwellings are 58m at No.18 and 48m at No. 16. The total frontage of the application site is 106m so I am content the site will only accommodate two dwellings with the same frontages and plot sizes as across the road.

Overall, I consider the proposal does not meet CTY 8 as it is not an exception for a small gap site.

CTY 10 – Dwelling on a farm

The agent was asked to consider was there a case for a dwelling on a farm as there were building and silage bales at the site. The agent stated that the applicant had already used their farm dwelling in the past 10 years. LA09/2018/0233/O granted approval for a dwelling on a farm on the 14th January 2019 and the applicant was Connor McGurk who had the same address as the applicant in this case. This application site is also shown on the farm boundary maps for the 2019 approval. A subsequent approval LA09/2021/1056/F in substitution of the 2019 permission was granted on the 21st October 2021. I consider a CTY 10 approval has already been granted on this farm holding within the past 10 years so the proposal does not meet this criteria.

CTY 3 – Replacement Dwelling

In an email dated 8th Feb 2023 the agent asked that the proposal be considered under a fire damaged replacement dwelling as the dwelling on a farm and infill dwelling cases had previously been considered.

Currently on site there is no dwelling to be replaced in terms of CTY3.

M/1992/0652 previously granted permission for a replacement dwelling at this site on the 5th Feb 1993 but these approvals were never enacted and they have no lapsed. The agent confirmed through photographs that there was once a two-storey dwelling at this site, and it had burnt down. The policy in CTY 3 does states dwellings are eligible for replacement if they have recently been destroyed by fire. Policy states that evidence must be provided about the status and previous condition of the building and the extent of the damage must be provided. The agent was unable to provide a fire report and in a supporting email dated 8th Dec 2022 the agent states the dwelling was destroyed in the late 1990s and fire records only go back to the year 2000. I consider as the dwelling was not recently fire damaged and was destroyed over 20 years ago it does not meet this criterion in CTY 3.

CTY 13 – Integration and Design of Buildings in the Countryside

The application site is the lower portion of two agricultural fields and the topography rises up to the back of the site. The site itself has a roadside frontage onto Finulagh Road which is a long straight road. There are buildings at the site, but these may have to be demolished to locate the dwelling in the upper portion of the site due to the flood plain. There is a limited sense of enclosure at the site but further west of the site opposite the poultry houses are 2no. large two storey dwellings but these are set back from the road further. I am content a dwelling on this site would not be prominent.

CTY 14 – Rural Character

As stated, earlier in the assessment I am content the proposal will not be a prominent feature in the landscape.

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.

DFI roads were consulted as the statutory authority as the applicant had proposed a new access. Roads responded with no concerns subject to visibility splays of 2.4m x 80m in both directions.

PPS 15 – Planning and Flood Risk

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

As shown in figure 4 below the lower portion of the site is within a rivers flood plain. I consulted Rivers Agency who confirmed that half the site was within a 1 in 100 year flood plain and the applicant would need to demonstrate how the proposal was an exception to policy. I am content a flood risk assessment is not required as the proposed dwelling could be sited outside the flood plain.

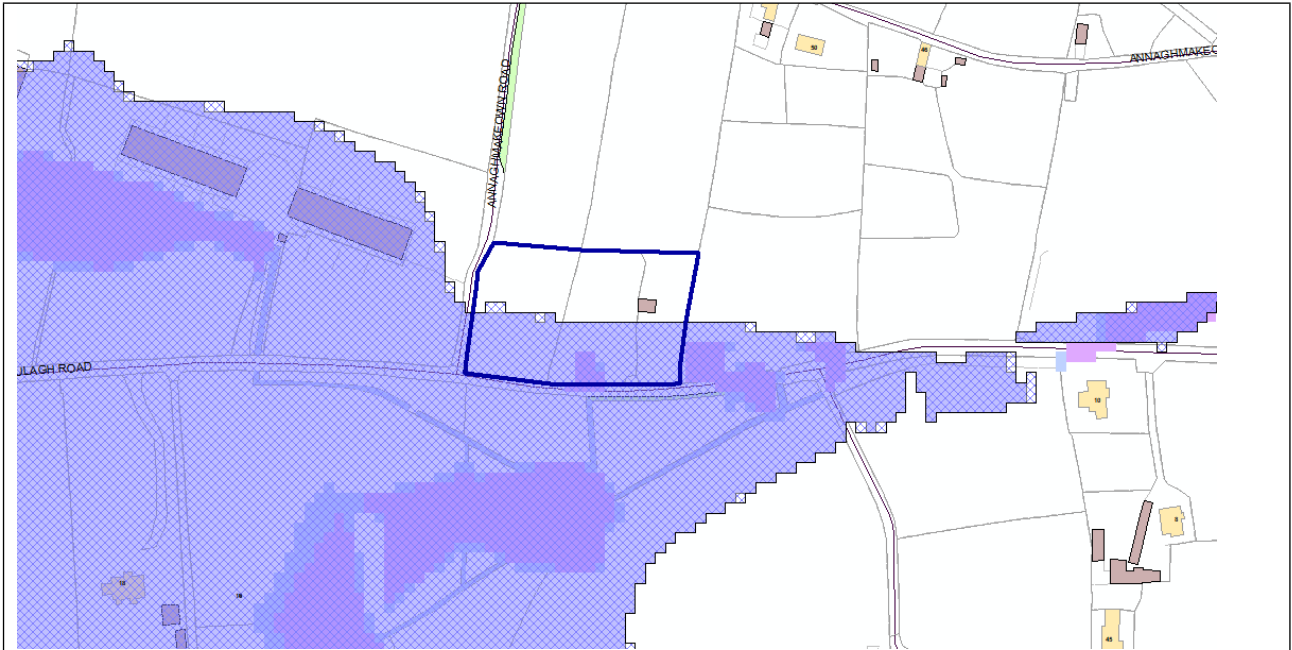


Figure 4 – Image showing the extent of the flood plain

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.

I consulted Environmental health due to the close proximity to poultry houses but at the time of writing no response has been received yet. But the principle of development cannot be established at the site as currently the proposal does not meet any of the policies in PPS 21.

Summary of Recommendation:

Refuse is recommended

The proposal is recommended for refusal as it does not meet the policies in CTY1, CTY3, and CTY8 in PPS 21 – Sustainable Development in the Countryside.

Refusal Reasons

Reason 1

Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the

development cannot be located within a settlement.

Reason 2

Contrary to CTY 3 - Replacement Dwellings in PPS 21 Sustainable Development in the Countryside in that there is no dwelling to be replaced and the dwelling that was previously on site was not recently destroyed and no evidence about the extent of the fire damage has been provided.

Reason 3

Contrary to CTY 8 - Ribbon Development in PPS 21 Sustainable Development in the Countryside in that the development is not an exception within policy as there are not three or more buildings along a road frontage.

Signature(s): Gillian Beattie

Date: 9 February 2023

ANNEX	
Date Valid	19 August 2022
Date First Advertised	1 September 2022
Date Last Advertised	1 September 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/1992/0652B Proposals: Replacement Dwelling Decision: WITHDR Decision Date:</p> <p>Ref: M/1992/0652 Proposals: Replacement Dwelling Decision: PG Decision Date:</p> <p>Ref: M/1995/0450 Proposals: Replacement Dwelling Decision: PG Decision Date:</p> <p>Ref: LA09/2022/1288/O Proposals: Dwelling in Compliance with policy (CTY 8) ie, (Infil Gap Site) Decision: Decision Date:</p> <p>Ref: LA09/2021/0160/O Proposals: Proposed farm dwelling</p>	

Decision: WDN
Decision Date: 19-NOV-21

Ref: M/2004/1298/F
Proposals: Two free range poultry houses each with a capacity of 9,600 birds.
Decision: PG
Decision Date: 22-NOV-04

Summary of Consultee Responses

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.doc
Roads outline.docx
Roads outline.docx
FORM RS1 STANDARD.doc
Rivers Agency-745051-06 Final Planning Authority reply.pdf
Environmental Health Mid Ulster Council-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1419/O Recommendation: Refuse	Target Date: 5 January 2023
Proposal: Single detached Bungalow with associated external private amenity space and garage.	Location: Detached Dwelling And Garden At Lands To The West Of 4,5, 6 & 7 Riverdale Drive, Cookstown
Applicant Name and Address: Mr Sammy Lyle 167 Drum road Cookstown BT80 9DW	Agent Name and Address: Mr karson tong 172 Tates Avenue Bebox Unit 5 Belfast BT12 6ND
Summary of Issues: This application for a dwelling was presented to Members as a Refusal at February 2023 Planning Committee. It was considered that the proposal was contrary to policy CTY 2A of PPS 21 as it represented the overdevelopment of a very restrictive site and would significantly alter the existing character of the cluster. It was also considered that a dwelling would adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of adequate and useable private amenity space. Members agreed to defer the application for an office meeting with Dr Boomer. Following the office meeting the applicant submitted additional detailed drawings for further assessment and a site visit was carried out by the Senior Officer. The application is being recommended for refusal tonight with the justification provided further in this report.	

Summary of Consultee Responses:

DFI Roads have been consulted with the revised plans and they have requested an amended layout detailing a 2m wide footpath along the entire site frontage to the end of site boundary at garage. I have not requested these amendments as the proposal is not considered acceptable in principle.

Description of Proposal

This is an outline application for a proposed single detached bungalow with associated external private amenity space and garden located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, Cookstown.

Deferred Consideration:

This is an outline application for a bungalow to be sited on a small parcel of land in Riverdale Drive, Cookstown. The site is outside the development limits of Cookstown as defined in the Cookstown Area Plan 2010. The main area of contention with this application is the ability of the site to accommodate a dwelling as well as providing adequate and usable private amenity space. As part of this deferred consideration an indicative site layout and indicative elevations have been submitted and third parties have been given the opportunity to view and comment on these. Since the application was last before Members, 4 objections have been received in addition to the 4 previous objections. The issues raised in all these objections are summarised as follows and those that are material to the consideration are dealt with generally in my report.

Application site is too narrow for proposed development
Impact on neighbouring properties views and potential decrease in house value
Roadway is too narrow to allow cars to park
Hard shoulder to the east of the site is very busy, lorries regularly park up
Overdevelopment of the site / neighbourhood
Impact on the character of the long established and mature neighbourhood
Impact on residential amenity from the loss of amenity space

As this site sits outside the development limits of Cookstown the primary policy consideration is CTY 1 of PPS 21. In the absence of a statement of case being submitted with the application, the proposal is being considered specifically under policy CTY2A of PPS21 - Dwellings in existing Clusters, as the existing level of development in the immediate area lends itself to being described as a cluster. The cluster in question can be taken as Riverdale Drive which lies outside of a farm and consists of 4 or more dwellings. The development does appear as a visual entity in the local landscape when travelling either along the Dungannon Road or the Ardculmer Road. There is a busy service station (A25 Garage) located to the immediate North of the site which could be considered as a focal point for the purpose of this policy. Whilst the site is elongated in nature, it is bounded on 2 sides by adjacent dwellings within Riverdale Drive. There are 4 other dwellings within the development which bound the Eastern boundary of the site, only for the presence of the estate road. I would also contend that a dwelling on this site, could be considered as consolidating the existing cluster.

My main policy concern under CTY2A is in respect of residential amenity. It is very evident that this site is very restrictive. Its elongated nature allows only for a small parcel (75m²) of private amenity space and the only reason it can be considered private is that it is fenced off with closed board wooden fencing. It is my opinion that this does not represent a good quality residential solution for private amenity space and its is questionable as to how private this space will be, given the main Dungannon Road runs so close along one boundary and the estate road so close against the other boundary. For this reason the proposal fails to comply with this final criteria of CTY2A of PPS21.

Policy CTY 13 of PPS21 is also a policy consideration. Part E of this policy deals with design and whether or not the dwelling is appropriate for the site and the locality. It is my opinion that the general layout of this dwelling is out of character with the other dwellings in Riverdale Drive. Riverdale Drive is a development made up of detached dwellings on generous plots which have substantial front and rear gardens. The application site is clearly not reflective of the general layout and size of the existing plots. The dwellings in the development were approved back in the 1980's and there is no evidence that the application site was ever conditioned to be public open space in association with the development however objectors do all contend that this plot of land has historically been used as communal open space for the residents. It is my opinion having visited the site, that the size and shape of it does not lend itself to being an acceptable site for a dwelling which is reflective of the character of the development. A dwelling in this location can only be considered an overdevelopment of a restrictive site and would be inappropriate in this location and as such there is conflict with policy CTY 13 of PPS21.

It is recommended that Members refuse this application for the reasons stated below.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY2A of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

A dwelling would, if permitted adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of acceptable private amenity space.

Reason 2

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Integration and Design of Buildings in the Countryside in that a dwelling on this site would be inappropriate for the site and locality. The development of this restrictive site would be out of character with the layout of the existing development.

Signature(s):Karla McKinless

Date: 19 July 2023

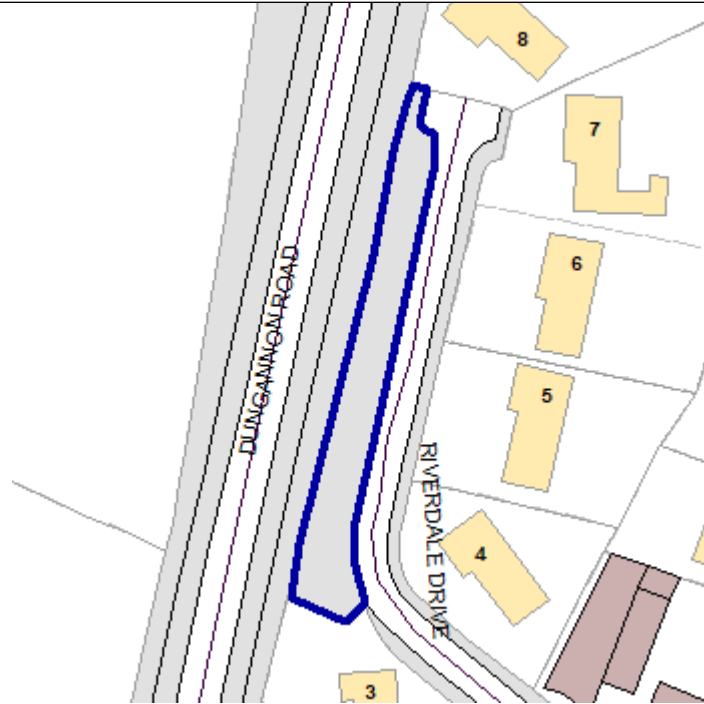


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 February 2023	Item Number: 5.24
Application ID: LA09/2022/1419/O	Target Date: 5 January 2023
Proposal: Single detached Bungalow with associated external private amenity space and garage.	Location: Detached Dwelling And Garden At Lands To The West Of 4,5, 6 & 7 Riverdale Drive, Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Sammy Lyle 167 Drum road Cookstown BT80 9DW	Agent Name and Address: Mr karson tong 172 Tates Avenue Bebox Unit 5 Belfast BT12 6ND
Executive Summary: The current application is presented as a refusal, having failed to meet the requirements of policy CTY 1 and CTY 2A of PPS 21. It has also received objections from neighbouring properties at No. 3, 5, 7 and 8 Riverdale Drive, Cookstown.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline - RECON RESPONSE.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Additional information requested.
Statutory Consultee	DFI Roads - Enniskillen Office	Additional information requested.
Statutory Consultee	Historic Environment Division (HED)	

Representations:

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

Summary of Issues

Concerns raised by objectors are summarised below:

1. Application site is too narrow for proposed development
2. Impact on neighbouring properties views and potential decrease in house value
3. Roadway is too narrow to allow cars to park
4. Hard shoulder to the east of the site is very busy, lorries regularly park up
5. Overdevelopment of the site / neighbourhood
6. Impact on the character of the long established and mature neighbourhood

Characteristics of the Site and Area

Characteristics of the Site and Area

The application site is located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, approximately 0.4km south of the settlement limits of Cookstown. The application site is a narrow strip of land located in an existing residential cul-de-sac that runs parallel to the Dungannon Road. The site is accessed from Ardcomber Road. There are a number of residential properties immediately to the north, east and south of the application site, with commercial development further north and agricultural lands to the east.

The site is defined along the eastern boundary by a timber fence, with all remaining boundaries undefined. There is a listed building located approximately 0.1km southeast of the application site at No. 27 Ardcomber Road.



Consultations

1. Historic Environment Division (Historic Buildings) have considered the proposal and have advised that it is sufficiently removed in context from the listed building as to have no impact.

2. DfI Roads were consulted initially and requested further information, however as this proposal is being presented as a refusal for other reasons, the additional information sought is irrelevant in the determination of this application.

Site History

There is no relevant site history for this application site.

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. This application was initially advertised in the local press on 04/10/2022 and readvertised on 01/11/2022. Seven neighbouring properties were notified in relation to this application and objections have been received from four of these properties.

Description of Proposal

This is an outline application for a proposed single detached bungalow with associated external private amenity space and garden located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, Cookstown.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Cookstown Area Plan 2010

The site is located approximately 0.4km south of the development limits of Cookstown as per the Cookstown Area Plan 2010. There are no other zonings or designations related to the 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.

Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

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

Planning Policy Statement 21 – Sustainable Development in the Countryside

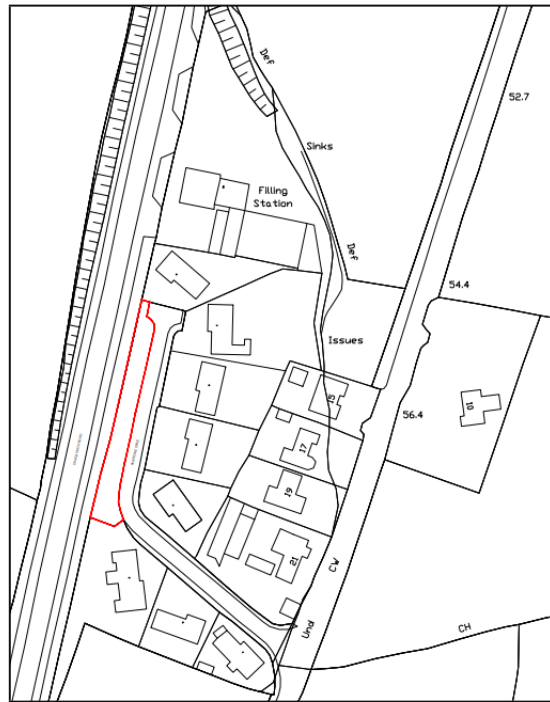
Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access, and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of the following criteria are met:

- ***The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings, and open sided structures) of which at least three are dwellings;***

I am content that there is a cluster of development with six dwellings located to the north, east and south of the proposed site.



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

I am content that the cluster appears as a visual entity in the local landscape. Whilst travelling along the Dungannon Road, it is clear that there is a cluster of

development in this location. Similarly, whilst travelling along the Ardcomber Road and upon entering Riverdale Drive it is clear that there is a cluster.

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

There is an existing filling station to the north of the application site which acts as a focal point in this instance.

- ***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 that the site is bounded to the north and south by dwellings. I am content that this criterion has been met.

- ***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;***

The current proposal represents the overdevelopment of a restricted site which is not in keeping with the character of the existing residential development. I am not content that the proposal meets this criterion.



- Development would not adversely impact on residential amenity;

The site is extremely narrow and lacks sufficient private amenity space for the applicant, therefore I am not content that this criterion has been met.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

A dwelling would if permitted represent the overdevelopment of a very restrictive site and would significantly alter the existing character of the cluster.

A dwelling would if permitted adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of adequate and useable private amenity space.

Signature(s): Zoe Douglas

Date: 26 January 2023

ANNEX	
Date Valid	22 September 2022
Date First Advertised	1 November 2022
Date Last Advertised	4 October 2022
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 8 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 7 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 6 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 5 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 3 Riverdale Drive Cookstown Tyrone BT80 9AJ</p>	
Date of Last Neighbour Notification	9 November 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2022/1419/O Proposals: Single detached Bungalow with associated external private amenity space and garage. Decision: Decision Date:</p> <p>Ref: I/1998/0040 Proposals: Extension to dwelling Decision: PG Decision Date:</p>	
Summary of Consultee Responses	
DFI Roads - Enniskillen Office-Roads outline.docx	

Historic Environment Division (HED)- DFI Roads - Enniskillen Office-Roads outline - RECON RESPONSE.docx DFI Roads - Enniskillen Office-Additional information requested. DFI Roads - Enniskillen Office-Additional information requested. Historic Environment Division (HED)-
Drawing Numbers and Title Site Location Plan Plan Ref: PL00
Notification to Department (if relevant) Not Applicable

Report on	DFIs Notice of Opinion to approve application LA03/2021/0940/F relating to sand extraction from Lough Neagh.
Date of Meeting	1 st Aug 2023
Reporting Officer	Melvin Bowman
Contact Officer	Dr Chris Boomer.

Is this report restricted for confidential business? If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	x

1.0	Purpose of Report
1.1	<p>The purpose of this report is to advise members of DFIs Notice of Opinion to approve an application which seeks the non-compliance with conditions number 07 and condition number 12 of planning approval LA03/2017/0310/F.</p> <p>DFI have invited any requests for an opportunity to appear before and be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing, in writing, within 8 weeks from the date of service of the Notice.</p>
2.0	Background
2.1	On 26 th June 2023 DFI issued a Notice of Opinion to approve the following proposal:
2.2	<p>Site of Proposed Development: Lough Neagh within the Mid Ulster District Council, Antrim and Newtownabbey Borough Council. Armagh Banbridge and Craigavon Borough Council and Lisburn and Castlereagh Council Areas.</p> <p>Description of Proposal: Application for the extraction, transportation and working of sand and gravel from Lough Neagh. Sand and gravel to be extracted from within two distinct areas totalling some 3.1km², in the north-west of Lough Neagh situated approximately east of Traad Point, north of Stanierds Point, west of Doss Point and south of Ballyronan and the ancillary deposition of silt and fine material without complying with condition number 07 and condition number 12 of planning approval LA03/2017/0310/F.</p> <p>Applicant: Lough Neagh Sand Traders Limited Agent: Quarryplan</p>
2.3.	<p>These Conditions relate to:</p> <p>Condition 7 (daylight only operating hours restriction) and</p>

	Condition 12 (the replacement of barges presently operating on the Lough).
3.0	Main Report
3.1	<p>The DFI case officers report (attached in Appendix A) indicates the following:</p> <p>It is proposed to remove condition 7 which, if approved, would allow for the operation of barges during the hours of darkness during the winter months.</p> <p>The applicant also seeks to develop the land without compliance with condition 12, which currently restricts the replacement of any barge to the same dimensions to that which it replaces (no greater), subject to the insertion of a condition restricting the replacement of a barge to no greater dimension than the largest barge currently permitted, allowing for a tolerance of 10% in dimension. It is proposed that the replacement barge shall not be permitted to emit any greater noise output or emissions to air than the barge it is proposed to replace.</p> <p>While there is no condition attached to the original planning permission which restricts the hours of operation in terms of the mineral extraction element, covenant 7 of the Planning Agreement under section 76 of the Act restricts the operational activities at each landing site, including the processing of extracted mineral (but excluding the departure of barges from the landing sites to the extraction area and their return thereafter) to only taking place between 6am and 7pm on any day Monday to Friday (excepting Bank Holidays) inclusive and between 9am to 3pm on a 23 Saturday. There is therefore a level of protection for the amenity of residents in close proximity to the landing sites.</p>
3.2	<p>The Environmental Health Departments of Mid Ulster District Council, Antrim and Newtownabbey Borough Council, Armagh Banbridge and Craigavon Borough Council and Lisburn and Castlereagh Council Areas were consulted on this s54 application and are content with the proposals. Should the application be approved, condition 13 will remain ensuring that the amenity of local residents at weekends and on bank holidays is protected. Covenant 7 of the Planning Agreement will also remain in place. The case officer is therefore content that there will not be a detrimental impact on residential amenity should condition 7 be amended as discussed above (barge operations confined to the period 06.00 to 18.00 during winter months) rather than removed entirely, which would add another level of protection to residential amenity.</p>
3.3	<p>It is proposed that the replacement barge shall not be permitted to emit any greater noise output or emissions to air than the barge it is proposed to replace. To ensure that this is the case, the applicants propose notifying the Department with particulars of the replacement regarding length and emissions, await its agreement and notify the Department 7 days prior to the replacement barge coming in to service. All of the Environmental Health Departments have no objection to the substitution of condition 12, provided the sound power level of any replacement</p>

<p>3.4</p>	<p>barge does not exceed 105 dB(A) (the stated level order) which would provide an extra level of protection of amenity at nearby noise sensitive receptors.</p> <p>Bird surveys were carried out in the assessment of this application and the officer's report states:</p> <p>NED state that, within its constraints (i.e., inability to differentiate birds much beyond 100m range), the survey provided no compelling evidence of significant disturbance of birds by barges during the hours of darkness. It could be argued that birds beyond the range of the optic could be detecting the approach of the barge and are therefore moving away unseen. This could result in displacement from foraging areas and therefore adverse impact cannot be ruled out, particularly during very cold weather.</p> <p>NED therefore are of the opinion that caution is required as it cannot be conclusively determined that avoidance behaviour is not happening beyond the restricted detection capabilities of the submitted survey. They have recommended therefore, that a 12-hour undisturbed foraging period for birds from November to February, when physiological stresses are greatest, is conditioned, with barge operations confined to the period 0600 to 1800 during that period (restrictions at other times are not considered to be necessary).</p>
<p>3.5</p>	<p>Both NIEA and SES were content with the substitution of condition 12 as proposed by the applicant. The proposed amendments are discussed further in the report but in terms of ecology, the alteration is not considered to be detrimental to biodiversity and nature conservation.</p>
<p>3.6</p>	<p>A total of 2 representations were received. Issues raised in these are stated in the officers report as :</p> <ul style="list-style-type: none"> • If conditions are permitted to be set aside it amounts to negation of the exhaustively considered previous planning permission, amounting to its "Salami-slicing" • There has been no change to the circumstances forming the basis of the original decision • No new information in the environmental data submitted • Planning conditions 7 and 12 were put in place to ensure that disturbance of site selection features was avoided/negated.

In recommending approval, the amended suggested conditions therefore are as set out below:

Condition 6.

Between 1 November and 28/29 February any barge shall not leave the dock earlier than

0600 hours or return later than 1800 hours.

Reason: To avoid disturbance of the site selection features of the designated sites.

Condition 11.

Only barges of the dimensions specified in Table 2.1 of Chapter 2, Volume 2 of the Environmental Statement (April 2022) shall be permitted to extract mineral from the permitted areas. Any proposed replacement barge shall be of no greater dimension than the largest barge in the April 2022 Table 2.1, allowing for a tolerance of 10% in dimension and the replacement barge shall emit no greater emissions to air or increase in noise output (expressed as an LAeq) than the barge and sand extraction engine system it is proposed to replace. If a barge as so specified within the Table 2.1 of Chapter 2, Volume 2 of the

Environmental Statement (April 2022) is to be replaced -

a) The Department shall be notified in writing of the details of the replacement barge to

include the particulars with regards to length, emissions to air and noise output (expressed as an LAeq);

b) Thereafter such replacement shall be agreed in writing by the Department; and

c) The Department shall be notified 7 days prior to the replacement barge entering the Lough.

Reason: To ensure extraction is controlled in the interests of protection of the designated sites.

Condition 12.

The barges, as detailed in Condition 11, shall not operate after 1500 hours on Saturdays, all day Sundays or on any Bank Holiday.

Reason: In the interests of residential amenity.

3.7

DFI advise that given the small numbers of representations received in this case it is considered that a public inquiry is not required to consider representations on the application and having weighed all the considerations it is recommended that the

3.8	<p>application proceeds by way of a Notice of Opinion (Annex 1) to grant planning consent.</p> <p>In their letter DFI indicate that it must receive any request for an opportunity to appear before and be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing, in writing, within 8 weeks from the date of service of the Notice.</p> <p>Members will be aware that the Council have been alerted to alleged unauthorised sand extraction and Enforcement investigations are currently ongoing into this alleged unauthorised activity.</p>
4.0	Other Considerations
4.1	<p>Financial, Human Resources & Risk Implications</p> <p>Financial: N/A</p> <p>Human:N.A</p> <p>Risk Management: N/A</p>
4.2	<p>Screening & Impact Assessments</p> <p>Equality & Good Relations Implications: N/A</p> <p>Rural Needs Implications: N/A</p>
5.0	Recommendation(s)
5.1	<p>That members note the Departments opinion to approve the application and agree that the Council has no further comments to add.</p>
6.0	Documents Attached & References
6.1	<p>Appendix A – copy of DFI officers report and Notice of Opinion.</p>

**Section 54 Planning Application
Development Management Report**

Ref Number: LA03/2021/0940/F

Proposal: Application for the extraction, transportation and working of sand and gravel from Lough Neagh. Sand and gravel to be extracted from within two distinct areas totalling some 3.1km², in the north-west of Lough Neagh situated approximately east of Traad Point, north of Stanierds Point, west of Doss Point and south of Ballyronan and the ancillary deposition of silt and fine material without complying with condition number 07 and condition number 12 of planning approval LA03/2017/0310/F.

Location: Lough Neagh within the Mid Ulster District Council, Antrim and Newtownabbey Borough Council. Armagh Banbridge and Craigavon Borough Council and Lisburn and Castlereagh Council Areas.

Applicant: Lough Neagh Sand Traders Ltd.

**Regional Planning Policy & Casework
Directorate**

1. THE S54 APPLICATION

1.1 This application under s54 of the Planning Act (NI) 2011 seeks to develop land without compliance with a number of conditions attached to permission LA03/2017/0310/F which was for the extraction of sand from the bed of Lough Neagh, within a defined area in the north west corner of the Lough, granted for a period of 15 years.

1.2 A permission under s54 of the Planning Act (NI) 2011 is an independent permission to carry out the same development as previously permitted, but subject to non-compliance with one or more conditions. It does not allow for the amendment of the description of development of the previous (original) permission. A *section 54 application* is therefore a second application. A successful application results not in the variation of an already existing permission, but the grant of a fresh permission for the same description of development as the original application, in this case, LA03/2017/0310/F.

1.3 The applicant proposes development without compliance with

- Condition 7 (daylight only operating hours restriction) and
- Condition 12 (the replacement of barges presently operating on the Lough).

1.4 It is proposed to remove condition 7 which, if approved, would allow for the operation of barges during the hours of darkness during the winter months. The applicant also seeks to develop the land without compliance with condition 12, which currently restricts the replacement of any barge to the same dimensions to that which it replaces (no greater), subject to the insertion of a condition restricting the replacement of a barge to no greater dimension than the largest barge currently permitted, allowing for a tolerance of 10% in dimension. It is proposed that the replacement barge shall not be permitted to emit any greater noise output or emissions to air than the barge it is proposed to replace.

2.0 SITE AND SURROUNDING AREA

2.1 Lough Neagh is a shallow lake located in the centre of Northern Ireland. It is the largest freshwater lake in the UK with a surface area of 383km². It has a mean depth of 8.9m and a maximum depth of 34m in an area known as the Trench to the north west of the Lough. The shoreline measures 125km and consists of mainly rocks and stones with some sandy bays. There are 8 landing sites around the shore whereby the applicants carry out the land-based activities associated with the sand extraction, namely processing, storage and distribution.

2.2 Lough Neagh and Lough Beg are designated as *Areas of Special Scientific Interest* (ASSI) and together they form a *Special Protection Area* (SPA) under the Birds Directive (79/409/EEC). In addition, they form a *Wetland of International Importance* (Ramsar Site) under the Ramsar Convention. Accordingly, it is protected by Conservation (Natural Habitats, etc.) Regulations 1995 (as amended) and the Environment (Northern Ireland) Order 2002. For reference, NIEA have listed the qualifying interest features in its consultation response. The Lough Neagh area also includes *Lough Neagh National Nature Reserve* (NNR).

2.3 The site boundary follows but does not abut the shoreline of the Lough, only connecting with it at the eight landing sites. The area of approved extraction area is however refined to within two distinct areas in the northwest corner of the Lough. The two areas extend to some 3.1km².

2.4 The extraction of sand from the bed of Lough Neagh has been a long established practice, ongoing for over 70 years. The Lough Neagh Sand Traders (LNST) are responsible for carrying out sand extraction and the processing and trading activity at eight sites around the Lough.

3.0 ADVERTISEMENT, NEIGHBOUR NOTIFICATION AND REPRESENTATIONS

With regards neighbour notification, there are no identified occupiers on neighbouring land to the planning application site, in accordance with article 8(2) of the Planning (General Development Procedure) Order (NI) 2015 ('GDPO').

3.1 The application has been subject to public consultation in accordance with established procedures through the development management process. The application was advertised on **23rd June 2022 and 30th June 2022**. It is considered that all statutory consultation requirements have been met.

3.2 A total of 2 representations were received. Issues raised in these are:

- If conditions are permitted to be set aside it amounts to negation of the exhaustively considered previous planning permission, amounting to its “Salami-slicing”
- There has been no change to the circumstances forming the basis of the original decision
- No new information in the environmental data submitted
- Planning conditions 7 and 12 were put in place to ensure that disturbance of site selection features was avoided/negated.

3.3 With regards the assertion that the application is “salami slicing” and that there has been no change to the circumstances, under s54 of the 2011 Planning Act a developer is entitled to apply to develop land without compliance with conditions attached to a previous planning permission and the Department is required to consider such an application in consultation with expert bodies.

3.4 In relation to the statement that no new information has been submitted, as will be discussed later in this report, the applicant has carried out and submitted additional survey works regarding the effects of the operations on birds (particularly wintering nocturnal feeding diving ducks) during the hours of darkness.

3.5 The consideration of the issues in relation to the non-compliance with conditions 7 and 12 and the impact of such on site selection features have been addressed in the *Planning Assessment* at section 6.

4.0 PLANNING HISTORY

4.1 A planning application for the extraction of sand from a defined area in the northwest corner of Lough Neagh was received in March 2017.

4.2 Five independent sand trading businesses carry out sand extraction and the processing and trading activity at eight sites around the Lough. A collective planning application has been made by these businesses under the name of Lough Neagh Sand Traders Limited (LNST).

4.3 Given the ecological importance of Lough Neagh in terms of European designations (SPC/ASSI/RAMSAR) the Department concluded that a Public Local Inquiry was the appropriate forum to discuss the original planning application.

4.4 Following a request by the Department, the Planning Appeals Commission (PAC) convened a Public Local Inquiry into the planning application. The Inquiry took place on 20-21 June 2018 and parties taking part in the Inquiry included Friends of the Earth (FoE), RSPB, LNST and Shaftsbury Estate (owners of the bed of the Lough).

4.5 The PAC report, received on 7 May 2019, recommended that planning approval should be granted. The Minister granted permission on 6 January 2021.

5.0 EIA History and Determination and Habitats Regulation Assessment

5.1 A s54 application, if approved, takes effect as a fresh independent permission to carry out the same development as previously permitted subject to the new or amended conditions. Accordingly, this s54 application is determined to be EIA development by virtue of regulation 6(2)(a) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017.

5.2 The application was required to be accompanied by an Environmental Statement which was submitted on **22 April 2022**.

5.3 Regulation 24(1) of the 2017 EIA Regulation states that when determining an EIA application, the Department shall—

- (a) examine the environmental information;

(b) reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph (a) and, where appropriate, its own supplementary examination;

(c) integrate that reasoned conclusion into the decision as to whether planning permission or subsequent consent is to be granted; and

(d) if planning permission is to be granted, consider whether it is appropriate to attach conditions or impose monitoring measures.

5.4 Accordingly, key elements of the EIA, any additional information and any comments made by the consultee bodies (summarised at Appendix 2) are considered in section 6 of this report to allow a reasoned conclusion to be reached (Appendix 3). Draft conditions are included at Appendix 1 of this report and are considered to address and assist with mitigating the significant effects that are likely to arise as a result of the development described in this EIA application.

5.5 DfI Regional Planning Policy & Casework Directorate in its role as the competent authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 ('HRA'), and in accordance with its duty under regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 14 December 2022. SES concluded that, provided the proposed mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. This is considered further in Section 6.

6.0 PLANNING ASSESSMENT

6.1 The principle of development has been established in planning approval LA03/2017/0310/F. In terms of decision making a section 54 application should be treated just like any other application, and due regard paid to the development plan and other material considerations. The application falls to be assessed under the relevant policy criteria and all material considerations relevant to the amendments

sought under this application are considered below. The main considerations for this application are:

- *Development Plan Context*
- *Planning Policy Context*
- *Residential Amenity and Human Health*
- *Landscape and Visual Impact*
- *Biodiversity and Nature Conservation*
- *Habitats Assessment*

Development Plan Context

6.2 Under section 6(4) and s45 of the Act, determination must be made in accordance with the local development plan unless material considerations indicate otherwise. Given the extent of the site boundary of the planning application, a number of area plans are potentially relevant. However the approved area for extraction is wholly located within the boundary of the Cookstown Area Plan 2010.

6.3 The landing sites are dispersed around the Lough across several council areas. Whilst the landing sites are not the subject of this planning application the relevant provisions of the development plans are included for information.

Cookstown Area Plan 2010 (CAP)

6.4 The extraction site falls within Mid Ulster Council area. The CAP area extends along the western shore from Stewartstown to north of Ballyronan. The *Environmental Designations Map* (No. 2) show the SPA, ASSI, ASI and RAMSAR designations and plan objectives include '*the protection and enhancement of landscape features, natural habitats.....which are of conservation importance.*' Within the *Agriculture* chapter, specific reference is made to the importance of the commercial fishing industry. *Areas of Constraint on Mineral Developments* (ACMDs) are designated at Ballinderry, Camlough, Cavanacaw/Tandragee, Killucan and Sperrin. The approved extraction area is also located within an ACMD. In view of their nature conservation importance *Areas of Special Scientific Interest* (ASSI)

located beyond the areas listed above (with the specific exception of Ballysudden ASSI) are also considered to be ACMDs.

6.5 ACMDs are designated to safeguard the most valuable areas and features of the environment within the Cookstown District from the detrimental effects of mineral extraction. Their identification has taken account of nature conservation interests.

6.6 Current policy for the control of mineral developments within ACMDs is **Policy MIN 3** of the *Planning Strategy for Rural Northern Ireland* (PSRNI) and is discussed further below.

Antrim Area Plan (June 1989)

6.7 Paragraphs 6.3, 12.1, 12.4, 14.2, 14.6 are considered relevant. In summary, development which would adversely affect areas defined for nature conservation importance, including designated sites, will not normally be permitted. This includes mineral developments (para 14.6) which would prejudice the essential character of designated areas such as ASSI, although para 14.2 advises that in determining applications for quarrying development a balance should be struck between the economic benefits and the need to minimise environmental disturbance and protect landscape quality. It should be noted that the approved extraction is not within the boundaries of this council area.

Craigavon Area Plan 2010

6.8 Within the Armagh, Banbridge and Craigavon Borough (ABC) area much of the shoreline and Lough Neagh is designated as an ACMD. Plan **Policy MIN 1** *Areas of Constraint on Mineral Developments* is relevant to the southern areas of the Lough. The policy restricts proposals for minerals development within these areas in accordance with the provisions of prevailing regional policy (**MIN 3 of PSRNI** discussed further below). It should be noted that extraction is not within the boundaries of this Council area (but within Mid Ulster Council area – see Cookstown Area Plan above).

Dungannon and South Tyrone Area Plan 2010

6.9 **Policy MN1** designates *Areas of Constraint on Minerals Development* (ACMD) including *The Lough Neagh Western Shores Area* (coinciding with RAMSAR and ASSI designations). ACMDs are designated to safeguard the most valuable and vulnerable areas and features of the environment within Dungannon and South Tyrone Borough from the detrimental effects of mineral extraction. Proposals for the development of mineral resources within these areas will be determined in accordance with the provisions of prevailing regional planning policy (**MIN 3 of PSRNI**). It should be noted that extraction is not within the boundaries of this council area.

Magherafelt Area Plan 2015

6.10 An *Area of High Scenic Value* (AoHSV) is designated on the *West Lough Neagh Shores* area extending from Traad Point to the woodlands of Portglenone Forest. Plan **Policy CON 1** advises that within designated AoHSV planning permission will not be granted to development that would adversely affect the quality and character of the landscape. In this instance 3 landing facilities are located within the AoHSV and whilst lawful, nonetheless are considered to be significant structures within this scenic area. It should be noted that extraction is not proposed within the boundaries of this council area.

Lisburn Area Plan 2001

6.11 **Policy MN1** designates parts of the shoreline of Lough Neagh as an ACMD, in support of the SPA, Ramsar and ASSI designations. Proposed developments will be determined in accordance with **Policy MIN 3** of the PSRNI. Dredging is not proposed in this area, so the policy does not apply. In addition, while landing sites 5 and 6 fall within this area, no extraction is proposed at these locations.

6.12 It should be noted that under **Policy COU2**, the character of the countryside in the vicinity of Lough Neagh is designated as a *Countryside Policy Area* (CPA). However, the policy provisions of **PPS 21** (discussed below) take precedence over CPA designations in existing development plans.

Draft BMAP 2015

6.13 In March 2016 the High Court ruled that BMAP had been unlawfully adopted. In November 2016 the Court approved an Order which further declared that the adoption was unlawful. It also stated that all other elements in the adopted (unlawfully) BMAP may be taken into account in informing planning decisions. However, an appeal was launched against this order and the Court of Appeal ruled that draft BMAP remains, in its entirety, unadopted. In the draft Plan Lough Neagh falls within the former Lisburn Council area. The Lough has been designated as an *Area of High Scenic Value* (AoHSV). The *Environmental Designations Map* also refers to the SPA, ASSI and Ramsar designations on the Lough. As a result, the Lough is also considered to be an ACMD in draft BMAP. It should again be noted that extraction does not take place within this plan area.

6.14 The *Countryside and Coast Strategy* of BMAP states that mineral development provides employment and materials for construction. However, extraction and processing can have significant impacts on the countryside and a sustainable approach should take account of the need to protect and conserve environmental resources. Lough Neagh is also identified as an important resource in terms of commercial and valuable export fishing market that sustains important local employment. The response by DAERA Inland Fisheries on the original application highlights the importance of shallow areas (<5m depth) within the Lough for fish fry nursery habitat used by commercial fishing interests as bait.

6.15 Accordingly in terms of the development plan context, Lough Neagh is identified across all the area plans as being of ecological benefit and an area of constraint on mineral development.

6.16 It is appropriate here to refer to the fact that Mid Ulster draft Plan Strategy (dPS) was initially published on 22 February 2019 and sets out the strategic policies and detailed management policies to guide decisions in the development management process in the Borough. The draft *Plan Strategy* is a material consideration in the determination of this application as the extraction area of the proposed development lies within this Council Area. Development proposals should be considered against both current policies and those in emerging local development plans (LDPs). Also

relevant is the stage the draft Plan has reached and the relevant consultation responses received.

6.18 Two draft mineral policies are particularly relevant to this proposal:-

- **MIN 2** – Extraction and processing of hard rock and aggregates. The policy refers to ACMDs – but there is specific reference in the *Justification & Amplification* (Para 14.17) regarding Lough Neagh and this application. Excepting the shores which are designated as a *Special Countryside Area* (SCA), the dPS has not designated the Lough (as an ACMD or SCA) noting that it has been historically used for sand dredging. It further notes that sand extraction is the subject of a regionally significant application, and the Council will review this approach depending on the outcome of the application.
- **MIN 5** – Restoration of mineral sites. All applications for mineral development must include, where appropriate, satisfactory and sustainable restoration proposals.

6.19 Natural Heritage policies are also relevant including:-

- **Policy SCA 1 *Special Countryside Areas*** – This policy introduces an SCA at Lough Neagh/Lough Beg within which there will be a presumption against all new development in order to protect the quality and unique amenity value of unique landscapes. (This relates to the shores of Lough Neagh rather than the water body.)
- **Policy NH 1 – *International Designations*** – Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site of a listed or proposed Ramsar site.

- **Policy NH 2 – Protected Species** – Proposals for development likely to impact on protected species must be fully considered prior to any determination. They shall not accord with the Plan if:-

1. There is any likely harm to a European protected species;

2. It is likely to harm any other statutorily protected species, including national protected species, which cannot be adequately mitigated or compensated against.

- **Policy NH 3** deals with national designations such as ASSI, **Policy NH 4** with local designations (SLNCI, local nature reserves) and **NH 5** deals with other habitats, species or features of natural importance (priority habitats, priority species).

6.20 In terms of the shore of Lough Neagh, Tourism policies **TOU 1, TOU 2, TOU 3** and **TOU 4** are also relevant. Four *Tourism Opportunity Zones* (TOZs) have been identified at key locations along the shoreline at Washingbay, Mountjoy, Traad Point and The Battery.

6.21 The question arises however as to the weight to be afforded to the draft Plan and whether any issue of prematurity arises. Paragraph 5.73 of the SPPS (September 2015) states:-

“Where a new LDP is under preparation or review it may be justifiable, in some circumstances, to refuse planning permission on the grounds of prematurity. This may be appropriate in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant planning permission would prejudice the outcome of the plan process by predetermining decisions about the scale, location or phasing of new development which ought to be taken in the LDP context. A proposal for development that has an impact on only a small area would rarely come into this category, but refusal might be justifiable where a proposal would have a significant impact on an important settlement, or a substantial

area, with an identifiable character. Where there is a phasing policy in the LDP, it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect”.

6.22 The *Joint Ministerial Statement* (JMS) on ‘Development Plans and the implementation of the Regional Development Strategy’ (April 2005) also remains technically extant although it was drafted in the context of the development plan process under the unitary planning system. It does not account for the new process for bringing forward local development plans, was published prior to planning reform / the transfer of responsibility for plan-making to the new Councils and does not reflect new legislative provisions. It is suggested that, whilst the JMS might be considered, insofar as there is any conflict between the two, more weight should be given to the more recent policy provision made by the SPPS, which was itself advanced by the then Minister of the Environment, agreed by the Northern Ireland Executive and judged to be in general conformity with the RDS 2035 (paragraph 1.3 SPPS).

6.23 The dPS has been subject to representations including representations to mineral policies and natural heritage policies (for e.g. FoE (who have objected to lack of SCA protection for the Lough), RSPB, Quarryplan, and NIEA). Counter representations have also been made. In the case of the Mid Ulster dPS, the policy on ACMD/SCA on Lough Neagh has not been directly addressed. The matter appears to have been ‘deferred’ pending the outcome of the original application and the Council consider that the Lough continues to be afforded protection in the interim through the various environmental designations. Additionally, while Mid Ulster dPS has indicated they will review their approach to extraction on the Lough in light of the outcome of the original planning application (para 14.17), there is no indication their policy direction would go further than that contained within the current Cookstown Area Plan. No conflict or prematurity would appear to be engaged. The Department is therefore of the opinion that the policies contained within the dPS should only be afforded limited weight given its current status at this early stage in the process (i.e. it has not been to Independent Examination (IE)).

6.24 While the extraction area lies within Mid Ulster Council Area, the landing sites are dispersed around the shoreline of Lough Neagh. Both LCCC and Antrim & Newtownabbey Councils have published their draft plans and relevant policies have been considered including:-

LCCC

Strategic Policy 13 – Mineral Development

Strategic Policy 16 – Tourism

Strategic policy 19 – Protecting & Enhancing Natural Heritage

Mineral Policies

MD 1- Environmental Protection

MD 2 – Visual Impact

MD 3 – Areas of Mineral Constraint

MD 7 – Safety and Amenity

MD 8 – Traffic Implications

MD 9 – Restoration Proposals

Natural Heritage

NH 1 - European & Ramsar Sites – International

NH 2 – Species Protected by Law

NH 3 – Sites of Nature Conservation Importance – National

NH 5 – Habitats, Species or Features of Natural Heritage Importance

Antrim and Newtownabbey Borough Council

Strategic Policies and related DM policies

SP 2 Employment – DM 2 Economic Development – Countryside and DM 9 Tourism Development

SP 3 Transportation & Infrastructure – DM 10 Access and Parking

SP 8 Natural Heritage – DM 37 Designated Sites of Nature Conservation Importance, DM 38 Protected Species, DM 39 Habitats, Species and Features of Natural Heritage Importance

SP 9 Natural Resources – DM 43 Minerals Development

6.25 The Independent Enquiry hearings into these two plans concluded in 2022. However, as they have not yet been adopted, the Department is of the opinion the dPS for both Council areas should only be afforded limited weight.

Planning Policy Context

6.26 The *Strategic Planning Policy Statement* for Northern Ireland (SPPS) advises that until such times as a Plan Strategy for a council area has been adopted, planning authorities will apply existing policy within specified retained documents. In this case, the policy provisions of **PPS 21**, **PPS 2** and the relevant provisions of the mineral policies in **PSRNI** are relevant. The SPPS states that in decision-taking, the factors to be considered on a case-by-case basis for minerals development will depend on the scale of the proposed mineral development and its local context.

PPS 21 - Sustainable Development in the Countryside

6.27 **Policy CTY 1** states there are a range of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It advises that planning permission will be granted for minerals development in accordance with the MIN Policies of PSRNI.

A Planning Strategy for Rural Northern Ireland (PSRNI)

6.28 PSRNI recognises minerals as an important natural resource and their exploitation makes an essential contribution to the nation's prosperity and quality of life. The mineral extraction industry provides employment often in rural areas and produces a wide range of products for a variety of purposes in construction, agriculture and industry. In Northern Ireland the primary minerals are sand and gravel and crushed rock used mainly in construction. In the foreseeable future, supplies of primary minerals are likely to come from traditional sources.

6.29 It goes on to say that minerals can only be extracted where they are found. Whilst they are essential, their working can have a significant effect on the landscape and on people's living conditions. Because of their nature, scale, location and duration of operation, minerals developments often impact more severely on the environment than other forms of development so they must be subject to rigorous control standards.

6.30 The PSRNI identifies a general presumption in favour of development. When considering an application account shall be taken of the value of the mineral to the economy, the environmental implications of the proposal and the degree to which adverse effects can be mitigated in relation to the character of the local area.

6.31 As set out above, this application falls within an ACMD. **Policy MIN 3** advises there will be a presumption against the granting of planning permission for the extraction of minerals in ACMDs. Exceptions to this policy may be made where the proposed operations are short-term and the environmental implications are not significant. **Policy MIN1** requires an assessment of the need for the mineral resource against the need to protect and conserve the environment and this should take account of all relevant environmental, economic, and other considerations. It also recognises that the provision of reliable protective measures will be an important factor in assessing the acceptability of the extraction proposal.

6.32 As discussed, the application for non-compliance with conditions does not re-examine the principle of the development i.e. extraction from the bed of the lough is established through the granting of original permission LA03/2017/0310/F. The matters for consideration are restricted to a question of the conditions subject to which planning permission should be granted, however, any planning permission would result in a new planning decision.

6.33 Where applicable, the application has been assessed under the relevant policy but it is considered that it is in compliance with the applicable provisions of the mineral policies in the PSRNI. While the application falls within an *Area of Constraint on Mineral Development*, the principle of the development cannot be revisited when considering the section 54 application and as discussed, this is already established. This zoning is therefore not attributed weight in the consideration of this application.

Ecology/ Biodiversity and Nature Conservation

6.34 At the Public Local Inquiry in June 2018 it became apparent that the bird survey work undertaken for the Environmental Impact Assessment on the original

application was to assess how birds react to dredging and barge movements on Lough Neagh and the onshore activities at the quays. However, such survey work was not undertaken at night and therefore the effects of birds during the hours of darkness had not been assessed. The HRA prepared by SES relating to application LA03/2017/0310/F identified the potential for movement and operation of sand dredging barges during the hours of darkness to cause disturbance to waterfowl species, particularly several species of diving duck wintering on Lough Neagh. Accordingly, the Department attached a planning condition (Condition 7) restricting movement of barges to daylight hours only, removing the potential to impact on wildfowl through disturbance due to barge movements during the hours of darkness.

6.35 The applicant proposes the development of land without compliance with condition 7 (daylight only operating hours restriction) which states:

- *Between 1 October and 31 March barges shall not leave dock earlier than sunrise or return later than sunset. (Sunrise and sunset are defined as the time stated by HM Nautical Almanac Office for the City of Belfast).*

Reason: To avoid disturbance of the site selection features of the designated sites.

6.36 Subsequently, the applicant carried out additional specific survey work to support this s54 application, the conclusions of which, according to the applicant, were:

“...the activities of the sand barges during the hours of darkness would not give rise to an adverse effect on the integrity of Lough Neagh and Lough Beg SPA/Ramsar (or a significant adverse effect on any underpinning designation) with reference to the conservation objectives and all relevant qualifying interest features.”

6.37 NIEA Natural Environment Division were consulted on the application. NED have stated that while the diurnal distribution of the various species wintering on the lough is generally well known, very little is known about use of the Lough for foraging during the hours of darkness. Subsequently, it is difficult to accurately assess the potential for nocturnal disturbance by vessel movements or dredging operations. Recent diurnal monitoring indicates that relatively large aggregations of the three key

diving duck species regularly occur in proximity to four of the onshore processing sites and the extraction area itself. It is therefore possible that commuting vessels may pass through associated feeding areas. The area around the extraction locations has been consistently important for *Scaup* in recent years. This species has tended to be the most numerically stable of the diving ducks during the period of general decline. It is important that this stability is maintained. Given the current uncertainty regarding distribution and behaviour of waterfowl after dark, it was considered prudent to put in place mitigation measures to minimise nocturnal disturbance, particularly during that part of the winter when the highest numbers of birds are recorded and when these tend to be subject to the greatest energetic stress due to prevailing low temperatures.

6.38 As indicated above, additional night surveys were carried out to assess the effects of nocturnal movements of the barges on wintering birds with emphasis on assessing the level of disturbance caused. LNST discussed methods with NED by which this could be carried out and a radar-based survey was proposed. However, difficulties were encountered in obtaining the radar equipment and it was not available in time for the survey season. While this seriously reduced the potential efficacy of the survey, NED was content for the project to proceed using night vision optics. This was because, despite it limiting bird detectability to around a 100m radius of the vessel during complete darkness, very little information on the response of waterbirds to vessel movements during darkness was available. It was thus considered that this survey might at least give an indication as to whether large numbers of birds were being encountered on the barge routes and if there was a large-scale adverse response. Surveys commenced in December 2018 whereby barges simulated extraction operations while in the extraction zone.

6.39 During transects (62 in total), observers on the barges recorded all birds encountered (including those in flight), their minimum distance from the vessel and their response in terms of disturbance (i.e. whether the birds moved away or took flight).

6.40 The numbers of birds encountered during transects was generally low relative to the populations present on Lough Neagh. Birds in flight, particularly gulls,

predominated. There was no indication that the presence or movement of the barges adversely affected the behaviour of birds in flight in any way. Gulls were even recorded landing and foraging on barges in the extraction zone.

6.41 Whilst NED had some issues with the method of data summary reporting provided by the applicant, they note that disturbance by vessels is most likely to have an adverse impact on birds on the water, by disrupting foraging or forcing expenditure of energy through escape flight. Therefore, NED's assessment is confined to the birds on the water during the hours of darkness and information provided on those recorded only in flight, during daylight transects and from the shore was disregarded.

6.42 NED state that, within its constraints (i.e., inability to differentiate birds much beyond 100m range), the survey provided no compelling evidence of significant disturbance of birds by barges during the hours of darkness. It could be argued that birds beyond the range of the optic could be detecting the approach of the barge and are therefore moving away unseen. This could result in displacement from foraging areas and therefore adverse impact cannot be ruled out, particularly during very cold weather. NED therefore are of the opinion that caution is required as it cannot be conclusively determined that avoidance behaviour is not happening beyond the restricted detection capabilities of the submitted survey. They have recommended therefore, that a 12-hour undisturbed foraging period for birds from November to February, when physiological stresses are greatest, is conditioned, with barge operations confined to the period 0600 to 1800 during that period (restrictions at other times are not considered to be necessary).

6.43 The planning application was also considered in light of the assessment requirements of regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by SES on behalf of DfI Planning. The *appropriate assessment* concluded that based on the information provided, and in light of the expert opinion of the Statutory Nature Conservation Body (NIEA), it has not been demonstrated that the removal of condition 7 would not have an adverse effect on site integrity. SES agree (as suggested by NIEA) that an amendment to the applicant's proposed condition is required to provide mitigation ensuring no

adverse effect on site integrity. It is recommended that a condition that reflects the comments of this expert consultee be attached to a decision notice, should approval be granted.

6.45 As discussed, the applicant is also proposing to develop land without compliance with condition 12 which, if approved, would result in a change to the size of the barges currently permitted to be operated. The ES identified the following pathways by which significant effects could arise as a result of the change:

- An increased level of disturbance to sensitive receptors through barge movements to the Lough:
 - Visual disturbance: increased size of barge
 - Visual disturbance: increased speed of barge
 - Increased noise disturbance
- Increased water quality impacts
- Increased air quality impacts

6.46 With regards potential visual disturbance related to an increase in the barge size, the ES concluded that the birds do not consider the barges to be a threat which would otherwise induce a significant flight response, and thus changing the barge size would have no greater effect than that previously assessed. The conclusion is reached both in relation to daytime and night-time operations. In relation to the visual disturbance as a result of increased speed of the new barges the ES concludes that the speed of the new barge could not increase significantly over those levels previously considered as the barges remain large, slow-moving vessels, heavily restricted by their bulk and weight, especially when loaded. I am content therefore that there will not be a visual disturbance on sensitive receptors through non-compliance with condition 12 in its present form and the inclusion of an amended wording.

6.47 In relation to potential noise disturbance and impact on air quality, the ES considered that there may be a significant impact on bird and fish species due to an increase in the size of the barges. The ES suggests mitigation in the form of a suitably worded revised planning condition 12 that secures commitment that the

replacement barge shall not emit any greater noise output or emissions to air than the barge it is proposed to replace. I am content that this will mitigate any potential noise impacts or impacts on air quality on sensitive receptors should condition 12 be substituted as proposed.

6.48 Finally in relation to potential impact on water quality relevant to plants, fish, benthic invertebrates and bird features, the ES concludes that there is unlikely to be a significant impact on sensitive receptors as a result of petrochemical released from a larger barge and therefore no further mitigation beyond that already in place is considered necessary. I am content that substituting condition 12 as proposed will not impact on the water quality.

6.49 Both NIEA and SES were content with the substitution of condition 12 as proposed by the applicant. The proposed amendments are discussed further in the report but in terms of ecology, the alteration is not considered to be detrimental to biodiversity and nature conservation.

Residential Amenity and Human Health

6.50 As discussed the applicant proposes the development of land without compliance with condition 7 (daylight only operating hours restriction). Under such arrangements, the barges would be permitted to leave the docks at any time of the day (and night), all year round, as opposed to only during the non-winter months (April to September). The applicant is also proposing to substitute condition 12 which, if approved, would result in a change to the size of the barges currently permitted to be operated and thus there may be noise and emission effects. A consideration of the potential impacts of such on residential amenity and human health is therefore required.

6.51 Under the original application, the barges can leave the site at any time, apart from those specified in condition 7, and also condition 13 (after 3pm on Saturdays, all day Sundays and on any Bank Holiday). The restrictions specified in condition 7 were applied solely for the protection the site selection features of the designated sites as opposed to for the protection of amenity.

6.52 In addition, while the barges can indeed leave the dock at any time (apart from the times discussed above) the ES states:

“Whilst barges may leave their moorings at the 8 sand quays from an early hour, the operations to include the winning and working of the material and all the associated down-stream landing, processing, stockpiling and distribution of the materials take place within the following operational hours:

Hours of Operation

06:00 to 19:00 Monday to Friday

06:00 to 15:00 Saturday

No extraction on Sundays or Bank Holidays (para 2.16.2)”

6.53 It has been raised by the Lisburn and Castlereagh Council Environmental Health Department that the ES has only assessed the impact of extraction from 7am, contrary to operating hours detailed the above, and that if extraction takes place from 6am this would technically be night-time hours. As detailed in planning practice guidance *Assessing Environmental Impacts from Mineral Extraction – Noise Emissions* (March 2014), 7am and 7pm are normal working hours and extraction benefits from a noise limit of background +10dB. Extraction between 10pm and 7am would be limited to 42dB and compliance with this noise limit has not been demonstrated. However, the applicant’s acoustic consultancy has shown that the worst-case noise level will not exceed 42 dB(A) at any time (see Table 5 in Appendix 6.1 of the ES) and therefore EHO are content.

6.54 While there is no condition attached to the original planning permission which restricts the hours of operation in terms of the mineral extraction element, covenant 7 of the Planning Agreement under section 76 of the Act restricts the operational activities at each landing site, including the processing of extracted mineral (but excluding the departure of barges from the landing sites to the extraction area and their return thereafter) to only taking place between 6am and 7pm on any day Monday to Friday (excepting Bank Holidays) inclusive and between 9am to 3pm on a

Saturday. There is therefore a level of protection for the amenity of residents in close proximity to the landing sites.

6.56 The Environmental Health Departments of Mid Ulster District Council, Antrim and Newtownabbey Borough Council, Armagh Banbridge and Craigavon Borough Council and Lisburn and Castlereagh Council Areas were consulted on this s54 application and are content with the proposals. Should the application be approved, condition 13 will remain ensuring that the amenity of local residents at weekends and on bank holidays is protected. Covenant 7 of the Planning Agreement will also remain in place. I am therefore content that there will not be a detrimental impact on residential amenity should condition 7 be amended as discussed above (barge operations confined to the period 06.00 to 18.00 during winter months) rather than removed entirely, which would add another level of protection to residential amenity.

6.57 The applicant is also proposing to substitute condition 12 which currently restricts the replacement of any barge to the same dimensions to that which it replaces (no greater), to a condition restricting the replacement of a barge to no greater dimension than the largest barge currently permitted, allowing for a tolerance of 10% in dimension. It is proposed that the replacement barge shall not be permitted to emit any greater noise output or emissions to air than the barge it is proposed to replace. To ensure that this is the case, the applicants propose notifying the Department with particulars of the replacement regarding length and emissions, await its agreement and notify the Department 7 days prior to the replacement barge coming in to service. I am content that condition 12 can be substituted as such.

6.58 All of the Environmental Health Departments have no objection to the substitution of condition 12, provided the sound power level of any replacement barge does not exceed 105 dB(A) (the stated level order) which would provide an extra level of protection of amenity at nearby noise sensitive receptors. I am content that the substitution of condition 12 will have no greater impact on residential amenity and human health than that attached to the original permission.

Landscape and Visual Impact

6.59 **Policy MIN 2** of PSRNI states that the planning authority shall have regard for the visual implications of mineral extraction and that in order to minimise their visual impact, they should be located where possible to take advantage of existing landform and features. Should the application be granted, the applicant could replace any of the current barges with one of a larger dimension (albeit restricted to no greater dimension than the largest barge currently permitted, allowing for a tolerance of 10% in dimension). In addition, the barges may be on the Lough for a greater length of time than currently permitted. Therefore a consideration of the visual impact is appropriate.

6.60 The potential visual impacts associated with this application are considered to be limited only to the barge activity on the surface. The Lough itself is the dominant landscape feature in the locality but it is not itself designated for landscape value. It is considered that boat activity is not particularly unusual on a water body especially one of this scale. Therefore the visual impact of barge movement will have little impact on the quality of the surrounding landscape. I do not consider that any changes to the barge size and the duration they are on Lough would be detrimental to the landscape and visual amenity.

6.61 It would be important to note here that Policy MIN 8 of PSRNI requires mineral workings to be restored at the earliest opportunity – to make them fit for beneficial use and environmentally acceptable after extraction. Applications for extraction must include satisfactory restoration proposals. However as it is considered that non compliance with conditions as proposed in this application will not have an impact on the extraction, other than the times within which it can be conducted, consequently non-compliance will not impact on any requirement for restoration. Restoration was discussed and addressed in the original application, and it was deemed that, given the nature and location of the extraction, restoration of the extracted area in this instance would not be appropriate.

7.0 Conclusion

7.1 After fully assessing the development proposal, the information submitted in support of the application, the comments of all consultees and having regard to the relevant planning policy context, the statutory development plan, and all other relevant material considerations, the following conclusions have been reached;

- The rationale provided by the applicant for non-compliance with the conditions has been considered and it is indicated, where relevant, agreement with the case advanced. I have also set out other changes and suggestions as appropriate.
- The conditions proposed do not alter the extent or the nature of the development already permitted.
- Two letters of representation were received which raised concerns that the original conditions attached were to protect the site selection features and to remove such would have an impact on these. These comments have been taken into the consideration of the application.
- The Environmental information along with other additional information and comments made by the consultee bodies (summarised at Appendix 2) has been taken into account and it has been determined that the potential significant effects have been identified, adequately assessed and mitigation measures provided (where required). On this basis, in accordance with regulation 24(1) of the 2017 EIA Regulations, a reasoned conclusion has been reached (Appendix 3).
- A HRA has been carried out and concluded that, provided the proposed mitigation is appropriately conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. This report and the SES draft HRA should be considered the HRA/ appropriate assessment by the competent

authority for the purposes of the Habitats Regulations and Directive. It is attached at Appendix 4. DfI Regional Planning Policy & Casework Directorate in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 ('HRA' as amended), and in accordance with its duty under regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 14 December 2022.




8.0 Recommendation

8.1 Article 21 of GDPO empowers the Department to request that the Planning Appeals Commission or other appointed person hold a public inquiry for purposes of considering representations on the application. Where no Public Local Inquiry is held, the Department must serve a Notice of Opinion on the applicant and the council indicating the decision which the Department proposes to make on the application.

8.2 The Department may cause a public local inquiry to be held where it is considered that the inquiry will provide additional information to inform the Department in making a final planning decision. It is noted that consultation responses have indicated that a satisfactory level of information has been submitted to enable consultees to advise the Department on specific technical issues. A key test for the Department in deciding the process route is whether a public local inquiry is necessary to provide a forum for presentation and consideration of issues arising from the representations received and which need to be assessed to allow the Department to determine the application.

8.3 The proposal has been considered having regard to the information submitted in support of the development including all relevant material considerations, other documentation submitted with the application, the relevant planning policies, and the views of bodies with environmental responsibilities. Given the small numbers of representations received in this case it is considered that a public inquiry is not

required to consider representations on the application and having weighed all the considerations it is recommended that the application proceeds by way of a Notice of Opinion (Annex 1) to grant planning consent

SECTION 54 DETERMINATION	
Application No:	LA03/2021/0940/F
Proposal:	Application for the extraction, transportation and working of sand and gravel from Lough Neagh. Sand and gravel to be extracted from within two distinct areas totalling some 3.1km², in the north-west of Lough Neagh situated approximately east of Traad Point, north of Stanierds Point, west of Doss Point and south of Ballyronan and the ancillary deposition of silt and fine material without complying with condition number 07 and condition number 12 of planning approval LA03/2017/0310/F.
Location:	Lough Neagh within the Mid Ulster District Council, Antrim and Newtownabbey Borough Council. Armagh Banbridge and Craigavon Borough Council and Lisburn and Castlereagh Council Areas.
The above application was considered at a development control group meeting:	Following discussion of the information submitted in support of the application, the comments of all consultees and having regard to the relevant planning policy context, the statutory development plan, and all other relevant material considerations, the group concurs with the findings of the report and the recommendation to approve.
DC Group recommendation:	Notice of Opinion to Approve
Group Signatures:	<p>1. </p> <p>2. </p> <p>3. </p> <p>Date: 19/4/21</p>

Appendix 1 Draft NOP – LA03/2021/0940/F

1. Extraction of sand and gravel shall cease by 10 May 2032.

Reason: To limit the duration of the development in the interests of protection of the designated sites.

2. Extraction of sand and gravel shall be limited to the two shaded areas edged in black and hatched orange identified in the Legend as Proposed Extraction/Dredging Area ("the permitted areas") as indicated on stamped approved Drawing 01 received on 15 May 2017 under planning approval LA03/2017/0310/F.

Reason: To ensure extraction is controlled in the interests of protection of the designated sites.

3. Extraction shall only be permitted to the extent that any sand and gravel extracted from the permitted areas is landed at any of the 8 landing sites assessed in the Environmental Statement (April 2022) and which are subject to the Agreement with the Department dated 6 January 2021 made under section 76 of Planning (Northern Ireland) Act 2011 in connection with this planning permission.

Reason: To ensure land based operations are controlled in the interests of protection of the designated sites and to correspond with the assessed environmental effects.

4. Extraction operations shall be monitored through the use of the Electronic Monitoring System (EMS) agreed with the Department on 2 April 2021 and there shall be adherence to the following:

- Other than when the barge is moored at the quay, all dredging related activities (including pumping, priming and other operations of the boom/winch/pump mechanisms) shall be carried out only within the permitted areas.
- The Department shall be provided with access to the information held within the EMS at any time for the duration of the permission; -

- Real time alerts shall be provided via email to the Department at the agreed email address
- Measures shall be implemented to alert an operator that the EMS tracking device is not functioning;
- At the point when an employee becomes aware that the EMS tracker on a barge is not functioning, that barge shall not leave the dock and if already away from the dock, they shall stop extracting (if currently doing so) and return to dock. Details of the journey including any material already extracted shall be recorded manually;
- The EMS reports submitted to the Department shall be made on a monthly basis (for each calendar month); and
- The EMS shall be subject to periodic review during the operational phase of the development. Any amendments to the EMS following a review shall take effect in a time period as agreed by the Department.

Reason: To ensure extraction is controlled in the interests of protection of the designated sites. Reason: To ensure extraction is limited to the approved area in the interests of protection of the designated sites.

5. The applicant shall, upon receipt of a written request from the Department, make available within 7 days any reports generated from the EMS system in condition 4, for any period.

Reason: To ensure the volume of extraction is monitored in the interests of protection of the designated sites.

6. Between 1 November and 28/29 February any barge shall not leave the dock earlier than 06.00 hours or return later than 18.00 hours.

Reason: To avoid disturbance of the site selection features of the designated sites.

7. Extraction of sand and gravel shall be limited to a maximum of 1.5 million tonnes per calendar year. The Department shall be provided with a written report by 31 January of the following year, which shall detail the tonnage extracted in the previous calendar year.

Reason: To ensure the volume of extraction is limited in the interests of protection of the designated sites.

8. The Department shall be notified in writing within 14 days when total extraction has reached 1.3 million tonnes in each calendar year.

Reason: To ensure the volume of extraction is monitored in the interests of protection of the designated sites.

9. All extraction shall cease when total extraction has reached 1.5 million tonnes in any calendar year. The Department shall be notified in writing within 7 days of having reached the 1.5 million tonne limit.

Reason: To ensure the volume of extraction is limited in the interests of protection of the designated sites.

10. No more than 15 barges shall operate to extract mineral within the permitted areas at any time.

Reason: To ensure extraction is controlled in the interests of protection of the designated sites.

11. Only barges of the dimensions specified in Table 2.1 of Chapter 2, Volume 2 of the Environmental Statement (April 2022) shall be permitted to extract mineral from the permitted areas. Any proposed replacement barge shall be of no greater dimension than the largest barge in the April 2022 Table 2.1, allowing for a tolerance of 10% in dimension and the replacement barge shall emit no greater emissions to air or increase in noise output (expressed as an LAeq) than the barge and sand extraction engine system it is proposed to replace. If a barge as so specified within the Table 2.1 of Chapter 2, Volume 2 of the Environmental Statement (April 2022) is to be replaced -

a) The Department shall be notified in writing of the details of the replacement barge to include the particulars with regards to length, emissions to air and noise output (expressed as an LAeq);

b) Thereafter such replacement shall be agreed in writing by the Department; and

c) The Department shall be notified 7 days prior to the replacement barge entering the Lough.

Reason: To ensure extraction is controlled in the interests of protection of the designated sites.

12. The barges, as detailed in Condition 11, shall not operate after 3pm on Saturdays, all day Sundays or on any Bank Holiday.

Reason: In the interests of residential amenity.

13. The Emergency Response Plan (ERP) for all offshore activities agreed with the Department on 30 June 2021 shall be available for inspection at all times on each vessel.

Reason: To ensure protection of the designated sites.

14. The archaeological programme, in accordance with the British Marine Aggregate Producers Association (BMAPA) Protocol for Reporting finds of Archaeological interest (BMAPA and English Heritage 2005), agreed with the Department on 2 April 2021 shall operate for the duration of the development hereby permitted.

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

15. Access shall be afforded to the site and barges at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition or agreement, is completed in accordance with the approved programme.

16.A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work as agreed by the Department on 2 April 2021. These measures shall be implemented, and a final archaeological report shall be submitted to the Department within 12 months of the completion of archaeological site works.

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

Appendix 2 – Summary of Consultation Responses Received

Lisburn City and Castlereagh Council Environmental Health Department

Content with the proposal in principle subject to amendments to the proposed amendments to condition 12 such that any new barge should be provided to the Department in the form of an LAeq for both the sand extraction engine system and the barge engine. No objection to the removal of condition 7.

Lisburn City and Castlereagh Council

The Council is content with the proposal in principle subject to conditions suggested by the Environmental Health Department

Antrim and Newtownabbey Borough Council Environmental Health Department

Content with the proposal in principle subject to amendments to the proposed amendments to condition 12 to include sound power level in order to protect amenity at nearby noise sensitive receptors No objection to the removal of condition 7.

Antrim and Newtownabbey Borough Council

The Council has agreed not to provide a corporate view on the merits of the development, thus allowing individual Members or parties to express support for or object to the development if they so wish.

Armagh City, Banbridge and Craigavon Borough Council Environmental Health Department

No objection to the removal of condition 7. No objection to the variation of condition 12, provided the sound power level of any replacement barge does not exceed 105 dB(A). Recommend that this sound power level is restricted so as not to exceed the stated level order to protect amenity at nearby noise sensitive receptors.

Armagh City, Banbridge and Craigavon Borough Council

The Council would advise that the comments of DAERA Natural Environmental Division (NED) and Shared Environmental Services (SES) and our own Environmental Health Department (who have been consulted separately), are material to this proposal, and should be obtained by Dfl to help inform their decision. No additional comments to make at this time.

Mid Ulster District Council Environmental Health Department

No objection to the removal of condition 7. No objection to the variation of condition 12 limiting the dimensions of any new/replacement barges provided their sound power level does not exceed 105 dB(A). Recommend that this sound power level is included within condition 12.

Mid Ulster District Council

Mid Ulster District Council have no objections to this application subject to the Department ensuring all appropriate assessments of any impacts on the natural environment/designated sites is carried out and that in varying Condition 12 that any new barge or replacement barge shall have a sound power limit of 105 db (A) secured by any varied condition. The Department to be satisfied and legal advice taken that this will not cause harm to species or the biodiversity of the Lough. Also, that amenity of neighbouring residences is protected through the use of controls and remote noise generated.

Water Management Unit

Water Management Unit has no objection to the variation of Conditions on operating hours and barge sizes.

Inland Fisheries

Inland Fisheries are content that the variations applied for are unlikely to have any material impact on our previously provided responses.

NIEA Natural Environment Division

NED is of the opinion that it would be possible to amend Condition 7 of LA03/2017/0310/F to allow some operation of sand barges within the hours of darkness. While the results presented suggest that removal of restrictions would be unlikely to have a significant adverse impact on selection features of the Lough Neagh and Lough Beg SPA, NED feel that caution is required as it cannot be conclusively determined that avoidance behaviour is not happening beyond the restricted detection capabilities of the current survey.

Consequently, NED consider that it would be prudent to allow a 12-hour undisturbed foraging period for waterbirds during November to February, when physiological stresses are greatest, with barge operations confined to the period 06:00 to 18:00 at that time. Restrictions at other times of year are unlikely to be necessary.

NED are content with the proposed amendments to Condition 12, re barge size.

Shared Environmental Services

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of DfI Strategic Planning Directorate which is the competent authority responsible for authorising the project.

Following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects. The appropriate assessment has concluded that on the basis of the information provided and in light of the expert opinion of the Statutory Nature Conservation Body it has not been demonstrated that the removal of condition 7 would not have an adverse effect on site integrity and an amendment to the proposal is required to provide mitigation ensuring no adverse effect on site integrity. The proposed amendment to condition 12 includes mitigation to ensure no increase in noise or emissions from replacement barges. It is concluded that the amendment to condition 12 will not have an adverse effect on site integrity.

Appendix 3 - Regulation 24 Reasoned Conclusion

The proposed development has been applied for under s54 of the Planning Act (NI) 2011 and seeks non-compliance with a number of conditions attached to permission LA03/2017/0310/F which was for the extraction of sand from the bed of Lough Neagh. The applicant proposes development without compliance with

- Condition 7 (daylight only operating hours restriction) and
- Condition 12 (the replacement of barges presently operating on the Lough).

A Section 54 application does not allow for the amendment of the description of development of the previous (original) permission and if successful results not in the variation of an already existing permission, but the grant of a fresh permission for the same description of development as the original application. The original application, LA03/2017/0310/F was accompanied by an Environmental Statement (ES) which considered the likely significant impacts of the project on the environmental aspects within and around the project (geology, water environment, noise, ecology, landscape, air quality, vehicle movements, cultural heritage, socio economics and tourism) and included the measures envisaged to mitigate those impacts, where required.

The applicant submitted an addendum to the original ES to accompany the current application. This considers the potential significant impacts on environmental aspects within and around the proposed development that could occur as a result of the non-compliance with the conditions attached to the original permission, as proposed, together with strategies to minimise or avoid them. Some of the aspects considered in the original ES will be unaffected by the non-compliance and thus the conclusions drawn on those remain unchanged.

An assessment of compliance of the proposed development with the objectives and requirements of the EIA took into account the following reports and supporting information that formed part of the application package:

- ES, ES Addendum and Appendices
- ES Non-Technical Summary

The Department has examined the environmental information. The examination involved whether the EIA process identified, described and assessed the direct and indirect effects of the project taking into account both the information supplied by the applicant and the feedback provided by consultation responses. Consultation responses are available in full on the planning portal and are summarised in this Development Management Report (DMR).

After the examination undertaken by the Department, the main likely significant effects and mitigation measures (where required) of the proposed development on the environment are as follows:

Ecology

The ES identifies a potential likely significant effect on ecologically important features (statutory and non-statutory designated sites within the zone of influence, habitats within the site and species that utilise the site) and the mitigation measures, where required (6.3-6.4). It identifies the following pathways by which significant effects could arise as a result of the proposals:

Disturbance to sensitive receptors during the hours of darkness

An increased level of disturbance to sensitive receptors through barge movements on the lough;

- Visual disturbance: increased size of barge
- Visual disturbance: increased speed of barge
- Increased noise disturbance
- Increased water quality impacts
- Increased air quality impacts

Mitigation

The ES includes a survey and assessment report regarding the implications of barges operating at night during winter months. (Annex 7 of Appendix 7.1)

The ES concluded that the activities of the sand barges during the hours of darkness would not result in a significant impact on all bird species therefore no mitigation has been identified. However, NIEA Natural Heritage NED are of the opinion that caution is required as it cannot be conclusively determined that avoidance behaviour is not

happening beyond the restricted detection capabilities of the submitted survey (the use of night vision optics limited bird detectability to around a 100m radius of the vessel during complete darkness). They have recommended therefore that a 12-hour undisturbed foraging period for birds from November to February (when physiological stresses are greatest) is conditioned, with barge operations confined to the period 06.00 to 18.00 during that period (restrictions at other times are not considered to be necessary).

The planning application was also 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 DfI Planning. The appropriate assessment concluded that based on the information provided, and in light of the expert opinion of the Statutory Nature Conservation Body (NIEA), it has not been demonstrated that the removal of condition 7 would not have an adverse effect on site integrity as it may cause disturbance to feeding/loafing bird interest features during the hours of darkness. SES are of the opinion that an amendment to the original condition as opposed to its removal is required to ensure there is no adverse effect on site integrity. It is recommended that a condition that reflects the comments of the expert consultees be attached to a decision notice, should approval be granted, in order to mitigate any adverse impacts on sensitive receptors. The wording of the condition is considered in detail in the DMR.

With regards visual disturbance in terms of increased size of barge the ES states there is unlikely to be a significant impact on sensitive receptors based on the evidence submitted with the original application and the more recent winter survey (Annex 7 of Appendix 7.1). This concluded that the birds do not see the barges as a threat which would otherwise induce a significant flight response, and thus, changing the barge size would have no greater effect than that previously assessed and therefore no mitigation is required. The conclusion is reached both in relation to daytime and night-time operations.

With regards visual disturbance in terms of increased speed of barge the ES concludes that the speed of the new barge could not increase significantly over those levels previously considered as the barges remain large, slow moving vessels,

heavily restricted by their bulk and weight, especially when loaded. It concludes there is unlikely to be a significant impact on sensitive receptors and therefore no mitigation is required. This is considered to be acceptable.

In relation to increased noise disturbance and impact on water quality, the ES considered that there may be a significant impact on bird and fish species due to an increase in the size of the barges. The mitigation suggested is a suitably worded revised planning condition that secures commitment that the replacement barge shall not emit any greater noise output or emissions to air than the barge it is proposed to replace. The wording of the condition is considered in detail in the DMR. This measure is considered appropriate to mitigate potential significant impacts.

Finally in relation to potential impact on water quality relevant to plants, fish, benthic invertebrates and bird features, it is concluded that there is unlikely to be a significant impact on sensitive receptors as a result of petrochemical releases from a larger barge and therefore no further mitigation beyond that already in place (discussed in the original ES at paragraph 7.5.123) is considered necessary. This is acceptable.



LA03_2021_0940_F -
HRA.pdf

Shared Environmental Service
Silverwood Business Park
190 Raceview Road
Ballymena
Co. Antrim
BT42 4HZ

14/12/2022

Planning Reference: LA03/2021/0940/F

Location: Lough Neagh, within the Mid Ulster District Council, Antrim and Newtownabbey Borough Council, Armagh, Banbridge and Craigavon Borough Council and Lisburn and Castlereagh City Council areas.

Proposal: Application for the extraction, transportation and working of sand and gravel from Lough Neagh. Sand and gravel to be extracted from within two distinct areas totalling some 3.1km², in the north-west of Lough Neagh situated approximately east of Traad Point, north of Stanierds Point, west of Doss Point and south of Ballyronan and the ancillary deposition of silt and fine material.

Consultation: 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 DfI Strategic Planning Directorate which is the competent authority responsible for authorising the project. The assessment which informed this response is attached at Annex A.

Outcome: Following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

The appropriate assessment has concluded that on the basis of the information provided and in light of the expert opinion of the Statutory Nature Conservation Body it has not been demonstrated that the removal of condition 7 would not have an adverse effect on site integrity and an amendment to the proposal is required to provide mitigation ensuring no adverse effect on site integrity. The proposed amendment to condition 12 includes mitigation to ensure no increase in noise or emissions from replacement barges. It is concluded that the amendment to condition 12 will not have an adverse effect on site integrity.

This conclusion is subject to the following mitigation measures being conditioned in any approval:

1. A 12-hour undisturbed foraging period for waterbirds must be maintained during November to February, when physiological stresses are greatest, with barge operations confined to the period 06:00 to 18:00 at that time.

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

Advice for planner: DfI Strategic Planning Directorate is advised to review the appropriate assessment provided by SES and if agreed, adopt the appropriate assessment. In recording the appropriate assessment in the planning report, the following statement may then be included:

DfI Strategic Planning Directorate in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 14/12/2022. This found that the project would not have an adverse effect on the integrity of any European site.

ses@midandeastantrim.gov.uk

ANNEX A

Habitats Regulations Assessment

Carried out by Shared Environmental Service, adopted by DfI Strategic Planning Directorate.

Date Completed: 14/12/2022

Planning Reference: LA03/2021/0940/F

Location: Lough Neagh, within the Mid Ulster District Council, Antrim and Newtownabbey Borough Council, Armagh, Banbridge and Craigavon Borough Council and Lisburn and Castlereagh City Council areas.

Proposal: Application for the extraction, transportation and working of sand and gravel from Lough Neagh. Sand and gravel to be extracted from within two distinct areas totalling some 3.1km², in the north-west of Lough Neagh situated approximately east of Traad Point, north of Stanierds Point, west of Doss Point and south of Ballyronan and the ancillary deposition of silt and fine material.

Assessment stage completed

- 1. Assessment resulting in exemption
- 2. Assessment resulting in elimination
- 3. Assessment demonstrating no likely significant effect
- 4. Interim Assessment to inform e.g. EIA determination, PAD
- 5. Further information requested
- 6. Draft appropriate assessment referred to SNCB
- 7. Appropriate assessment complete, no adverse effect on site integrity without conditions
- 8. Appropriate assessment complete, no adverse effect on site integrity with conditions to mitigate
- 9. Appropriate assessment complete, adverse effect on site integrity

Summary of findings

Appropriate Assessment Outcome: The appropriate assessment has concluded that the potential for an adverse effect could not be ruled out from the removal of condition 7. NIEA has recommended an amendment to condition 7 to provide mitigation ensuring no adverse effect on site integrity. The proposed amendment to condition 12 includes mitigation to ensure no increase in noise or emissions from replacement barges. It is concluded that the amendment to condition 12 will not have an adverse effect on site integrity.

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Abbreviations/Glossary

AESI	Adverse effect on site integrity	NIW	Northern Ireland Water
Dfi	Department of Infrastructure	PAD	Pre-application discussion
EIA	Environmental Impact Assessment	RLB	Red line boundary
HRA	Habitats Regulations Assessment	SAC	Special Area of Conservation
LSE	Likely significant effect	SES	Shared Environmental Service
NA	Not applicable	SPA	Special Protection Area
NIEA	Northern Ireland Environment Agency	SNCB	Statutory Nature Conservation Body

Mitigation For the purposes of this report ‘mitigation’ includes measures to avoid, cancel or reduce effects

STAGE ONE ASSESSMENT

Note, in light of the April 2018 ruling of the European Court of Justice Case C323/17 (People over Wind and Sweetman), a cautious approach has been taken. Stage One Assessment does consider essential features and characteristics of the project but does not consider measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the integrity of European Sites. Assessment will therefore progress to Stage Two Appropriate Assessment unless there is certainty that it can be exempted, eliminated or screened out at Stage One. Incorporated and additional measures to avoid or reduce significant adverse effects will be assessed at Stage Two Appropriate Assessment.

A. Description and potential effects of the proposal

Description		
<i>Heading</i>	<i>Short description</i>	<i>Comment</i>
Proposal	Application for the extraction, transportation and working of sand and gravel from Lough Neagh. Sand and gravel to be extracted from within two distinct areas totalling some 3.1km ² , in the north-west of Lough Neagh situated approximately east of Traad Point, north of Stanierds Point, west of Doss Point and south of Ballyronan and the ancillary deposition of silt and fine material.	<p>Section 54 Planning Application of the Planning Act (Northern Ireland) 2011, seeking permission to develop land without compliance with planning conditions No.7 (seeking removal of daylight only operating hours restriction) and No.12 (seeking variation to barge sizes) previously attached to planning permission LA03/2017/0310/F.</p> <p>HRA carried out on LA03/2017/0310/F by SES on behalf of DfI Strategic Planning Division.</p> <p>DfI determined that the application was required to be accompanied by an Environmental Statement (“ES”). LNST duly submitted the original ES lodged in support of the Original Permission and an Addendum in satisfaction of the request as issued by the Department.</p> <p>ES addendum 2.4 “The Project” <i>The project remains as described within Chapter 2 of the original ES save for the removal of condition 7 of the Original Permission to permit the movement of barges in the hours of darkness between 1st October and 31st March and the proposed amendment of condition 12 to permit a variation to the ability to replace barges up to a maximum size of 10% greater than the largest of barges for all and not limited to the existing size of the barge operated by each of the traders.</i></p>

Location	Lough Neagh, within the Mid Ulster District Council, Antrim and Newtownabbey Borough Council, Armagh, Banbridge and Craigavon Borough Council and Lisburn and Castlereagh City Council areas.	
Type of Development	Extractive Industry	
Size and Scale	3.1 km ²	This relates to the two distinct areas edged in black and hatched orange on Drawing 01 - Site Location on the planning portal 15/05/2017. An addendum shadow HRA submitted by Ecology Solutions confirms there is no proposal to alter the area from which sand is extracted, nor is there a proposal to increase the maximum volume of sand which can be extracted each year (1.5MT).
Land-take	Proposal is wholly within Lough Neagh SPA/Ramsar.	
Resource requirements (water etc.)	Sand mixed with water is pumped from the Lough bed as detailed for LA03/2017//0310/F.	
Emission (disposal to land, water or air)	Aerial emissions from barges	Variation of condition No.12 (seeking variation to barge sizes) may cause change to emissions as assessed under LA03/2017/0310/F.
Excavation requirements	Extraction of sand as assessed under LA03/2017/0310/F.	An addendum shadow HRA submitted by Ecology Solutions and the addendum to the ES confirm there is no proposal to increase the maximum volume of sand which can be extracted each year (1.5MT).
Transportation requirements	The 5 operators utilize up to 15 sand dredging vessels of various types.	An addendum shadow HRA submitted by Ecology Solutions and the addendum to the ES confirms there is no proposal to increase the number of barges (15) which are operated by the Sand Traders.
Duration	As assessed for LA03/2017//0310/F.	
Frequency	As assessed for LA03/2017//0310/F.	
Timing	The permitted operation of the 15 approved barges is governed by condition 7, which excludes operation in the Hours of Darkness during the winter months.	Variation of condition No.7 seeks removal of daylight only operating hours restriction. Original ES 16.2.1 indicates that barges may leave their moorings at the 8 sand quays from an early hour whereas the operations to include the winning and working of the material and all the associated down-

		<i>stream landing, processing, stockpiling and distribution of the materials take place within the following operational hours: 06:00 to 19:00 Monday to Friday, 06:00 to 15:00 Saturday.</i>
Decommissioning		ES addendum 2.5 Decommissioning <i>For the avoidance of doubt, it is confirmed that the decommissioning phase of the project remains as outlined in Section 2.17 of the original ES. The approach proposed within the original document has been further embedded into the baseline by the requirements of the associated s.76 and the restoration concept.</i>
Considerations for Assessment		
Are sea defences proposed/required?	<input type="checkbox"/> Yes <input type="checkbox"/> No	N/A
Will there be in river/sea works?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Works within Lough Neagh
Is piling required?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not applicable	
Is site within a flood plain?	<input type="checkbox"/> Yes <input type="checkbox"/> No	N/A - not relevant to current application.
Is site within 30m of Otter SAC river bank?	<input type="checkbox"/> Yes <input type="checkbox"/> No	N/A
Could there be contaminated land?	<input type="checkbox"/> Yes <input type="checkbox"/> No	N/A - not relevant to current application.
Has NIW confirmed capacity for stormwater/sewage to mains?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not applicable	N/A - not relevant to current application.
Potential Effects		
<i>Development Phase</i>	<i>Type</i>	<i>Comment</i>
Pre-construction	Not applicable	
Construction	Not Applicable	
Operation	Wholly/partly in European Site Disturbance New/Increase Change to Emissions/Discharge	<u>Condition 7:</u> The HRA for LA03/2017/0310/F concluded that the potential for disturbance to feature species at night from operation of barges travelling on Lough Neagh and during the extraction process could not be excluded. This resulted in Condition 7 to exclude operation of the barges on Lough Neagh in the Hours of Darkness during the winter months, (prescribed as the period from the 1st October through to the 31 March in each calendar year), to avoid disturbance of the site selection features. The s54 application seeks to remove this condition.

Removal of this condition may cause disturbance to feature species. A shadow HRA and Environmental Statement addendum have been submitted which details further surveys and assessment.

Condition 12:

It is proposed to seek to amend condition 12 of the Original Permission to permit more flexibility regarding the replacement of the barges presently operating on the Lough.

It is proposed to amend condition 12 from:

“Only barges of the dimensions specified in Table 2.1 of Chapter 2, Volume 2 of the Environmental Statement (April 2017) shall be permitted to extract mineral from the permitted areas. Any barge to be replaced shall be of no greater dimensions than that which it replaces.”

to:

“Only barges of the dimensions specified in Table 2.1 of Chapter 2, Volume 2 of the Environmental Statement (April 2017) shall be permitted to extract mineral from the permitted areas. Any proposed replacement barge shall be of no greater dimension than the largest barge in the April 2017 Table 2.1, allowing for a tolerance of 10% in dimension and that the replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace. Any such proposed replacement of a barge as so specified within the Table 2.1 of Chapter 2, Volume 2 of the Environmental Statement (April 2017) must:

- a) Be notified to the Department, along with the particulars with regards to length, emissions to air and noise output in writing;*
- b) Thereafter such replacement agreed in writing by the Department;*
- and*
- c) The Department is notified 7 days prior to the replacement barge coming into service.”*

This represents a change to the proposal as originally assessed and could lead to increased visual and noise disturbance from larger, faster barges and to increased emissions.

Decommissioning	Not applicable	
Restoration and aftercare	Not applicable	
Unintended events	Not applicable	
Assumptions		
<i>Assumption/s</i>	<i>Impact on potential effects</i>	<i>Comment</i>
Information gaps		
<i>Information gap</i>	<i>Pathway/Receptor</i>	<i>Comment</i>

B. Overview of sites potentially affected

Site Selection				
Proposal type				Site/s potentially affected
Ammonia emitting project?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes is development within 7.5km of European site?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Select Site Select Site Select Site
Wind turbine/s	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes is it within NIEA consultation zone for a European site?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Select Site Select Site Select Site
All developments – is it hydrologically connected to a European site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If yes could it have a conceivable impact on any European site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Lough Neagh and Lough Beg SPA Lough Neagh and Lough Beg Ramsar Site Select Site
Could project increase disturbance to site selection features?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If yes detail:		Lough Neagh and Lough Beg SPA Lough Neagh and Lough Beg Ramsar Site Select Site
Any other potential impacts on European sites?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes detail:		Select Site Select Site Select Site

Site name	Relative Location of proposal	Pathway	Comment
Lough Neagh and Lough Beg SPA	Within the SPA/Ramsar	Disturbance to feature species. Change to emissions/discharge.	Summary of potential effects:

Lough Neagh and Lough Beg Ramsar Site			<ul style="list-style-type: none"> • Disturbance to feeding/loafing bird interest features during the hours of darkness. • Increased level of visual disturbance to SPA/Ramsar features through barge movements on the Lough due to increased size, speed and noise of barges. • Increased air quality impacts. • Increased water quality impacts. <p><u>Potential for significant effects cannot be ruled out.</u></p>
Sites considered but excluded from further assessment			
Site name	Reason excluded		
Ballinderry River SAC	HRA for LA03/2017/0310/F concluded on the basis of the information provided that there is no route for pollutants to impact directly on the features or Conservation Objectives of this SAC. The proposal to remove condition 7 and to amend condition 12 will not alter this conclusion and this site is screened out from further assessment.		
Rea`s Wood and Farr`s Bay SAC	HRA for LA03/2017/0310/F concluded that considering the location of the proposed extraction area and the shore based processing sites it is concluded that the sand extraction activities could not have any impacts on the SAC features or Conservation Objectives as there are no pathways resulting from the proposal which could result in degradation of the woodland feature. The proposal to remove condition 7 and to amend condition 12 will not alter this conclusion and this site is screened out from further assessment.		

C. Outcome Stage One

Proposal exempt	
Is the entire project directly connected with or necessary to the management of all the European site(s) potentially affected and listed above?	<input type="checkbox"/> Yes – project exempt <input checked="" type="checkbox"/> No – further consideration
If 'Yes' justify	Click here to enter text.
Proposal eliminated	
Can any conceivable effect on any European site be objectively ruled out?	<input type="checkbox"/> Yes – project eliminated <input checked="" type="checkbox"/> No – further consideration
If 'Yes' justify why eliminated	Click here to enter text.
Likely Significant Effect	
Considering the project as proposed, and in the absence of any incorporated or additional measures to avoid, cancel or reduce the effects on a European site, could there be a likely significant effect (LSE) on one or more site selection features of any site?	<input type="checkbox"/> No – assessment completed <input checked="" type="checkbox"/> Yes – Progress to Stage Two Appropriate Assessment

STAGE TWO APPROPRIATE ASSESSMENT

This appropriate assessment further assesses effects on European sites and features and takes account of the evidence listed in the final section 'Evidence Used to Inform Assessment'.

D. Scoping Appropriate Assessment

Sites and Features which will be further assessed			
Site	Feature/s	Development Phases	Potential Impacts
Lough Neagh and Lough Beg SPA	All features	Operation	<ul style="list-style-type: none"> Disturbance to feeding/loafing bird interest features during the hours of darkness. Increased level of visual disturbance to SPA/Ramsar features through barge movements on the Lough due to increased size, speed and noise of barges. Increased air quality impacts. Increased water quality impacts.
Lough Neagh and Lough Beg Ramsar Site			

Further information required	To be sourced from	Requested	Date
			Click here to enter a date.

E. Assessment of Mitigation Measures

Detail of mitigation measures included in proposal		
Measure	Impact on potential effects	Comment
The revised wording of condition 12 proposes mitigation - 'any proposed replacement barge shall be of no greater dimension than the largest barge in the April 2017 Table 2.1, allowing for a tolerance of 10% in dimension and <u>that the replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace</u> '.	The proposed restriction in the revised wording of condition 12 will ensure that any replacement barge will have no greater noise output or emissions to air than that which it replaces and that this must be notified to Dfl.	

Assessment of mitigation measures						
List measures to avoid or reduce adverse effects on site integrity.	Type of measure	Explain how the measures will avoid or reduce the adverse effects on site integrity.	Provide evidence of how they will be implemented and by whom.	Provide evidence of the degree of confidence in their likely success	Provide time-scale, relative to the project when they will be implemented	Explain the proposed monitoring scheme and how any mitigation failure will be addressed
1. 12-hour undisturbed foraging period for waterbirds during November to February, when physiological stresses are greatest, with barge operations confined to the period 06:00 to 18:00 at that time.	<input type="checkbox"/> Incorporated <input checked="" type="checkbox"/> Additional <input checked="" type="checkbox"/> Condition	This is a precautionary measure due to the limitations of the surveys. A 12-hour undisturbed foraging period for waterbirds during November to February, to minimise any displacement of birds when physiological stresses are greatest.	Planning condition	This condition is recommended by NIEA NED ornithologists, based on expert opinion.	During the operational period.	Enforced by current planning legislation.
2. Any replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace.	<input checked="" type="checkbox"/> Incorporated <input type="checkbox"/> Additional <input type="checkbox"/> Condition	This measure will ensure that there is no increase in emissions to air that could impact on supporting habitat and no increase in disturbance due to increased noise.	Planning condition	The revised wording of condition 12 proposes that any proposed replacement of a barge must be notified to the Department, along with the particulars with regards to length, emissions to air and noise output in writing to be agree with the Department.	During the operational period.	Enforced by current planning legislation.

F. Assessment of Sites and Features

Lough Neagh and Lough Beg SPA		Pathway/s: Disturbance to feature species, deterioration in water quality, emissions to air.		
Overall Objective	To maintain each feature in favourable condition			
Feature	Feature Objective	Operation	Decommissioning	
Qualifying Feature*	To maintain or enhance the population of the qualifying species. To maintain or enhance the range of habitats utilised by the qualifying species. To ensure that the integrity of the site is maintained; To ensure	Potential impacts		
Under Article 4.1 and 4.2 of Directive 2009/147/EC supporting internationally important numbers of:		<p>Removal of condition 7:</p> <p>Disturbance to feature species from operation of barges travelling on Lough Neagh and during the extraction process during hours of darkness.</p> <p><i>Potential impacts from disturbance to feature species could occur from the operation of the barges around the shoreline at quay sites, in transit on the Lough and during the sand extraction process.</i></p>	N/A - this remains as assessed for LA03/2017/0310/F.	

<p>Common Tern (B), (F) Great crested Grebe (B,W,P), (N, F, F) Whooper Swan (W), (F) Bewick's Swan (W), (U) Golden Plover (W), (F) Pochard (W), (U) Tufted Duck (W), (U) Scaup (W), (F) Goldeneye (W), (U)</p> <p>Assemblage species (includes those listed above):</p> <p>Little Grebe (W) Cormorant (W) Greylag Goose (W) Shelduck (W), (F) Wigeon (W) Gadwall (W) Teal (W) Mallard (W) Shoveler (W) Coot (W) Lapwing (W)</p> <p>Waterbird Assemblage (U) *SPA feature list taken from the Conservation Objectives</p> <p>B – Breeding, W= Wintering, P=Passage, F = Favourable Condition, U = Unfavourable Condition, N= Not stated. Condition information taken from Lough Neagh</p>	<p>there is no significant disturbance of the species and to ensure that the following are maintained in the long term. Population of the species as a viable component of the site. Distribution of the species within site. Distribution and extent of habitats supporting the species structure, function and supporting processes of habitats supporting the species.</p>	<p><i>All feature species are susceptible to disturbance from noise, artificial light and from direct physical disturbance from barges or from deployment/retrieval of the suction head.</i></p> <p><i>This could be direct disturbance at feeding or loafing/roosting sites, or at nesting sites around the shoreline.</i></p> <p>Pochard, Tufted Duck and Scaup (diving ducks) are noted as being nocturnal feeders. NIEA (03/10/2022) states that the majority of species that may be susceptible to disturbance are selection features of the Lough Neagh and Lough Beg SPA and Ramsar site. The main species of concern are Pochard, Tufted Duck, Scaup and Goldeneye.</p> <p>The original HRA concluded '<i>Considering the most recent WeBS data (2017/18), results of the submitted bird surveys, the assessment carried out in APEM 2016, the Article 12 report and the further clarification by NIEA it is considered that the proposal will not have an adverse effect on site integrity through disturbance to feature species during daytime operation</i>'.</p> <p>In the absence of further information on nocturnal disturbance and taking a precautionary approach a condition was required to limit times at which barges are on the lough during the season when wintering wildfowl are present.</p> <p>An addendum shadow HRA has been supplied by Ecology Solutions. This is supported by Annex 7 "Wintering Bird Hours of Darkness Survey Report" (2021) produced by Ecology Solutions. The methodology of this survey work was agreed with NIEA (NED) and the surveys were undertaken over the 2018/2019 winter period.</p> <p>The sHRA at 5.31 concludes '<i>In view of the relevant data and the assessment undertaken, given the extremely limited area of the lough that is affected by barge movements and activity, compared to the habitat resources available in the wider lough and the observations in relation to bird distribution and disturbance, effects were concluded not to be significant. Indeed, effects can be categorised as nugatory</i>'.</p> <p>The NIEA consultation response (03/10/2022) has been reviewed. NIEA ornithologists have reviewed the submitted survey report and sHRA and note the following:</p> <p><i>'Following discussions with NIEA, a radar-based survey was proposed. The specialist radar to be used would have the ability to determine the distribution of waterbirds and their response to vessel movements beyond the range of any night -vision optics operated from sand barges. Unfortunately, difficulties were encountered in obtaining the radar equipment and this was not available in time for the survey season. While this development seriously reduced the potential efficacy of the survey, NIEA was content for the project to proceed using night vision optics, despite this limiting bird detectability to around a 100m radius of the vessel during complete darkness, as very little information on the response of waterbirds to vessel movements during darkness was available and it was considered that this survey might at least give an indication as to whether large numbers of birds were being encountered on the barge routes and if there was a large-scale adverse response</i>'.</p>	
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SPA Monitoring Report
2013.

'Disturbance by vessels is most likely to have an adverse impact on birds on the water, by disrupting foraging or forcing expenditure of energy through escape flight. For this reason, this assessment of the impact of barge movements on bird populations is confined to those birds recorded on the water during the hours of darkness. Information on those recorded only in flight, recorded during daylight transects and recorded from the shore is therefore disregarded'

'The surveys carried out have provided little evidence of significant disturbance of birds by barge movements during the hours of darkness. Most incidents involve small numbers of birds which tend only to respond at a relatively short distance from vessels, typically less than 50m. The results also indicate that large aggregations of birds are only rarely encountered on the barge routes after dark. The extraction zone also appears to be relatively little used by waterbird's.

Despite this and due to the constraints of the survey NIEA conclude:

'It could therefore be argued that rafts of birds may be detecting the approach of barges at a distance beyond the range of optics and moving away unseen. This could involve displacement from foraging areas, in which case an adverse impact could not be ruled out, particularly during very cold weather'.

'While the results presented suggest that removal of restrictions would be unlikely to have a significant adverse impact on selection features of the Lough Neagh and Lough Beg SPA, NED feel that caution is required as it cannot be conclusively determined that avoidance behaviour is not happening beyond the restricted detection capabilities of the current survey'.

NED is therefore suggesting the wording of Condition 7 be amended to allow some operation of barges within the hours of darkness but to ensure a 12-hour undisturbed foraging period for waterbirds during November to February, when physiological stresses are greatest.

'NED consider that it would be prudent to allow a 12-hour undisturbed foraging period for waterbirds during November to February, when physiological stresses are greatest, with barge operations confined to the period 06:00 to 18:00 at that time. Restrictions at other times of year are unlikely to be necessary'.

Conclusion: Taking account of the information presented in the sHRA and ES addendum and the assessment of the supporting information provided by NIEA ornithologists it is concluded that the removal of condition 7 may result in an adverse effect on site integrity. NIEA has recommended an amendment to condition 7 which will allow some operation of barges within the hours of darkness but to ensure a 12-hour undisturbed foraging period for waterbirds during November to February.

Amendment to condition 12:

Increased level of visual disturbance to SPA/Ramsar features through barge movements on the Lough due to increased size, speed and noise of barges.

The HRA for LA03/2017/0310/ F noted that results from the wintering bird surveys indicate the more significant number of birds are concentrated around the shore within the more sheltered bays. Results also indicated that the birds are largely unfazed by the operation of the barges both as they move across the Lough and when undertaking sand extraction operations. Boat based observations by Tomankova et al (2014) indicate that few birds are found beyond 1.5 km during daylight hours'. Results also indicated that breeding and foraging birds were largely unfazed by the movement of the barges across the Lough and the sand extraction process. No flight or fright response was noted.

The sHRA (5.37) submitted by Ecology Solutions concludes *'that for the most part, the relevant bird populations are simply not present where the barges are traversing or operating within the lough (being close to shore), but that they are not significantly affected by the movement of the barges or the extraction of sand (during the day or night). They do not see the barges as a threat which would otherwise induce a significant flight response. Observed behaviours indicate a level of habituation'*.

The sHRA (5.39) notes that during the survey work (Winter 2018-19) the smaller, faster dive boat accompanying the barges caused a greater level of disturbance and at a greater distance than the barges concluding that the higher speed and perhaps higher noise level of smaller boats instigates the predator/prey flight response.

It is therefore concluded that an increase in barge size/speed is unlikely to impact on feature species though visual disturbance.

The revised wording of condition 12 proposes *'any proposed replacement barge shall be of no greater dimension than the largest barge in the April 2017 Table 2.1, allowing for a tolerance of 10% in dimension and that the replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace'*.

ES Addendum chapter 5 Noise Assessment concludes *'In terms of noise impact, the replacement of the barges with a barge of no greater size than the largest currently operated and an engine which will at worse be no louder than that presently operating, will result in no change or a possible decrease in noise levels given the revised wording of condition 12 and the limits it seeks to impose with regards to noise emissions of any replacement barge'*.

The sHRA states at 5.45 *'Any replacement barge will, due to obsolescence, have an engine which is newer, more efficient and quieter than that which is being replaced. This is in part simply reflective of the technological advances which have been made over the years. In this light, there would be no net increase in noise levels and thus no change from the original assessment conclusions'*.

The proposed restriction in the revised wording of condition 12 will ensure that any replacement barge will have no greater noise output than that which it replaces and that this must be notified to DfI.

It is therefore concluded that an increase in barge size is unlikely to impact on feature species though increased noise disturbance – mitigation is included in the proposed amended wording.

Increased air quality impacts.

Air quality impacts were assessed in the original HRA with respect to impacts on shoreline vegetation (supporting habitat) when barges are arriving, depositing loads and leaving quay sites.

This concluded that due to the localised nature of effects and the proportion of Lough shore habitat potentially impacted it is considered that aerial emissions from the barges and road movements will not have an adverse effect on the integrity of Lough Neagh and Lough Beg SPA/Ramsar.

The ES addendum Chapter 8 (Redmore Environmental) reviews the proposal in relation to the amendment to condition 12.

'The previous assessment considered the annual number of road vehicle and barge movements when determining the potential for impacts from exhaust emissions. These will not be affected by the amendment of the boat size restriction (condition 12) as the amount of material extracted, landed and exported will not change. The use of newer barges through amendment of the boat size restriction may lead to a reduction in atmospheric emissions from this source due to improvements in engine technology and progressive emission standards associated with newer craft. Based on these factors, vehicle exhaust emissions impacts associated the proposals are considered not significant'.

The revised wording of condition 12 proposes mitigation - *'any proposed replacement barge shall be of no greater dimension than the largest barge in the April 2017 Table 2.1, allowing for a tolerance of 10% in dimension and that the replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace'.*

The proposed restriction in the revised wording of condition 12 will ensure that any replacement barge will have no greater emissions to air than that which it replaces and that this must be notified to DfI.

Increased water quality impacts.

The original HRA assessed impacts on water quality from pollution from fuels/chemicals/waste water during extraction and processing. Condition 14 of the planning permission required the submission of an Emergency Response Plan to secure pollution prevention measures on board vessels. The ES addendum Chapter 4 Water Environment (HR Wallingford) states the risk of vessel emissions to Lough Neagh (Minor hydrocarbon, chemical and waste water spills or discharges) will remain the same as those previously evaluated.

ES addendum Chapter 4 - HR Wallingford has assessed the potential for operational effects (as assessed in the original ES and HRA) from the proposed amendment to condition 12 and

		<p>concluded no greater impacts will arise from those impacts identified and assessed within the original ES.</p> <p>Considering the nature of the amendment to condition 12 there will be no increased risk of water quality impacts from barge movements or operational activities.</p> <p>Conclusion: Taking account of the information presented in the sHRA and ES addendum it is concluded that the proposed amendment to condition 12 will have no adverse effect on site integrity.</p>	
		Impact of mitigation on potential effects	
		<p>Removal of condition 7 – NED has advised that an adverse impact cannot be ruled out on the basis of the information provided and has proposed mitigation in relation to timing of barge movements which will allow a 12-hour undisturbed foraging period for waterbirds during November to February.</p> <p>Amendment to condition 12 – the applicant has proposed revised wording to ensure any replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace ensuring no increase in disturbance or risk of pollutants deposition.</p>	N/A
		Residual impacts	
		No Adverse Effect on Site Integrity	N/A

Lough Neagh and Lough Beg Ramsar		Pathway/s: Disturbance to feature species, deterioration in water quality, emissions to air.	
Overall Objective		Not published - assumed to be to maintain or enhance the population of the qualifying species, to maintain or enhance the distribution, extent, structure, function and supporting processes of the qualifying habitats.	
Criterion	Qualifying Feature/s	Operation	Decommissioning
1	A particularly good representative example of natural or near-natural wetlands, common to more than one biogeographic region. The site is the largest freshwater lake in the United Kingdom. Lough Neagh a relatively shallow body of water supporting beds of submerged aquatic vegetation fringed by associated species-rich damp grassland, reedbeds, islands, fens, marginal swampy	<p>Potential impacts</p> <p>Amendment to condition 12:</p> <p>Potential impact on lake waterbody from deterioration in water quality from use of fuels/disposal of waste water as detailed above for SPA.</p> <p>Condition 14 of the planning permission required the submission of an Emergency Response Plan to secure pollution prevention measures on board vessels. The ES addendum Chapter 4 Water Environment (HR Wallingford) states the risk of vessel emissions to Lough Neagh (Minor</p>	N/A - this remains as assessed for LA03/2017/0310/F.

	woodland and pasture. Other interesting vegetation types include those associated with pockets of cut-over bog, basalt rock outcrops and boulders, and the mobile sandy shore.	hydrocarbon, chemical and waste water spills or discharges) will remain the same as those previously evaluated. Considering the nature of the amendment to condition 12 there will be no increased risk of water quality impacts from barge movements or operational activities. Aerial deposition of pollutants as detailed above for SPA	
Impact of mitigation on potential effects			
		Amendment to condition 12 – the applicant has proposed revised wording to ensure any replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace ensuring no increase in disturbance or risk of pollutants deposition.	N/A
Residual impacts			
		No Adverse Effect on Site Integrity	N/A
2	Supports an appreciable assemblage of rare, vulnerable or endangered species or sub-species of plant or animal or an appreciable number of individuals of any one of these species. The site supports over 40 rare or local vascular plants which have been recorded for the site since 1970; the most notable are eight-stamened waterwort <i>Elatine hydropiper</i> , marsh pea <i>Lathyrus palustris</i> , Irish lady's tresses <i>Spiranthes romanzoffiana</i> , alder buckthorn <i>Frangula alnus</i> , narrow small-reed <i>Calamagrostis stricta</i> and holy grass <i>Hierochloe odorata</i> . The Lough and its margin are also home to a large number of rare or local invertebrates, including two aquatic and two terrestrial molluscs, a freshwater shrimp <i>Mysis relicta</i> , eight beetles, five hoverflies, seven moths and two butterflies. Of the rare beetles recorded two, <i>Stenus palposus</i> and <i>Dyschirius obscurus</i> , have their only known Irish location around the Lough. The Lough also supports twelve species of dragonfly.	Potential impacts	
		Amendment to condition 12: Degradation of Ramsar features and supporting habitats from impacts on water quality, aerial emissions as detailed above for SPA.	As above
Impact of mitigation on potential effects			
		Amendment to condition 12 – the applicant has proposed revised wording to ensure any replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace ensuring no increase in disturbance or risk of pollutants deposition.	
Residual impacts			
		No Adverse Effect on Site Integrity	
3	This site is of special value for maintaining the genetic and ecological diversity of a region because of the quality and peculiarities of its flora and fauna. The site regularly supports substantial numbers of individuals from particular groups of	Potential impacts	
		Amendment to condition 12: Degradation of Ramsar features and supporting habitats from impacts on water quality, aerial emissions as detailed above for SPA.	As above

	waterfowl which are indicative of wetland values, productivity and diversity. In addition, this site is of special value for maintaining the genetic and ecological diversity of Northern Ireland because of the quality and peculiarities of its flora and fauna. A large number of plants and animal species are confined or almost confined to this area within Northern Ireland.	Impact of mitigation on potential effects	
		Amendment to condition 12 – the applicant has proposed revised wording to ensure any replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace ensuring no increase in disturbance or risk of pollutants deposition.	
		Residual impacts	
		No Adverse Effect on Site Integrity	
4	This site is of special value as the habitat of plants or animals at a critical stage of their biological cycles. The site supports an important assemblage of breeding birds including the following species with which occur in nationally important numbers: great crested grebe <i>Podiceps cristatus</i> , gadwall <i>Anas strepera</i> , pochard <i>Aythya ferina</i> , tufted duck <i>Aythya fuligula</i> , snipe <i>Gallinago gallinago</i> and redshank <i>Tringa totanus</i> . Other important breeding wetland species include shelduck <i>Tadorna tadorna</i> , teal <i>Anas crecca</i> , shoveler <i>Anas clypeata</i> , lapwing <i>Vanellus vanellus</i> and curlew <i>Numenius arquata</i>	Potential impacts	
4		Amendment to condition 12: Degradation of Ramsar features and supporting habitats from impacts on water quality, aerial emissions as detailed above for SPA.	As above
4		Impact of mitigation on potential effects	
4		Amendment to condition 12 – the applicant has proposed revised wording to ensure any replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace ensuring no increase in disturbance or risk of pollutants deposition.	
4		Residual impacts	
4		No Adverse Effect on Site Integrity	
5	Assemblages of international importance with peak counts in winter: 86639 waterfowl (5 year peak mean 1998/99-2002/2003)	Potential impacts	
5		Removal of condition 7: Disturbance to feature species from operation of barges travelling on Lough Neagh and during the extraction process during hours of darkness, as above for SPA. Amendment to condition 12: Degradation of Ramsar features and supporting habitats from impacts on water quality, aerial emissions as detailed above for SPA.	As above
5		Impact of mitigation on potential effects	
5		Removal of condition 7 – NED has advised that an adverse impact cannot be ruled out on the basis of the information provided and has proposed mitigation in relation to timing of barge movements which will allow a 12-hour undisturbed foraging period for waterbirds during November to February.	
5		Amendment to condition 12 – the applicant has proposed revised wording to ensure any replacement barge will emit no greater emissions to air or increase in noise output than the	

		barge it is proposed to replace ensuring no increase in disturbance or risk of pollutants deposition.	
		Residual impacts	
		No Adverse Effect on Site Integrity	
6	Tundra swan, <i>Cygnus columbianus bewickii</i> , Whooper swan, <i>Cygnus cygnus</i> , Common pochard, <i>Aythya ferina</i> , Tufted duck, <i>Aythya fuligula</i> , Greater scaup, <i>Aythya marila marila</i> , Common goldeneye, <i>Bucephala clangula clangula</i> .	Potential impacts	
		Removal of condition 7: Disturbance to feature species from operation of barges travelling on Lough Neagh and during the extraction process during hours of darkness, as above for SPA. Amendment to condition 12: Degradation of Ramsar features and supporting habitats from impacts on water quality, aerial emissions as detailed above for SPA.	As above
		Impact of mitigation on potential effects	
		Removal of condition 7 – NED has advised that an adverse impact cannot be ruled out on the basis of the information provided and has proposed mitigation in relation to timing of barge movements which will allow a 12-hour undisturbed foraging period for waterbirds during November to February. Amendment to condition 12 – the applicant has proposed revised wording to ensure any replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace ensuring no increase in disturbance or risk of pollutants deposition.	
		Residual impacts	
		No Adverse Effect on Site Integrity	
7	The site supports a population of pollan <i>Coregonus autumnalis</i> , one of the few locations in Ireland and one of the two known locations in the UK (the other is Lower Lough Erne). It is one of the most important species in Ireland in terms of faunal biodiversity since it occurs nowhere else in Europe, and the Irish populations are all well outside the typical range – the Arctic Ocean drainages of Siberia, Alaska and north-western Canada, where it is known as the Arctic cisco.	Potential impacts	
		Amendment to condition 12: Potential impact on feature from deterioration in water quality from use of fuels/disposal of waste water and from noise disturbance as detailed above for SPA. Condition 14 of the planning permission required the submission of an Emergency Response Plan to secure pollution prevention measures on board vessels. The ES addendum Chapter 4 Water Environment (HR Wallingford) states the risk of vessel emissions to Lough Neagh (Minor hydrocarbon, chemical and waste water spills or discharges) will remain the same as those previously evaluated.	As above

		Considering the nature of the amendment to condition 12 there will be no increased risk of water quality impacts from barge movements or operational activities.	
		Impact of mitigation on potential effects	
		Amendment to condition 12 – the applicant has proposed revised wording to ensure any replacement barge will emit no greater emissions to air or increase in noise output than the barge it is proposed to replace ensuring no increase in disturbance or risk of pollutants deposition.	
		Residual impacts	
		No Adverse Effect on Site Integrity	

Full details on Ramsar Information Sheet:

<http://incc.defra.gov.uk/pdf/RIS/UK12016.pdf>

Ramsar Criteria are explained at:

http://www.ramsar.org/sites/default/files/documents/library/ramsarsites_criteria_eng.pdf

G. Assessment of In Combination Effects

Are there any residual insignificant effects on site integrity?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Comment:
			With the application of the mitigation detailed there will be no residual insignificant effects on site integrity. In addition the ES addendum concludes on consideration of the baseline and the nature of this location, no other developments (including approved and still implementable planning applications) have been identified which would have the potential for significant cumulative effects with the application.
Select Site			
Select Site			
Additional projects to be considered			
Project reference	Project Name	Insignificant AESIs for that project	Could it lead to cumulative impacts?

H. Outcome of Appropriate Assessment

Site	Residual effect following application of mitigation measures?	Comment
Lough Neagh and Lough Beg SPA Lough Neagh and Lough Beg Ramsar Site	<input checked="" type="checkbox"/> No adverse effect on site integrity	
Select Site Select Site	<input type="checkbox"/> Insignificant adverse effect on site integrity	
Select Site Select Site	<input type="checkbox"/> Significant adverse effect on site integrity	

Taking account of the assessment above, including any incorporated and additional mitigation measures, could there be an adverse effect on site integrity for any site from the proposal alone or in combination with other projects or plans?		<input checked="" type="checkbox"/> No AESI – summarise outcome and record any conditions required to ensure mitigation is implemented <input type="checkbox"/> Yes AESI – detail here.
Recommendation	The appropriate assessment has concluded that the potential for an adverse effect could not be ruled out from the removal of condition 7. NIEA has recommended an amendment to condition 7 to provide mitigation ensuring no adverse effect on site integrity. The proposed amendment to condition 12 includes mitigation to ensure no increase in noise or emissions from replacement barges. It is concluded that the amendment to condition 12 will not have an adverse effect on site integrity.	
Conditions to ensure mitigation is implemented		
Are any conditions required to ensure that the proposal and mitigation measures are adhered to?		<input checked="" type="checkbox"/> Yes – complete next section and add condition/s <input type="checkbox"/> No – assessment complete
Condition Number	Detailed Conditions	
1.	A 12-hour undisturbed foraging period for waterbirds must be maintained during November to February, when physiological stresses are greatest, with barge operations confined to the period 06:00 to 18:00 at that time.	

EVIDENCE USED TO INFORM ASSESSMENT

Title	Date	Source	Comment
Application Documents	14/12/2022	NI Planning Portal	
Conservation Objectives	14/12/2022	NIEA Website	
ArcView Spatial Information	14/12/2022	Spatial NI and NIEA	
Representations	14/12/2022	NI Planning Portal	Two objections noted.
Information gap/s		What is the impact of these?	
None			

Uncertainties	What is the impact of these?
None	

Consultation with Statutory Nature Conservation Body (SNCB)	
Was the SNCB consulted?	<input checked="" type="checkbox"/> Yes – provide date and advice below <input type="checkbox"/> Not necessary as Stage One found appropriate assessment not required
Date	Advice
03/10/2022	<p>Water Management Unit has no objection to the variation of Conditions on operating hours and barge sizes.</p> <p>DAERA Inland Fisheries response to - LA03/2021/0940/F. Section 54 Planning Application of the Planning Act (Northern Ireland) 2011, seeking permission to develop land without compliance with planning conditions No.7 (seeking removal of daylight only operating hours restriction) and No.12 (seeking variation to barge sizes) previously attached to planning permission LA03/2017/0310/F. Lough Neagh within the Mid Ulster District Council Antrim & Newtownabbey Borough Council Armagh Banbridge & Craigavon Borough Council and Lisburn & Castlereagh City Council areas.</p> <p>Considerations <u>Inland Fisheries are content that the variations applied for are unlikely to have any material impact on our previously provided responses.</u></p> <p>Explanation Inland Fisheries notes the nature and location of the application to seek a variation to conditions number 7 and 12 of the previously granted planning application under Section 54 Planning Application of the Planning Act (Northern Ireland) 2011 and have previously responded to the original planning application LA03/2017/0310/F and the Lough Neagh - Review of PAC Report etc. - LA03/2017/0310/F. It is noted that the applicant has included within appendix 7.1 of the ES the Fisheries management plan for Lough Neagh produced by Inland Fisheries (DCAL), a new version of this has received ministerial approval and is in the process of being published on the DAERA website and should be available for consideration shortly. Condition no.7 in relation to working only in daylight hours, this condition was not requested by Inland Fisheries and is unlikely to make any material difference to our original response. Condition no.12 in relation to seeking variation to barge sizes, again, this condition was not requested by Inland Fisheries and is unlikely to make any material difference to our original response.</p> <p>Informatives We would like to draw the applicant's attention to Section 47 of the Fisheries Act (NI) 1966, which covers the applicant's responsibilities relating to Penalties for Pollution and the consequences of causing or permitting the release of any Deleterious materials into any waters.</p> <p>NED acknowledge the reason for consultation, and acknowledge that the Environmental Statement Addendum has been prepared given the proposed changes to Conditions 7 and 12 of planning application LA03/2017/0310/F. NED acknowledge the proposed changes to vary conditions are in relation to: i) A proposed change to the type (e.g. size) of barges which are permitted to be operated by the Sand Traders;</p>

ii) Operation of the barges (for sand extraction purposes) during the hours of darkness over the winter period.

Condition 7 of planning permission LA03/2017/0310/F places a restriction on the hours of operation of barges carrying out the extraction and transport of sand within Lough Neagh, with no barge movements to take place during the 'hours of darkness' between the months of October and March (inclusive). Condition 12 restricts the Sand Traders to using only barges of the dimensions specified within the Environmental Statement (in operation at the time of the planning application / determination). The available sand resource within Lough Neagh covers only a relatively small proportion of its total area in comparison to other substrates. Sand deposits are largely confined to inshore areas particularly in the western half of the lough. Recent workings have been confined to the north-west quadrant. It is estimated that the previously worked extraction area is equivalent to 3.3% of the lough bed. The current sand extraction area is located within the Lough Neagh and Lough Beg SPA which has been designated for its internationally important wintering populations of waterbirds and for breeding Great Crested Grebe and Common Tern. The extraction sites are also covered by ASSI and Ramsar designations. Processing of extracted sand is carried out at eight pre-existing facilities distributed around the lough shore, to which sand is transported by barge.

The Habitats Regulations Assessment prepared by Shared Environmental Services relating to application LA03/2017/0310/F for the extraction, transportation and working of sand and gravel from Lough Neagh identified the potential for movement and operation of sand dredging barges during the hours of darkness to cause disturbance to waterfowl species, particularly several species of diving duck, wintering on Lough Neagh. A precautionary approach to this issue resulted in the imposition of Condition 7. The majority of species that may be susceptible to disturbance are selection features of the Lough Neagh and Lough Beg SPA and Ramsar site. The main species of concern are Pochard, Tufted Duck, Scaup and Goldeneye. While the diurnal distribution of the various species wintering on the lough is generally well known as a result of regular monitoring through the Wetland Bird Survey, very little is known about use of the lough for foraging during the hours of darkness. It is therefore difficult to accurately assess the potential for nocturnal disturbance by vessel movements or dredging operations.

Diurnal records and limited nocturnal observations suggest that there is generally little waterfowl activity beyond 1.5km from the shoreline. Extrapolation of foraging distribution from the location of significant diurnal loafing areas may not be entirely reliable, though there may be a tendency for feeding sites to be located relatively close to loafing areas in order to minimise energy expenditure associated with commuting between these. Recent diurnal monitoring indicates that relatively large aggregations of the three key diving duck species regularly occur in proximity to four of the onshore processing sites and the extraction area itself. It is therefore possible that commuting vessels may pass through associated feeding areas. The area around the extraction area has been consistently important for Scaup in recent years. This species has tended to be the most numerically stable of the diving ducks during the period of general decline. It is important that this stability is maintained.

At present there is little hard evidence of significant disturbance of waterfowl by sand barges during the day and NIEA has previously been content with the operation of barges during daylight hours. Ad hoc observations indicate that small vessels travelling at speed have a much greater impact, often causing large numbers of birds to take flight. Given the current uncertainty regarding distribution and behaviour of waterfowl after dark, however, it was considered prudent to put in place mitigation measures to minimise nocturnal disturbance, particularly during that part of the winter when the highest numbers are of bird are recorded and when these tend to be subject to the greatest energetic stress due to prevailing low temperatures.

As implementation of Condition 7 resulted in a curtailment of sand dredging activities from levels previously operating, the Lough Neagh Sand Traders proposed to carry out a programme of surveys of the effects of nocturnal movements of sand barges on the behaviour of wintering waterbirds, with particular emphasis on assessing the level of disturbance caused.

Following discussions with NIEA, a radar-based survey was proposed. The specialist radar to be used would have the ability to determine the distribution of waterbirds and their response to vessel movements beyond the range of any night -vision optics operated from sand barges.

Unfortunately, difficulties were encountered in obtaining the radar equipment and this was not available in time for the survey season. While this development seriously reduced the potential efficacy of the survey, NIEA was content for the project to proceed using night vision optics, despite this limiting bird detectability to around a 100m radius of the vessel during complete darkness, as very little information on the response of waterbirds to vessel movements during darkness was available and it was considered that this survey might at least give an indication as to whether large numbers of birds were being encountered on the barge routes and if there was a large-scale adverse response.

See full response for NIEA comments on surveys.

The surveys carried out have provided little evidence of significant disturbance of birds by barge movements during the hours of darkness. Most incidents involve small numbers of birds which tend only to respond at a relatively short distance from vessels, typically less than 50m. The results also indicate that large aggregations of birds are only rarely encountered on the barge routes after dark. The extraction zone also appears to be relatively little used by waterbirds.

The likelihood of disturbance appears to be more related to vessel speed and noise level than to size.

This is supported by ad hoc observations in both daylight and darkness. It is also stated within the survey report that birds appeared to be more wary of the smaller, faster dive boat than the accompanying barges (Ecology Solutions 2021: Annex 7, Sections 3,34 & 3.57).

The Lough Neagh Sand Traders are seeking variation of Condition 12 to allow gradual replacement of the current barge fleet with larger vessels. The largest barge currently operating on the Lough is 47.23m long and 8m wide. The remainder of the fleet typically measure around 35m x 6m. It is unlikely that any new vessels would exceed 50-60m in length as there are logistical constraints upon the size of barges operable on Lough Neagh due to road transport issues, capacity of cranes and the size of quays. It is also unlikely that new vessels would produce more emissions or noise than those currently operating as they would more modern and efficient engines.

It has been proposed that Condition 12 is amended to specify that any new (replacement) barges should not exceed the dimensions of the largest vessel operation at the time when the original condition was imposed and that there should be no increase in emissions or noise output. NED would have no issues with this amendment.

As noted above, the survey results provide no compelling evidence of significant disturbance of waterbirds by sand barges, within the constraints of the survey (i.e. the inability of night vision optics to differentiate birds much beyond 100m range).

	<p>It could therefore be argued that rafts of birds may be detecting the approach of barges at a distance beyond the range of optics and moving away unseen. This could involve displacement from foraging areas, in which case an adverse impact could not be ruled out, particularly during very cold weather.</p> <p>Results from the daylight transects fail to provide any evidence of large-scale avoidance beyond 100m but sample sizes are small. At night, many birds also allowed close approach by the barges before taking off or moving away. While it would require a full radar survey, as originally proposed, to determine conclusively whether or not avoidance at distance is occurring, the inference from the results presented is that it is probably not.</p> <p>NED is of the opinion that it would be possible to amend Condition 7 of LA03/2017/0310/F to allow some operation of sand barges within the hours of darkness. While the results presented suggest that removal of restrictions would be unlikely to have a significant adverse impact on selection features of the Lough Neagh and Lough Beg SPA, NED feel that caution is required as it cannot be conclusively determined that avoidance behaviour is not happening beyond the restricted detection capabilities of the current survey.</p> <p>Consequently, NED consider that it would be prudent to allow a 12-hour undisturbed foraging period for waterbirds during November to February, when physiological stresses are greatest, with barge operations confined to the period 06:00 to 18:00 at that time.</p> <p>Restrictions at other times of year are unlikely to be necessary.</p> <p>NED are content with the proposed amendments to Condition 12, re barge size.</p>
Click here to enter a date.	
<p>Does the HRA outcome fully reflect this advice?</p>	<p>Yes</p>
<p>If no provide justification for why it was not followed.</p>	

NOTICE OF OPINION

The Planning (General Development Procedure) Order (Northern Ireland) 2015

Application Ref; LA03/2021/0940/F

Date of Application: 1 October 2021

Site of Proposed Development: Lough Neagh within the Mid Ulster District Council, Antrim and Newtownabbey Borough Council. Armagh Banbridge and Craigavon Borough Council and Lisburn and Castlereagh Council Areas.

Description of Proposal: Application for the extraction, transportation and working of sand and gravel from Lough Neagh. Sand and gravel to be extracted from within two distinct areas totalling some 3.1km², in the north-west of Lough Neagh situated approximately east of Traad Point, north of Stanierds Point, west of Doss Point and south of Ballyronan and the ancillary deposition of silt and fine material without complying with condition number 07 and condition number 12 of planning approval LA03/2017/0310/F.

Applicant: Lough Neagh Sand Traders Limited

Agent: Quarryplan

Drawing Ref:

In pursuance of its power under article 21(2) of the above mentioned Order, the Department for Infrastructure hereby gives notice that permission for the above mentioned development in accordance with your application SHOULD IN ITS OPINION BE GRANTED subject to compliance with the following conditions which are imposed for the reasons stated:

1. Extraction of sand and gravel shall cease by 10 May 2032.

Reason: To limit the duration of the development in the interests of protection of the designated sites.

2. Extraction of sand and gravel shall be limited to the two shaded areas edged in black and hatched orange identified in the Legend as Proposed Extraction/Dredging Area ('the permitted areas') as indicated on stamped approved Drawing 01 received on 15 May 2017 under planning approval LA03/2017/0310/F.

Reason: To ensure extraction is controlled in the interests of protection of the designated sites.

3. Extraction shall only be permitted to the extent that any sand and gravel extracted from the permitted areas is landed at any of the 8 landing sites assessed in the Environmental Statement (April 2022) and which are subject to the Agreement with the Department under section 76 of the Planning Act (NI) 2011 in connection with this planning permission.

Reason: To ensure land based operations are controlled in the interests of protection of the designated sites and to correspond with the assessed environmental effects.

4. Extraction operations shall be monitored through the use of the Electronic Monitoring System (EMS) agreed with the Department on 2 April 2021 and there shall be adherence to the following:

- Other than when the barge is moored at the quay, all dredging related activities (including pumping, priming and other operations of the boom/winch/pump mechanisms) shall be carried out only within the permitted areas.
- The Department shall be provided with access to the information held within the EMS at any time for the duration of the permission; -
- Real time alerts shall be provided via email to the Department at the agreed email address
- Measures shall be implemented to alert an operator that the EMS tracking device is not functioning;
- At the point when an employee becomes aware that the EMS tracker on a barge is not functioning, that barge shall not leave the dock and if already away from the dock, they shall stop extracting (if currently doing so) and return to dock. Details of the journey including any material already extracted shall be recorded manually;
- The EMS reports submitted to the Department shall be made on a monthly basis (for each calendar month); and
- The EMS shall be subject to periodic review during the operational phase of the development. Any amendments to the EMS following a review shall take effect in a time period as agreed by the Department.

Reason: To ensure extraction is limited to the approved area in the interests of protection of the designated sites.

5. The applicant shall, upon receipt of a written request from the Department, make available within 7 days any reports generated from the EMS system in condition 4, for any period.

Reason: To ensure the volume of extraction is monitored in the interests of protection of the designated sites.

6. Between 1 November and 28/29 February any barge shall not leave the dock earlier than 0600 hours or return later than 1800 hours.

Reason: To avoid disturbance of the site selection features of the designated sites.

7. Extraction of sand and gravel shall be limited to a maximum of 1.5 million tonnes per calendar year. The Department shall be provided with a written report by 31 January of the following year, which shall detail the tonnage extracted in the previous calendar year.

Reason: To ensure the volume of extraction is limited in the interests of protection of the designated sites.

8. The Department shall be notified in writing within 14 days when total extraction has reached 1.3 million tonnes in each calendar year.

Reason: To ensure the volume of extraction is monitored in the interests of protection of the designated sites.

9. All extraction shall cease when total extraction has reached 1.5 million tonnes in any calendar year. The Department shall be notified in writing within 7 days of having reached the 1.5 million tonne limit.

Reason: To ensure the volume of extraction is limited in the interests of protection of the designated sites.

10. No more than 15 barges shall operate to extract mineral within the permitted areas at any time.

Reason: To ensure extraction is controlled in the interests of protection of the designated sites.

11. Only barges of the dimensions specified in Table 2.1 of Chapter 2, Volume 2 of the Environmental Statement (April 2022) shall be permitted to extract mineral from the permitted areas. Any proposed replacement barge shall be of no greater dimension than the largest barge in the April 2022 Table 2.1, allowing for a tolerance of 10% in dimension and the replacement barge shall emit no greater emissions to air or increase in noise output (expressed as an LAeq) than the barge and sand extraction engine system it is proposed to replace. If a barge as so specified within the Table 2.1 of Chapter 2, Volume 2 of the Environmental Statement (April 2022) is to be replaced -

- a) The Department shall be notified in writing of the details of the replacement barge to include the particulars with regards to length, emissions to air and noise output (expressed as an LAeq);
- b) Thereafter such replacement shall be agreed in writing by the Department; and
- c) The Department shall be notified 7 days prior to the replacement barge entering the Lough.

Reason: To ensure extraction is controlled in the interests of protection of the designated sites.

12. The barges, as detailed in Condition 11, shall not operate after 1500 hours on Saturdays, all day Sundays or on any Bank Holiday.

Reason: In the interests of residential amenity.

13. The Emergency Response Plan (ERP) for all offshore activities agreed with the Department on 30 June 2021 shall be available for inspection at all times on each vessel.

Reason: To ensure protection of the designated sites.

14. The archaeological programme, in accordance with the British Marine Aggregate Producers Association (BMAPA) Protocol for Reporting finds of Archaeological interest (BMAPA and English Heritage 2005), agreed with the Department on 2 April 2021 shall operate for the duration of the development hereby permitted.

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

15. Access shall be afforded to the site and barges at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition or agreement, is completed in accordance with the approved programme.

16.A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work as agreed by the Department on 2 April 2021. These measures shall be implemented, and a final archaeological report shall be submitted to the Department within 12 months of the completion of archaeological site works.

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

Dated: 26 June 2023

Signed: _____
Authorized Officer

for
Regional Planning Policy & Casework Directorate

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 4 July 2023 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, Mallaghan, Martin, McConnell, McElvogue, McFlynn, D McPeake*, Robinson, Varsani

Officers in Attendance

Mr Bowman, Head of Strategic Planning (HSP)
Ms Donnelly, Council Solicitor
Ms Doyle, Head of Local Planning (HLP)
Mr Marrion, Senior Planning Officer (SPO)
Ms McAllister, Senior Planning Officer (SPO)**
Ms McCullagh, Senior Planning Officer (SPO)**
Ms McKinless, Senior Planning Officer (SPO)
Mr McClean, Senior Planning Officer (SPO)**
Miss Thompson, Democratic Services Officer

Others in Attendance

Councillor Bell***
Councillor Brown***
Councillor McAleer

LA09/2022/0063/O
LA09/2022/1426/O

Mr Cassidy***
Mr Devlin

- * 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 7.00 pm

P065/23 Notice of Recording

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

P066/23 Apologies

None.

P067/23 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

Councillor Cuthbertson declared an interest in agenda item 5.2 – LA09/2021/1256/F and agenda item 5.11 – LA09/2023/0404/F.

P068/23 Chair's Business

The Head of Local Planning (HLP) referred to the addendum circulated and correspondence dated 26 June 2023 from the Department in relation to their Notice of Opinion regarding the application for the extraction, transportation and working of sand and gravel from Lough Neagh. The HLP advised that the letter states that any requests to appear before and be heard by the Planning Appeals Commission must be received within eight weeks from the date service of the Notice.

Councillor Mallaghan proposed that a report on this matter be brought to Committee in August so that the Committee can make an informed decision. Councillor Mallaghan also proposed that the Planning Committee be given delegated authority at the July Council meeting in relation to this matter in order for a submission to be submitted before the deadline.

Councillor Clarke seconded Councillor Mallaghan's proposals.

The Chair, Councillor S McPeake felt that these were good proposals and that the Committee needed to be sure that the fishing rights on the Lough co-exist mutually with the right to extract sand.

Resolved That a report on planning application LA03/2021/0940/F - Application for the extraction, transportation and working of sand and gravel from Lough Neagh and related correspondence from Department on their Notice of Opinion be brought to August Planning Committee.
That the Planning Committee be given delegated authority at the July Council meeting to allow a response to be submitted to the Department regarding the Notice of Opinion before the deadline.

The HLP referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 5.10 - LA09/2023/0373/O - Replacement dwelling at 270m SE of 101 Barnaghs Road, Dungannon for Mr Sean O'Donnell.

Agenda Item 5.12 – LA09/2023/0487/O - Dwelling and garage adjacent to & SW of 65 Mullybrannon Road, Dungannon for Mr Peter O'Donnell.

Agenda Item 5.13 – LA09/2023/0488/O - Dwelling and garage adjacent to and NW of 30A Dunseark Road, Dungannon for Mr Peter O'Donnell.

The HLP also advised that the following applications should be deferred in order to allow time to consider additional information –

Agenda Item 5.9 – LA09/2023/0359/O - Infill dwelling and garage at land approx. 190m SE of 2 Lisalbanagh Road, Magherafelt for Mr Richard Brown.

Agenda Item 6.6 - LA09/2022/1288/O - Replacement dwelling at 15 Finulagh Road, Castlecaulfield for Ryan McGurk.

The HLP referred to request for deferral in relation to Agenda Item 5.11 - LA09/2023/0404/F and advised that this will be considered at that point of the meeting.

Resolved That the planning applications listed above be deferred for an office meeting / further consideration.

Matters for Decision

P069/23 Planning Applications for Determination

The Chair drew Members attention to the undernoted planning applications for determination.

LA09/2021/0970/F **3G pitch, 12m high flood lighting, 6m high ball stop fencing, additional car parking, and new access onto Cooneen Road at 39 Cooneen Road, Fivemiletown, for Fivemiletown United Football Club**

Members considered previously circulated report on planning application LA09/2021/0970/F which had a recommendation for approval.

Proposed by Councillor McConnell
Seconded by Councillor Varsani and

Resolved That planning application LA09/2021/0970/F be approved subject to conditions as per the officer's report.

LA09/2021/1256/F **Demolition of club house and construction of indoor training pitch; extension to ground floor changing rooms; extension to board room to provide new club house at Far Circular Road, Dungannon, for Dungannon Utd Youth**

Members considered previously circulated report on planning application LA09/2021/1256/F which had a recommendation for approval.

Proposed by Councillor Varsani
Seconded by Councillor Robinson and

Resolved That planning application LA09/2021/1256/F be approved subject to conditions as per the officer's report.

LA09/2022/1363/F Replacement of Fire Damaged Workshop/Store with a new increased size workshop/store at 31 Coalisland Road, Dungannon, for Mr Kevin Donnelly

Members considered previously circulated report on planning application LA09/2022/1363/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Martin and

Resolved That planning application LA09/2022/1363/F be approved subject to conditions as per the officer's report.

LA09/2022/1510/F Cladded steel frame building to cover existing external concrete storage yard and associated site works at 7 Corchoney Road, Cookstown for Meteor Electrical

Members considered previously circulated report on planning application LA09/2022/1510/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Martin and

Resolved That planning application LA09/2022/1510/F be approved subject to conditions as per the officer's report.

LA09/2022/1675/F Change of house type and amended siting from LA09/2018/0051/F (4 dwellings) at Off Mullaghmore, Approx 40m W of 17 Mullagh Road, Maghera for Mr Noel Young

The Chair, Councillor S McPeake stated he was aware of a number of objections in relation to this application and asked if the privacy concerns have been considered.

Ms McKinless (SPO) presented a report on planning application LA09/2022/1675/F advising that it was recommended for approval advising that privacy concerns have been taken into account.

Councillor McFlynn asked what the original ridge height was.

Ms McKinless advised that there is an increased ridge height of 0.4 metres.

Proposed by Councillor McFlynn
Seconded by Councillor Martin and

Resolved That planning application LA09/2022/1675/F be approved subject to conditions as per the officer's report.

LA09/2023/0053/F **Demolition of existing Hall and Gym buildings to facilitate a new community health and well-being centre and a new covered multipurpose space (4G Pitch) with ancillary accommodation including a new gym and fitness suite; community social spaces; multi- purpose rooms; kitchen/servery and ancillary stores. External works include provision of a new grass pitch (GAA Standards) with floodlighting and ball net stops; a new single storey outbuilding for toilets/ plant and machinery storage; a new terrace hard standing area for spectator viewing; new walking trials and the re-configuration of existing on-site parking with a new vehicular access and associated landscape/ boundary works at 18 Halfgayne Road, Maghera, for Robert Emmets GAC Slaughtneil**

Members considered previously circulated report on planning application LA09/2023/0053/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0053/F be approved subject to conditions as per the officer's report.

LA09/2023/0147/O **Site for dwelling and garage at adjacent and N of 11 Tamlaght Road, Kilrea for Mr Terence Birt**

Members considered previously circulated report on planning application LA09/2023/0147/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor D McPeake and

Resolved That planning application LA09/2023/0147/O be approved subject to conditions as per the officer's report.

LA09/2023/0247/F **2 agricultural buildings, livestock and machinery storage at 180m NW of 10 Fallylea Lane, Maghera for S Kelly**

Members considered previously circulated report on planning application LA09/2023/0247/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0247/F be approved subject to conditions as per the officer's report.

LA09/2023/0359/O **Infill dwelling and garage at land approx. 190m SE of 2 Lisalbanagh Road, Magherafelt for Mr Richard Brown**

Agreed that application be deferred for consideration of additional information earlier in meeting.

LA09/2023/0373/O **Replacement dwelling at 270m SE of 101 Barnaghs Road, Dungannon for Mr Sean O'Donnell**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/0404/F **Retention of amended house type (approved under LA09/2020/0459/RM at 72m NW of 21 Whitetown Road, Newmills, Dungannon for Mr David Weir**

The Chair, Councillor S McPeake advised that objections to the application had been sent in as part of the process and that the objector had requested a deferral of the application as he was unable to attend tonight's meeting. The Chair advised that the objector was asked if they had any additional objections to make and that none had been received and that officers are content that all objections have been considered as part of the officer report.

Members considered previously circulated report on planning application LA09/2023/0404/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Graham and

Resolved That planning application LA09/2023/0404/F be approved subject to conditions as per the officer's report.

LA09/2023/0487/O **Dwelling and garage adjacent to & SW of 65 Mullybrannon Road, Dungannon for Mr Peter O'Donnell**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/0488/O **Dwelling and garage adjacent to and NW of 30A Dunseark Road, Dungannon for Mr Peter O'Donnell**

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2022/0063/O **Replacement dwelling and domestic garage adjacent to 16 Roshure Road, Desertmartin, Magherafelt for Mr Rodney McKnight**

The Head of Local Planning (HLP) presented a report on planning application LA09/2022/0063/O advising that it was recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy stated that when considering a replacement opportunity he would look for two things, that being the physical evidence on the ground and the historical evidence at a location. When looking at the historical evidence Mr Cassidy stated that Griffiths Valuation is a useful source of information. Mr Cassidy advised that within the Griffith archives the site is identified as comprising of a house, offices and land in the tenancy of Samuel Fleming and occupies the same location as 14 Roshure Road as identified on modern aerial photography. The historical evidence demonstrates the presence of a residential building on this site for a least 163 years and directly links the Fleming family to the site for the replacement dwelling. Mr Cassidy stated that the majority of the house survives with roof and walls intact and that gable walls appear to have been rebuilt in the 1960s with a more modern block. The front and rear walls are intact and consist of random rubble stone which would be the material expected on a building of this age. Mr Cassidy stated that the front wall has evidence of two windows and a door and that the door appears to have been widened in the 1960s, the windows are steel framed divided into six panes and appear original. The heads above the windows are timber and show signs of rot, they appear original and are also what you would expect to find in a building of this age that was used for living. The rear window is identical to those at the front and there is a tiled floor internally. The left gable wall has one window and also attached to the left gable is the remains of an outside toilet. Mr Cassidy stated that the site is unseen from the main road and is enclosed by a wall, mature trees and hedgerows. Mr Cassidy stated he believed there was sufficient evidence both on the ground and historically to demonstrate that the building was used a dwelling and therefore meets the policy for replacement. Mr Cassidy stated that a site visit may be beneficial in order for Members to see the site and evidence for themselves.

The HLP advised that Mr Cassidy had sent in photographs as part of his speaking request and that these had been previously circulated to Members. It was advised that further photographs were submitted today and these were being shown on screen for Members.

The Chair, Councillor S McPeake stated that based on what he had seen tonight he did not feel he could make his mind up.

Councillor Cuthbertson asked if any Census records had been submitted.

The Chair referred to the information submitted from the Griffiths Valuation.

The HLP stated that in terms of the application there is a building which has been submitted as a replacement opportunity but highlighted that there is also a new house immediately next door to the site. The HLP questioned if there was any certainty based on the Griffiths Valuation that the dwelling that was listed as being once there has already been replaced with the new dwelling at no.16 Roshure Road. The HLP stated she would be uncertain whether that has happened but stated that if there was one dwelling there and there is still one dwelling it was something Members should consider.

The Chair asked if there would be any records regarding the new dwelling.

The HLP advised there was nothing she could see in the planning history regarding a replacement dwelling.

Councillor Graham stated that if there is a new dwelling that was not applied for as a replacement then the application should stand on its own.

The HLP stated that because of the age of the building there was no report and that as it did not seem to have been described as a replacement she was therefore unsure what consideration had been given to a new dwelling at that time. The HLP stated that she felt the suggestion of a site visit was useful as it is difficult to tell from the photographs whether there was a replacement opportunity.

The Chair agreed that he felt a site visit would be worthwhile.

Proposed by Councillor McFlynn
Seconded by Councillor Black and

Resolved That planning application LA09/2022/0063/O be deferred for a site meeting.

LA09/2022/0283/F Dwelling at 71 Anneeter Road, Coagh, Cookstown for Mr Charles Mallon

Members considered previously circulated report on planning application LA09/2022/0283/F which had a recommendation for approval.

Proposed by Councillor Martin
Seconded by Councillor Graham and

Resolved That planning application LA09/2022/0283/F be approved subject to conditions as per the officer's report.

LA09/2022/0380/F Dwelling and garage between 70B and 72 Gortlenaghan Road, Dungannon for Joe Doherty and Dervla McGonnell-Doherty

Members considered previously circulated report on planning application LA09/2022/0380/F which had a recommendation for approval.

Proposed by Councillor Carney
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2022/0380/F be approved subject to conditions as per the officer's report.

LA09/2022/0381/F Double infill for dwellings and garages at 170m SW of 219 Dungannon Road, Cabragh for Brendan Goan

Members considered previously circulated report on planning application LA09/2022/0381/F which had a recommendation for approval.

Proposed by Councillor McConnell
Seconded by Councillor Varsani and

Resolved That planning application LA09/2022/0381/F be approved subject to conditions as per the officer's report.

LA09/2022/0739/F **Buildings for wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works at lands approx. 7m N of 16 New Ferry Road, Bellaghy for Bulrush Horticultural Ltd**

Members considered previously circulated report on planning application LA09/2022/0739/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2022/0739/F be approved subject to conditions as per the officer's report.

LA09/2022/1288/O **Replacement dwelling at 15 Finulagh Road, Castlecaulfield for Ryan McGurk**

Agreed that application be deferred for consideration of additional information earlier in meeting.

LA09/2022/1426/O **Site for dwelling and garage within a cluster at 40m NE of No 178 Battery Road, Moortown for Peter Devlin**

Mr Marrion (SPO) presented a report on planning application LA09/2022/1426/O advising that it was recommended for refusal.

Councillor Cuthbertson left the meeting at 7.25 pm.

The Chair advised the committee that requests to speak on the application had been received and invited Mr Devlin to address the committee in the first instance.

Mr Devlin advised that there are already five properties within 100 metres of the agricultural building at 6 Anneeter Road and there have been no complaints from environmental health that he was aware of. Mr Devlin also referred to planning permission granted for 42 houses and units to the south of 6 Anneeter Road and that a considerable amount of that development is within 100m of the same agricultural building and that no consideration had been given to environmental issues at that time. Mr Devlin also referred to approved planning application LA09/2020/0966/F and stated that the case officer in their report for that application stated that the site layout shows that a significant proportion of the properties in that area are within 100m of a farm and no known complaints were raised by residents. The case officer also stated that the proximity to the farm is not considered a concern. Mr Devlin also referred to letter from owner of piggery and clarified that he owns the property. Mr

Devlin also confirmed that he owns the surrounding land and that there is no right of way through the land.

Councillor Cuthbertson returned to the meeting at 7.28 pm.

Councillor McAleer stated that the rationale for refusal of this application is the proximity to agricultural buildings and that the advice from environmental health that any new buildings should be sited over 100m away. Councillor McAleer felt that there are several considerations which would allow for an exception to be made for this application the first being that there are already four or five residential properties that are within 100m of the agricultural buildings. The Councillor stated that last month there were 26 residential properties approved on the same lane and that a significant number of those properties are within 100m of another working farm and that the case officer for that application stated that there were other single dwellings in close proximity to the application site and there are no known complaints from the existing residents in relation to the agricultural operations and that the proximity of the farm is not a concern. Councillor McAleer stated that several of those proposed houses are closer to that farm than what this application will be to the agricultural buildings at 6 Anneeter Road. Councillor McAleer stated that there was a substantial planning application granted approximately 10-12 years ago for 42 houses and retail units to be sited to the immediate south of those agricultural buildings and a significant proportion of that development would have fallen within 75-100m of the said buildings.

The Chair, Councillor S McPeake stated that when the application originally came before the Committee he had raised the view of the football pitch being a focal point and that at the site meeting this had been agreed. The Chair stated he could see why there is caution whenever the term piggery is used as it is known the issues industrial sized units can give when in close proximity to dwellings but in this case it is not an industrial piggery but rather an old disused building that is not active. The Chair felt officers were potentially being over cautious in relation to this application.

Councillor Mallaghan stated that the site visit was beneficial in terms of seeing the lay of the land compared to the imagery provided. Councillor Mallaghan stated that given the circumstances and from what he had seen on site he did not feel there would be any detrimental impact on the rural aspect of the location and therefore proposed that the application be approved.

Councillor Kerr agreed with the comments made and given the information provided by Mr Devlin tonight he would second Councillor Mallaghan's proposal.

The Chair referred to comment from Mr Devlin that the buildings are in his ownership.

Councillor McFlynn stated she had been to the site visit and confirmed that there are other buildings on the lane and that this application would be a rounding off of what is already there. Councillor McFlynn also referred Mr Devlin's comments that the building is not going to be used for pigs.

Mr Develin advised that the building is going to be knocked down.

Councillor McFlynn stated she was happy to go with the proposal to approve.

The Chair, Councillor S McPeake stated he was aware of other applications which have been approved, with objections, as close as 50-60m proximity to piggeries.

The HLP stated that the application has so far been considered under policy Cty2a and that it is clear from the case officers report that the application does not meet the spirit of this policy. The HLP stated that she wanted to be clear that the Committee are not treating the application as an exception to policy Cty2a and highlighted that as a lot of development in the cluster is within the settlement limit of Moortown the focal point therefore cannot be relied upon. The HLP asked if the Committee are content that the application will be rounding off.

The Chair, Councillor S McPeake stated he did not feel that the application would change the character of the area.

The HLP referred to conditions and that these be delegated.

Mr Marrion (SPO) stated that conditions should be in relation to access, landscaping and siting. Mr Marrion stated that Mr Devlin has told the committee tonight that he owns the surrounding land to the site however there has been nothing submitted to support this. Mr Marrion stated that the application is not considered a dwelling on a farm but rather rounding off of development. In terms of design Mr Marrion stated that this can be assessed at reserved matters stage.

The Council Solicitor asked if the application would need to be assessed under a new heading.

Mr Marrion stated that siting design and appearance could be reserved and that this could be considered at the next stage when submitted.

Resolved That planning application LA09/2022/1426/O be approved as a rounding off of existing development. Wording of conditions of approval to be delegated.

LA09/2022/1571/F Dwelling on farm with detached domestic garage at site 150m NW of 10 Fallylea Lane, Maghera for S Kelly

Members considered previously circulated report on planning application LA09/2022/1571/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McConnell and

Resolved That planning application LA09/2022/1571/F be approved subject to conditions as per the officer's report.

LA09/2023/0317/F

Infill dwelling and garage at 15m NW of 259 Hillhead Road, Knockcloghrim for Albert Speer

Members considered previously circulated report on planning application LA09/2023/0317/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2023/0317/F be approved subject to conditions as per the officer's report.

The Council Solicitor referred back to agenda item 5.11 - LA09/2023/0404/F and that the objector had asked for a deferral based on the fact that he is out of the country tonight. The Council Solicitor stated that she wanted to bring this to the Committee's attention and asked if the Committee wanted to consider deferring the application on that basis.

The HLP advised she had been in contact with the objector on Friday and advised that it would be at the discretion of the Chair and Committee whether the deferral would be granted. The HLP stated that she had asked the objector if he wanted anyone to speak on his behalf and that he had said he didn't. The HLP also advised the objector that if he had anything else he wanted the Committee to consider then this could be circulated as part of the addendum but that nothing further has been received. The HLP advised that she was content that everything received from the objector to date has been considered as part of the officer report.

The Chair, Councillor S McPeake stated there appeared to be nothing new to learn in relation to the application.

Councillor Mallaghan stated he was content that the objections received have been considered within the officer report.

Members were in agreement with the earlier proposal to approve the application.

P070/23 Receive Report on Review of the Planning (Development Management) Regulations (NI) 2015 – Initial Stakeholder Engagement

The Head of Strategic Planning (HSP) presented previously circulated report which outlined Council response to an initial stakeholder engagement exercise relating to current Regulations governing how 'Major' planning applications are defined.

Proposed by Councillor S McPeake
Seconded by Councillor Carney and

Resolved That the content of report as previously circulated be submitted as the formal response to the consultation.

Matters for Information

P071/23 Minutes of Planning Committee held on 12 June 2023

Members noted minutes of Planning Committee held on 12 June 2023.

The Chair, Councillor S McPeake referred to discussion at last month's meeting regarding timing of future Planning Committee meetings and survey of Members that was since undertaken on preferred time. The Chair advised that the outcome of the survey preferred a 5pm start going forward.

Councillor Cuthbertson advised that he had responded to the survey with a preferred start time of 7pm. The Councillor stated that there have been a lot of discussions in the past regarding timing of meetings and asked if the Planning Committee can change the time of its meeting or would this have to go to P&R Committee. Councillor Cuthbertson stated he welcomed the Planning meeting being held in Dungannon tonight and that going forward this Committee should also be rotated around the sites similar to other committees. The Councillor stated that if the meeting did start at 5pm party groupings usually meet beforehand and some Members could be leaving their house from 3.30 pm. Councillor Cuthbertson stated that even with a 5pm start the meeting could still go on to 8 or 9pm without a break for an evening meal, the Councillor stated that the earlier start time would affect families and that people would not see their children in the evening time. Councillor Cuthbertson asked for a bit more reasoning and referred to a previous decision to change the time of meetings because of family issues and to help family life but that he did not believe a decision to change the time to 5pm would help with this.

The Chair, Councillor S McPeake stated the survey was carried out due to the previous discussions and pointed out that a number of other Councils hold their Planning Committee meetings during the day. The Chair referred to the impact on staff and that their family life also needs to be considered. The Chair stated that there had been discussion at last month's meeting and a vote has since been undertaken and that the view of the Planning Committee is that the start time of this Committee should change to 5pm and that this democratic wish should be moved forward.

Councillor Cuthbertson stated that he was not present at last month's Planning Committee so he was not aware of discussions at that meeting but that Members were presented with three options in the survey of 5, 6 or 7pm. The Councillor referred to comment of other Councils holding their meetings during the day and questioned why other options were not offered in the survey such as during office hours.

The Chair, Councillor S McPeake advised that the times presented in the survey were the times discussed at last month's planning meeting.

Proposed by Councillor S McPeake
Seconded by Councillor Mallaghan and

Resolved To progress the decision of the Planning Committee to have a start time of 5pm for its Committee meetings going forward.

Councillor Black stated he had some reservations regarding the 5pm start both for those on the Planning Committee who work and also for the public who wish to attend. Councillor Black stated the appreciated the democratic vote and the will of the Committee to have a 5pm start but that officers should check if this needs to go to P&R Committee to be formalised to ensure that the Committee is on solid ground in terms of its decision.

Live broadcast ended at 7.56 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Kerr
Seconded by Councillor McConnell and

Resolved In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P072/23 to P077/23.

Matters for Decision

P072/23 Receive report on MUDC Response to DfI's request for clarification on Draft Plan Strategy Submission
P073/23 Receive Legal Advice regarding ongoing challenges
P074/23 Receive Enforcement Report

Matters for Information

P075/23 Confidential Minutes of Planning Committee held on 12 June 2023
P076/23 Enforcement Cases Opened
P077/23 Enforcement Cases Closed

P078/23 Duration of Meeting

The meeting was called for 7 pm and concluded at 8.25 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, Magherafelt 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.