



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: LA09/2020/0729/F	Target Date: <add date>
Proposal: Proposed site for 5 no detached dwellings and garages (inclusion of footpath along public road) (additional plans received re footpath provision)	Location: 40m West of 16 Annaghmore Road Coalisland
Applicant Name and Address: Mr Conor Tennyson 39 Cloghog Road Coalisland BT71 5EH	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
Summary of Issues: In summary, concern has been raised by objectors in the following areas; -detrimental impact on the environment; -detrimental impact on visual and residential amenity; -contrary to planning policy and rural planning policy; Application ID: LA09/2020/0729/F -proposal will cause damage to private property, increase risk of accidents, 3rd party land may be required; -road safety issues; -maintenance concerns; -accuracy of plans; -procedural concerns including neighbour notification.	
Summary of Consultee Responses: DFI Roads - provided conditions in the event of approval, no concerns raised in relation to the objections or road safety, will adopt the footpath Environmental Health Department –no objections in relation to noise impact on future occupants NI Water – capacity available at receiving wwtw	

Characteristics of the Site and Area:

The site is located within the development limits of Annaghmore, a small village located approx. 1.7km east of Coalisland, as defined in the Dungannon and South Tyrone Area Plan 2010. At present the site is an agricultural field used for rough grazing. There is a mature tree lined hedgerow along the southern boundary. The western boundary is adjacent to a small public road that loops from Gortgonis Road to Annaghmore Road, and this boundary is defined by an agricultural field gate that provides access to the field, a small grass verge behind which grows and tree lined hedgerow. The northern boundary is shared with 2 private detached dwellings to the north, and is defined by a patchy tree lined hedgerow, and some fencing. The eastern boundary, where it is proposed to access the new development, is defined by some trees and hedging. To the south of the site is open countryside where there is a character of dispersed single dwellings and small farm holdings, with land being used mostly for agricultural purposes. To the NW of the site there are some industrial development along Gortgonis Road. To the north is the village of Annaghmore, which has its own local services and businesses, and there is a primary school nearby, however the predominant landuse within the village is residential of a mix variety, including detached single and 2 storey, semi-detached 2 storey, and terraced dwellings.

Description of Proposal

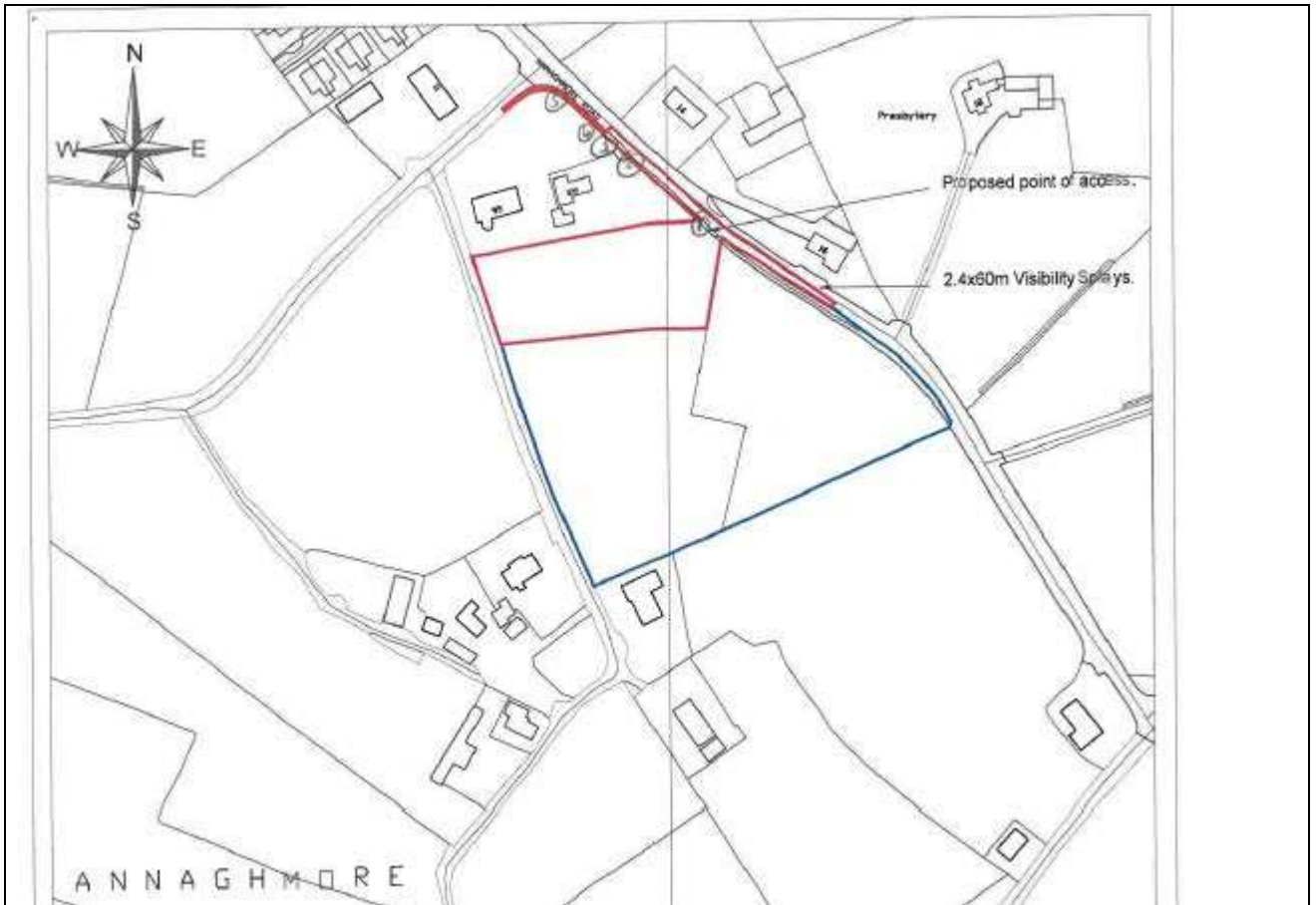
This is a full planning application for 5 no detached dwellings and garages with the inclusion of a footpath along public road.

Deferred Consideration:

This application was before the Planning Committee as an approval in June 2022 where it was deferred for meetings with the objectors and the applicant to discuss the issues raised by the objectors. Meetings were held on 16th September and a prepared statement from the objector was provided at that the meeting. Following the meeting a site inspection was carried out, Map 1 shows where the measurements of the road and verges were taken.

The notes refer to the verge on the application side first and they were noted as follows:

- 1) 2.9m fence to read line at corner, road 5.6m wide, 1.4m to middle of hedge
- 2) 2.7m to pillar from road edge, 6.0,m road, 1.4m verge to wall opposite
- 3) 2.3m pillar to road edge, 5.85m road, 1.4m verge to wall
- 4) 1.8m fence to road edge
- 5) 1.5m to kerbline



Map 1 – measurements taken on 31 March 2023

Members will be aware from the previous report that the proposal was considered to meet the planning policies for a housing development within a small settlement. It is noted in the statement there has been no communication between the applicant and the neighbours. It is always encouraged that discussions take place in the interest of harmonious relationships, however unless the scheme is a major proposal there is no statutory requirement to carry out any public consultation prior to submitting an application. Compensation or accommodation works is not an issue that planning can or should become involved with, unless there is a clear public benefit or requirement within policy to seek these, this is primarily a civil matter between the relevant parties.

Roads engineers from DFI Roads have been consulted with this proposal and have not raised any concerns about the accuracy of the drawings, they have advised any footpath will be adopted by them. DFI Roads have explained there is no requirement for Private Streets Drawings to be Determined for the footpath as it is all contained within the verge they control/maintain.

DFI Roads were consulted following the meeting and asked to comment on the issues raised in the submission of 16th September 2023 which identified a number of concerns shared with neighbours about road safety, DFI Roads responded advising of conditions they feel should be attached to any approval if the Council is approving the development. Concerns raised about road safety as they are noted in bullet points on the prepared statement:

- Reference to footpath and accuracy, DFI Roads have not raised any issue with this drawing, they have advised the footpath is in the verge and will be adopted by them, sections provided (drawing No 12 shows how the footpath will be provided
- DFI Roads requested this in the consultation response on 3 September 2020, the dotted line identifies the area where the widening is to be and DFI Roads have not raised any concerns about this
- Volume of traffic and narrowness of the road are issues that DFI Roads take into account when assessing the application, as can be seen in the DC Checklist dated 02.09.2020. If traffic cannot pass then it may have to wait or mount the kerb as happens on other stretches of the road, DFI Roads have not raised any issue in relation to the forward sight distance associated with this development and its access. The reference to a near fatal accident just passed the proposed entry is unlikely to affect this access and DFI Roads have clearly identified they have assessed the requirements for this access and have signed it off as safe.
- Crossing point at the Gortgonis Road has been identified with tactile paving to be provided on both sides of the road, as DFI Roads will be adopting the footpath, signage relocation can be carried out at their request, under their instruction and to their satisfaction
- Flashing school sign relocation can be carried out at DFI Roads request, under their instruction and to their satisfaction
- BT poles and streetlights can be moved if required and this does not require planning consent, if necessary DFI Roads will deal with this through the adoption process
- Kerb heights are shown on drawing no 12 dated 10 May 2021 and range from 250mm to 50mm, DFI Roads have been made aware of these and have not raised any issues with them

Concerns raised about impact on objectors property road safety as they are noted in bullet points on the prepared statement:

- details to retain the objectors property are contained in the sections on drawing No 12 received 10 May 2021
- the details on drawing No 12 show existing and proposed ground levels as well as the detail of the footway to be provided, DFI Roads will be adopting this and it will be to their standards, it is not proposed to have large retaining structures here and DFI have not raised any concerns about the capability to provide these, any damage to the objectors property is a civil matter
- the retaining structures will form part of the footway and DFI Roads responsibility once adopted
- the developer will usually have responsibility to reinstate any damaged hedges or fences however this is a matter outside of planning control and is a civil issue,
- DFI Roads have advised the verge is under their control/management and so it will be for them to agree and monitor the provision of the footpath and any subsequent costs
- DFI roads have not raised any concerns with safety for pedestrians crossing the driveway to 109, it is reasonable to expect drivers and pedestrians to exercise caution where they might come into conflict as they would do at present if crossing the access

- DFI Roads will agree and advise what kerbs may or may not be appropriate for the provision and adoption of the footway along the entire length of it, there is a general detail on drawing no 13 which shows the footpath construction details, it provides an indicative height for the rear kerbs and due to the heights of these it is highly unlikely they would require planning permission in their own right
- Drawing 02 Rev 7 indicates there will be a dropped kerb at the either side of the entrance to No 109
- it is noted that the objectors driveway has been recently tarmaced, however as the access is over a verge that may have services contained within it, these may be dug up at any time for replacement and/or repair which could involve digging up and reinstatement of the objectors driveway. As set out above the drawing shows dropped kerbs to be provided
- the telegraph poles are not indicated to be moved on drawing No 02 rev 7, if this is required this can be carried out without planning permission under permitted development rights. It is not unusual to have these located in or at the back of footpaths and this is a matter to be dealt with through the adoption of the footpath with DFI Roads
- whilst the objector is querying the finished floor level of their property, they are not advising that it is incorrect. That said in terms of the overall potential for overlooking the finished floor level of the existing dwelling is immaterial as it is apparent on site how the proposed development will interact with the existing. To mitigate against any potential overlooking the applicants have indicated they will provide a 1.8m high wall along part of the boundary and a 1.2m high wall for the remainder, it is important to note the measurements are from the application side of the wall and will be higher on the objectors side. The properties are also orientated with fronts facing into the back of no 109 and side facing towards No 95 with one upstairs ensuite toilet window in the gable. The location plan does not show the extension to 109 that was approved by application LA09/2018/0821/F, this was to provide a kitchen, utility and WC extension. The extension has a door in the rear wall facing the application site and a patio area between the new extension and the existing bedroom extension. A garage at the rear of 109 partially screens the rear of No 109 from the proposed dwellings and development road. The proposed dwellings will be approx. 33 metres from front wall to the closest part of 109 (the rear wall of the new extension which has one door in it). I consider the proposed wall, the existing garage and the separation distance will ensure 109 is not overlooked to an unacceptable degree.
- Drawing No 02 Rev 7 clearly shows, in a grey line, the existing boundary between the application site and 109. There is a new wall set back from the existing hedge line for most of the boundary, it is close to the hedge line where the wall height changes from 1.2m to 1.8m. The details show there is no encroachment on the objectors property. The area between the wall and the hedge is a small portion of ground and it is highly likely, if the hedge is not removed and allowed to grow, it will fill the gap in time
- Drawing 02 Rev 7 and drawing 11 provide details of the wall and its location between the application site and the proposed development site. This wall is under 2 metres in height and as such could be constructed under permitted development rights.

Following receipt of amended plan, neighbours were notified and an additional comment was received on 13 September 2023, via email. This reiterated the concerns already set out above and do not raised any additional points for consideration.

The concerns of the objectors are not, in my opinion, such that would warrant recommendation of a refusal for the proposed development. The proposed development road will not be adopted by DFI Roads as such there will be no facilities for bin lorries to enter the development and turn. The most recent plan has identified an area where bins may be stored close to the public road. It is my view the issues raised have been and can be dealt with satisfactorily without undue detriment to the adjacent properties.

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.

As has already been concluded in the previous report to Committee, the proposed development meets with the published planning policies, as such is acceptable and I recommend this proposal for approval.

Conditions/Reasons for Refusal:

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

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

2. The development hereby approved shall be carried out in accordance with levels and cross sections indicated on drawings No. 02 rev7 date received 23/09/2022, No. 10 rev1 date received 17/12/2020, and, No. 12 date received 10/05/2022, unless otherwise agreed in writing with Mid Ulster council.

Reason: To ensure a quality residential environment and to protect existing and proposed residential amenity.

3. Prior to the occupation of any dwelling hereby approved, the area of open space along the north boundary of the site as shown on drawing No 02 Rev 7 received 23/09/2022 shall be put in place and sown out with grass seed, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: In the interest of visual amenity and to ensure a quality residential environment.

4. Prior to the occupation of any dwelling hereby approved, a document shall be submitted to Council for agreement detailing how the area of open space will be managed and maintained, and this shall include the maintenance of the 1.8m and 1.2m high rendered wall, indicated in drawing No. 02 rev7 date received 23/09/2022 as BW1 and BW2. The agreed management and maintenance plan shall be carried out in accordance with that plan thereafter, by an agreed Management and Maintenance Company, unless otherwise agreed in writing.

Reason: In the interest of visual amenity and to ensure a quality residential environment.

5. No dwelling hereby approved shall be occupied until a signed contract with an agreed Management and Maintenance Company for all areas of public open space and communal walls has been put in place, and details of which agreed with Council. All areas of communal open space shall be managed and maintained by that agreed management company thereafter, unless otherwise agreed.

Reason: To ensure that the open space provided is managed and maintained, in perpetuity, in accordance with the Department's Planning Policy Statement 7 (PPS7)- Quality Residential Environments, and Planning Policy Statement 8 (PPS8)-Open Space, Sport and Outdoor Recreation.

6. Prior to the occupation of any dwelling hereby approved, the boundary wall indicated as BW1 and BW2 on drawing No. 02 rev 7 date received 23/09/2022 and details shown on drawing No. 11 date received 30/09/2020 shall be put in place and permanently retained thereafter.

Reason: To protect existing and proposed residential amenity, and to create a quality residential environment.

7. All boundary treatments within each individual site, including boundary wall and/or fence provision, shall be put in place in accordance with details indicated on drawing No.02 rev 7 date received 23/09/2022 and details shown on drawing No. 11 date received 30/09/2020 prior to the occupation of that dwelling on that site, and shall be permanently retained thereafter.

Reason: To assist in the provision of a quality residential environment and to safeguard private residential amenity.

8. The existing hedgerow and vegetation along the western and southern boundaries of the site, as indicated on drawing No. 02 rev 7 date received 23/09/2022 shall be permanently retained unless otherwise agreed in writing. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity and biodiversity.

9. Within the first available planting season from the commencement of development hereby approved, the 5m wide buffer planting along the eastern boundary and indicated on drawing No. 02 rev 7 date stamp received 23/09/2022 shall be put in place and permanently retained thereafter, unless otherwise agreed in writing. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity and biodiversity, and to mark the distinction between village and countryside.

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

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

11. The first floor gable window in house type 03, shown on drawings No. 07 and 08 date received 24/06/2020, shall be of opaque glass.

Reason: To safeguard existing and proposed private amenity.

12. Prior to the commencement of any development hereby approved, the vehicular access, including visibility splays of 2.4m by 65m to the North West, and 2.4m by 70m to the South East, and any forward sight distance, shall be provided in accordance with Drawing No. 02 Rev 7 bearing the date stamp 23/09/2022, and shall be permanently retained thereafter. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

13. The gradient 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.

14. Prior to the commencement of any development hereby permitted the footway connecting the site to Gortgonis Road as indicated in blue on Drawing No 02 Rev

7 bearing the date stamp 23/09/2022 shall be constructed and adopted by DFI Roads and written confirmation of the adoption shall be submitted to the Council.

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

Signature(s)

Date:



Development Management Officer Report
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0729/F	Target Date:
Proposal: Proposed site for 5 no detached dwellings and garages (inclusion of footpath along public road) (additional plans received re footpath provision)	Location: 40m West of 16 Annaghmore Road Coalisland
Referral Route: Recommendation to approve, with objections.	
Recommendation:	Approve
Applicant Name and Address: Mr Conor Tennyson 39 Cloghog Road Coalisland BT71 5EH	Agent Name and Address: CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
Executive Summary: Recommendation to approve, meets planning policy, there are a number of objections.	
Signature(s):	

Case Officer Report**Site Location Plan****Representations:**

Letters of Support	None Received
Letters of Objection	15
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

In summary, concern has been raised by objectors in the following areas;

- detrimental impact on the environment;
- detrimental impact on visual and residential amenity;
- contrary to planning policy and rural planning policy;

- proposal will cause damage to private property, increase risk of accidents, 3rd party land may be required;
- road safety issues;
- maintenance concerns;
- accuracy of plans;
- procedural concerns including neighbour notification.

These concerns will be considered later in my report.

Description of Proposal

This is a full planning application for 5 no detached dwellings and garages with the inclusion of a footpath along public road.

Characteristics of the Site and Area

The site is located within the development limits of Annaghmore, a small village located approx.. 1.7km east of Coalisland, as defined in the Dungannon and South Tyrone Area Plan 2010.

At present the site is an agricultural field used for rough grazing. There is a mature tree lined hedgerow along the southern boundary. The western boundary is adjacent to a small public road that loops from Gortgonis Road to Annaghmore Road, and this boundary is defined by an agricultural field gate that provides access to the field, a small grass verge behind which grows and tree lined hedgerow.

The northern boundary is shared with 2 private detached dwellings to the north, and is defined by a patchy tree lined hedgerow, and some fencing.

The eastern boundary, where it is proposed to access the new development, is defined by some trees and hedging.

To the south of the site is open countryside where there is a character of dispersed single dwellings and small farm holdings, with land being used mostly for agricultural purposes. To the NW of the site there are some industrial development along Gortgonis Road. To the north is the village of Annaghmore, which has its own local services and businesses, and there is a primary school nearby, however the predominant landuse within the village is residential of a mix variety, including detached single and 2 storey, semi-detached 2 storey, and terraced dwellings.

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.

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.

Area Plan

Dungannon and South Tyrone Area Plan 2010- The site is located within the development limits of Annaghmore, just within the edge of the development limits. Land is not zoned for any specific use. As the site is for housing policies SETT1 and PPS7 apply.

In the area Area Plan it is outlined that housing development would normally be permitted provided the scale, layout, details and finishes are compatible with the scale and character of the settlement. Accordingly housing development in excess of 15 units will not normally be permitted.

Key Planning Policy

RDS 2035

SPPS- Strategic Planning Policy Statement

PPS7 Quality Residential Developments

PPS3 Access, Movement and Parking

PPS2 Natural Heritage

Design Guides

Creating Places

3rd party objections

A number of 3rd party objections have been received in relation to this development and the concerns are listed as follows;

- would lead to an unacceptable increase in traffic;
- increase road safety risk, would stop grandchildren walking to school down a lane;
- resident told that area was greenbelt and that no development would take place on the site, can't understand how housing could be approved on site;
- concern that the footpath along the road frontage that will link into the existing public footpath network will cause damage to the front boundary hedge and wall of existing property;
- that pedestrians crossing in front of existing driveways will increase road safety risk and will create additional dangers that do not currently exist;
- that the foot path provision will require part of private land;
- where will existing poles be relocated?
- concern raised over information on drawing showing footpath and private street provision;
- A number of questions posed to clarify information on drawings;
- details of wall construction, appearance and maintenance not properly provided;
- concern raised over the proposed construction of the footway and associated road safety issues;
- a number of questions are also posed that if a footpath is built, who would maintain it, who would maintain any retaining structures, details of accommodation works at the entrance of 109 for a pedestrian vehicle conflict or legalities of damage/accidents if they were to occur? Who would be responsible for the hedge if it dies? Etc.
- a question is raised over how finished floor levels of 109 was obtained;
- concerns raised over neighbour notification and procedural aspects of case;
- detrimental impact on horizon and landscape character of area;
- Views would be lost;
- detrimental impact on private rear amenity, increase in traffic noise;
- development proposed on a dangerous corner;
- due to narrowness of road at this point, lorries mount verge to allow passing traffic, the creation of a footpath would be dangerous as large vehicles would mount to allow other vehicles to pass, this would cause road safety issues;
- the access to the proposed development will conflict with an oil delivery business opposite, creating further road safety concerns;

- development will lead to an urbanisation of the area;
- No need for additional in this area of Annaghmore and the site is not within the traditional housing zone of Annaghmore;
- by approving this may lead to additional houses on adjacent land;
- proposal will have a detrimental impact on house price;
- an elevated housing development in this area will have a detrimental impact on the character of this area;
- would create ribbon development;
- detrimental impact on local wildlife;
- development would lead to loss of trees, and view would be replaced with housing;
- by approving this development would demonstrate Planning Authorities disregard for countryside policy areas and greenbelt areas;
- concern over if the impact on protected trees, hedges and local eco-system have been considered;
- proposal would demonstrably harm the amenities enjoyed by existing residents, including safety for kids to play, valuable green space, privacy and the right to enjoy a quiet and safe residential environment;

All concerns have not been listed exhaustively, however they can be grouped as follows;

- detrimental impacts on residential and visual amenity;
- road safety concerns;
- housing in this area not needed;
- unacceptable development in the countryside;
- procedural concerns raised over neighbour notification and requirement of plans to be described in greater detail;
- impact on environment and tree loss;
- potential detrimental impact/damage to private property.

Planning History

No relevant site history

Consideration

This residential proposal lies within the development limits of Annaghmore, a small village close to Coalisland. Objectors claim that this site is within an area of greenbelt/countryside and that rural planning policy should apply and be considered. This is not the case, it is clear in the Dungannon and South Tyrone Area Plan that this site is located within development limits. Concerns raised over ribbon development and other rural planning policies cannot be considered in this case, as the site is not located in the countryside. The proposal is located within defined development limits and planning policies SETT1 of the Area Plan and PPS7 Quality Residential Developments are applicable in this case.

PPS 7 - Quality Residential Environments.

-The first criteria is that 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 village of Annaghmore is defined by industrial and residential development. Throughout the settlement there are quite large residential parks, and the area has become quite urbanised. There are a vast mix of housetypes in the area and throughout the village. This site is located on the edge of development limits, with countryside to the south. It is proposed to plant a 5m landscape buffer to the eastern boundary and retain a mature tree lined boundary to the south. This will help define the boundary between village and countryside. The design of the dwellings are traditional in nature, with vertical emphasis in window openings, front projection on the doorway, off the wall dormer windows, chimney centrally on the side and symmetrical roof pitch. Given the proximity to the open countryside, this is a sensitive design type that is in keeping with the design of dwellings in the area, and respects its setting on the edge of the development limits. The design, scale and massing respect the character of the area. I do not believe that this is an overly elevated site within Annaghmore and that 2 storey dwellings will spoil the visual character of this area, and the objectors concerns in this regard are not determining in this respect.

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

No archaeological or built heritage interests have been identified in this area, and no constraints are indicated on our spatial search or in the Area Plan. Historic Environment Division were not consulted on this proposal. Objectors do not raise any concerns in this regard.

Existing trees along the southern and western boundaries will be retained. Some trees along the eastern boundary will be removed to allow for access provision, however, a

new 5m wide landscape buffer will be planted along the eastern boundary to compensate for this loss. The site is not located within any environmentally protected areas, and the agricultural field itself is thought to be of low biodiversity value. Boundary hedging, where possible, will be retained.

-Third Criteria. PPS 7 QD1 also requires that 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;

A communal area of open space is proposed along the northern boundary of the site. There is also adequate private rear amenity space provided for each of the dwellings which is in keeping with Creating Places. A landscape buffer of 5m wide will be planted along the eastern boundary and this will help differentiate between village limits and the open countryside to the east and south of the site. I am satisfied that there will be adequate landscaping to soften the impact of these dwellings in this location.

Objectors raise concern that removal of trees on this site will interrupt views, and that houses in this prominent site will be development on the horizon and will ruin the character of this area. It is my view that sufficient landscaping will be retained to provide a backdrop for development, and new buffer landscaping will also limit the impact of these houses within Annaghmore Village. There is no policy restricting development on the horizon within urban areas, however consideration has to be given to impact on character and visual amenity. I am satisfied that the proposal will not have a detrimental impact on this area of Annaghmore.

Criteria four requires that adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;

The site is located close to local convenience shops and local village services. In my view, given its location and size, this development does not require its own local neighbourhood facilities.

QD1 also requires 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;

While the access road into the development will be private, DfI Roads raised concern that there would be no safe passage for occupiers of this development to walk into the village of Annaghmore, or indeed gain safe access to the nearby primary school on foot. I share these views and the agent was asked to look at how to provide a footpath that would link into the existing footpath network of the Village. From the proposed access to this development, and along Annaghmore Road towards the village, there is a grass verge, including to the front of No. 109 Gortgonis Road. This verge is in control of DfI Roads. Behind the verge is a hedgerow belonging to No. 109. There is also a verge between No. 109 and the junction of Annaghmore Road and Gortgonis Road. On the opposite side of the junction there is existing footway provision. The agent has carried out survey work, and claims to be able to provide road widening, and acceptable footway provision between his site entrance and the Gortgonis T Junction to the NW. DfI Roads have been consulted on this and on the sixth revision, are content with the footway that is being provided. DfI Roads do not say if any private land will be required for this footpath.

Objections have been received from No. 109, as they are concerned that the footpath may give rise to potential accidents at the entrance to their property, and that the footpath may cause damage to their hedge or garden area. While these are valid concerns, should 3rd party land be required then this will be an issue that will have to be settled between the interested parties. Should damage to 3rd party property be caused by the developer then this will be a civil issue.

The developer seems confident that he has control of adequate land to put the footpath in place as per the plans, to carry out road widening, and to construct the footpath and dwarf kerbing without damaging any private property. Cross-sections have been provided to show that the footpath can be put in place without damaging the existing hedgerow. I raised 3rd party concern with the agent, and they are aware that there are objections to this proposal. Given the level of objection, it would be remiss of the developer not to ensure that they have the required land to put the footpath in place. Should any damage be caused to 3rd party property then this will have to be settled as a civil matter between the interested parties. DfI Roads are content with the construction, and should the footpath be built in accordance with approved plans they will adopt the public footway and will be responsible for its upkeep.

Neighbours were notified and I am content that all adjoining notifiable neighbours were notified.

Another criteria is that the design of the development must draw upon the best local traditions of form, materials and detailing;

I consider that the proposal does reflect the surrounding design context for this village area.

Second last criteria is that 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;

5 two storey detached dwellings with associated single store detached garages are proposed. The developer proposes to raise ground level to the rear of No. 95 Gortgonis Road to provide a level building surface. This will raise the ground level by less than 1 meter. Initially it was proposed that a 2 storey dwelling would be sited adjacent to the shared boundary of No. 95. This would have left a separation distance between the rear of No. 95 and the proposed gable of a proposed new dwelling of just over 15m. This would have left a very dominant impact on the existing rear garden area of No. 95. Through negotiation with the agent, the layout was amended, so that the single storey garage would be re-sited to be adjacent to the rear boundary of No. 95, and the 2 storey dwelling set back approx. 7m from the boundary of No. 95, leaving a separation distance of approximately 20m. The first floor window in the new dwelling facing No. 95 is an ensuite bathroom window, and this can be conditioned by opaque so that no overlooking will occur.

A row of 3 x 2 storey detached dwellings will face towards the rear and side amenity space of No.s 95 and 109 Gortgonis Road to the north. There is a separation distance between existing dwellings and these proposed dwellings of over 30m. An area of communal open space is proposed between the new access road into the proposed development and the rear of No. 109, which will separate traffic from directly behind the rear garden area of that property. Plus a 1.8m high rendered block wall is proposed to the private rear garden areas of No. 95 and 109. I am satisfied that the layout will not result in demonstrable detrimental impacts to existing or proposed residential amenity. The block walls will also reduce noise, travel of headlights, and secure privacy for existing dwellings. Environmental Health were consulted on this proposal and raise no residential amenity concerns, I find the objectors' concerns in relation to loss of privacy and amenity to be not determining in this case.

Adequate provision is provided for rear private garden areas to the proposed dwellings, and I am satisfied that there will be no overlooking or overshadowing of neighbouring properties.

The Environmental Health Department were consulted on this proposal. There are some industrial development in the area. Environmental Health has considered the existing noise environment of the area and any current planning conditions in place to protect

residential amenity from nearby noise sources. They are satisfied that sufficient control is in place to ensure that the residential amenity of future occupants will not be impacted, therefore, the Environmental Health department offer no objection to this proposal.

The final criteria is that the development is designed to deter crime and promote personal safety;

The development is considered to be designed to deter crime and promote personal safety. Areas of open space are overlooked by surrounding housing, there are no hidden or secluded areas that would attract anti-social behaviour, and the rear properties of boundaries are secured with appropriate boundary fencing and/or walls.

Policy SETT1

The proposal is also in keeping with policy SETT1 of the Dungannon and South Tyrone Area Plan, in that it is found to be an acceptable form of development within this village area, and is in keeping with the village setting and character of the area. All the policy points of SETT1 are covered in this report.

PPS3 Access, Movement and Parking

I am satisfied that a safe and satisfactory access to this proposed development can be achieved. The access provision will improve visibility at the corner on which it is situated, which will improve sight visibility and road width for all road users. The provision of the footway will also provide safe access for pedestrians who choose to walk towards the village and the primary school, including for the occupiers of No. 109. In curtilage parking is proposed for the 5 no. detached dwellings. The policy provisions of PPS3 have been met.

PPS2 Natural Heritage

In considering the impact of this proposal on the natural environment and existing biodiversity it is my view that there will be no negative impacts as the site is agricultural of low biodiversity value. The proposal would not be likely to have a significant effect on the features of any European site. There are no open watercourses nearby, and the site is not located within any European Designation. Boundary vegetation will be retained where possible, and compensatory replacement planting will be carried out along the eastern boundary.

Other considerations

No issues of land contamination have been identified on this site.

From the Strategic Flood Maps NI the site does not appear to be within a flood plain or be affected by pluvial ponding. A development of this size does not require a drainage assessment. No open watercourses are being culverted. It is the responsibility of the developer to ensure that acceptable drainage for the site can be achieved, that all drainage consents are in place and that drainage from the site will not have a detrimental impact on neighbouring property. I am satisfied that the policy provisions of PPS15 Planning and Flood Risk are met.

Concern was raised by an objector on how finished floor levels were arrived at. A cross-section drawing has been provided by the agent, along with a block plan which shows difference in levels between existing and proposed development. I find these levels to be acceptable from an amenity impact point of view. There are also levels shown at the access to the proposed site. I am content that there is sufficient information to control levels within the site, and I find this relationship between existing and proposed development to be acceptable. Should the development not be carried out in accordance with levels shown, and this is reported to Council's Planning Department, then it will be at the discretion of our Enforcement Team if this complaint should be investigated and how best to deal with the alleged breach.

I am satisfied that all objectors concerns have been covered and the proposed development will result in a quality residential environment that will not have a negative impact on surrounding property, or village character, road safety or the environment. I am satisfied that the plans are clear and are descriptive on how the development shall be carried out.

No evidence has been presented to suggest that 3rd party land is required for the footpath or visibility splay provision, and the developer is aware of the objections raised in connection with this. All neighbours have been notified in accordance with legislative requirements. Should it be the case that 3rd party land will be required to implement any part of the development, or 3rd party land is damaged during the construction process, or an accident occurs during or after construction then this will be a civil matter between the interested parties to sort out. The Planning Authority does not have the necessary expertise or jurisdiction to adjudicate in such matters, and these are ultimately matters for the Court to decide.

I am satisfied that objector's concerns in relation to this development are not determining in this case, and that this proposal for 5 detached 2 storey dwellings within the limits of

Annaghmore Village is acceptable at this site and locality and will not result in any significant environmental or amenity damage.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be granted subject to the following conditions;

Conditions

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

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

2. The development hereby approved shall be carried out in accordance with levels and cross sections indicated on drawings No. 02 rev6 date received 18/01/2022, No. 10 rev1 date received 17/12/2020, and, No. 12 date received 10/05/2022, unless otherwise agreed in writing with Mid Ulster council.

Reason: To ensure a quality residential environment and to protect existing and proposed residential amenity.

3. Prior to the occupation of any dwelling hereby approved, the area of open space shall be put in place and sewn out with grass seed, unless otherwise agreed.

Reason: In the interest of visual amenity and to ensure a quality residential environment.

4. Prior to the occupation of any dwelling hereby approved, a document shall be submitted to Council for agreement detailing how the area of open space will be managed and maintained, and this shall include the maintenance of the 1.8m and 1.2m high rendered wall, indicated in drawing No. 02 rev6 date received 18/01/2022 as BW1 and BW2. The agreed management and maintenance plan shall be carried out in

accordance with that plan thereafter, by an agreed Management and Maintenance Company, unless otherwise agreed in writing.

Reason: In the interest of visual amenity and to ensure a quality residential environment.

5. No dwelling hereby approved shall be occupied until a signed contract with an agreed Management and Maintenance Company for all areas of public open space and communal walls has been put in place, and details of which agreed with Council. All areas of communal open space shall be managed and maintained by that agreed management company thereafter, unless otherwise agreed.

Reason: To ensure that the open space provided is managed and maintained, in perpetuity, in accordance with the Department's Planning Policy Statement 7 (PPS7)- Quality Residential Environments, and Planning Policy Statement 8 (PPS8)-Open Space, Sport and Outdoor Recreation.

6. Prior to the occupation of any dwelling hereby approved, the boundary wall indicated as BW1 and Bw2 on drawing No. 02 rev 6 date received 18/01/2022 and details shown on drawing No. 11 date received 30/09/2020 shall be put in place and permanently retained thereafter.

Reason: To protect existing and proposed residential amenity, and to create a quality residential environment.

7. All boundary treatments within each individual site, including boundary wall and/or fence provision, shall be put in place in accordance with details indicated on drawing No. 02 rev 6 date received 18/01/2022 and details shown on drawing No. 11 date received 30/09/2020 prior to the occupation of that dwelling on that site, and shall be permanently retained thereafter.

Reason: To assist in the provision of a quality residential environment and to safeguard private residential amenity.

8. The existing hedgerow and vegetation along the western and southern boundaries of the site, as indicated on drawing No. 02 rev 6 date received 18/01/2022 shall be permanently retained unless otherwise agreed in writing. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council unless

necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity and biodiversity.

9. Within the first available planting season from the commencement of development hereby approved, the 5m wide buffer planting along the eastern boundary and indicated on drawing No. 02 rev6 date stamp received 18/01/2022 shall be put in place and permanently retained thereafter, unless otherwise agreed in writing. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity and biodiversity, and to mark the distinction between village and countryside.

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

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

11. The first floor window in house type 03, shown on drawings No. 07 and 08 date received 24/06/2020, shall be of opaque glass.

Reason: To safeguard existing and proposed private amenity.

12. Prior to the commencement of any development hereby approved, the vehicular access, including visibility splays of 2.4m by 65m to the North West, and 2.4m by 70m to the South East, and any forward sight distance, shall be provided in accordance with Drawing No. 02 Rev 6 bearing the date stamp 18 January 2022, and shall be permanently retained thereafter. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the

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

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

13. The gradient 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.

14. No dwelling hereby permitted shall be occupied until the footway indicated on Drawing No 02 Rev 6 bearing the date stamp 18 January has been fully completed in accordance with the approved plans, and shall be permanently retained thereafter, unless otherwise agreed.

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

Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
4. DfI Roads advise the following;

The applicant must apply to the DfI Roads for a licence indemnifying the Department against any claims arising from the implementation of the proposal.

The developer, future purchasers and their successors in title should note that the access way and parking areas associated with this development are, and will remain, private. The Department has not considered, nor will it at any time in the future consider, these areas to constitute a "street" as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

Responsibility for the access way and parking areas rests solely with the developer.

Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

Notwithstanding the terms and conditions of Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Main Street Moygashel. A monetary deposit will be required to cover works on the public road.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

The developer is required to enter into a licence agreement with the Department for Infrastructure, Roads for the carrying out of the road works approved, prior to the commencement of any works to the public road network.

Signature(s)

Date:

ANNEX	
Date Valid	24th June 2020
Date First Advertised	7th July 2020
Date Last Advertised	23rd February 2021
Details of Neighbour Notification (all addresses)	
<p>Brenda & Isobel O'Neill 105 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ</p> <p>Mr & Mrs Ryan O'Neill 107 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ</p> <p>Magdala O'Neill 107 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ</p> <p>The Owner/Occupier, 109 Gortgonis Road Coalisland Tyrone</p> <p>Stephen McCann & Sharon Trainor 109 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ</p> <p>Sharon Trainor 109 Gortgonis Road, Coalisland, Tyrone, Northern Ireland, BT71 4QQ</p> <p>Sharon Trainor & Stephen McCann 109 Gortgonis Road, Coalisland, Tyrone, Northern Ireland, BT71 4QQ</p> <p>Stephen McCann and Sharon Trainor 109 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ</p> <p>Shane _ Kerri McCann 10A ANNAGHMORE ROAD, COALISLAND, TYRONE, BT71 4QQ</p> <p>Seamus & Lucia McCann 12 Annaghmore Road, Coalisland, Tyrone, BT71 4QQ</p> <p>The Owner/Occupier,</p>	

16 Annaghmore Road Coalisland Tyrone

Finbar & Eimear Hughes

16 Annaghmore Road, Coalisland, Tyrone, BT71 4QZ

Gillian McGrath

31 Annaghmore Road, Coalisland, Tyrone, BT71 4QZ

Pete & Frank O'Neill

35a Annaghmore Hill, Coalisland, Co Tyrone, BT71 4QQ

The Owner/Occupier,

95 Gortgonis Road Coalisland Tyrone

Malachy Hughes

95 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ

Michael & Teresa Campbell

99 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ

The Owner/Occupier,

Annaghmore Primary School, 10 Annaghmore Road, Coalisland, Tyrone, BT71 4QZ

Sharon & Stephen Trainor & McCann

EMAIL

The Owner/Occupier,

McCann Fuels, 12 Annaghmore Rd, Coalisland, Dungannon BT71 4QZ

Date of Last Neighbour Notification	4th February 2022
Date of EIA Determination	
ES Requested	No
Notification to Department (if relevant): NA	
Date of Notification to Department:	
Response of Department:	



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: LA09/2020/0992/O	Target Date: <add date>
Proposal: Proposed dwelling and domestic garage	Location: Site 150m West of 115 Clonavaddy Road Aghnagar Cappagh Dungannon
Applicant Name and Address: Plunkett Nugent 126 Goland Road Ballygawley BT70 2LB	Agent Name and Address:
Summary of Issues: <p>This application is one of 2 such applications for dwellings in substitution for sites that were approved on the A4 road line and were not built. There is no policy to allow for this substitution, a considerable amount of time has passed and a farming cases was proposed but is unable to be approved at this time.</p>	
Summary of Consultee Responses: DFI Roads - provided standards for safe access	
Characteristics of the Site and Area: <p>This application site is located approximately 150 metres west of No 115 Clonavaddy Road and 3.5 kilometres south of Cappagh village. It occupies a parcel of land measuring 0.5 hectares and has a road frontage of 68 metres. The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the elevated surroundings. The site has been cleared with the southern roadside boundary is undefined on the ground. The western boundary of the site is hedgerow and separates this site from another application site for a dwelling and garage (LA09/2020/0991/O) for the same applicant. The eastern and northern boundaries are defined by hedgerow. The land beyond the eastern boundary has the frame of an</p>	

agricultural building to the rear and this parcel of land has also been subject to some clearing also. The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the exposed elevated surroundings

Description of Proposal

This application seeks outline planning permission for a dwelling and domestic garage at 150m West of 115 Clonavaddy Road, Cappagh in the townland of Aghnagar.

Deferred Consideration:

This application was before the Planning Committee in December 2020 where it was deferred for meeting with Dr Boomer to discuss the issues. At a meeting on 20 January the applicant had some difficulty joining online but was able to confirm he was aware of the issues and what was required.

Members will see from the previous case officer report this application was submitted as a substitution for a site which was on the line of the now constructed A4 dual carriageway near Goland Road, Balygawley. This is one of 2 applications that were submitted, the other (LA09/2020/0991/O) has been withdrawn with the applicant wishing to pursue this site. Members will be aware that in some cases a substitution of a site may be acceptable where it is within the time commencement period of an extant permission or planning permission has lawfully commenced on a site. In those cases, it is usually close to the original site and there are clearly justifiable reasons why the original cannot be built. This proposal is approx. 7.5kms from the previously approved site and there is no indication that a carte blanche acceptance of alternative sites would be forthcoming. While the applicant feels there was some agreement that alternatives would be accepted, there does not appear to be any records to advise this site would have been suitable. The applicant has advised he did not receive market value for the 2 sites but instead received only agricultural value for the lands. He provided information from DFI Roads – Lands Branch detailing the compensation that was awarded which was broken into land/property cost, injury to retained land and disturbance/temporary injurious affection. From the amounts set out it is clear the applicant did receive agricultural costs for the land however the more considerable injury to retained land costs may be a reflection of the value of the sites. This information can be provided to members in closed session if necessary.

Following further discussions with the applicant it appeared there may have been a farming case to be considered under CTY10. The applicant advised he has owned the lands here for a considerable time. Conacre agreements for years 2019 – 2022 were submitted, however no further information about the works carried out to keep the land in good agricultural condition were provided. The applicant advised that round bales were stored on the land. I visited the site and it is clear there is no current agricultural activity taking place on the lands. All the lands have been scraped back and soil stockpiled on them. I explained to the applicant that it did not appear that the farm is currently active and established and afforded the opportunity to provide additional information to establish the 6 years for farming and resoil the lands to allow it to be used for agricultural activity. This has not been done and as such I do not consider this is a currently active and established farm. No sites have been sold off the farm at this location that I am aware of. I do not have any other information about all the lands that may be owned by Mr Nugent to make the necessary checks. Therefore I cannot with certainty advise if there are any opportunities

sold off or other permissions granted within the last 10years. There is a large building to the east of the application site, which is set well back from the road and there is an appreciation of separation between the proposed site and that building. That said it is only one building and not a group of buildings. A dwelling on this site would not be sited to cluster with or visual link with an existing group of buildings on the farm.



Site viewed from west



Building on adjacent land

In light of the above it is my recommendation that planning permission is refused for this proposal.

Conditions/Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this

development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated this is an established and currently active farm and a dwelling if approved would not be sited to cluster or visually link with a group of buildings on a farm.

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0992/O	Target Date:
Proposal: Proposed dwelling and domestic garage	Location: Site 150m West of 115 Clonavaddy Road Aghnagar Cappagh Dungannon
Referral Route: This application fails to meet any of the policy requirements of PPS 21 and refusal is recommended.	
Recommendation:	
Applicant Name and Address: Plunkett Nugent 126 Goland Road Ballygawley BT70 2LB	Agent Name and Address:
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice

Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

Characteristics of the Site and Area

This application site is located approximately 150 metres west of No 115 Clonavaddy Road and 3.5 kilometres south of Cappagh village. It occupies a parcel of land measuring 0.5 hectares and has a road frontage of 68 metres. The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the elevated surroundings. The site has been cleared with the southern roadside boundary is undefined on the ground. The western boundary of the site is hedgerow and separates this site from another application site for a dwelling and garage (LA09/2020/0991/O) for the same applicant. The eastern and northern boundaries are defined by hedgerow. The land beyond the eastern boundary has the frame of an agricultural building to the rear and this parcel of land has also been subject to some clearing also.



The site is situated in the rural countryside as defined in the Dungannon and South Tyrone Area Plan. The surrounding area is very rural in character with narrow roads winding through the undulating topography. Dwellings are interspersed throughout the locality with some single wind turbines taking advantage of the exposed elevated surroundings.

Planning History

There are a couple of relevant planning histories associated with this site.

In September 2004, application M/2004/0775/O for a two storey dwelling & domestic garage for Ms Marion Mallon at 140metres NW of 115 Clonavaddy Road was withdrawn. This was recommended for refusal due to failure to comply with DES 5 because of prominence and lack of integration.

Then in September 2005 another application M/2005/0490/O for a two storey dwelling & domestic garage for Ms Marion Mallon was withdrawn due to the same reasons as the previous application was.

In the field to the east of the site subject of this planning application, the frame of an agricultural building which was partially constructed in 2005/6 sits to the rear of the plot. Here application M/2006/0767/O was refused planning permission for a dwelling and domestic garage in October 2006 for Mr Plunkett Nugent. This was subsequently appealed (Ref No 2007/A0049) and the Planning Appeals Commission dismissed the appeal in March 2006. This was on the grounds that it failed to meet DES 5 and DES 6 of the DOE's Planning Strategy (PSRNI), in terms of prominence, lack of integration and build up.

Description of Proposal

This application seeks outline planning permission for a dwelling and domestic garage at 150m West of 115 Clonavaddy Road, Cappagh in the townland of Aghnagar.

Planning Assessment of Policy and Other Material Considerations

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

Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on 25th March and was to run for 8 weeks. Due to issues being faced with COVID-19, this period has been extended and it closed at 5pm on 24th September 2020.

In light of this the Draft Plan cannot currently be given any determining weight.

The Strategic Planning Policy Statement (SPPS) published in September 2015 does not have any impact this proposal as PPS 21 is retained and it is this policy which this application will be assessed under.

Development in the Countryside is controlled under the provisions of Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside. Policy CTY1 provides clarification on which types of development are acceptable in the countryside and sets out where planning permission will be granted for an individual dwelling house in the countryside, subject to meeting certain criteria.

This application fails to meet the criteria of CTY 2 as the location of the site is not within a designated Dispersed Rural Community.

CTY 2a does allow permission for a dwelling in an existing cluster of development. A cluster is located at a crossroads or is associated with a focal point such as a social or community building/facility. Although St Patrick's Church would fulfil the community building part of this requirement, it is located on the Annagher Road and there is not an identifiable cluster of buildings surrounding it so it could be categorised as focal point in a cluster, thereby failing to fulfil CTY 2a.

CTY 3 - Replacement Dwellings is not applicable for this application. The applicant has not provided any information showing that the proposal would meet the essential needs of a Non-Agricultural Business Enterprise, thereby failing CTY 7. Development on a small gap site is assessed having regards to the particulars of CTY 8. No evidence has been provided to demonstrate this proposal would fulfil the criteria which is set out in CTY 10 for a dwelling on a farm. There are no non-residential buildings on the site which could be utilised thereby allowing the application to potentially fulfil the provisions of CTY4 - Conversion and Reuse of Existing Buildings.

The applicant did submit information as to why this application should be considered under CTY 6 - Special Personal and Domestic circumstances which is summarised below.

In November 2005, permission was granted for a dwelling and garage under application M/2004/1219/O (Site A) for M Nugent on lands at 200m SW of 126 Golan Road, Ballygawley. Another application M/2004/0804/O (Site B) was granted planning permission for Mr Seamus Nugent at 520m NW of 121 Golan Road, Ballygawley. Both applications were approved with siting restrictions as they met the provision requirements of PPS 14, which preceded PPS 21.

The applicant claims that while the decision of these applications were pending, the land was vested in 2005 by the DOE. This land was acquired as part of the A4 and A5 Road Scheme.

The applicant has claimed both these approved applications have had numerous Reserved Matters restrictions which were redundant due to the removal of hedges and topsoil by DOE Contractors working on the road scheme. He states he was unable to comply with the conditions and after discussions with the Planning Service, he was verbally told that alternative/compensatory applications on other sites would be dealt with 'sympathetically'.

Due to the absence of any written evidence confirming this claim, it is not substantiated. A planning history search at Site B shows application M/2004/1219/O was granted permission for a Dwelling and Garage for M Nugent at 200m South West of 126 Golan Road, Ballygawley in November 2005. Planning permission was refused for dwelling and garage for Plunkett Nugent on this site in May 2002. This was due to the extant permission on the site lapsing by 6 months and as PPS 21 was introduced in the interim, it failed to meet CTY 1 of the new policy. I am not satisfied the information put forward by the applicant satisfies the requirements of CTY 6, and thus refusal is recommended.

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.

Transport NI were consulted and have no objection to this application subject to the provision of visibility splays of 2.4 metres by 60 metres as part of a Reserved Matters application.

There were no objections to this proposal from the neighbour notification process or advertisement in the local media.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Having considered the criterion set out in CTY 1, this proposal fails to meet any of the criteria and therefore fails PPS 21.

Reasons for Refusal:

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.

Signature(s)

Date:

ANNEX	
Date Valid	14th August 2020
Date First Advertised	25th August 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 84 Aghnagar Road Galbally Dungannon	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History	
<p>Ref ID: M/2004/0775/O Proposal: Proposed two storey dwelling & domestic garage Address: 140M N.W of 115 Clonavaddy Road, Galbally, Dungannon Decision: Decision Date: 07.09.2004</p> <p>Ref ID: LA09/2020/0992/O Proposal: Proposed dwelling and domestic garage Address: Site 150m West of 115 Clonavaddy Road, Aghnagar, Cappagh, Dungannon, Decision: Decision Date:</p> <p>Ref ID: M/2005/0490/O Proposal: Proposed two storey dwelling & domestic garage. Address: 140m North West of 115 Clonavaddy Road, Galbally, Dungannon. Decision: Decision Date: 13.09.2005</p>	
Summary of Consultee Responses	

Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2020/1098/F Recommendation: Approve	Target Date: 6 November 2020
Proposal: Retention of existing structure to outdoor drinks area.	Location: Regans Bar 19 Hall Street Maghera BT46 5DA.
Applicant Name and Address: Bernard Regan 19 Hall Street Maghera BT46 5DA	Agent name and Address: Architectural Services 5 Drumderg Road Draperstown BT45 7EU
Summary of Issues:	
Summary of Consultee Responses:	
Characteristics of the Site and Area <p>The application site and surroundings are identified as 19 Hall Street, which is located within the settlement development limits of Maghera Town as depicted in the Magherafelt Area Plan 2015 (MAP). The site hosts a 2 storey semi-detached building forming a row incorporating 2 other residential properties (Nos 16 & 17) all with frontages onto Hall Street with a shared amenity area to the rear. There is currently on site a Public House known as Regans Bar with storage area to the side and access to an open area to the rear. The external wall finishes consist of smooth painted render, painted hard wood window and door frames and black slates. Located at the front elevation is a build over archway this entrance is used by the bar long with the other two properties.</p> <p>There is an access to the rear of the pub opening onto an enclosed communal space, which is surrounded by several outbuildings some appear to be ancillary to the properties backing onto the courtyard. It was noted one of the outbuildings had previously been used as a business. The configuration, size and layout of these buildings restrict public views onto the courtyard which limits natural light onto the courtyard.</p>	

The surrounding area consists of a mix of commercial and residential properties there is a large retail facility with car parking to the rear of the bar.

Description of Proposal

The application is for the retention of existing structure to outdoor drinks area.

Deferred Consideration:

The application was presented before Members in October 2021 and it was agreed to defer the application for an office meeting with Dr Boomer which took place on 16 October 2021. The application was refused on the basis the outdoor structure for the purposes of outdoor drinking would harm the living conditions of the neighbouring residential properties by means of noise, nuisance and general disturbance resulting in the loss of residential amenity.

During the processing of the planning application there were objections received from the occupier of no 17 Hall Street, who's rear door and window opened directly onto the shared rear space immediately adjacent to the outdoor structure. The applicant erected the structure during Covid-19 where people were permitted to gather outdoors. The applicant has since bought the objector's property at No 17 Hall Street and the objector has withdrawn her objections and this has been confirmed in writing by both her, her solicitor and a solicitor representing the applicant. Since there are no 3rd parties affected by the noise or general disturbance from the proposal and it is not visible from the street due to the gated archway I recommend this application for an approval subject to the following conditions.

Conditions/Reasons for Refusal:

Approval Conditions

Condition 1

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

Reason: This is a retrospective application.

Signature(s):Karen Doyle

Date: 21 September 2023



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1098/F	Target Date:
Proposal: Retention of existing structure to outdoor drinks area.	Location: Regans Bar 19 Hall Street Maghera BT46 5DA.
Referral Route: Refused - Contrary SPPS. Letter of objection	
Recommendation:	
Applicant Name and Address: Bernard Regan 19 Hall Street Maghera BT46 5DA	Agent Name and Address: Architectural Services 5 Drumderg Road Draperstown BT45 7EU
Executive Summary: Refusal	
Signature(s): Gerard Lynch	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	

Representations:

Letters of Support	None Received
Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

Contrary to Planning Policy

Characteristics of the Site and Area

The application site and surroundings are identified as 19 Hall Street, which is located within the settlement development limits of Maghera Town as depicted in the Magherafelt Area Plan 2015 (MAP). The site hosts a 2 storey semi-detached building forming a row incorporating 2 other residential properties (Nos 16 & 15) all with frontages onto Hall Street with shared amenity area to the rear. There is currently on site a Public

House known as Regans Bar with storage area to the side and access to an open area to the rear. The external wall finishes consist of smooth painted render, painted hard wood window and door frames and black slates. Located at the front elevation is a build over archway this entrance is used by the bar long with the other two residential properties.

There is an access to the rear of the pub that opens onto an enclosed communal space, which is surrounded by several outbuildings some appear to be ancillary to the properties backing onto the courtyard. I noted one of the outbuildings had previously been used as a business.

The configuration, size and layout of these buildings restrict public views onto the courtyard which limits natural light onto the courtyard.

The surrounding area consists of a mix of commercial and residential properties there is a large retail facility with car parking to the rear of the bar.



Figure 1. Regans Public House 19 Hall Street, Maghera

Description of Proposal

Permission is sought for the retention of an outside drinking area to the rear of his pub at 19 Hall Street. The structure itself consists of a galvanised mono roof, timber frame structure with timber sides with the upper section open for ventilation purposes with gutters and a drain pipe and measures 7.2m x 5.4m in area. The height above ground level is 3.46m at the highest point and 2.6m at its lowest.

Full design details and materials are annotated on DWG Nos 01 (Rev-1), 05 (Rev-1), 06 (Rev-1) 03 stamp date 03/03/2021.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk

Site History.

H/1991/6107/F

Demolition new building and restructuring to existing premises Regans bar 19 hall street Maghera

H/1990/0042/F

Alterations to licensed premises at Regans bar 19 hall street Maghera PG

LA09/2020/0086/CA

Alleged unauthorised extension to licensed premises at Regans bar 19 hall street Maghera (case ongoing).

Statutory consultees

1. MUDC Environmental Health Department were consulted on this application and confirmed it received a noise complaint in August 2020 i their response dared 22/04/2021 they recommended refusal.
2. Department for Communities Historic Buildings Division HED (Historic Buildings) were consulted on 29/09/2020 and in its response deem that it poses no greater demonstrable harm to the setting of the listed buildings on the opposite side of Hall Street 16 Hall St grade B1, 18 Hall St grade B2, 20, 22, 24 Hall St grade B listing.
3. Department for Communities HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing one (1) substantial objection was received on 18th October 2020; 2 letters of objection were received on 26th March 2021 and 6th April 2021). Six (6) neighbouring properties were notified on 14th October 2020; and twelve (12) neighbouring properties were notified on 19th March 2021; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

EIA Determination. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015; the proposal has been considered and does not fit within any categories or threshold identified in Schedule 2 of Environment Impact Assessment.

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, there is no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site.

Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

1. Magherafelt Area Plan 2015;
2. Strategic Planning Policy Statement (SPPS);
3. Regional Development Strategy 2035;
4. A Planning Strategy for Rural N Ireland (Policy DES 2)
5. Draft Mid Ulster Area Plan 2030; and
6. DCAN 7 Public Houses

The Magherafelt Area Plan 2015 operates as the Local Development Plan (LDP) where the application site is located within the development settlement limits of Maghera Town Centre. MAP offers no specific policy or guidance pertinent to this application.

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



Figure 2. External and interior of extension

Assessment Overview.

The key issues in the assessment of the proposal are as follows:

- The principle of the proposal at this location
- Design, layout and impact on the character and appearance of the area

- Impact on amenity.

Regans bar is a family owned pub, which has been in existence for about 50 years and is located alongside two dwellings Nos 17 and 15 these together with the bar form a continuous row fronting onto Hall Street.

The bar is a fairly typical traditional pub which has retained its distinctiveness selling alcohol only. These pubs that served only alcohol are referred to as 'wet pubs' were during first lockdown due to Covid were not allowed to open due to their limited capacity to comply with social distancing requirements.

Paragraphs 3.8 and 5.72 of the SPPS state 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.

Assessment.

The outside drinking facility to the rear of the bar and its proximity to residential use and the amenity impacts are material considerations as to whether this proposal is acceptable on this site. This is considered further below.

Design, layout and impact on the character and appearance of the area

The structure consists of a galvanised mono roof, timber frame structure with timber sides with the upper section open for ventilation purposes with gutters and a drain pipe and measures 7.2m x 5.4m in area. The height above ground level is 3.46m at the highest point and 2.6m at its lowest.

I am content that the structure's size and layout will not have a significantly greater visual impact on the existing character and will not be any more prominent than what is already on site prior to the structure being erected.

Impact on amenity and human health.

Whilst the site is located within a mixed used area within the development limits of Maghera, there is a number of residential properties in close proximity to the bar including several listed buildings.

It is noted that No 17 Hall Street is the closest property approximate 5m distance from the rear of the bar and the attached outside drinking structure, in my view the proposal would adversely impact the property by way of high noise levels and the loss of privacy and amenity.

DCAN 7 provides guidance for applications relating to the extension of Public Houses. Within the document it states that when considering extensions to existing Public Houses, account will be taken of the likely effects of the intensification of the existing use

on the surrounding area including any loss of amenity due to an increase in noise and disturbance.

This is considered applicable as the site is located immediately adjacent to residential properties. It is anticipated that due to the close proximity to neighbouring residential properties the external noise from the drinking area will significantly impact amenity.

Access, parking and transport.

DFI Roads were not consulted in this application.

Other material considerations.

Three objections have been received in relation to this application with the crux of the issues relating to the impact the development and on an existing right of way, noise, loss of light, change of character to the rear of the objector's property, overlooking onto private amenity area, anti-social behaviour, insufficient properties notified. The objector also brought it to the attention of the Planning Department that the application P1 form was not correct and the maps did not identify the correct property numbers. Since this the applicant has submitted amended site location plan showing the property numbers.

The applicant's solicitor has confirmed in writing the applicant's ownership of the bar.

The above concerns were discussed at a development management group, which it requested amended site location plan. In regards to the number of properties notified additional neighbouring properties located opposite the application site were consulted.

In this respect I am content that 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, and that all processes were in accordance with the Development Management Practice Note 14 (April 2015).

In terms of noise MUDC Environmental Health were consulted and their response was received and uploaded to the public portal on 22 April 2021. However due to the location, scale and open nature of the outside drinking structure with No 17 it was not considered possible that sufficient noise mitigation measures can be put in place to reduce the impact on residential amenity. Environmental Health have not requested any further information to be submitted and have recommended refusal on the grounds that the outside drinking structure would have an adverse impact on the amenity of No 17 Hall Street, Maghera.

Conclusions.

The proposal is unacceptable having been assessed in light of all material considerations, including weighting against relevant policies and the specific refusal reasons set out in my report.



Figure 3. Buildings surrounding rear courtyard

No architectural or flooding concerns.

The Mid Ulster District Council Local Development Plan 2030.

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

Neighbour Notification Checked

Yes

Summary of Recommendation:

Recommendation: Refusal

Refusal Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) paragraphs 4.11 and 4.12 in that the retention of the existing structure for an outside drinking area would, if permitted, harm the living conditions of the neighbouring residential properties through noise, nuisance and general disturbance resulting in a loss of residential amenity.

Signature(s)

Date:

ANNEX

Date Valid	11th September 2020
Date First Advertised	22nd September 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 13 Hall Street Maghera Londonderry The Owner/Occupier, 15 Hall Street Maghera Londonderry The Owner/Occupier, 16 Hall Street, Maghera, Londonderry, BT46 5DA The Owner/Occupier, 17 Hall Street Maghera Londonderry Geraldine Regan 17 Hall Street, Maghera, BT46 5DA The Owner/Occupier, 18 Hall Street, Maghera, Londonderry, BT46 5DA The Owner/Occupier, 19a Hall Street, Maghera, Londonderry, BT46 5DA The Owner/Occupier, 22 Hall Street, Maghera, Londonderry, BT46 5DA The Owner/Occupier, 23 Hall Street, Maghera, Londonderry, BT46 5DA The Owner/Occupier, 24 Hall Street, Maghera, Londonderry, BT46 5DA The Owner/Occupier, 26 Hall Street, Maghera, Londonderry, BT46 5DA Geraldine Regan Email Address Geraldine Regan Email Address The Owner/Occupier, Snooker Hall 17a Hall Street	
Date of Last Neighbour Notification	5th March 2021
Date of EIA Determination	
ES Requested	No

Planning History

Ref ID: LA09/2020/1098/F

Proposal: Retention of existing structure to outdoor drinks area.

Address: Regans Bar, 19 Hall Street, Maghera, BT46 5DA.,

Decision:

Decision Date:

Ref ID: H/1995/0570

Proposal: SITE OF EXTENSION TO EXISITNG FACTORY

Address: 11 FAIRHILL MAGHERA

Decision:

Decision Date:

Ref ID: H/1991/6107

Proposal: DEMOLITION NEW BUILDING AND RESTRUCTURING TO EXISTING PREMISES REGAN BAR 19 HALL STREET MAGHERA

Address: REGAN BAR

Decision:

Decision Date:

Ref ID: H/1990/0042

Proposal: ALTS AND ADDS TO LICENSED PREMISES

Address: REGAN'S BAR 19 HALL STREET MAGHERA

Decision:

Decision Date:

Ref ID: H/2001/0486/F

Proposal: Extension to Food Processing Factory

Address: 9-11 Fairhill, Maghera

Decision:

Decision Date: 31.08.2001

Ref ID: H/2000/0112/F

Proposal: Extension to Food Processing Factory

Address: 9-11 Fairhill, Maghera

Decision:

Decision Date: 26.06.2000

Summary of Consultee Responses

Advice

Drawing Numbers and Title

Drawing No. 01 (Rev-1)
Type: Site Location Plan
Status: Submitted

Drawing No. 06 (Rev-1)
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 05 (Rev-1)
Type: Proposed Elevations
Status: Submitted

Drawing No. 04
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 03
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 02
Type: Existing Plans
Status: Submitted

Drawing No. 07
Type: Proposed Elevations
Status: Submitted

Notification to Department (if relevant) N/A

Date of Notification to Department:
Response of Department:

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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: LA09/2021/1653/F	Target Date: 11 January 2022
Proposal: Extension of facilities, provision of new workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping	Location: Immediately East Of 19 Annagh Road Lungs Clogher Co Tyrone BT76 0UX
Applicant Name and Address: Malcolm Keys Malcolm Keys Transport 22 Annagh Road Clogher	Agent Name and Address: John O'Brien Ardvarna 7 Derreens Road Arney Bellanaleck BT92 2BY
Summary of Issues: This application is for the expansion of an existing established business in the countryside, the proposal includes new buildings and increase in the site area. Information has been presented that demonstrates the site was enlarged over 5 years ago and the proposal does not involve a significant increase in the site area. The proposal is not considered to be a major expansion of the site area.	
Summary of Consultee Responses: HED – content DFI Rivers – PA to decide if Drainage Assessment needed Environmental Health – recommend conditions to control noise DFI Roads – conditions for access HSENI – close to gas pipeline	

Characteristics of the Site and Area:

This application site occupies a flat portion of land immediately East Of 19 Annagh Road Lungs, Clogher. It is located in the countryside in an Area of Constraint on Mineral Development as defined in the Dungannon and South Tyrone Area Plan. Clogher village sits 3.5 kilometres to the east and Fivemiletown is 6.5 kilometres to the south west, with the site siting approximately 1 kilometre north of the A4 Ballagh Rd which connects the two settlements above. The surrounding area is mostly flat agricultural land with some dispersed dwellings and farm holdings. Lungs Gospel Hall sits less than 100 metres from the site to the west.

Currently the site is occupied by the applicant's business - Malcolm Keys Transport and is accessed via an entrance to the north of No 19 Annagh Road. This is a two-storey roadside dwelling which sits on a small plot with a single ancillary outbuilding and its curtilage is almost entirely surrounded by this application site. The approved underground gas pipe above runs just outside and parallel to the northern boundary of this site.

This site measures 0.94 hectares and accommodates a number of buildings and a large yard area. The main workshop is a rectangular shaped building which has concrete walls to the lower portion with green cladding to the upper walls and roof, with 3 large roller shutter doors on the northern elevation. Two pre fab structures are sited perpendicular to this workshop and are utilised as offices. The eastern portion of the site is mostly yard area appears to be utilised for car parking. Lorries were parked to the rear of the workshop at the time of the site inspection. The eastern boundary of the site is mostly defined by a metal crash barrier which defines the curtilage of the site, separating it from the agricultural land beyond. The southern boundary is defined by a post and wire fence and this southern portion of the site has been recently cleared and partially gravelled. The western roadside boundary is comprised of a low hedgerow which is interspersed with telegraph poles and at No 19 Annagh Rd is defined by a low white wash stone wall and then undefined as it nears the ungated entrance to the site.

Description of Proposal

This application seeks full planning permission for the extension of facilities, provision of new workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping at Malcolm Keys Transport, located immediately East of 19 Annagh Rd Lungs Clogher.

This application proposes a separate building located to the rear and of the existing workshop which is to be retained. A new entrance is proposed close to the south western corner of the site where a new tarmacked access goes the width of the site to where it would culminate in a lorry turning area at the eastern part of the site. New car parking areas finished in brick are proposed either side of the entrance and a new lorry parking area to the south of this new access along the southern boundary of the site. There is also additional lorry parking proposed along the eastern site boundary.

Deferred Consideration:

This application was before the Planning Committee in June 2023 where it was deferred for a meeting with Dr Boomer to explore the issues further. Following a meeting on 23 June 2023 additional information was submitted to illustrate the local workforce that are

dependent on the business being retained here and information about the overall business and its role in the local pig producers market.

The proposal is not for a major industrial development in the countryside, it is for an expansion of an established economic development use and as such I do not consider PED5 is the appropriate policy for consideration.

Members will be aware from the previous report the main issues in respect if this application was whether or not it would result in a major increase in the site area. The agent provided a topographical survey (fig 1) and photographs of the site (Photo 1, 2 & 3) from August 2018 which show the site had been extended at that time with a hardcore yard at the rear utilised for parking trailers and lorries.

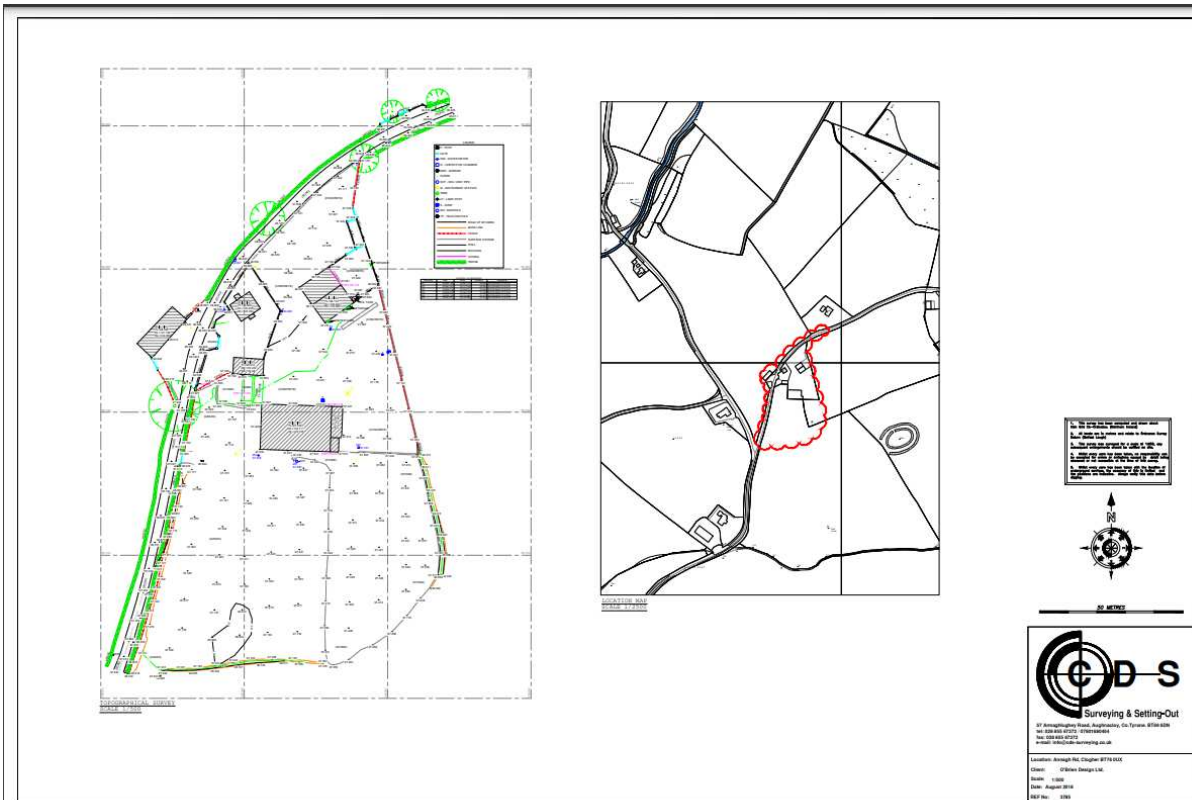


Fig 1 – topographical survey dated August 2018,





Photos 1, 2 and 3 – views of the site from August 2018

The site survey and photographs submitted in support of the proposal indicate the site was extended over 5 years ago and as such that expansion is immune from enforcement action. The area of the site that is currently used for the parking of lorries and the other works is 0.56ha (Fig 2)



Fig 2 established site area and Fig 3 expansion of the site

While it is clear that works have been done to the remainder of the site by clearing and regrading the land, there is no evidence to show that it has been used for parking of vehicles or other uses ancillary to the vehicle repairs or vehicle maintenance that is on the remainder of the site and as such it has no use. There is no definition within PED 3 of what is a major increase in site area and therefore each application must be judged on its own merits. The proposed expansion will increase the area of the site by 0.45ha (Fig 3), this does not exceed the threshold which would classify it as a Major application as specified in the Planning (Development Management) Regulations (NI) 2015. That said it nearly doubles the site area and as such I agree with the original case officer that it is a major increase in the site area.

PED3 contains an exception within the policy that permits a major expansion if it meets 3 criterion:

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

The applicants have advised there are 2 yards associated with the business, one in Lisnaskea which deals with bulk transport of milk and this one which is for the servicing of the fleet for transport business especially for movement of pigs to farms associated with M Keys business. There are 7 lorries at the Lisnaskea site and there is no further capacity to

expand there. There is a fleet of 48 lorries, 41 are based from this yard, the yard is not for the parking of the fleet, the units are usually parked overnight at the drivers residence and there is no proposal to bring them all here for parking overnight. This yard will be used to service the entire fleet of vehicles for the company which includes 48 lorries, 25 bulk feed trailers, 12 livestock trailers and 11 tankers. All the employees who work on site either in servicing and maintenance or the offices are located within 20 mins of the site and in the Clogher Valley area. Over 50% of the HGV drivers also live within 20 mins of the yard and the part time drivers are also generally local farmers who work here to supplement the farm income. The site is well established and a site search has been carried out in the locality which has been unable to source alternative accommodation (Augher Creamenry and Fimeiletown Creamery) as the sites are unsuitable due to size and accessing issues. Searches further afield would result in the loss of staff as they would have to travel to far to work. Given the established nature of the site and the amount of local employment provided, I do accept that movement of the premises outside of the Clogher Valley would cause issues for the company in terms of retaining the workforce and so there are genuine employment reasons to remain here.

The company employs 47 staff from a 10 mile radius, and a total of 70 from a 20 mile radius of the application site. This is a significant number from the local area and it is clear from the letters of support that it also provides knock on employment to other businesses in the local area. There is no definition of what a significant contribution to the local economy is in PED3, however given the number of locally employed personnel and the number of local businesses this company supports, I do consider that any relocation away from the area would have a significant impact on the local economy especially the local farming community who supplement their farming business by working part time for this company.

The site has been changed already with the ground having been remodelled and as this was carried out over 5 years ago, there is no mechanism to require it to be put back to its former condition or to improve its appearance. In its current state it does not provide an attractive appearance in the rural area. The new building will be visible in the landscape, however it will be seen with a cluster of existing buildings that are already established here. There is the potential to provide a significant landscaping scheme here to improve the overall appearance of the area and a revised scheme has been proposed which I consider will have an immediate impact on the area in terms of the biodiversity improvement and the screening of the existing and proposed buildings.

The proposal does exceed the area for a drainage assessment however it will provide gravel and other permeable surfaces that will allow rainwater to percolate through the surfaces. It does not therefore result in the creation of an excessive amount of hard non permeable surfaces. In this case a drainage assessment and drainage plan is not required.

I consider the proposal will not create an undue loss of rural character and that adequate and appropriate measures can and will be put in place to aid integration of the existing and proposed development. It is my recommendation this application is approved with the suggested attached conditions.

Conditions/Reasons for Refusal:

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

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

2. Prior to the commencement of any works or other development hereby permitted, the proposed vehicular access, including visibility splays of 2.4m x 70.0m in both directions, a 70.0m forward sight line and other details as set out on drawing No 03 Rev 3 received 29 August 2023 shall be provided. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. Prior to the building hereby approved becoming operational the parking, turning and servicing areas as set out on drawing No 03Rev3 received 29 August 2023 shall be provided as detailed.

Reason: To ensure adequate parking and turning areas are provided.

4. Within 3 weeks of the building hereby approved becoming operational the existing vehicular access indicated 'Existing access to yard to be permanently closed off at this point' on drawing No 03 Rev 3 received 29 August 2023 shall be permanently closed up and ceased to be used for access to the development.

Reason: In the interest of road safety

5. The 'Existing' and 'Proposed' buildings, as annotated on drawing number 03 Rev 3 received 29 August 2023 shall only be used and operational between
 - 08:00am and 18:00 hours Monday to Friday
 - 08:00am and 13:00 hours Saturdayand shall not be used or operational on Sundays or Bank Holidays

Reason: To control noise emissions and protect nearby residential amenity

6. Noise level of equipment used within the approved site shall not exceed the levels listed within Table 3 of the noise impact assessment dated 19th October 2022.

Reason: To protect nearby residential amenity from noise.

7. The 'Proposed shed', as annotated on drawing number 03 Rev 3 received 29 August 2023 shall be constructed to achieve the following Sound Reduction Index:
 - Walls Rw = 48 dB(A)
 - Roof & Walls Rw = 28.5 dB(A)
 - Doors Rw = 30 dB(A).

Reason: To control noise emissions and protect nearby residential amenity.

8. All roller doors annotated on drawing number 04 Rev 1 received 18 March 2023 shall be permanently fitted with automated open and close functions prior to the commencement of any operations. All doors are to remain closed except for ingress or egress of goods or materials.

Reason To control noise emissions and protect nearby residential amenity.

9. Within 4 weeks of a written request by the Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess compliance with predicted noise levels stated within Table 3 of the submitted noise impact assessment date stamped 19th October 2021. 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.

10. All hard and soft landscape works as detailed on drawing no 03 Rev 3 received on 29 August 2023 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity and biodiversity.

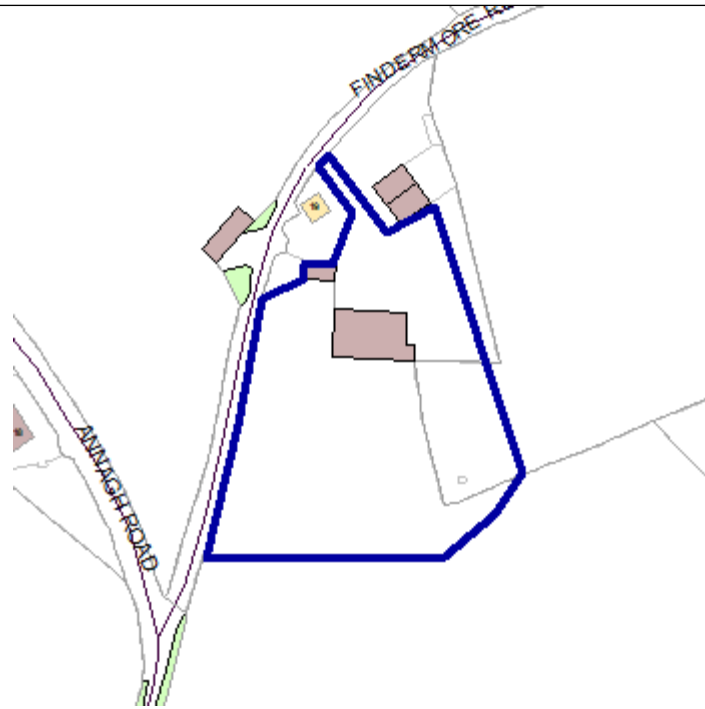
Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 12 June 2023	Item Number: 5.11
Application ID: LA09/2021/1653/F	Target Date: 11 January 2022
Proposal: Extension of facilities, provision of new workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping	Location: Immediately East Of 19 Annagh Road Lungs Clogher Co Tyrone BT76 0UX
Referral Route: Refuse is recommended This proposal is contrary to PPS 4 Planning and Economic Development and refusal is recommended.	
Recommendation: Refuse	
Applicant Name and Address: Malcolm Keys Malcolm Keys Transport 22 Annagh Road Clogher	Agent Name and Address: John O'Brien Ardvarna 7 Derreens Road Arney Bellanaleck BT92 2BY
Executive Summary:	

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Health & Safety Executive For NI	Substantive: TBCResponseType: FR
	Historic Environment Division (HED)	Substantive: TBCResponseType: PR
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-21-1653 F Immediately East Of 19 Annagh Road Lungs Clogher Co Tyrone BT76 0UX 010223.doc
Non Statutory	Environmental Health Mid Ulster	LA09-21-1653 F

Consultee	Council	Immediately East Of 19 Annagh Road Lungs Clogher Co Tyrone BT76 0UX.doc
	Environmental Health Mid Ulster Council	

Representations:

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

Summary of Issues

Characteristics of the Site and Area

This application site occupies a flat portion of land immediately East Of 19 Annagh Road Lungs, Clogher. It is located in the countryside in an Area of Constraint on Mineral Development as defined in the Dungannon and South Tyrone Area Plan. Clogher village sits 3.5 kilometres to the east and Fivemiletown is 6.5 kilometres to the south west, with the site siting approximately 1 kilometre north of the A4 Ballagh Rd which connects the two settlements above. The surrounding area is mostly flat agricultural land with some dispersed dwellings and farm holdings. Lungs Gospel Hall sits less than 100 metres from the site to the west.

Currently the site is occupied by the applicant's business - Malcolm Keys Transport and is accessed via an entrance to the north of No 19 Annagh Road. This is a two-storey roadside dwelling which sits on a small plot with a single ancillary outbuilding and its curtilage is almost entirely surrounded by this application site. The approved underground gas pipe above runs just outside and parallel to the northern boundary of this site.

This site measures 0.94 hectares and accommodates a number of buildings and a large yard area. The main workshop is a rectangular shaped building which has concrete walls to the lower portion with green cladding to the upper walls and roof, with 3 large roller shutter doors on the northern elevation. Two pre fab structures are sited perpendicular to this workshop and are utilised as offices. The eastern portion of the site is mostly yard area appears to be utilised for car parking. Lorries were parked to the rear of the workshop at the time of the site inspection. The eastern boundary of the site is mostly defined by a metal crash barrier which defines the curtilage of the site, separating it from the agricultural land beyond. The southern boundary is defined by a post and wire fence and this southern portion of the site has been recently cleared and partially gravelled. The western roadside boundary is comprised of a low hedgerow which is interspersed with telegraph poles and at No 19 Annagh Rd is defined by a low white wash stone wall and then undefined as it nears the ungated entrance to the site.

Planning History

- o LA09/2020/0267/F - Demolition of part of lorry workshop, extension of lorry workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping - Immediately East Of 19 Annagh Road, Lungs, Clogher - Withdrawn.
- o LA09/2020/1494/LDE - Lorry workshop, parking yard and associated offices - Immediately East of 19 Annagh Road Lungs Clogher - Approval - 24.03.2021.
- o M/2006/0190/O - Proposed dwelling and domestic garage - Approx 60m S of 19 Annagh Rd Clogher - Granted 7th July 2006
- o M/2000/1042/O - Site for dwelling & domestic garage - Approx 50m S of 19 Annagh Road Clogher - Granted 17th January 2001
- o M/1993/0415 - Site for new dwelling and domestic garage - Approx. 50m S of 19 Annagh Rd Clogher - Granted 15th November 1996

Description of Proposal

This application seeks full planning permission for the extension of facilities, provision of new workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping at Malcolm Keys Transport, located immediately East of 19 Annagh Rd Lungs Clogher. This application proposes a separate building located to the rear and of the existing workshop which is to be retained. A new entrance is proposed close to the south western corner of the site where a new tarmacked access goes the width of the site to where it would culminate in a lorry turning area at the eastern part of the site. New car parking areas finished in brick are proposed either side of the entrance and a new lorry parking area to the south of this new access along the southern boundary of the site. There is also additional lorry parking proposed along the eastern site boundary.

Consultations and Representations

HSENI are a statutory consultee for certain developments within the consultation distance (CD) of major hazard installations. They were consulted due to the proximity of this site to the Gas to the West pipeline which sits to the north of the site and based on the 10 - 15 metres distance and after consulting PADHI, they would 'not advise against' this proposal. The pipeline operator advised they will monitor the progress of this proposed development through helicopter flyovers and weekly route drives. These surveillance activities will ensure nothing changes and that any proposed works will not pose risk to the pipeline which is about 10-15 metres away from it.

HSENI also advised contacting the pipeline operator before deciding the application for the following reasons;

- 1) It is the pipeline operator who holds the up-to-date technical information on the design and construction of the pipeline.

2) The operator may have a legal interest (easement, wayleave etc) in the vicinity of the pipeline. This may restrain certain developments within a certain proximity of the pipeline. 3) The standards to which the pipeline is designed and operate may restrict occupied buildings, structures of major traffic routes within a certain proximity of the pipeline. Consequently, there may be a need for the developer to modify the development or for the operator to modify the pipeline, or its operation, if the development proceeds.

While processing application LA09/2020/0267/F the agent submitted information showing the pipeline wayleave and that the proposed development will not encroach on it. The case officer also liaised with Shane Rafferty of 'Mutual-Energy' who in July 2020 said they would have no objections with the development proposed, but we will work more closely with the landowner come the time of construction to ensure the works are executed safely in the vicinity of the pipeline.

DfI Rivers stated this proposal does not fall within the floodplain, however they requested a Drainage Assessment be submitted as part of this proposal. This was not submitted however could be attached as a pre commencement requirement to any permission granted, prior to any development commencing.

DfI Roads have no concerns recommending conditions regarding the provision of 2.4 metres by 45 metres visibility splays which involves the removal of telegraph poles and the permanent construction of the hard surfaced areas be attached to any permission.

HED were consulted due to the presence of a large scheduled monument (TYR 058:013) which sits approximately 200 metres to the west of the site. They suggested a landscape buffer of an earthen bank and native species planting to be established along the eastern boundary of the site. This would aid integration of any new development and thus not having an adverse impact upon the setting of this scheduled monument. Following the submission of revised drawings, HED consider this landscaping and boundary treatment to be sufficient. They now consider the proposed development would have minimal impact on the setting of the above-mentioned schedule and it is therefore in compliance with PPS 6.

Mid Ulster Council's Environmental Health section were consulted and requested a Noise Impact Assessment be carried out due to the proximity of this site to No 19 Annagh Road. They referred to the NIA which was previously submitted as part of the withdrawn application and their comments on that which highlighted discrepancies in the report and therefore needed attention. Upon submission of an amended NIA produced by CD Consulting, Environmental Health still have a number of concerns as noted below and would have concerns regarding the suitability of this development proposal.

- The separation distances stated within Table 1 are incorrect and of particular concern is the distance stated from NSR 1 to the proposed shed which we measure to be approximately 45 metres.
- The consultancy has stated that the equipment will be used intermittently and allowance is made for this in calculations by applying an on-time correction, however, no provision for intermittency has been applied to the rating level. Given that the consultancy has used a +6 dB penalty for impulsivity which equates to the noise being clearly perceptible at the closest noise receptor then a + 3dB penalty should be applied for intermittency which will also be perceptible at the closest noise sensitive receptor.

- Allowing for a separation distance of 45 metres, and applying the necessary penalties above, then the rating level at NSR 1 equates to 41.5 dB(A) which is +7 dB above the typical background noise level (35 dB(A)) and indicative of significant adverse impact.

Environmental Health were again consulted with revised information to address their concerns above. They accept CD Consulting's rationale for the acoustic feature correction, however they still have an issue with the separation distances used within the noise impact assessment. The consultancy has measured the separation distance being from the middle of the proposed site to the façade of the nearest noise sensitive receptors which overestimates separation distances. Furthermore, using the façades of noise sensitive receptors fails to consider the actual impact of amenity space such as gardens, where noise from daytime industrial/commercial activities would be mostly experienced. Environmental Health have calculated this to impact the Consultancies predictions by + 4 dB resulting in an excess of noise from this proposal over background noise by +4.2 db. BS 4142: 2014 - Methods for rating and assessing industrial and commercial sound states that "a difference of around +5 dB is likely to be an indication of an adverse impact, depending on context."

Environmental Health are clear this is an intensification of an existing business and this proposal will be situated 40 metres from third party amenity space. Should permission be granted for this development, they suggest conditions in order to protect nearby residential amenity. These conditions concern operational hours, not exceeding noise limits referred to in the NIA, specific noise insulation levels on the new shed and all doors to be automated and remain closed except during ingress or egress of goods or materials.

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

This application was advertised in the local press and 2 neighbours were notified, in line with the Council's statutory. There were no objections to this proposal and there were two letters of support from local MLAs Deborah Erskine and Tom Elliot who welcomed this proposal stating this family run and operated business is a huge benefit to the local economy and this extension would create many construction jobs and investment in the local rural area. There was a letter of support for this proposal received from 10 businesses in the area ranging from industries producing animal feed, mechanics garage, a hardware store, engineering and veterinary services. They mention the positive impact this proposal would have on the local economy and the provision of rural employment in supporting rural communities and the supply chains involved with the business.

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 and the period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Dungannon and South Tyrone Area Plan (DSTAP) is the relevant plan for this site, which sits outside of any settlement. Plan Policy IND 1- Industry and Mixed Business Use states that planning permission will normally be granted for industry, storage and distribution, and other appropriate business uses within these areas where the proposed development meets the key site requirements identified in Part 3 of the Plan. As this application site is located outside of any settlement designated in DSTAP and outside any zoned areas of Industry and Mixed Business Use identified, by reason of its location this proposal is in conflict with the Plan.

The SPPS affirms the planning system has a key role in achieving a vibrant economy and aims to facilitate economic development needs in ways consistent with the protection of the environment and the principles of sustainable development. The guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside. Such proposals may occasionally involve the construction of new buildings, where they can be integrated in a satisfactory manner. Para 6.88 of the SPPS states in the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must be restricted.

Exceptions to this general principle may be justified in the following circumstances;

- o A small-scale new build economic development project may be permissible outside a village or small settlement where there is no suitable site within the settlement. An edge of settlement location will be favoured over a location elsewhere in the rural area, subject to normal planning considerations.

- o A proposal for major or regionally significant economic development, where a countryside location is necessary because of size or site-specific requirements. Such proposals should be able to demonstrate a significant contribution to the regional

economy and be otherwise acceptable, particularly in terms of their environmental and transport impacts. An edge of town location should normally be favoured over a location elsewhere in the rural area.

All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development. The SPPS retains the policy provisions of PPS 3, PPS 4, PPS 6 and PPS 21, all of which are applicable to this proposed development.

Policy CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside outlines a range of types of development which in principle are considered to be acceptable in the countryside. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations. One type of development outlined in PPS21 which in principle is considered acceptable in the countryside is industry and business uses in accordance with PPS 4 Economic Development.

Policy PED 2 - Economic Development in the Countryside in PPS 4 sets out the circumstances where proposals for economic development uses in the countryside will be permitted with all other proposals only permitted in exceptional circumstances.

- The Expansion of an Established Economic Development Use - Policy PED 3
- Redevelopment of an Established Economic Development Use - Policy PED 4
- Major Industrial Development - Policy PED 5
- Small Rural Projects - Policy PED 6

Policy PED 3 - Expansion of an Established Economic Development Use in the Countryside in PPS 4 sets out when proposals for expansion will be allowed, where;

- the scale and nature of the proposal does not harm the rural character or appearance of the local area.
- there is no major increase in the site area of the enterprise.

Proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development. Any extension or new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest the original property may have.

A proposal for the major expansion of an existing industrial enterprise that would not meet the above policy provisions will only be permitted in exceptional circumstances where it is demonstrated that:

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

In all cases, measures to aid integration into the landscape will be required for both the extension and the existing site.

When assessing this development proposed, it is necessary to note the history on this

site.

Application LA09/2020/0267/F was submitted in February 2020 and proposed an extension which wrapped around the existing workshop building on two sides. This extension proposed an increase of approximately 561 metres squared to create a building with a footprint of 933 sq. metres. This extension to the existing building which had a footprint of 372 sq. metres.

Through the processing of this application, the agent was made aware that it was deemed excessive and was considered too large on this site. The agent then proceeded to submit amended drawings showing an even bigger building which was now proposed as a separate building to the south of the existing building and of a bigger scale and this is the proposal which is subject of this application. Through the processing of the previous application, the agent was made aware that the smaller building was not of an appropriate scale and would be regarded as a major expansion. The submission of this application was made knowing the smaller scheme was of an excessive scale and was not considered acceptable on this site.

Orthophographs taken in July 2017 and when compared to that which was taken in January 2020 clearly show the extent of the expansion to the business on the ground. The extension proposed in this application is a detached building to the rear of the existing workshop which is to be retained. This workshop has a footprint of over 320 sq. metres and has a ridge height of 8.2 metres FGL. The proposed new building measures 25.8 metres wide and 28.75 metres long, with a ridge height of 11 metres FGL. This is some 3 metres higher than the large building which is already existing on the site and proposes an additional footprint of over 740 sq. metres.

I have concerns regarding the scale and massing of this proposed building. It is large rectangular block with a flat roof which only accentuates its dominance on this site. The front elevation is south facing and due to an absence of vegetation to the south of this site, there would be long ranging views of this elevation. The side of the proposed building which faces onto the public road has only 2 pedestrian doors and 4 windows on this western elevation which are lost on huge non-descript façade. It is evident from the ortho photos that this proposed expansion is a huge increase to the enterprise. The agent slightly amended what was initially submitted as is shown above and provided a 12 degree roof with a ridge height of 10.9 metres FGL. This very slightly reduced the block appearance of the proposed building by the introduction of a pitched roof, however I would still consider this proposal to be an excessive extension and introduction into this rural landscape with no real justification as to why a building of this size cannot be located in another more appropriate location. The agent was again asked to reduce the size of this scheme and stated there is little point in such major investment in a building which would not be fit for purpose and could not futureproof the business. I am also concerned the scale and nature of this proposed extension would detrimentally harm the rural character and the appearance of the local area and therefore it is contrary to PED 3 in PPS 4.

In PED 3 it does state that a proposal for the major expansion of an existing industrial enterprise that would not meet the required policy provisions will only be permitted in exceptional circumstances. In justification for this development, the agent in the supporting statement has stated there is a need for expansion in order to provide a

controlled environment for diagnostic machinery which would enable a sterile space on site to conduct PSV testing. An overhead crane is required for this as pits would be unsuitable and this expansion would lead to an increase of 20% in employees at this site by 12 more staff. The applicant resides at No 5 Bolies Road which sits less than 1.5 kilometres to the north west of this site. He has 3 companies which employ on average 100 people. M Keys Farms Ltd and Castlebrook Farms Ltd are engaged in intensive pig farming while M Keys Transport Ltd is involved in the haulage industry. The agent states the site has an industrial appearance with inadequate parking facilities and access and believes landscaping will allow integration and "the existing unsightly industrial building will be obscured by the new building."

Although there has been some support for this application from a local MLA, I am not convinced it has been demonstrated that this proposed extension should be an exceptional circumstance. The agent has noted the other businesses the applicant operates; however it did not examine or explain why these other sites or other alternative locations were not suitable nor how the relocation of the business would not be possible. Although I do believe this existing business provides employment in the local area by currently having 12 members of staff, I am not convinced an increase in 8 staff members would be considered to be significant contribution to the local economy and it to be considered as an exception to policy as in my opinion it would still greatly undermine the rural character of the area.

All proposals for economic development must also comply with the provisions of PED 9 General Criteria for Economic Development. It states that any proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet all the following criteria:

(a) it is compatible with surrounding land uses;

Although this application site is located in the rural countryside with a community building of Lungs Gospel Hall close by, I am not overly concerned given the existing use on this application site. The site is occupied by M Keys Transport Ltd and the approved CLUD verifies this use on the site also.

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

There have been no objections to this application and the site abuts an existing dwelling at NO 19 Annagh Road which raised concerns with Environmental Health and the quality of their residential amenity. The initial Noise Impact Assessment was not considered acceptable by the Environmental Health section of the Council and is discussed in detail above. They concluded that although they had concerns, if any eventual issues concerning noise pollution do arise, they can be dealt with through the Environmental Health reporting system and this can be reaffirmed by imposing conditions regarding any complaints.

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

HED had concerns regarding the nearby monument but are now satisfied the proposed landscaping would ensure there will be no harmful impact to this heritage feature.

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

As discussed above, this site is not located within any designated flood plain but due to

the size of the proposal DfI Rivers requested a Drainage Assessment be submitted as part of this proposal. This was not submitted during the processing of this application; however this requirement could be attached as a pre commencement condition to any permission granted on this site.

(e) it does not create a noise nuisance;

Environmental Health were consulted had concerns regarding the Noise Impact Assessment. This is assessed in detail above and they have recommended conditions be attached to any permission if granted.

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

The agent in the P1 form has stated this proposal would utilise a package plant, details of which can be submitted and assessed prior to any development commencing on site if planning permission is granted.

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

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

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

I believe this new access to the site would improve road safety as the existing access does not benefit from clear splays for visibility when leaving the existing premises. DfI Roads are satisfied with the provisions set out as part of this proposal and offer no objection, subject to conditions regarding the provision of visibility splays and hardstanding. There are no footpaths for this site to link to due to its location in the countryside and given that most movement to this site would be vehicular, these are not considered necessary.

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

In terms of layout and design, the proposed building will create an additional floorspace of almost 750 sq. metres and when combined with that existing on the site, the buildings would have over 1,000 sq. metres floorspace. This would more than triple the existing floorspace as well as the extended curtilage which has more than doubled the initial size of the business on the site. The existing workshop building on site is already 8 metres in height and the agent refers to it in their statement as "the existing unsightly industrial building will be obscured by the new building." It is not my recommendation that in order to obscure an "unsightly building" is to construct a much bigger one over 3 metres higher beside it to obscure it. It is my opinion that these large increases and scales are excessive and out of keeping on this rural site.

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

The agent provided a landscaping scheme which has shown the provision of a grassed area on a parcel of land between the road and the rear of the existing and proposed

buildings. The planting of 5 - 8 metre wide earthen mounds along the eastern and southern boundary of the site, as well as along the western roadside boundary are proposed . Another bund will separate the car parking area from the lorry parking area also in the south of the site. These will provide some form of enclosure with a mixture of trees planted above the mounds. A d-rail fence is proposed along the roadside boundary

(l) is designed to deter crime and promote personal safety;
I am content the site will be securely enclosed in the interests of the business.

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

The applicant proposes some landscaping around the boundaries of this site. However given the scale and mass of the building proposed, no amount of landscaping could integrate a building of these proportions on this site, as was also made clear for the previous application which proposed a smaller building.

Summary of Recommendation:

Refuse is recommended

It must be brought to the Members attention that during the assessment of a smaller building on this application site under LA09/2020/0267/F there was much correspondence and engagement with the agent. They were notified a number of times of the concerns regarding the size and scale of the proposed extension and a reduced scheme was recommended may be considered more acceptable on this site. This advice was not taken on board and instead a larger extension comprising a new separate building was proposed in the form of this current application under consideration.

Due to the excessive scale and mass of this proposed building, I do not feel it can in any way integrate into a rural area, and when combined with what is already existing on this site would be detrimental to the countryside. This proposal fails to meet the policy requirements of PPS 4 - specifically PED 3, PED 5 and parts j and m of PED 9.

Refusal Reasons

Reason 1

The proposal is contrary to the Department's Planning Policy Statement 4, Planning and Economic Development PED 3, in that the development would, if permitted, have an adverse impact on the environment by virtue of the significant increase in the site area of the enterprise and its lack of visual integration into the rural landscape.

Reason 2

The proposal is contrary to the Department's Planning Policy Statement 4, Planning and Economic Development PED 5, in that it has not been satisfactorily demonstrated that the size and site specific requirements of the proposal needs a countryside location.

Reason 3

The proposal is contrary to the Department's Planning Policy Statement 4, Planning and Economic Development PED 9, in that it has not been satisfactorily demonstrated the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity or that there are satisfactory measures to assist integration into the landscape.

Case Officer: Cathy Hughes

Date: 26 May 2023

ANNEX	
Date Valid	16 November 2021
Date First Advertised	2 December 2021
Date Last Advertised	30 November 2021
Details of Neighbour Notification (all addresses) The Owner / Occupier 19 Annagh Road Clogher Tyrone BT76 0UX	
Date of Last Neighbour Notification	14 December 2021
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2020/0267/F Proposals: Demolition of part of lorry workshop, extension of lorry workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping Decision: Decision Date:</p> <p>Ref: M/1998/0395 Proposals: 450mm Underground Pipelines Decision: PG Decision Date: 18-JUL-98</p> <p>Ref: M/1998/0321 Proposals: Laying of Underground 500mm Diameter and 450mm Diameter Pipelines Decision: PG Decision Date: 18-JUL-98</p> <p>Ref: LA09/2020/1494/LDE Proposals: Lorry workshop, parking yard and associated offices Decision: PG Decision Date: 24-MAR-21</p> <p>Ref: LA09/2021/1653/F Proposals: Extention of facilities, provision of new workshop, provision of new access to</p>	

public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping

Decision:

Decision Date:

Ref: M/1993/0415

Proposals: Site For New Dwelling And Domestic Garage

Decision: PG

Decision Date:

Ref: M/2006/0190/O

Proposals: Proposed dwelling and domestic garage

Decision: PG

Decision Date: 07-JUL-06

Ref: M/2000/1042/O

Proposals: Site for dwelling & domestic garage

Decision: PG

Decision Date: 29-JAN-01

Summary of Consultee Responses

Historic Environment Division (HED)-Substantive: YResponseType: FR

Rivers Agency-Substantive: YResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

Health & Safety Executive For NI-Substantive: TBCResponseType: FR

Historic Environment Division (HED)-Substantive: TBCResponseType: PR

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-LA09-21-1653 F Immediately East Of 19 Annagh Road Lungs Clogher Co Tyrone BT76 0UX 010223.doc

Environmental Health Mid Ulster Council-LA09-21-1653 F Immediately East Of 19 Annagh Road Lungs Clogher Co Tyrone BT76 0UX.doc

Environmental Health Mid Ulster Council-

Drawing Numbers and Title

Proposed Elevations

Landscape Proposals

Proposed Elevations Plan Ref: 04

Landscaping Plan Plan Ref: 03

Proposed Floor Plans Plan Ref: 02

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Mid-Ulster
Local Planning Office
Mid-Ulster Council Offices
50 Ballyronan Road
Magherafelt
BT45 6EN

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/1772/O	Target Date: 7 February 2022
Proposal: Proposed dwelling, domestic garage and associated works	Location: Lands Approx. 30M To The South Of 29 Tullyglush Road Ballygawley
Applicant Name and Address: Mr Liam Farrell 50 Church Street Ballygawley	Agent Name and Address: ADP Architects 1 Holmview Terrace Omagh BT79 0AH
Summary of Issues: This application is for a dwelling and garage in the countryside. The application is being assessed against CTY2a, clustering policy and revolves around the definition of a focal point.	
Summary of Consultee Responses: DFI Roads - provided standards for acceptable access	
Characteristics of the Site and Area: The site is located at lands located approx. 30m South of 29 Tullyglush Road, Ballygawley. The red line of the site includes a roadside portion of a larger agricultural field. Most of the existing boundaries are currently undefined opening into the remainder of the agricultural field. The lands adjoining the site to the south and west are outlined in blue, which indicates ownership. The surrounding area includes a number of roadside residential properties and their associated outbuildings, but beyond that lands are rural in nature, largely made up with agricultural fields.	

Description of Proposal

Outline planning permission is sought for a proposed dwelling and domestic garage and associated site works.

Deferred Consideration:

This application was before the Planning Committee in September 2023 where it was deferred for a meeting with Dr Boomer to discuss the clustering policy and explore other potential policies that might be more appropriate. A meeting was held on 16 September where the agent advised a farming case had been granted for another family member on the opposite side of the road in recent times and this is nearing completion. The agent provided information about the historic farm stead on the opposite side of the road which is known as Shantavny Farmhouse, it is a B&B and the applicants family homestead.

Following a site visit it is clear the proposed site has development on 2 sides and it can be read with 5 dwellings in the vicinity. (fig 1) The agent focused on the development further east, which is beyond the crest in the road and does not provide the visual linkages to create the visual entity. When standing at the frontage of the proposed site I do get the impression of being at a cluster and the development to the north, east and west are all seen together as a visual entity in the landscape. A dwelling on the proposed site would be absorbed into the cluster and I do not consider it would adversely impact on the character of the area or intrude into the open countryside due to the physical constraints around the site. A dwelling located in the site could be sensitively sited so as not to impinge on the residential amenity of the adjacent development.



Fig 1 and 2 site in red and development around it

The final point requires the cluster to be associated with a focal point such as a social/community building/facility. The agent has advised there is a B&B across the road immediately opposite the proposed site. A google search has identified this as a holiday let which can accommodate between 10 and 24 people. Given the scale of the B&B and its potential to accommodate 24 people, I would accept that it is akin to a small hotel and could be considered to be a focal point in the locality.

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.

In light of all of the above I consider the proposal does meet the clustering test and a dwelling and garage may be approved on this site.

Conditions/Reasons for Refusal:

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

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

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

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

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

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

4. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All new curtilage boundaries shall be identified by new planting, and shall include a mix of hedge and tree planting. The retained and proposed landscaping shall be indicated on a landscape plan, with details to be agreed at reserved matters stage. During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, 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 45.0m in both directions and a forward sight distance of 45.0m 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.

Signature(s)

Date:

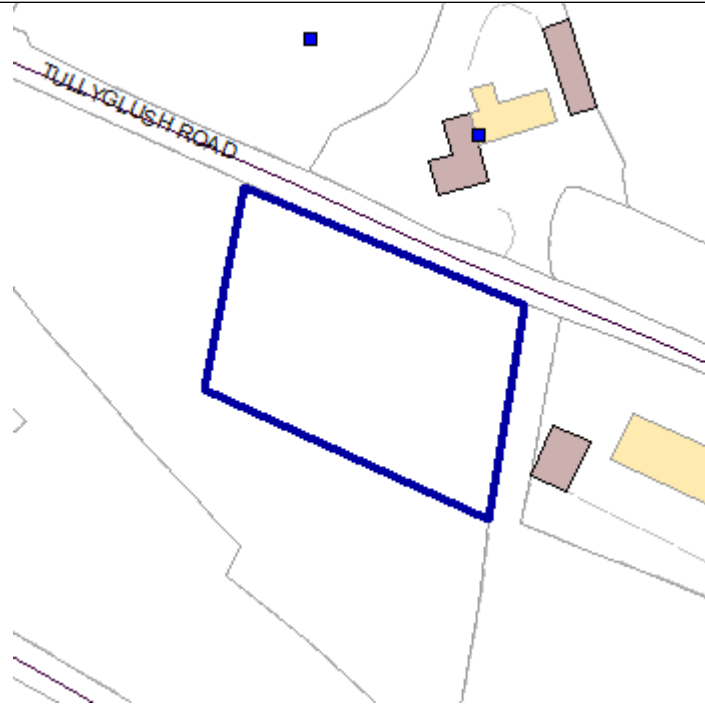


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 September 2022	Item Number: 5.20
Application ID: LA09/2021/1772/O	Target Date: 7 February 2022
Proposal: Proposed dwelling, domestic garage and associated works	Location: Lands Approx. 30M To The South Of 29 Tullyglush Road Ballygawley
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Liam Farrell 50 Church Street Ballygawley	Agent Name and Address: ADP Architects 1 Holmview Terrace Omagh BT79 0AH
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

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

Representations:

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

Summary of Issues

No issues. There was one representation received by way of a non-committal email. The email noted that they did not object to the proposal but they were interested in the decision. The email stated that the proposal was not linked with the principal farm group, but rather the farm business ID numbers brother. We have asked the agent for clarification and the lands in question are outlined in blue, indicating ownership and thus we will take it at face value that they are in ownership of the lands or in this case they have served notice on the relevant party.

Characteristics of the Site and Area

The site is located at lands located approx. 30m South of 29 Tullyglush Road, Ballygawley. The red line of the site includes a roadside portion of a larger agricultural field. Most of the existing boundaries are currently undefined opening into the remainder of the agricultural field. The lands adjoining the site to the south and west are outlined in blue, which indicates ownership. The surrounding area includes a number of roadside residential properties and their associated outbuildings, but beyond that lands are rural in nature, largely made up with agricultural fields.

Description of Proposal

Outline planning permission is sought for a proposed dwelling and domestic garage and associated site works.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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: 28 and 29 Tullyglush Road. At the time of writing, no third party representations were received.

Planning History

M/2004/0494/O - Domestic dwelling and garage at Land 50M SW Of 29 Tullyglush Road, Ballygawley - PERMISSION REFUSED

Planning Assessment of Policy and Other Material Considerations

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

The Dungannon and South Tyrone 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination,

In light of this, the draft Plan Strategy does not yet carry determining weight.

This proposal is for a new dwelling and domestic garage. The agent has submitted a supporting statement where they set out how they feel the proposal meets with the policy criterion held within CTY 2a of PPS 21 which was considered at our group discussions.

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. Although there is a number of existing roadside dwellings and associated outbuildings, we are not content that the cluster appears as a visual entity in the local landscape. The third criterion notes that the cluster should be associated with a focal point such as a social/community building/facility or is located at a crossroads. I am not convinced that there is anything which would be considered as a focal point in close proximity to the site and thus the proposal fails on this criterion. The identified site is bounded on two sides by development, to the North and East and it is my consideration that the proposed development could be absorbed into the existing cluster without significantly altering the existing character or adversely impacting on the residential amenity. There is sufficient separation distance between the site and neighbouring properties to avoid any issues such as privacy or overlooking concerns.

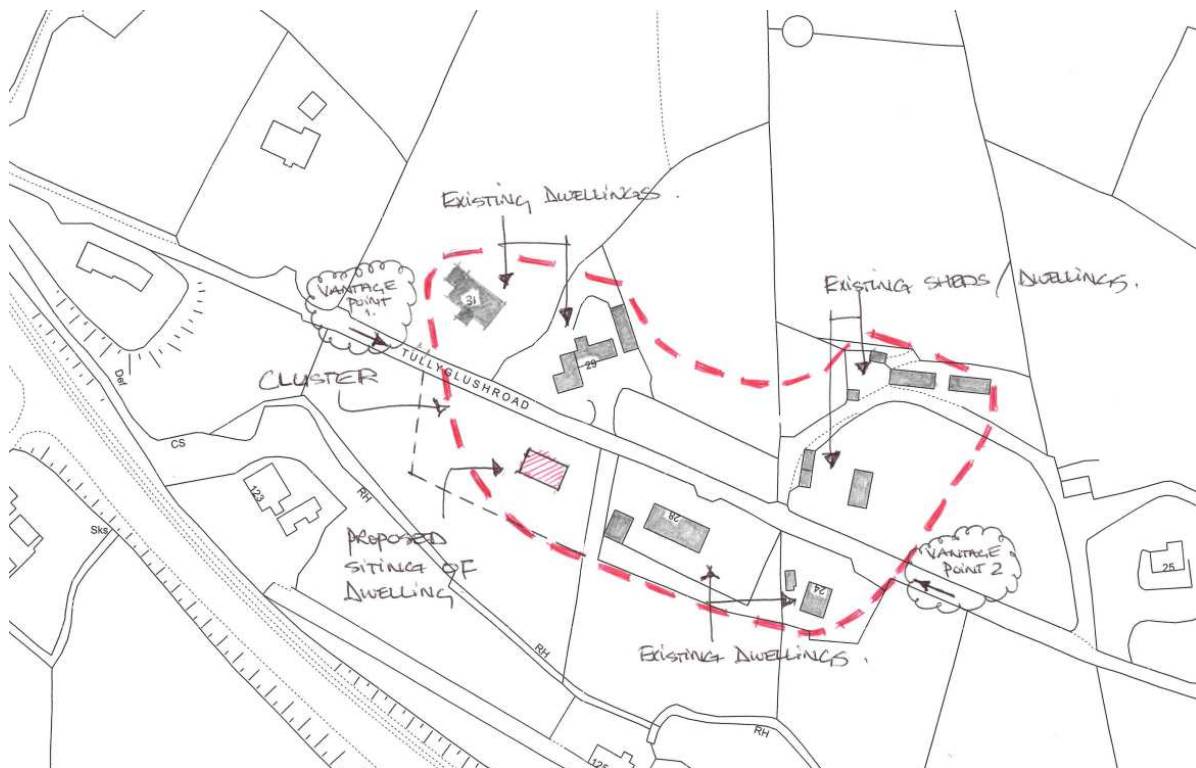


Figure 1 – Sketch of Cluster prepared by agent

It is also necessary for the proposal to be considered against the requirements of CTY 13 and CTY 14 of PPS 21, whereby 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. This proposal is for an outline application thus no design has been stipulated at this time however given the character of the area and noting that the dwellings in the surrounding area are a mix of sizes, I am content that a two storey which is appropriately designed could be absorbed into the site. This would avoid the proposed dwelling appearing overly dominant and also will be in keeping with the surrounding development. The existing hedging should also be conditioned to be retained where possible with full details of proposed landscaping along the remainder of the boundaries to also be included with the RM application, again if approval were to be granted.

Having considered all of the above and noting that the proposal site is not within an identifiable cluster of development and does not have a focal point relating to the site thus contrary to policy, we feel the application should be refused.

I would add that the possibility of exploring a farm case at this site was discussed with the agent however no farm case was presented to us and thus we could only assess the proposal under Policy CTY2a.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape and the cluster is not associated with a focal point and is not located at a cross-roads. The dwelling would if permitted alter the existing character of the cluster visually intrude into the open countryside.

Signature(s): Sarah Duggan

Date: 9 August 2022

ANNEX	
Date Valid	13 December 2021
Date First Advertised	6 January 2022
Date Last Advertised	4 January 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 28 Tullyglush Road, Seskilgreen, Tyrone, BT70 2BZ The Owner / Occupier 29 Tullyglush Road Seskilgreen Tyrone BT70 2BZ	
Date of Last Neighbour Notification	13 January 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR	
Drawing Numbers and Title Site Layout or Block Plan 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: LA09/2022/0398/F Recommendation: Refuse	Target Date: 20 May 2022
Proposal: Proposed 2 No. dwellings within existing approved housing development	Location: Within existing Mullinderg Housing Development (Approx 20M North East of No. 8) Moneyneany BT457FD
Applicant Name and Address: Corramore Construction Unit A1 Workspace Tobermore Road Draperstown BT457AG	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT465AB
Summary of Issues: <p>This application was first presented to Members at January 2023 Planning Committee with a recommendation to refuse. The development was considered to be contrary to Policy OS1 of PPS 8, Open Space Sport and Outdoor Recreation in that it would lead to a loss of existing public open space within the housing development. It was also considered contrary Policy QD 1 of PPS 7, Quality Residential Environments in that the development would encroach into an area required for open space as set out by condition under planning permission H/2006/0017/F. This would be to the detriment of the residential amenity as enjoyed by existing residents. It was agreed by Members to defer the application for an office meeting with Dr Boomer and the Senior Officer. This took place on the 19th January 2023. Following the meeting, the applicant submitted a revised scheme which reduced the number of dwellings from 3 to 2. Having considered the amended scheme the application is being presented to Members again for refusal, with justification provided further in this report.</p>	
Summary of Consultee Responses: <p>Re-consultation was carried out with DFI Roads as part of this deferred consideration and as a result of the revised scheme. They have provided the following comments: The developer should consider the upgrade of the private access to an adoptable road for sites 10 - 16. This will require an amendment of the red outline and an acceptable amended road alignment to allow a</p>	

Private Streets Determination. In the event of the private road being retained as generally indicated in the submitted drawing, the junction of the private access road with the proposed Turning Head will require to be amended so that it enters perpendicular to one of the turning head legs. This concern has not been addressed by the applicant. Consultation was also carried out with Environmental Health as a result of some of the issues raised by objectors. This consultation was issued on the 13th March 2023 and to date no response has been forthcoming

Description of Proposal

This is a full application for 2 No. dwellings within an existing housing development

Deferred Consideration:

The main area of contention with this proposal is around the loss of existing open space within a housing development to accommodate what is now a reduced scheme of 2 detached dwellings. The scheme has been reduced by 1 unit.

H/2006/0071/F granted permission for a housing development of 41 Dwelling Units on the wider site and within that approval was an area of recognised open space as required under PPS 7 and PPS 8.

Policy OS1 of PPS 8 states that development will not be permitted that would result in the loss of existing open space. The presumption against the loss of existing open space will apply irrespective of its physical condition and appearance. An exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space. OS1 also provides an exception where the loss of open space has no significant detrimental impact on the amenity, character or biodiversity of an area and where the following circumstance occurs:

1. Where it is 2 hectares or less, alternative provision is made which is at least as accessible to current users and is equivalent in terms of size, usefulness, safety and quality.

In considering this proposal it is important to understand that the open space within this development is existing and as such Policy OS1 is a relevant consideration. It was argued at the office meeting by the applicant that that the amount of open space provided under the 2006 approval was in excess of the 10% required. Whether or not this is the case, policy OS1 exists to protect the loss of any open space. The applicant has not put forward any argument that the loss of a portion of this to accommodate 2 dwellings will bring any substantial community benefit. If it were proposed to erect a community centre or local shop then that may be considered differently. The proposal in fact has had the opposite effect on the community with a total of 53 objections being lodged raising concerns. Policy OS1 does provide exceptions and in this case no acceptable alternative provision has been indicated. Having carried out a site inspection I can advise that the housing development as existing does not represent a quality residential environment in terms of its open space provision. It has been designed and approved with the open space situated in an area where it is not overly accessible to all residents, particularly those who reside in the Southern portion of the site. Those with small children living in numbers 25-49 would not have clear sight of the open space and I would also question its safety being located so close to a River. Nevertheless, it was approved in this

location and to make it any smaller and less accessible to other residents would be against the spirit of policy OS1.

Policy QD1 of PPS 7 also requires the adequate provision of public open space within residential developments. Whilst the density of the proposal alone does not merit the provision of public open space, this area was approved under the 2006 approval in an attempt to create an attractive and sustainable residential environment as well as to foster a sense of community. By eating into this and introducing development further reduces its accessibility from the Southern section of the development and it questions whether or not it can be easily and safely accessed by those that it is designed to serve.

Members should note that 25 letters of objection were received when the application was first submitted and following notification of the reduced scheme a further 28 objections have been received.

The concerns raised within these objection letters have been summarised below. I am satisfied that any material issues raised have been dealt with in my consideration. Other issues have been raised which are not material to this assessment. Environmental Health were consulted as some of the issues raised fall within their remit however they have yet to issue a response.

- o The open space will now be significantly smaller than previously approved.
- o Concerns that the open space will be out of sight and hidden behind the proposed dwellings
- o It will be adjacent to two properties making it an annoyance for those residents as well as for the public using the area
- o Concerns that the land lost from banking down to the river or the turning head at the end of the turning head at the end of the private road. Therefore, the usable area is smaller than the total area shown.
- o Existing space and ancillary works are a hazard to children
- o Impact of poor provision of open space on mental health
- o Increase in site traffic if development goes ahead and the safety issues around this
- o Littering/burning of rubbish
- o Internal road layout not completed
- o Existing area is an eyesore
- o Noise pollution

To conclude, I recommend that this application be refused. Policy OS1 has a presumption against the loss of existing open space. The proposal does not meet any of the exceptions contained within OS1 and there is clearly strong community objection to the loss of this section of the existing open space to accommodate 2 dwellings. The proposal also fails to comply with policy QD1 of PPS 7 in that the development would encroach into an area required for open space as set out by condition under planning permission H/2006/0017/F. This would be to the detriment of the residential amenity as enjoyed by existing residents.

Conditions/Reasons for Refusal:

Refusal Reasons

Reason 1

The proposal is contrary to Policy OS1 and PPS 8, Open Space Sport and Outdoor Recreation in that the proposal will lead to a loss of existing public open space within this housing development.

Reason 2

The proposal is contrary Policy QD 1 of PPS 7, Quality Residential Environments, in that the development would encroach into an area required for open space as set out by condition under planning permission H/2006/0017/F. This would be to the detriment of the residential amenity enjoyed by existing residents.

Signature(s):Karla McKinless

Date: 18 September 2023

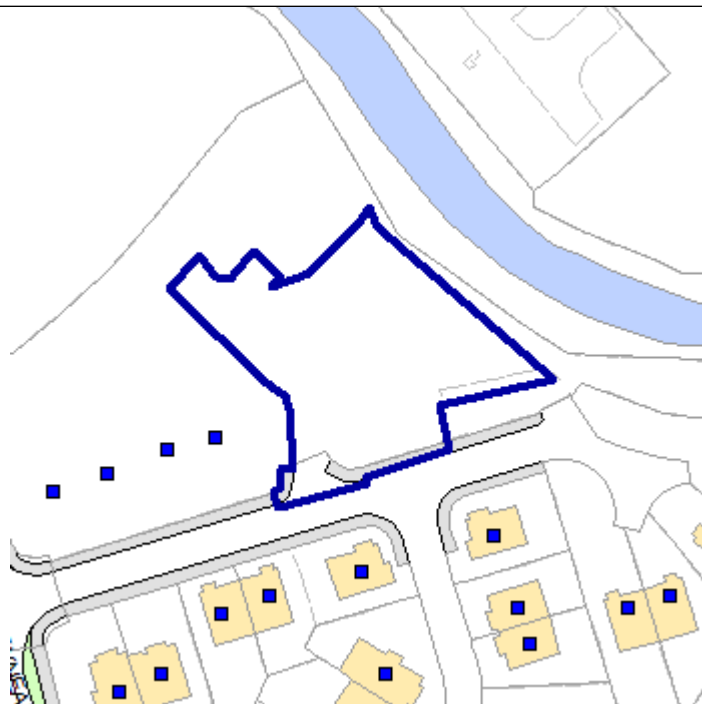


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 January 2023	Item Number: 5
Application ID: LA09/2022/0398/F	Target Date: 20 May 2022
Proposal: Proposed 3 No. dwellings within existing approved housing development	Location: Within Existing Mullinderg Housing Development (Approx 20M North East Of NO8) Moneyneany BT457FD
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Corramore Construction Unit A1 Workspace Tobermore Road Draperstown BT457AG	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT465AB
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2022-0398-F.pdf
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2022-0398-F.pdf
Non Statutory Consultee	NI Water - Strategic Applications	Consulted in error. Please resend to Multiple Units West.
Statutory Consultee	DFI Roads - Enniskillen Office	Full & RM Resp.docx
Non Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Rivers Agency	643611 final.pdf

Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	25
Number of Support Petitions and signatures	
Number of Petitions of Objection	

and signatures

Summary of Issues

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 relevant neighbouring properties have been notified of the proposal.

There have been 25 letters of objections received in relation to this application. The concerns raised within these objection letters have been fully considered as part of this planning application and the main points have been summarised below:

- Covers over the loss of open space the open space will now be significantly smaller than previously approved
- Concerns that the open space will be out of sight and hidden behind the 3 No proposed dwellings
- It will be adjacent to two properties making it an annoyance for those residents as well as for the public using the area
- Concerns that the land lost from banking down to the river or the turning head at the end of the turning head at the end of the private road. Therefore, the usable area is smaller than the total area shown.

The agent has provided comment on the objections received.

Characteristics of the Site and Area

The application site is located within the existing Mullinderg housing development (Approx 20m North East of No 8), Moneyneany, and is located within the designated settlement limits as defined in the Magherafelt Area Plan, 2015. The site lies within an existing housing development approved under H/2006/0071/F, which was approved for 41 No dwellings. There is a river which runs along the North Eastern boundary of the site. The immediate surrounding area is predominantly residential, however the wider landscape character is rural.

Description of Proposal

This is a full application for 3No dwellings within an existing housing development

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Relevant Planning History

H/2006/0071/F -Proposed Housing Development (41 Dwelling Units), comprising of 8 detached dwellings and 20 semi detached dwellings, 7 apartments and 6 townhouses – Opposite 26 Moneyneaney Road, Moneyneaney – Permission Granted 28.06.20007.

LA09/2021/1343/F – Proposed detached dwelling within existing approved housing development, within existing Mulinderg housing development (approx. 20m North of No2) Moneyneany, Permission granted

The following policies will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan 2015
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 7 - Quality Residential Environments.
- Planning Policy Statement 8 – Open space, sport and outdoor recreation.
- Creating Places

Strategic Planning Policy Statement (SPPS)

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

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

Magherafelt Area Plan 2015

This site is located on a committed Housing Site (Designation TE 03). The Plan does not stipulate key design requirements for these sites as future development will be subject to the conditions attached to planning permission. In the event that such planning permissions lapse, existing conditions can be altered or new conditions can be attached to any subsequent approval to take account of prevailing policy and plan proposals. There was a permission on this site for 37 units (H/2005/1174/RM) but this has since lapsed. The site is not subject to any other Plan designation.

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

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

Planning Policy Statement 3 - Access, Movement and Parking.

Dfi Roads were consulted on this application and acknowledged the 26No objections received. They had no objection to the proposal, however, they commented that while the submitted drawings demonstrate adequate parking and turning for the proposed 3 number dwellings off this private laneway within the Mullinderg Housing Development. They went on to say that Mullinderg Housing Development is under construction and that the site is bonded but not yet adopted by DFI Roads. These proposed dwellings are located on a private lane off Mullinderg Development that is not within the current PSD for the Development. The access way and parking areas associated with this development are private and the responsibility for this rests solely with the developer. DFI provided conditions and informatives that should be attached to any permission.

Planning Policy Statement 7 - Quality Residential Environments.

PPS 7 is a material planning policy for this type of development. All proposals for residential development will be expected to conform to a number of criteria laid out in Policy QD 1 of PPS 7. I will deal with these as they appear in the policy.

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

proposed development is residential in nature and is on a committed housing site within the development limits of Moneyneany. I am content that it will not impact negatively on the character of the area. The number of units proposed represents an increase of 3 from that approved under H/2006/0071/F and La09/2021/1343/F.

Features of the archaeological and built heritage, and landscape features should be identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development – A consultation was sent to HED, who responded to say that they had no objections. In addition, given that the proposed dwellings will be located within an existing housing development that it is unlikely to adversely impact any features of archaeological and built heritage, and landscape features in the immediate vicinity so there is no conflict with this part of the policy.

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 proposal is located on land which was identified and approved under the previous approval (H/2006/0071/F) as open space for the wider development. These will result in a substantial loss of open space for the development. This was the main concern from the 26 objectors. The overall size area of the Mullinderg Housing development is 2.1 hectares (21000Msq), the total open space remaining is approx. 1890msq which is less than the 10% stipulated in Creating Places. In addition to this, a portion of this 1890msq is not viable, usable open space (approx. 259.5msq) as it runs along the dwelling along the western boundary of the site. This means there is only approx 1630msq of open space for the development as a whole. I believe that this is not acceptable as there is a significant loss of open space (909.69msq) and contrary to PPS 7 and the guidance provided in Creating Places and it would have a detrimental impact on the amenity of the residents in the housing development. The agent submitted a response to the objection comments and in this states that the overall development measures 1.9 hectares, however, our records show that the development approved under H/2006/0071/F was 2.1 hectares.

Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development - The site is within the development limits of Moneyneany and there are existing neighbourhood facilities already available in the locality (eg) shops etc

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 - As the site is within an urban settlement there is an existing movement

pattern (eg) foot paths and bus routes. The level of traffic travelling through the settlement would be fairly high and would be travelling a low speed. DFI Roads have been consulted and have no objections to the proposal but highlighted that the access way and parking areas associated with the proposal are, and will remain private, therefore the responsibility for this rests solely with the developer.

Adequate and appropriate provision is made for parking – There is sufficient provision made for parking as per the site plan submitted. As this is an outline application this level of detail has not been provided and can be a matter reserved.

The design of the development must draw upon the best local traditions of form, materials and detailing – The design and finishes reflects other dwellings approved within the housing development, as such design is considered to be acceptable.

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 dwellings are unlikely to give rise to overlooking, loss of light, overshadowing, noise or disturbance.

The development is designed to deter crime and promote personal safety - I am satisfied that the overall development is considered to be designed to deter crime and promote personal safety. In-curtilage parking will be provided and street lighting exists along the adjacent public roads.

Ni Water

A consultation was sent to NI water who did not have any objections and provided site specific conditions to be attached to any approval.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy OS1 and PPS 8, Open Space Sport and Outdoor Recreation in that the proposal will lead to a loss of existing public open space within this housing development.

Reason 2

The proposal is contrary Policy QD 1 of PPS 7 Quality Residential Environments in that the development would encroach into an area required for open space as set out by condition under planning permission H/2006/0017/F.to the detriment of the residential environment as enjoyed by existing residents.

Signature(s): Siobhan Farrell

Date: 20 December 2022

ANNEX

Date Valid	25 March 2022
Date First Advertised	5 April 2022
Date Last Advertised	5 April 2022

Details of Neighbour Notification (all addresses)

The Owner / Occupier
4 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
6 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
7 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
8 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
1 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
26 Moneyneany Road Draperstown Londonderry BT45 7DZ
The Owner / Occupier
9 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
3 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
59 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
5 Mulinderg Draperstown Londonderry BT45 7FD
The Owner / Occupier
2 Mulinderg Draperstown Londonderry BT45 7FD

Date of Last Neighbour Notification	25 March 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>NI Water - Multiple Units West-LA09-2022-0398-F.pdf NI Water - Multiple Units West-LA09-2022-0398-F.pdf NI Water - Strategic Applications-Consulted in error. Please resend to Multiple Units West. DFI Roads - Enniskillen Office-Full & RM Resp.docx Historic Environment Division (HED)- Rivers Agency-643611 final.pdf</p>	
Drawing Numbers and Title	
<p>Proposed Plans Plan Ref: 06 Proposed Plans Plan Ref: 05 Proposed Plans Plan Ref: 04 Site Layout or Block Plan Plan Ref: 03 Site Layout or Block Plan Plan Ref: 02 Site Location Plan Plan Ref: 01</p>	

Notification to Department (if relevant)

Not Applicable



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1625/F Recommendation: Approve	Target Date: 2 March 2023
Proposal: Proposed alteration to previously approved egress point (LA09/2018/0777/F) to include for access to existing factory.	Location: 116 Deerpark Road Toomebridge BT41 3SS
Applicant Name and Address: Neil Savage 116 Deerpark Road Toomebridge BT41 3SS	Agent Name and Address: Vision Design 31 Rainey Street Magherafelt BT45 5DA
Summary of Issues: <p>This application was first presented to Planning Committee in March 2023 with a recommendation to Approve. Given the objection raised by the adjacent Primary School it was agreed by the Planning Committee to defer the application so that an office meeting could be facilitated whereby representatives of the Primary School would be provided the opportunity to discuss their concerns directly with the Applicant and DFI Roads Service in an attempt to get a resolution that satisfied all parties. This meeting took place in MUDC on Wednesday 29th March. Additional information was subsequently submitted by both the applicant and the Primary School over the past 5 months and further consultation carried out with DFI Roads. The application is before Members tonight with no change in the recommendation to approve the proposal, with the justification set out further in this report.</p>	
Summary of Consultee Responses: <p>Further consultation was carried out with DFI Roads to inform this deferred consideration. Their response is detailed in the report below.</p>	
Description of Proposal <p>This is a full application for a proposed alteration to a previously approved egress point (LA09/2018/0777/F) to include for access to the existing factory.</p>	

Deferred Consideration:

The proposal before members tonight is for an alteration to a previously approved egress point (LA09/2018/0777/F) to include for access to the existing factory - effectively allowing traffic movement in and out of this access point. The applicant makes the case that the amendment is being applied for to safely accommodate left turns from the Deerpark Road for HGV's approaching from the A6 dual carriageway. The applicant contends that this amendment will reduce traffic passing the adjacent Primary School by providing a safer access from the A6. It is also stated that the traffic travelling between Plant 1 and Plant 2 will continue as before.

Following the deferred office meeting on the 23rd March 2023, the applicant proposed the introduction of signage to direct traffic to the correct site and via the correct gate and an amended drawing (02 rev 1) was submitted which shows the introduction of road kerbs to discourage left hand turning from the entrance.

The objection to this application comes from the adjacent Anahorish Primary School. In total, 3 detailed objections have been submitted. The first from the Principal of the School and the second and third were from SW Consultancy on behalf of the Primary School. The issues raised by the objector are summarised as follows:

- o Health and safety risk associated with the proposal given the volume of traffic entering and exiting the school throughout the day.
- o Anahorish Primary School intend to install a new entrance and are concerned the current application will negatively impact their future proposal.
- o Concerns that the proposal uses site splays that encroach upon the school entrance.
- o The proximity of a substandard access so close to the Primary School.
- o LA09/2018/0777/F was a flawed decision as accurate traffic information was not submitted.
- o Proposal fails to comply with PPS3, DCAN 15, Transport Assessment Guidelines for NI (2006) and Safer Routes to School Policy
- o Questions Traffic Movement Figures and have provided their own traffic count at this location over a 2 day period, which indicates that the predominant traffic movement is past the Primary School
- o Requests submission of a full Transport Assessment and Road Safety Audit
- o Inaccurate auto tracking provided
- o Requirement for 4.5m x 90m Splays which are not achievable
- o No consideration given to the traffic moving from Plant 1 to Plant 2
- o Suggested improvements are internal and not enforceable
- o Suggest that the existing access further to the North should be improved and utilised

In considering the issues raised by the objector and subsequent comments from MRA on behalf of the applicant, a re-consultation was issued to DFI Roads, who have responsibility for Road Safety on Public Roads. DFI Roads provided a consultation response on the 5th September 2023 and detailed their consideration as follows:

A vehicle count was carried out at the existing SDC Northern access by the objectors. Their count indicated a greater number of HGV accessing / exiting the site than that indicated in the earlier SDC application submissions i.e., 80 HGV compared to 51 exit movements. The number of exit movements however is not constrained in previous planning approval conditions.

Regarding visibility splays, it is noted that the desired visibility splays based on the objectors traffic survey would be 4.5 x 90 metres as stated in the objection however a reduction to the 2.4 x 70 metre southern visibility splay would still be considered permissible within the DCAN parameters as an absolute minimum.

The Adjacent stagger between the SDC southern access and the school access is within DCAN 15 guidelines. (approximately 70 metres). SDC would state that this survey identifies the large proportion of vehicles no longer passing the school and that the proposed entry / exit at the southern access will encourage more vehicles arriving and departing to the north of the application site.

As it is stated that there is no additional site associated traffic generated from that permitted in previous approvals, it would be considered difficult to justify junction visibility splay improvements from that previously approved. For any additional use of vehicles entering the site at the southern access point, there is full standard of Forward Sight Distance for road users on Deerpark Road to be aware of vehicles entering the site.

Upon consideration, DfI Roads will therefore not offer an objection to the proposal. Council may wish to consider formalising as a planning requirement the left in / right out access arrangement as proposed by the applicant.

Two of the issues raised by the objector -the impact of the proposal on future plans of the School and the enforceability of suggested improvements are outside the remit of DfI Roads consideration. It is noted that since this application was first before Planning Committee in March of this year, Anahorish Primary School have submitted an application for the upgrade of the existing school carpark, widening of existing entrance gates including clearance works to achieve sight lines and construction of new footpath along school frontage to improve health and safety for pupils and car park users (LA09/2023/0871/F). This application is currently under consideration by the Planning Department but it is not unreasonable to suggest that if approved, these changes will improve and make safer the movement of school traffic by car and by foot. Each application is assessed on its own merits and a decision on this current application will not negatively affect LA09/2023/0871/F.

The proposed introduction of road kerbs has been shown on drawing 02 rev 1 and can be enforced by way of planning condition. The suggested internal directional signage can be enforced and it is recommended that it be included as a condition of this approval. The left in/right out access arrangement on the other hand cannot be enforced by the Planning Department and a condition to formalise this arrangement cannot be attached to this decision, if approved by Members.

Based on my re-consideration of the proposal, taking on board all material planning issues raised by the objector and the advice from DfI Roads Service, who have the responsibility for Road Safety, I would advise Members that there are no PPS3 or DCAN 15 policy reasons to

refuse this application. DFI Roads are satisfied that adequate splays and forward site distance are in place to deal with the traffic movements accepted under previous approvals and have not objected to the introduction of vehicles accessing the site at this point. Approval is recommended 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

The development shall be carried out in accordance with Drawing No. 02 Rev 1 uploaded to Public Access on 25/04/2023

Reason: To ensure that the development is carried out in accordance with the approved plans.

Condition 3

Prior to the commencement of the use of this access, directional signage alerting drivers to a Left In/Right Out access arrangement shall be erected at the entrance to the site as outlined in red on drawing number 01 uploaded on Public Access on 10/11/2022.

Reason: To formalise the access arrangement at this location and to discourage traffic from turning left as it leaves the site at this location.

Signature(s):Karla McKinless

Date: 18 September 2023

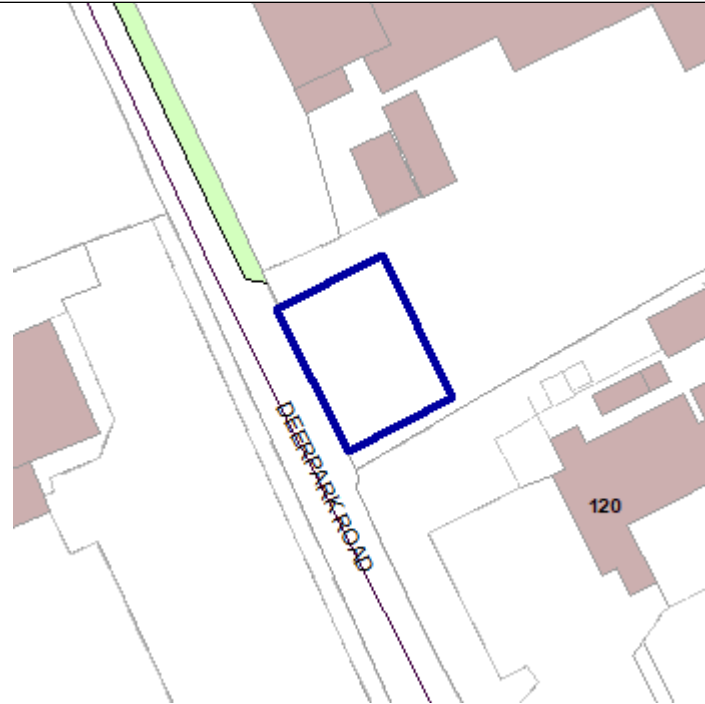


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 March 2023	Item Number: 5.26
Application ID: LA09/2022/1625/F	Target Date: 2 March 2023
Proposal: Proposed alteration to previously approved egress point (LA09/2018/0777/F) to include for access to existing factory.	Location: 116 Deerpark Road Toomebridge BT41 3SS
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Neil Savage 116 Deerpark Road Toomebridge BT41 3SS	Agent Name and Address: Vision Design 31 Rainey Street Magherafelt BT45 5DA
Executive Summary: The current application is presented as an approval; however, it is being presented at Committee following the receipt of an objection from the neighbouring Primary School.	

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	DFI Roads - Enniskillen Office	previously answered
Statutory Consultee	DFI Roads - Enniskillen Office	Previously answered
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 2.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

Concerns raised by the objector are addressed below:

1. Complainant is concerned that the proximity of the proposal to the primary school is a health and safety risk given the volume of traffic entering and exiting the school throughout the day.

Dfl Roads have commented on this proposal and have raised no objections.

2. Anahorish Primary School intend to install a new entrance and are concerned the current application will negatively impact their future proposal.

As the application has not been received by Mid Ulster District Council to date, this cannot be considered in the determination of this application.

3. Concerns that the proposal uses site splays that encroach upon the school entrance.

Dfl Roads have commented on this proposal and have raised no objections.

Characteristics of the Site and Area

The application site is located at No. 116 Deerpark Road, approximately 500m north of the village of Creagh. The site falls within the open countryside as defined in the Magherafelt Area Plan 2015. The red line encompasses a small portion of the front railing of the existing factory of SDC Trailers. The total area covered by SDC at this site measures approximately 45,000m² wherein the majority of the site is covered by industrial style buildings. Anahorish Primary School is located on land immediately to the south of the site and there are a number of dwellings in close proximity to the site.

Consultations

1. Dfl Roads – responded advising they offer no objection to the proposal.

Site History

LA09/2022/1628/F - 116 Deerpark Road Toomebridge BT41 3SS - Proposed cladding of existing gable to previously approved infill area (LA09/2018/0248/F) and new roller doors – Awaiting decision.

LA09/2018/0777/F - 116 Deerpark Road Toomebridge - Proposed new egress point to existing factory – Permission Granted 24/10/2018.

LA09/2018/0248/F - 116 Deerpark Road Toomebridge BT41 3SS - Development to existing industrial and manufacturing workshops. New extension to an existing workshop to provide additional manufacturing lines. Roof infill to existing yard to provide additional onsite storage for goods. Additional ventilation stacks and associated equipment - Permission Granted 16/09/2019.

LA09/2016/0587/F - 116 Deerpark Road Toomebridge BT41 3SS - Proposed Extension to existing light industrial shed to provide welding training area - Permission Granted 05/08/2016.

LA09/2016/0203/F - 116 Deerpark Road Toomebridge Co Antrim - Extension to existing chassis shelter - Permission Granted 11/07/2016.

LA09/2015/0903/F - 116 Deerpark Road Toomebridge BT41 3SS - Retrospective planning for a light industrial shed - Permission Granted – 13/05/2016.

H/2014/0099/F - 116 Deerpark Road Toomebridge - Proposed training room facilities – Permission Granted 18/08/2014.

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 alteration to a previously approved egress point (LA09/2018/0777/F) to include for access to the existing factory.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Magherafelt Area Plan 2015

The site falls in the open countryside as defined in the Cookstown Area Plan 2010. The site is located within a designated area of 'high scenic value'.

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.

PPS 3 – Access, Movement and Parking

In terms of policy AMP 2 of PPS 3, the application proposes alterations to the previously approved egress point to include for access to the existing factory. The agent has confirmed through the submission of a Transport Assessment Form that there is no change in traffic generation resulting from this application. I am content that the proposed application is able to comply with AMP 2 of PPS 3.

Deerpark Road is not a Protected Route therefore there is no conflict with AMP 3 of PPS 3. For this reason, I am content that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic and complies under PPS 3.

PPS 21 – Sustainable Development in the Countryside

I note that the application site falls within the open countryside, therefore PPS 21 applies, mainly CTY 13 and 14. However, it should be noted that although it falls in the open countryside, the rural character of the area has already been eroded due to the existing industrial development across the SDC site. From this, I am content that the current proposal will not cause a detrimental change of character of the area and is therefore able to comply under PPS 21.

Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

The development shall be carried out in accordance with Drawing No. 02 uploaded to Public Access on 10/11/2022.

Reason: To ensure that the development is carried out in accordance with the approved plans.

Signature(s): Zoe Douglas

Date: 20 February 2023

ANNEX	
Date Valid	17 November 2022
Date First Advertised	29 November 2022
Date Last Advertised	29 November 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 121 Deerpark Road Toome Londonderry BT41 3SS The Owner / Occupier 120 Deerpark Road Toome Londonderry BT41 3SS	
Date of Last Neighbour Notification	9 December 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2019/1010/F Proposals: Proposed conversion of existing outbuildings and yard to provide 5No. self-catering holiday lets and associated parking including internal and minor external alterations with small covered entrance to one building. Decision: PG Decision Date: 17-DEC-19</p> <p>Ref: H/1999/0347 Proposals: DWELLING & GARAGE Decision: PG Decision Date:</p> <p>Ref: H/1997/0264 Proposals: DWELLING & GARAGE Decision: PG Decision Date:</p> <p>Ref: H/2004/1419/O Proposals: Site of dwelling and garage Decision: PR Decision Date: 13-FEB-06</p>	

Ref: H/1999/0066
Proposals: SITE OF DWELLING
Decision: PG
Decision Date:

Ref: H/2001/0612/F
Proposals: Dwelling
Decision: PG
Decision Date: 21-NOV-01

Ref: H/2015/0076/F
Proposals: Proposed Domestic Car Storage Garage
Decision: PG
Decision Date: 06-JUL-15

Ref: H/1998/0263
Proposals: DWELLING AND GARAGE
Decision: PG
Decision Date:

Ref: H/1997/0605
Proposals: SITE OF DWELLING
Decision: PG
Decision Date:

Ref: LA09/2020/0395/F
Proposals: Proposed change of use - conversion from barn (old piggery) to 2 no residential units and associated ground works at site adjacent to Aughrim House, Creagh, Toomebridge, BT41 3ST
Decision: PG
Decision Date: 11-MAR-21

Ref: H/2000/0326/O
Proposals: Site for dwelling and garage
Decision: PR
Decision Date: 11-JAN-01

Ref: H/2000/0325/O
Proposals: Site for dwelling and garage
Decision: PR
Decision Date: 11-JAN-01

Ref: H/1990/0560
Proposals: H.V. O.H. LINE BM 0464/90
Decision: PG
Decision Date:

Ref: H/2003/0230/O
Proposals: Site of dwelling and garage.
Decision: PR
Decision Date: 07-NOV-05

Ref: H/2001/0504/F
Proposals: Extension to dwelling
Decision: PG
Decision Date: 11-OCT-01

Ref: H/2006/0737/RM
Proposals: Proposed bungalow
Decision: PG
Decision Date: 24-NOV-06

Ref: H/2008/0646/F
Proposals: Change of house type and double garage to previously approved application
H/2006/0737/RM
Decision: PG
Decision Date: 21-JAN-09

Ref: H/1999/0696/O
Proposals: Site of Bungalow
Decision: PG
Decision Date: 11-JUN-00

Ref: H/2005/0634/F
Proposals: Variation of time condition number 2 of application H/1999/0696/O to extend
outline permission by one year.
Decision: PG
Decision Date: 31-AUG-05

Ref: H/2002/1146/F
Proposals: Dwelling and Garage. (Renewal of H/1997/0264)
Decision: PG
Decision Date: 14-FEB-03

Ref: H/1999/0679/O
Proposals: Site of Dwelling and Garage
Decision: PG
Decision Date: 08-MAY-00

Ref: H/2000/0500/RM
Proposals: Dwelling and Garage
Decision: PG

Decision Date: 22-SEP-00

Ref: H/1993/0353

Proposals: BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: H/1993/0026

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: H/1998/0450

Proposals: REPLACEMENT SEPTIC TANK

Decision: PG

Decision Date:

Ref: H/1995/0246

Proposals: SITE OF DWELLING AND GARAGE

Decision: PR

Decision Date:

Ref: H/2003/0226/O

Proposals: Site of two storey dwelling and garage.

Decision:

Decision Date:

Ref: H/1997/0403

Proposals: ERECTION OF MOBILE CLASSROOM

Decision: PG

Decision Date:

Ref: H/2001/0992/F

Proposals: Temporary Mobile Classroom

Decision: PG

Decision Date: 18-JAN-02

Ref: H/1991/0299

Proposals: MOBILE CLASSROOM

Decision: PG

Decision Date:

Ref: H/1994/0187

Proposals: NEW CAR PARK/TURNING AREA & ALTS TO FRONT ENTRANCE

Decision: PG

Decision Date:

Ref: H/2002/0859/F
Proposals: Relocation of Temporary Classroom
Decision: PG
Decision Date: 15-NOV-02

Ref: H/1994/0306
Proposals: MOBILE CLASSROOM
Decision: PG
Decision Date:

Ref: H/2014/0437/F
Proposals: Removal of existing mobile accommodation. Provision of new temporary mobile accommodation for duration of contract. Erection of new 4 classroom teaching block, School Hall, Kitchen and Ancillary Accommodation. Also provision of new hard play area and remedial works to existing building.
Decision: PG
Decision Date: 13-FEB-15

Ref: H/2013/0069/F
Proposals: Proposed staff toilet block and internal works to existing toilets
Decision: PG
Decision Date: 28-MAY-13

Ref: H/2014/0398/PREAPP
Proposals: Proposed Extension to rear of the existing school comprising 4No. Classrooms, 2No. Resource Areas, School Hall, Kitchen and ancillary spaces. Proposals include the use of New Temporary Classrooms for the duration of the works which would be removed upon completion of the new building.
Decision: ESA
Decision Date: 30-JAN-15

Ref: H/2000/0103/F
Proposals: Extension To Existing Primary School
Decision: PG
Decision Date: 19-APR-00

Ref: H/2013/0060/F
Proposals: Proposed paint store
Decision: PG
Decision Date: 20-MAY-13

Ref: H/1995/0224
Proposals: CHANGE OF USE FROM AGRICULTURE LAND TO STORAGE AREA FOR FINISHED TRAILERS PLUS THE ERECTION OF AN 2600MM HIGH BLOCK WALL ALONG WESTERN BOUNDARY, AND 2500MM STEEL POST

AND CHAIN LINK FENCE TO THE OTHER BOUNDARIES

Decision: PG

Decision Date:

Ref: H/1994/0572

Proposals: CHANGE OF USE FROM AGRICULTURE LAND TO TEMPORARY STORAGE

AREA AND TEMPORARY ACCESS

Decision: WITHDR

Decision Date:

Ref: H/1997/0281

Proposals: COVERED AREA BETWEEN STORAGE UNIT AND FABRICATION BUILDING(RETROSPECTIVE)

Decision: PG

Decision Date:

Ref: H/1994/6062

Proposals: EXT TO EXISTING FACTORY DEERPARK ROAD BELLAGHY

Decision: QL

Decision Date:

Ref: H/2012/0177/F

Proposals: Proposed creation of a new access from the Deerpark Road and oneway system for HGVS.

Decision:

Decision Date:

Ref: H/2005/0163/F

Proposals: Extension to existing factory

Decision: PG

Decision Date: 08-AUG-06

Ref: H/2013/0469/F

Proposals: Proposed training room facilities

Decision: PG

Decision Date: 28-FEB-14

Ref: LA09/2015/0903/F

Proposals: Retrospective planning for a light industrial shed

Decision: PG

Decision Date: 13-MAY-16

Ref: H/1995/0026

Proposals: SECOND FLOOR EXTENSION TO OFFICES

Decision: PG

Decision Date:

Ref: H/2003/0168/F

Proposals: Proposed canopy between existing buildings.

Decision: PG

Decision Date: 08-OCT-03

Ref: H/1990/0087

Proposals: EXTENSION TO FACTORY

Decision: PG

Decision Date:

Ref: H/1994/0484

Proposals: EXTENSION TO FACTORY

Decision: PG

Decision Date:

Ref: H/2014/0099/F

Proposals: Proposed training room facilities.

Decision: PG

Decision Date: 18-AUG-14

Ref: LA09/2022/1625/F

Proposals: Proposed alteration to previously approved egress point (LA09/2018/0777/F) to include for access to existing factory.

Decision:

Decision Date:

Ref: LA09/2018/0777/F

Proposals: Proposed new egress point to existing factory

Decision: PG

Decision Date: 24-OCT-18

Ref: H/1981/0394

Proposals: FACTORY

Decision: PG

Decision Date:

Ref: H/1989/0423

Proposals: STORE, WORKSHOP AND EXTENSION TO FACTORY

Decision: PG

Decision Date:

Ref: H/1988/0094

Proposals: FACTORY

Decision: PG

Decision Date:

Ref: H/2007/0319/RM

Proposals: Retrospective extension to existing workshop.

Decision: PG

Decision Date: 18-AUG-09

Ref: H/1982/0196

Proposals: HV AND MV O/H LINE (BM 5380)

Decision: PG

Decision Date:

Ref: LA09/2016/0587/F

Proposals: Proposed Extension to existing light industrial shed to provide welding training area

Decision: PG

Decision Date: 05-AUG-16

Ref: LA09/2022/1628/F

Proposals: Proposed cladding of existing gable to previously approved infill area (LA09/2018/0248/F) and new roller doors

Decision:

Decision Date:

Ref: H/2004/1303/F

Proposals: Excavation & Levelling Of Land As Enablement Works For Future Extension To Factory.

Decision: PG

Decision Date: 08-AUG-06

Ref: H/2003/0930/O

Proposals: Site of extension to workshop.

Decision: PG

Decision Date: 18-APR-04

Ref: H/1991/6158

Proposals: EXTENSION TO WORKSHOP DEERPARK ROAD TOOMEBRIDGE

Decision: PRENC

Decision Date: 20-DEC-91

Ref: LA09/2018/0248/F

Proposals: Development to existing industrial and manufacturing workshops. New extension to an existing workshop to provide additional manufacturing lines. Roof infill to existing yard to provide additional onsite storage for goods. Additional ventilation stacks and associated equipment.

Decision: PG

Decision Date: 16-SEP-19

Ref: H/2003/1248/A

Proposals: New signage.

Decision: CG

Decision Date: 17-NOV-04

Ref: H/2005/0913/F

Proposals: Extension to existing workshop & Extension to existing workshop as per previous approval Ref H/2002/0541/F

Decision: PG

Decision Date: 21-JUL-08

Ref: H/2002/0541/F

Proposals: Workshop, Offices, Yard, and Carparking.

Decision: PG

Decision Date: 21-MAY-04

Ref: H/2001/0804/Q

Proposals: Extension To Workshops For SDC Trailers.

Decision: ELA

Decision Date: 06-MAR-02

Ref: H/2000/0342/Q

Proposals: Proposed Development Site

Decision: ELR

Decision Date: 25-MAY-00

Ref: H/2013/0336/F

Proposals: Extension to existing roof extract flues and erection of 5 support structures

Decision: PG

Decision Date: 13-FEB-14

Ref: H/2013/0385/F

Proposals: Proposed chassis shelter

Decision: PG

Decision Date: 17-JAN-14

Ref: LA09/2016/0203/F

Proposals: Extension to existing chassis shelter

Decision: PG

Decision Date: 11-JUL-16

Ref: H/1990/6062

Proposals: ENGINEERING WORKSHOP 81 HILLHEAD ROAD CASTLEDAWSON

Decision: PREA

Decision Date: 06-SEP-90

Ref: H/2013/0111/F

Proposals: 50kw solar PV array on existing warehouse roof

Decision: PG

Decision Date: 05-JUN-13

Ref: H/1980/0013

Proposals: SITE OF BUNGALOW

Decision: PG

Decision Date:

Ref: H/1996/6073

Proposals: DEVELOPMENT OF LAND DEERPARK ROAD TOOMEBRIDGE

Decision: QL

Decision Date:

Ref: H/2006/0492/Q

Proposals: Proposed infilling of a low lying field by 4 feet approx for agricultural purposes

Decision: PRENC

Decision Date: 12-JUN-06

Ref: H/2005/0808/F

Proposals: Extension To Dwelling

Decision: PG

Decision Date: 19-OCT-05

Ref: H/2000/0050/F

Proposals: Extension Of Existing Car Park

Decision: PG

Decision Date: 16-MAR-00

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Roads Consultation.docx

DFI Roads - Enniskillen Office-previously answered

DFI Roads - Enniskillen Office-Previously answered

DFI Roads - Enniskillen Office-Roads Consultation 2.docx

Drawing Numbers and Title

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

Notification to Department (if relevant)

Not Applicable